



Appeal Decision

Site visit made on 27 February 2024

Site visit made on the same day

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 11 March 2024

Appeal Ref: APP/TPO/P1045/8893

65 Lime Tree Road, Matlock, Derbyshire DE4 3EJ

- 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.
 - The appeal is made by Mr K Paramor against the decision of Derbyshire Dales District Council.
 - The application Ref: T/21/00155/TPO, dated 16 August 2021, was refused by notice dated 21 October 2021.
 - The work proposed is the carrying out of selective root pruning to a pine.
 - The relevant Tree Preservation Order (TPO) is the TPO No 47 Trees at Lime Tree Road, Matlock which was confirmed on 2 September 1986.
-

Decision

1. The appeal is dismissed.

Preliminary matter

2. In early 2020, I dismissed a previous appeal against refusal of consent to prune the same roots of the pine tree (ref APP/TPO/P1045/7511). It is an established principle that each appeal should be determined on its own merits and I have determined the current appeal on this basis.

Main Issues

3. The main issues in this appeal are:
 - the amenity value of the pine tree and the likely effect of the proposed works; and,
 - whether sufficient justification has been provided for the proposed works.

Reasons

Amenity value of the pine tree and the likely effect of the proposed works

4. 65 Lime Tree Road is located on a residential road that steeply ascends the south facing valley side in Matlock. The pine, which is the subject of the appeal, is a tall mature tree with an elevated crown, stout main stem and thick branches that appears to be in robust health. It is evident from the pine's high canopy, which has a depression on its southern side, that its growth has been influenced by the large cedar in front of it which was felled in 2019. Set to the front of the house close to the road, and with the road

and a public right of way wrapping around the front garden on two sides, the pine is in a very prominent location and is of high amenity value.

5. By being positioned close to the pine on its southern side it is evident that the cedar's canopy shielded the pine from strong winds. Given that trees and their rooting systems grow to accommodate their surroundings, in the more than 4 years since the cedar was felled, it is likely that the pine's roots have begun to adapt to its greater exposure by strengthening its rooting system. The increasing disturbance to the drive caused by roots as they extend further across the drive, illustrated by the photographs in the submitted report, appears to be indicative of this.
6. The root pruning work proposed would involve severing and removing three roots that are lifting the tarmac drive serving No 65. As part of the new application to prune these roots they were exposed for examination at the nearest edge of the drive to the tree.
7. In the submitted report, the diameter of the exposed roots closest to the surface which have been deformed by the pressure of passing vehicles measured up to 100mm in diameter. Closer to the edge of the drive the diameter of the thickest roots reduces to 25mm to 30mm. Whilst these roots may be relatively new, they perform two roles for the tree: firstly, they assist in anchoring the tree; secondly, they obtain water and nutrients.
8. Further investigations at appeal stage demonstrated that there is a mass of roots in the border immediately around the tree, with individual thicker roots varying in diameter from 20mm to 160mm. This is to be expected. The efficiency of trees means that only sufficient roots are grown to provide the stability and resources that they require. As a result, the smaller diameter of the roots that spread away from the tree for several metres or more does not mean that they are not needed and are surplus to requirements. Consequently, the suggested condition requiring that the extent of pruning work is confirmed by the Council's tree officer once the roots are fully exposed would not make the proposed pruning works acceptable.
9. The occupier of the neighbouring property, No 63, has written in support of the appeal due to the damage that the roots on the opposite side of the pine are causing to her drive. As a result, if the appeal succeeds, it is likely that she would make a similar application, which would be difficult to resist, for root pruning work at No 63 to allow her driveway also to be repaired.
10. Taking all these matters into account, I therefore find that the proposed work, either on its own, or cumulatively with similar work taking place on the other side of the tree, would have an adverse effect on the tree's anchorage, health and vitality.
11. Should the tree fail the ensuing loss of amenity and potential damage to surrounding property would be considerable. Should the reduction in water and nutrients mean that the tree is placed under stress and its appearance and longevity suffer the harm caused over time would be very significant. Consequently, the reasons to justify the proposed root pruning works need to be compelling.

Whether sufficient justification has been provided for the proposed works

Condition and useability of the drive

12. Since I last saw the drive in 2020, cracks associated with the roots of the pine appear to have spread further. The appellant's report states that the largest area of damage closest to the drive entrance has lifted the tarmac surface locally by around 100mm and that cracking in general has visibly spread. I agree with that assessment. Whilst motor vehicles with care can still use the drive its poor condition detracts from the appearance of the property.

Whether there are alternatives to root pruning,

13. The application form for works to a tree protected by a TPO states that where structural damage to a hard surface is alleged then written technical evidence from an appropriate expert, including a description of the damage and possible solutions, should be provided. The submitted reports though only considered root pruning as a solution. This is on the basis that the reports considered that the proposed pruning would not harm the tree and that a structural engineer had given advice, without providing a survey or evidence in writing, that a root bridge would not be practical or feasible. This conclusion though appears to have been reached on the assumption that a root bridge could only be made using thick concrete.
14. Given the breadth of root protection systems that exist I find that the technical evidence that has been submitted is inadequate because it fails to identify and properly assess other possible solutions in relation to the characteristics of the site that would protect the tree's roots whilst allowing a new drive to be laid. As a result, in the absence of such information, I am not persuaded that the proposed root pruning is the only way in which to allow the drive to be successfully re-laid.

Effect on saleability of No 65

15. Although the pine is an attractive tree that is an asset to the property and area, I recognise that unless the poor condition of the drive is addressed the saleability of the house and its value may well be adversely affected. This though is a reason to properly evaluate all the possible solutions to resurfacing the drive that would protect the tree, rather than pressing ahead with pruning the tree's roots which would place it at risk.
16. I have found that the proposed root pruning work would place at material risk the future contribution of the tree to the character and visual amenity of the area. In my judgement, should this risk be realised and the tree fails or declines, the considerations put forward in favour of the proposed work would be insufficient to outweigh the harm that would be caused. Accordingly, I conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Paramor

Occupier of 65 Lime Tree Road

Ms Nixon

Occupier of 65 Lime Tree Road

FOR THE LOCAL AUTHORITY:

Mr Payne

Derbyshire Dales District Council

Mr Whitmore

Derbyshire Dales District Council