



Appeal Decision

Site visit made on 28 October 2025

by **Mick Boddy** *F Arbor A FICFor CEnv*

an Inspector appointed by the Secretary of State

Decision date: 24 December 2025

Appeal Ref: APP/TPO/B4215/9920

174 Bury Old Road, Salford M7 4QY

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order (TPO).
 - The appeal is made by Mr Joshua Lustman against the decision of Manchester City Council.
 - The application No: 137823/TPO/2023, dated 22 May 2023, was refused by notice dated 4 October 2023.
 - The work proposed is to fell one beech tree and plant a smaller tree/bush to replace it.
 - The relevant TPO is the City of Salford Tree Preservation Order (No. 4), 1969, dated 19 December 1969.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The TPO was made by the City of Salford Council under the Civic Amenities Act 1967 but is now administered by Manchester City Council, who have been unable to provide definitive evidence that the Order was confirmed. In response to a request for this evidence, the Council's Senior Planner stated: *'At the time of transition, the copy of the TPO we hold was all that was provided by Salford. It was transferred as a confirmed Order (being some considerable time after the event) and we have treated it as such as there is no reason nor evidence to conclude otherwise. Under the transition arrangements of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 we therefore consider it to be a confirmed Order.'*
3. In view of the above, I am satisfied that, on the balance of probabilities, the TPO was confirmed and have determined the appeal on the basis of the evidence placed before me.
4. In accordance with current guidance, the chosen appeal process cases are dealt with on the basis of the original application and its supporting documentation, the decision of the Local Planning Authority and the reasons they gave when making that decision. I am therefore unable to consider the additional issues raised in the appellant's appeal submission. As such, whether or not the tree falls within any of the exceptions in Section 198 (6) of the Town and Country Planning Act 1990 is not a matter for me to determine. This, however, will not remove the right of the appellant to rely on the exceptions should it subsequently be established that the proposed works are covered by them.

Main Issues

5. The main issues in this case are the effect of the proposed felling of the beech tree on the character and appearance of the area; and whether sufficient justification has been demonstrated for its removal.

Reasons

6. The beech is a substantial, healthy mature specimen situated adjacent to the northern side of the A665 Bury Old Road in an elevated strip of ground which forms the boundary between No 174 and the appellant's property, No 176. Whilst a fence apparently demarking the boundary terminates approximately in the centre of the tree's trunk, the appellant states that the tree is in the ownership of No 174.
7. The beech has a relatively squat form, its crown supported on multiple ascending limbs arising at around 4 metres from a clean bole, suggesting it was possibly historically pollarded. Its crown appeared to have subsequently been modestly reduced upon at least one occasion but has regenerated satisfactorily to form a reasonably balanced and well-shaped canopy.
8. Given its size and elevated position, the beech is a visually prominent specimen, which along with the several further similar beech trees and other mature broadleaves growing along this section of the road, affords a significant degree of public amenity.
9. The removal of the beech would erode the pleasant and verdant quality of the local landscape, giving rise to considerable harm to the character and appearance of the area. Accordingly, the reasons put forward to justify the removal of the tree need to be convincing and sufficient to outweigh the resultant harm. It is to those reasons, the second main issue, to which I now turn.
10. As stated above, the beech is growing in an elevated position in relation to the road, the front boundary being formed by a stone-built retaining wall of around 1.2 metres in height. A retaining wall of a similar height facilitates the drop in levels to the drive of No 174 to the east of the tree. There is no actual retaining wall on the eastern edge of the appellant's property, the sloping bank being supported by a more random arrangement of stones and concrete, which is weathered and breaking up, with the sections closest to the tree being displaced by the large buttress roots that extend down the bank. Whilst repairs are required to the concrete to maintain the integrity of the bank, these could be effected without the need for the tree to be removed.
11. Although the beech is located in an elevated position in a relatively narrow strip of ground, it has clearly adapted to this restricted growing environment, producing large structural buttress roots extending along and down into the embankment on the boundary of the appellant's property.
12. Whilst I can appreciate the appellant's concerns over the safety of the beech given its proximity to the road and his house, there were no signs of fungal colonisation or decay around the base of the tree and I could see no evidence of ground heave or other indication that it is currently unstable or at a heightened risk of uprooting.

13. Accordingly, on the basis of my visual inspection and in the absence of any compelling supporting evidence, I do not consider that the removal of the beech is currently warranted on safety grounds.
14. From a ground level assessment, I could see no substantial branches in the crown of the beech that appeared to be particularly susceptible to failure. Whilst mature trees are typically subject to the periodic shedding of twigs and smaller branches, this can be minimised by regular maintenance, subject to obtaining the necessary consent under the TPO. The Council have already indicated that they would be receptive to an application for such pruning, which could also include the additional work required to cut back the branches fouling the telephone lines running through the crown from the telegraph pole in the pavement immediately to the south. The removal of dead wood from living trees does not require consent and can be undertaken as and when necessary.
15. The drive to the appellant's property slopes up from the road to the house and a flight of steps has been constructed over the left hand side of this. Given the proximity of the tree, I acknowledge it will be a source of seasonal inconvenience in terms of shading and the shedding of leaves and other debris, which will no doubt require a degree of additional maintenance to reduce the risk of slipping on the drive. However, such issues are an unavoidable consequence of owning a property in a well-treed locality, and the situation will have changed little over recent years. Accordingly, I find that these issues afford little weight in favour of the appeal.
16. As observed in the City Arborist's report, it should be possible to amend the driveway to accommodate the parking of a vehicle whilst retaining the beech tree and in such a manner that the drive should not be susceptible to damage by the tree's roots in the future.
17. No evidence has been provided to support the suggestion that the tree's roots pose a foreseeable threat to the drains or underground service installations. The extract of the surveyor's report submitted with the application recommended that a full drains survey be undertaken, prior to completion and exchange, due to the proximity of the tree. No such report or confirmation that a survey was actually undertaken have been provided.
18. The likelihood of the tree's roots infiltrating the drains is slight unless they are already damaged or the joints are leaking. Furthermore, modern methods of repair allow drains that have been subject to root ingress to be repaired in a manner that they should not be susceptible to further damage, without them being dug up and replaced. It is my understanding that tree root damage to underground utilities is uncommon and I find that the unsubstantiated risk of damage to these or the drains affords little support for the proposed removal of the beech.
19. I acknowledge the willingness of the appellant to plant a replacement for the beech should the appeal succeed. However, the suggested conifer or laurel would not be appropriate and any more suitable large growing broadleaved species would take many years to reach the same stature as the appeal tree, and would thus take a considerable time to reinstate a similar level of visual amenity. As such, replacement planting would not satisfactorily mitigate the harm to the character and appearance to the area that would result from the loss of the beech.

20. The higher the amenity value of a tree and the greater the negative impact of its loss, the stronger the reasons needed before consent is granted for its removal. Having carefully considered the reasons put forward, I find these are currently insufficient, either individually or collectively, to justify the removal of the beech tree.
21. Thus, for the reasons set out above, I conclude that the appeal should be dismissed.

Mick Boddy
INSPECTOR