

Appeal Decision

Site visit made on 24 March 2016

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

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

Decision date: 20 April 2016

Appeal Ref: APP/TPO/Y2736/5040

Copper Coin, Claxton, York, YO60 7SD

- 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 an ash tree protected by a Tree Preservation Order (TPO).
 - The appeal is made by Mr Thomas Fenwick against the decision of Ryedale District Council.
 - The application no. 15/01172/TPO, registered on 13th October 2015, was refused by notice dated 8 December 2015.
 - The relevant TPO is the Ryedale District Council No. 287 Tree Preservation Order 2002, which was confirmed on 11 February 2003. The ash tree is individually scheduled as T1 of the order.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although the forms were prepared by Mr Fenwick, both the application and appeal were made jointly with Mr R J Field, the owner of the neighbouring property, The Paddock.

Main Issues

3. I consider that the main issues in this case are:
 - (i) The impact of the proposed removal of the ash tree on the character and appearance of this section of the Claxton Conservation Area.
 - (ii) Whether the reasons put forward are currently sufficient to justify the proposed removal of the ash tree.

Reasons

Impact of the proposed removal of the ash tree

4. Copper Coin and The Paddock are neighbouring detached properties on the western side of the main street, towards the southern end of the village. Both properties are situated within the Claxton Conservation Area.

5. The ash is a substantial mature specimen growing on the boundary between the two properties, at a distance of approximately 18 metres from the south-western corner of Copper Coin and a similar distance from the north-western corner of The Paddock.
6. Standing around 18 metres tall, the ash has a full and well-shaped crown that has previously been raised and thinned. The tree appeared to be in good overall physiological condition for a specimen of its size and age, with only a modest amount of dead wood apparent in the crown.
7. Despite its rear garden location, the tree is clearly visible from the front of The Paddock and its upper crown can be seen from further viewpoints from the road, to both the north and south.
8. In relation to this first issue, I found the ash to be a healthy and attractive specimen that affords an appreciable degree of public visual amenity. Accordingly, I am of the opinion that the removal of the tree would have a detrimental impact on the character and appearance of this section of the village conservation area and should only proceed if an overriding justification has been demonstrated for this course of action.

Reasons put forward for the removal of the ash tree

Shading

9. The rear elevation of Copper Coin faces in an approximately westerly direction and the tree is located to the south-west of the dwelling. As a consequence, the ash will cast an appreciable degree of shade over the garden and house as the sun moves round through the afternoon. However, ash trees do not have particularly densely foliated crowns and are comparatively late coming into leaf. Furthermore, the garden is around 20 metres wide and the tree is situated at a distance approximately equal to its height from the house. Although the situation may not be ideal, I do not consider that the presence of the ash should preclude a reasonable degree of benefit and enjoyment being derived from the garden and that its impact is sufficiently overbearing to justify its removal.
10. As the tree is situated to the north-west of The Paddock, there are no significant shading issues in relation to this second property.

Branch shedding

11. Whilst the tree appeared to be in good overall condition, a number of dead branches were apparent in the crown. Although not indicative of decline or disease, there is a risk of these dead branches being shed from the tree. In view of the fact that children play in the vicinity it would be appropriate for the dead branches to be removed. The current exceptions relating to applications to carry out work on trees subject to a tree preservation order allow the removal of dead branches from a living tree without prior notice or consent.

12. The ash did not appear to be particularly predisposed to shedding live branches but, as with any tree, this possibility cannot be ruled out during severe weather conditions. However, the risk of damage or injury being caused under such circumstances appeared sufficiently remote to afford only limited support for the proposed removal of the tree.

Television reception

13. There is insufficient evidence before me to determine whether the ash is the sole or primary reason for the poor quality of television reception affecting Copper Coin. Furthermore, from the original application letter, it appears that this problem has been resolved by the installation of a satellite dish. Accordingly, I afford limited weight to this reason.

Impact on adjacent cherry tree

14. There is a mature cherry tree growing within the garden of The Paddock, approximately 7 metres to the south-east of the ash tree. The cherry is leaning to the south-east, apparently due to the competing influence of the larger ash tree. However, the cherry tree would benefit little from the removal of the ash at this stage.
15. Tree preservation orders seek to protect trees in the interests of public amenity; accordingly it follows that the removal of a protected tree should only be permitted where its public amenity is outweighed by other factors. In this instance, I do not consider the reasons put forward are sufficient either individually or collectively to outweigh the public amenity value afforded by the ash and therefore warrant its removal.

Conclusions

16. In view of my decisions on the main issues, I have concluded that there is currently insufficient justification for the removal of the ash tree and I therefore dismiss the appeal.

Mick Boddy

Arboricultural Inspector