

PLANNING INSPECTORATE APPEAL DECISIONS		
20188014A	14 WICKFORD CLOSE	
Proposal:	APPLICATION FOR THE FELLING OF TWO (2) TREES PROTECTED BY TPO	
Appellant:	MR KALBE OSMAN	
Appeal type:	Appeal: Tree Preservation Regulations	
Appeal received:	26 October 2017	
Appeal decision:	Dismissed	
Appeal dec date:	17 May 2018	
TB	AREA:	WARD: Troon



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Summary

- The appeal related to the rear garden of a detached dwellinghouse within the recent housing development of the grounds of the Tower Hospital.
- The application was refused under delegated powers in August 2017 as there was insufficient justification for the removal of trees, and because the proposal would significantly reduce the amenity value of the local area.
- The appeal was dismissed.

Location and Site Description

The configuration of the dwellings within Wickford Close means that there is a considerable degree of screening of the trees from within the housing area. Nonetheless, their crowns are seen in gaps between the properties when within the cul-de-sac of Wickford Close, from the pedestrian/cycleway of Langford Way to the north, and in certain views from within Herongate Road to the north-east.

The Proposal and Decision

The application proposed the felling of two semi-mature trees within the rear garden, a Horse Chestnut and an Oak, which are protected by a Tree Preservation Order. Amongst the reasons for removing the tree, the appellant was concerned for the safety of his children playing in the garden as a result of falling branches. No arboricultural report was produced to indicate any disease or structural weakness in either tree.

The application was refused for the following reasons:

- The reasons given does not justify the removal of the two (2) trees referred to in the application.
- The proposal would significantly reduce the amenity value of the local area.

The Appeal Decision

The appeal was dismissed.

Commentary

The inspector noted that the trees form an integral element of the overall redevelopment of the hospital grounds which is characterised by modern housing, the retention of older imposing buildings and by the presence of well-established and mature trees. The trees make a positive contribution to the general visual amenity and character and appearance of the immediate locality. If the trees were to be removed and replacements planted within the garden in their stead, it would be very many years before they made a similar meaningful contribution to general amenity.

The Inspector did not consider there to be any evidence to contradict the Council's assessment of the general fair health and good form of the trees. The inspector noted that there are a number of exemptions from the normal requirement to obtain the Council's consent for the carrying out of work to protected trees. One such exemption allows the removal of deadwood or dangerous branches from an otherwise sound tree. Appropriate action in this regard would help allay the appellant's concerns in regard to branch drop.

The appellant was also concerned that his children may be tempted to climb the trees, with consequent risk to their safety. The Inspector considered that the expectation of the exercise of normal parental control should be sufficient to ensure this is not a significant issue.

The appellant expressed concern that the shedding of detritus from the trees posed a nuisance in terms of clearing. The Inspector noted that the appellant presumably purchased the house in full knowledge of the presence of the trees, which would have been of reasonable stature at that stage. Whilst acknowledging that the appellant and occupiers of the appeal site might find it more convenient and less troublesome in terms of tidiness and general maintenance if the trees were to be removed, the

inspector nonetheless considered that the clearance of detritus should be seen as no more than part of regular household maintenance and is not something that should prevent the reasonable use and enjoyment of a domestic garden.

The appellant also noted his concern about the shading effect of the trees. Undoubtedly given the orientation, location and height of the trees, there will be some shading of the garden and the raised wooden patio at the gable end of the house. The appellant indicated that certain plants within the garden have suffered because of shading and loss of light. However, it was noted by the Inspector that the Oak has previously had lower branches removed to provide a reasonable clearance above what is principally a lawned garden. Whilst the canopies of both trees extend over significant portions of what is a modestly-sized enclosed garden, the amount of shading was not considered to be excessive. Reduction in the level of shading could be achieved through appropriately consented crown lifting, pruning or lopping of the trees, options which did not appear to have been explored, whilst the use of more shade-tolerant plants could also be considered.

Having regards the location of the Oak, whilst this is situated within the lawned area (as opposed to the Horse Chestnut which occupies a corner position of the garden), and may therefore cause some restriction in certain activities, the Inspector did not consider it significantly impacts on the general utility of the garden for matters such as children's play. Similarly, no evidence was provided that its position relative to the house is resulting in any concerns as to structural interference.

The appellant offered to plant trees in a public area as replacements for the two garden trees. The possibility of such an arrangement was not progressed with the Council and would impose additional maintenance burdens upon it. In any event, such replacements would not offset the loss of the contribution that the trees presently make to this particular locality.

The Inspector concludes that the evidence submitted by the appellant does not indicate that harm is being caused to the living conditions of the occupiers of No. 14 to the extent that would justify the felling of the two protected trees which make an important contribution to the visual amenity of the area.