
Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 08/01/20

**gan Vicki Hirst BA (Hons) PG Dip TP
MA MRTPI**

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 31/01/20

Appeal Decision

Site visit made on 08/01/20

**by Vicki Hirst BA (Hons) PG Dip TP MA
MRTPI**

an Inspector appointed by the Welsh Ministers

Date: 31/01/20

Appeal Ref: ENV/3241583

Site address: 17 Brynawel, Pontardawe, Swansea, SA8 4JP

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
 - The appeal is made by Ms Amy Miles against the decision of Neath Port Talbot County Borough Council.
 - The application Ref: P2019/5303, dated 12 August 2019, was refused by notice dated 21 October 2019.
 - The work proposed is to fell a copper beech tree.
 - The relevant Tree Preservation Order (TPO) is the Neath Port Talbot County Borough Council (Land at 17 Brynawel, Pontardawe) Tree Preservation Order 2005, which was confirmed on 1 September 2005.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Tree Preservation Order (TPO) confers protection on one tree identified as T1 and described as a copper beech. It is this tree that is the subject of this appeal.

Main Issues

3. The main issues are the amenity value of the tree and the effect of the proposed works on the character and appearance of the area and whether there are sufficient grounds to justify the works.

Reasons

Amenity value and the effect of the proposed works on the character and appearance of the area.

4. The appeal site is located within a street comprising predominantly semi-detached houses set back from the road with small frontage gardens. A recreation ground, an area of woodland and public path are located opposite the site to the south. Whilst the area has an attractive and wooded character, the appeal tree is one of few mature or semi-mature trees located on the northern, residential side of the street.
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5. The subject copper beech tree is situated to the front of 17 Brynawel and is highly visible from long stretches of the street and from the recreation ground and public path.
6. The tree is a semi-mature specimen. I note that the appellant's tree consultant states that it has a limited rooting area and has developed girdling roots which will limit the take up of water and nutrients. He states that failure can occur at such roots due to the increase of stress from wind movement concentrated at these points. Nonetheless, he does not identify any immediate safety concerns with the tree and describes the crown and stem as being in good condition with previous pruning wounds having occluded well.
7. The Council also considers the tree to be in good health. I noted the girdling roots at my site visit but from my own observations on site, the tree had no obvious other defects and appeared to be healthy. I consider the tree makes an important contribution to the wooded and verdant character of the area. Its loss would be harmful to the character and appearance of the area and its visual amenities.

Justification for the works

8. The tree is located adjacent to the pavement and next to the driveway and a paved area within the appellant's garden. The garden is situated at a slightly higher level than the pavement and is bordered by two low retaining walls adjacent to the tree.
9. The appellant's tree consultant states that the tree has a rooting area which appears to be significantly smaller than the recommended root protection area advocated by BS 5837:2012 "Trees in relation to Design, Development and Construction" (BS 5837). It is stated that the area adjacent to the tree is heavily compacted and it is unlikely that the roots are growing into the compacted ground which has resulted in the girdling described above. Notwithstanding, he acknowledges that the roots may extend into the adjoining garden and across the driveway given the cracking that is evident.
10. He also states, and I noted on my site visit, that the retaining walls have been displaced. Both the appellant's tree consultant and her appointed building surveyor attribute the damage to the tree. The building surveyor states that the walls should be rebuilt to a similar design to prevent further damage. He states that the ability to rebuild the walls is constrained by the position of the tree and would require severance of the roots which would de-stabilise the tree.
11. The appellant therefore contends that felling the tree is required to enable the hazard to the public footpath from the damaged wall to be rectified. The Council do not find this to be justification for the removal of the tree and state that as the tree itself is retaining the ground, a section of the wall could be removed.
12. I acknowledge that the rebuilding of the entire wall on its current alignment would not be possible without substantial damage to the buttress of the tree or its removal. I also agree that the wall adjacent to the pavement needs to be repaired to address the potential hazard to the public arising from its current condition.
13. Notwithstanding, it was evident on my site visit that there was cracking in the driveway suggesting that the roots extend beyond the suggested limited area. In my assessment, given the position of the tree, the limited changes in levels around it, and even taking account of the comments regarding the likely limited rooting area, I concur with the Council's view that it is highly likely that the tree itself is acting as a retaining feature. As such, I have no reason to believe that the wall could not be rebuilt with a gap to accommodate the tree and its future growth with the rest of the wall retaining the remaining length of garden.

14. Furthermore, I am not persuaded that the compacted ground and paving could not be altered to accommodate a greater rooting area for the tree that would enable the roots to develop further and reduce the current girdling root growth. Whilst the distances advocated in BS 5837 may not be achievable due to the site constraints, these standards are largely directed at distances in relation to new construction. In respect of this tree's proximity to existing development, any greater available rooting area would be of benefit in increasing the longevity of the tree's life through a wider area to obtain nutrients and water.
15. Notwithstanding the issues that have been raised, a balance needs to be struck between the problems associated with the tree and the wider public interest arising from its amenity value. Much of the character of the area is derived from its wooded character and appearance. The problems associated with trees close to residential properties are not uncommon in areas where trees create an attractive place to live. The essential need for a tree to be removed must therefore be weighed against the resultant loss of visual amenity to the wider area. In this case, I am not satisfied that there is sufficient evidence to justify the removal of the protected tree and its resultant associated harm to the public interest.
16. I have taken into account all other matters raised but find none that outweigh the harm that I have identified would arise from the loss of this tree. For the reasons given above I conclude that the appeal should be dismissed.
17. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015 (the WBFG Act). I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives set out as required by section 8 of the WBFG Act.

Vicki Hirst

INSPECTOR