The Planning Inspectorate

Appeal Decision

Site visit made on 28 August 2013

by Mick Boddy F Arbor A FICFor CEnv

an Arboricultural Inspector appointed by the Secretary of State for Communities and Local Government

11 SEP 2013

Decision date: 06 SEP 2013

Appeal Ref: APP/TPO/B4215/3329

Former St Johns Ambulance HQ, Egerton Road, Fallowfield, Manchester, M14 6XX

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent for the felling of a yew tree protected by a Tree Preservation Order.
- The appeal is made by Mr J Hale, of Watkin Jones Ltd, against the decision of Manchester City Council.
- The application, No. 102238/TPO/2013/S1, dated 15 April 2013, was refused by notice dated 29 May 2013.
- The relevant Tree Preservation Order (TPO) is the Manchester City Council (Land at St. John House, Egerton Road, Withington) Tree Preservation Order 2011, which was confirmed on 18 April 2011. The yew tree is scheduled as T1 of the order.

Decision

1. I allow the appeal and grant consent for the felling of the yew tree, in accordance with application No. 102238/TPO/2013/S1, subject to the following conditions:

   (i) The work for which consent is hereby granted shall be implemented within two years of the date of this decision.

   (ii) Within twelve months of the date of the removal of the yew tree, replacement planting shall be undertaken in an appropriate location, closer to the Egerton Road boundary of the site, in accordance with a scheme that has been submitted to and agreed in writing by the local planning authority. The scheme shall include details of the number, species, size, position, ground preparation and measures to protect and/or support the tree(s) during establishment.

   (iii) If within a period of five years from the date of planting, a replacement tree (or other tree planted in its place) is removed, uprooted, destroyed or dies, a further tree of the same size and species shall be planted at the same place within the first planting season following the removal, uprooting, destruction or death of the original.

Main Issues

2. I consider that the main issues in this case are:

   (i) The impact of the proposed removal of the yew tree on the local area.

   (ii) Whether the reasons put forward are sufficient to justify the proposed removal of the tree.

Reasons

Impact of the proposed removal of the yew tree

3. The yew is an immature specimen growing approximately 6 metres from the north-eastern (Egerton Road) boundary of the site. It is triple-stemmed from a height of around a metre and has a reasonably proportioned crown.

4. Whilst not an exceptional individual, I found the tree to be a reasonably attractive specimen, the majority of the crown of which is clearly visible from the Egerton Road to the north-east, between the mature Horse chestnut 1238 to the east and the beech growing in the roadside pavement to the north-west, which overhangs the site.

5. The yew tree had a reasonable density of needle cover, of a normal size and colour, despite the recent construction activity that has occurred within its vicinity. On this basis, I would have deemed the tree to have an extensive safe useful life expectancy had I inspected it prior to works commencing on the site.

6. In relation to this first issue, I consider the yew makes an important contribution to the local treescape and affords screening of the development under construction, particularly from the residential properties on the opposite side of Edgerton Road. Accordingly, I am of the opinion that the tree should only be removed if an overriding justification has been demonstrated for this course of action and that there is no viable alternative option that can realistically be pursued.

Reasons put forward for the removal of the yew tree

Conflict with the development layout

7. The principal reason for the proposed removal of the yew tree is the inappropriately close proximity of the adjacent new dwelling (Plot 18), the foundations and floor slab of which had already been constructed at the time of my site visit.

8. The building is closer to the tree than originally shown on the proposed layout drawing included in the appeal file (Drawing no. 5419:100.01 Rev. H). The reason given for this by the appellant is that the topographical survey provided by the vendors of the site plotted the position of the yew tree incorrectly.

9. The application was accompanied by an arboricultural implication study undertaken by ACS consulting Ltd in July 2010, and states that this report mentions the yew is a poor specimen and recommended its removal. This is incorrect; the report schedules the yew as being in adequate structural and physiological condition. The assessment is based upon a previous layout (drawing no. 2307_02 Rev. C) which shows the tree removed to accommodate Plot 24, hence it schedules the yew as 'Loss to development'; this is a statement of fact, not a recommendation for its removal.

10. The base of the new dwelling on Plot 18 is just 2.2 metres from the trunk of the yew tree and a surface water drain has been installed parallel to this at a distance of approximately 1.2 metres from the tree. When I checked the position of the drain with the Site Agent, he informed me that this was installed in a trench of a depth of approximately 700 millimetres. I estimate that the excavations will have affected approximately 35% of the recommended root protection area for the tree. The area between the base of the new dwelling and the tree has subsequently been covered with crushed stone.

11. In addition to the damage to the tree's root system that will have been caused by the excavations for the foundations and the trench for the drainage pipe, it was apparent that the surrounding ground on the other sides of the tree had also been disturbed, with exposed damaged roots evident on the eastern and north-western sides. There was no evidence that any measures had been implemented to protect the section of the tree's rooting zone not directly affected by the development works. This despite the proposed layout drawing apparently showing protective fencing around the retained trees and stating that these are to be protected in accordance with the tree report.

12. In addition to the detrimental impact of the new dwelling on tree's root system, the building footprint encroaches approximately 1.8 metres beneath the south-western side of the crown of the yew and this will need to be significantly cut back solely to facilitate the construction of the adjacent elevation of the dwelling. Even if this can be achieved without the erection of scaffolding, further pruning will be required to establish a degree of separation between the crown and the building, which will need to be repeated as the tree grows. In the absence of the fenestration details for the dwelling, I am unable to assess the negative impact the tree will have in terms of shading, although I anticipate that this will be significant.

13. On the basis of the evidence submitted and my observations during the site visit, I have concluded that the retention of the yew tree is incompatible with the adjacent dwelling that is currently under construction and that it has already been damaged to the extent that the situation is irredeemable, rendering the Council's requirement that the surrounding ground within the root protection area be returned to its previous condition redundant. Regrettably, I therefore find there is no alternative but to allow the removal of the yew tree.

Third party representations

14. Several e-mails were submitted objecting to the application, these primarily being from concerned residents but including one from a Councillor, suggesting that the tree be moved if possible. Unfortunately, due to the size of the yew tree and the root loss it will have already sustained, this is not a viable option that can be considered.

15. The pertinent issues raised by the objectors regarding the application to remove the yew tree are covered above. Other issues raised relating to the history of the site and previous tree removal are beyond the scope of this appeal.

Conditions

16. In order to maintain the level of tree cover on the site and in response with the Council's request, I have imposed a condition requiring replacement planting to be undertaken accordance with details to be agreed between the parties. Whilst I am satisfied to leave the exact choice of species to be agreed, this is on the basis that the replacement tree(s) will be of long-lived species, capable of attaining a reasonable stature and making a meaningful contribution to the visual amenities of the local area.

17. In imposing this condition, I have taken account of the possibility that the impact of the loss of the yew tree may be exacerbated by the additional loss of the holly stems collectively scheduled as 1240, which are shown as retained on the current layout plan. These are plotted adjacent to the Egerton Road boundary, approximately in line with the yew tree. However, on site they appeared to be closer to the Horse chestnut 1238, with the consequence that they will apparently need to be removed to facilitate the construction of the entrance driveway to Plot 17. Whilst they are not outstanding specimens, the removal of the holly stems would further open up this boundary.

Conclusions

18. In view of my decisions on the main issues, I have concluded that the prevailing circumstances have rendered the successful retention of the yew tree unviable. I therefore allow the appeal and grant consent for the removal of the tree, subject to a replacement planting condition.

Mick Boddy

Arboricultural Inspector