



Appeal Decision

Site visit made on 18 February 2022

by **Simon McGinney MSc BSc (Hons) M.Arbor.A**

An Inspector appointed by the Secretary of State

Decision date: 08 April 2022

Appeal Ref: APP/TPO/Y2736/8402

Oakfield House, Flaxton, York, North Yorkshire YO60 7RE

- 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), and against a grant of consent to undertake work to a tree protected by a Tree Preservation Order subject to conditions.
 - The appeal is made by Mr Tim Orton against the decision made by Ryedale District Council.
 - The application Ref: 20/01044/TPO, dated 11 October 2020 was issued as a split decision by notice dated 26 January 2021.
 - Consent was refused for the felling of an oak tree (T25); and consent was granted for the removal of an oak tree (T24) with a condition to replant.
 - The condition in dispute states: *On completion of the tree removal (T24), a new tree shall be planted no later than the end of the next available planting season following completion of works. The tree/s shall be 12-14cm in girth (Heavy Standard as per British Standard BS3936 Nursery Stock) and must be staked and tied in accordance with good arboricultural practice. The species shall be ENGLISH OAK; planted within 1m of the removed tree. If within a period of 5 years from the date of planting a replacement tree is removed, uprooted, is destroyed or dies, another tree of the same size and species shall be planted at the same place or in accordance with any variation for which the local planning authority gives written approval.*
 - The reason given for the condition is: *To maintain the continuity of tree cover in the location and to compensate the visual amenity value of the surrounding area once the replacement has matured.*
 - The appeal is against the refusal to fell an oak tree (T25) and the condition to replant an oak tree (T24).
 - The relevant TPO is the Ryedale District Council No. 70 Tree Preservation Order 1985 Trees at former Claxton Hall, Claxton, which was confirmed on 14 May 1985.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - In respect of the felling of the oak tree (T25); the effect of the proposed felling of the tree on the character and appearance of the area; and whether sufficient justification has been demonstrated for the proposed felling.

- In respect of the appeal against the condition; whether the condition requiring a replacement tree is both reasonable and necessary having regard to the effect on the character and appearance of the area.

Reasons

Character and appearance

3. Oakfield House is a large and detached property with expansive gardens to the south and the north. The house, on land of the former Claxton Hall, is accessed by a private road that services the adjacent property, Claxton Manor, and a gated access to an adjacent sporting goods shop.
4. The house is set within mature grounds, and the surrounding area is characterised by large and mature specimen trees, including a group of oaks adjacent to the driveway. Furthermore, there are young trees in land to the west of the property, a conifer plantation set to the far north and a conifer hedge along the eastern boundary. The mix of species and the age of the specimen planting gives the area a mature and verdant appearance, and as a group, the trees within the grounds make a significant contribution to the landscape and character and appearance of the area.
5. While the house is set back from the public road and is accessed via a private drive, there is a sporting goods shop to the east of the appeal house. At the time of the site visit, it appeared that the sporting goods shop was open to the public and there were numerous cars within the car park indicating relatively high usage.
6. T25 is a youthfully mature oak tree set in a raised lawned area to the south of Oakfield House and adjacent to the driveway into the property. The tree has a good, attractive form, however, with its present age and size and the presence of other vegetation, including the conifer hedge to the east, it is not clearly visible from any public highways or public footpath.
7. It is marginally visible from the adjacent properties, including Claxton Manor and Grange Farm Cottages, where it makes some contribution to the visual amenity. Moreover, while it is not visible at present from the adjacent sporting goods shop, I anticipate that as the tree grows, it is likely to become so.
8. Similarly, T24, an oak tree that has already been removed, would from the evidence available have had a limited effect on the landscape from areas of public highway and public footpath. Based on images provided with the application and the girth of the remaining stump, it is likely that the tree had a similar effect upon the character and appearance as T25. Furthermore, it would have been clearly visible from the sporting goods shop to the east.
9. T25 and the replacement tree for T24 are unlikely to make a significant visual impact from areas of public highway or footpath, and as individual trees, their impact on the wider landscape is minimal to moderate. However, the removal of T25 and the failure to replant T24 would give rise to some localised harm to the character and appearance of the area, particularly with consideration to the historical context of the site and the composition of the mature sylvan

landscape of the immediate area. As such there should be adequate reasoning and justification for the felling and for not replacing T24. It is to those reasons to which I now turn.

Justification

10. The condition of T25 is good and there is no tree report in front of me to suggest otherwise. The concern that the tree will become a danger due to its position and species type is unfounded, and I only afford this minimal weight. Similarly, with the proposed replacement for T24, I do not consider that there are any arboricultural reasons to assume that an oak tree would be predisposed to branch failure and as such, this also carries minimal weight.
11. The visibility of the trees to the public and the effect of their removal on the character and appearance of the area is primarily where this appeal has been determined and this issue is afforded significant weight.
12. Whilst neither tree is obviously visible as an individual specimen, T25 is visible to the adjacent properties at Claxton Manor and Grange Farm Cottages. Furthermore, it is probable that it will become more visible as it matures. Moreover, the replacement for T24 would be clearly visible from the adjacent sport shop. As it develops, it would also become visible from the properties at Claxton Manor and Grange Farm Cottages. Resultingly, while I accept that the trees are unlikely to be clearly visible from public highways and footpaths, they do provide a reasonable degree of public benefit.
13. I do not consider that the condition to provide a 12-14cm standard oak as a replacement for T24 is an onerous requirement and I accept the Council's reasoning for the condition. A replacement oak will, in time, prevent some erosion of the tree group and secure the continuity of the tree cover and the verdant character of the area. I do not consider that the stipulation for the replacement tree to be within 1m of the removed tree is necessarily of great importance, but neither is it sufficient to allow the appeal. Furthermore, replanting with yew or holly as suggested would not provide the same level of effect in terms of growth rates or stature.
14. In summary, both T25 and the proposed replacement for T24 will contribute to the character and appearance of the area as they grow. Moreover, given the age of the trees and potential longevity of the species, it is likely that this will increase in future years.
15. With any appeal of this kind a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant harm to the amenity of the area. In this case, the proposed felling of the T25 and failure to replant T24 would result in harm to the character and appearance of the area, and in my judgement, insufficient justification has been demonstrated to support the felling or varying the condition.
16. For the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

Simon McGinnety

INSPECTOR