

OFFICERS REPORT

Application No: Y18/0558/FH
Location: 38 Spanton Crescent Hythe Kent CT21 4SF
Proposal Felling of a Pine subject of Tree Preservation Order No 2 of 1973.

ASSESSMENT

Performance data:-

Date application valid: 27/4/18

Applicable 8 week target date: 22/6/18

Planning Performance Agreement (PPA) or Planning Extension Agreement (PEA) ? Y/N

If Yes, revised 8/13/16 week target date:

Is the application being determined after 26 weeks without a PPA or a PEA? Y/N

SITE VISIT

Carried out site visit on 10/5/18

The site and proposals were assessed from Dark Lane and Spanton Crescent.

SITE

The site is the rear garden of 38 Spanton Crescent, a detached two storey dwelling set on the hillside in a quiet cul-de-sac of similar properties with open plan front gardens. The site is located on the north eastern side of Spanton Crescent, and on the north western outskirts of Hythe.

To the north of the property there is a well-travelled public footpath known as Dark Lane connecting North Road, to the east, with the village of Saltwood to the north.

The mature Scots Pine stands roughly in the centre of the garden which measures approximately 15.5 metres wide and 12.5 metres in depth. The tree is located on the lawn area which is set at a higher level than the rear of the dwelling and is accessed via short flights of steps.

The tree is the smallest of three adjacent Pines and one of a handful of Pines in the area. It is estimated to stand around 10 metres in height and forms part of Tree Preservation Order No.2 of 1973, made to protect these important trees following an application for the development of the former Turnpike Camp.

Along with the remaining two Pines on the skyline, the tree is considered to be an important landscape feature, being particularly prominent from Dark Lane. Its upper canopy provides a back drop to the dwelling particularly when viewed from between 38 and 40 Spanton Crescent and together with surrounding vegetation, it contributes to the green hillside vista when viewed in the wider context

HISTORY

There have been three previous applications for works to trees at this location: Y05/1439/SH granted consent for 40% reduction of lower limb and 30% reduction of the southerly limb from a Pine tree the subject of Tree Preservation Order No. 2 of 1973; Y13/0091/SH refused consent for felling of a Pine tree subject of Tree Preservation Order No.2 of 1973 and Y13/0470/SH granted consent for crown reduction of a pine tree subject of Tree Preservation Order no: 2 of 1973

PROPOSAL

This application is for felling the Pine on the grounds that:

- o The tree is partially unstable and could break and cause damage
- o The tree causes safety issues for applicant and neighbour: dropping needles create slippery patio surface
- o The applicant regularly needs to employ a gardener to clean up the property
- o The tree reduces light to the house
- o Consent has already been granted for the felling of a Pine at 35 Spanton Crescent
- o Following a recent stroke, the applicant is reluctant to venture outside for fear of slipping or falling
- o The tree causes an allergic reaction to the applicant

The applicant would prefer not to replant but failing that would be willing to plant a Holly tree if consent is granted.

CONSULTATION RESPONSES

Consultation responses are available in full on the planning file. The main points raised are summarised below.

Arboriculture Manager: objection to the proposal on the grounds that there are no sound or justifiable arboricultural reasons for felling the tree.

The tree displays good form and vitality since its reduction in 2013

It is a relatively small tree in a reasonably sized domestic garden

The tree has a compact canopy and is situated north of the property so shade and diffused sky light would not affect house to any great degree

Do not consider tree poses a danger - Pines will shed needles and cones

Tree has high visual amenity value being only one of a handful of remaining Pines

Scarcity of Scots Pines in this area increases its visual amenity value

No evidence supplied by qualified arboriculturist to justify why tree deemed dangerous

Letter from Tree Surgeon states he would be willing to remove tree if consent granted, does not provide commentary on tree's overall health and condition

Hythe Town Council: Support subject to Arboricultural Officer's report

REPRESENTATIONS

Three representations received in support of the proposal, and are available in full on the planning file. The main points raised are summarised below.

Need to be careful when going in garden when windy

Fallen needles and cones are a hazard, can make surface slippery. They fall into neighbouring gardens and footpath at rear and prevent neighbour's young children from playing barefoot in garden. Needles block gutters causing further maintenance costs

Tree affects owner's health: smell affects her respiratory system meaning avoiding rear garden and keeping windows and doors closed

Threat of further health problems caused by tree prevents applicant from looking forward to her remaining years, and contravenes her human rights

Position of tree deprives garden of sunlight, prevents owner from benefitting from vitamin D and requires the use of lights at rear of house

Large Pine in small garden causes problems such as falling cones, debris and bird droppings

RELEVANT POLICIES

Shepway District Local Plan Review Saved Policies: SD1; BE17

Shepway Core Strategy Local Plan 2013 Policies: DSD

APPRAISAL

The main issue to be considered is whether the removal of the Scots Pine tree would have an adverse effect on the character of the area or a detrimental impact on the visual amenity of the locality, and whether there are any overriding material considerations which would warrant the removal of the tree.

The Pine is a relatively small specimen, when compared to those in neighbouring gardens, and is visible from several public view points, as such it is considered to have a reasonably high degree of amenity value. It is characteristic of the local landscape being an integral part of the estate and one of a group of Pines which are located in the rear gardens of the houses on the north side of Spanton Crescent. Over the last two decades there has been pressure for many of the Pines to be felled, which has generally been resisted, as such its retention is desirable. As mentioned above, an application made in 2013 for the felling of the Pine was subsequently refused.

The justifications given for the felling of the tree are addressed below:

Condition of tree:

The applicant claims that the tree is partially unstable and could break or fall but no evidence has been supplied to back up this claim, as required at section 8 of the application form. A letter from a local tree surgeon has been submitted but this simply states that there are two branches that require attention to prevent them snapping off during high winds. The tree surgeon has been contacted and has verified this, and has confirmed that he has no concerns with the structural integrity of the tree that would warrant its removal. Pruning works to reduce or remove the two limbs could be undertaken subject to the necessary consent to address the above concerns without the need to fell the tree.

Dropping of needles and cones:

Large trees in gardens have and always will generate complaints from residents in relation to leaf litter blocking drains and gutters, blocking out light and causing general nuisance, all of which can usually be remedied by routine household maintenance and careful pruning carried out at reasonable intervals, and does not pose a nuisance sufficient to warrant the felling of the tree. The applicant has indicated that she employs a gardener to clear the garden on a fortnightly basis and it is expected that fallen debris from the tree could easily be collected during these visits.

The applicant makes reference to debris falling into the garden of the neighbouring property to the south east of the tree and causing a slipping/tripping hazard, however the canopy extends no further than approximately 3.5 metres from the neighbour's boundary, therefore this nuisance is considered only likely to occur in the event of prevailing south westerly winds. It is thought that the residents of neighbouring properties could exercise caution when using the garden during or after windy weather to avoid slipping on any debris. The nuisance associated with the above is not regarded as sufficient justification for felling the tree.

Reluctance to venture outside:

Whilst not strictly a material consideration of this application, it is acknowledged that the applicant is elderly and has recently suffered a stroke making her apprehensive of venturing outside for fear of falling, but it is not thought that the presence of the tree makes accessing the back garden any more onerous, as mentioned above, the main shed and recreational area of the garden are reached via a flight of steps which in itself could be challenging to anyone with limited mobility.

The smell of the tree causes an allergic reaction to the applicant:

It is understood that the smell of the Pine has led to the applicant needing to use her inhaler more frequently during the past year. Records show that the applicant has co-existed with this tree, as well as the nearby Pines for at least 25 years, it is not known why the situation has recently worsened, however this reason alone is not sufficient to warrant the felling of the tree.

The tree reduces light to the house and garden preventing the applicant from benefitting from Vitamin D:

The tree stands to the north of the dwelling, and therefore the amount of shading due to its presence is likely to be minimal and would certainly not pose a barrier to light entering the rear of the property or shade the house to any great degree. The internal layout of the dwelling is not known but it is thought that there are sufficient habitable rooms at the front of the property, which faces south west, to allow the applicant to overcome this issue. With regard to claims that the applicant is unable to benefit from Vitamin D, unless she is housebound in which case the presence of the tree is irrelevant, there are other means of gaining access to sunlight such as spending time in the front garden or trips to the park or beach.

Consent has already been granted for the felling of a Pine at 35 Spanton Crescent:

Every application for works to trees is assessed on its own merits. In this case the residents of No 35 had reached a stage where they were unable to continue to accommodate the constraints that the tree imposed, and had put together a strong and compelling case for its removal. It was clear from the evidence supplied that the tree was having a significantly negative impact on the health and quality of theirs and their immediate neighbours' lives. Due to the location of the tree at the front of the dwelling and adjacent to a steeply sloping shared access drive it is understood that there were several slipping/tripping accidents caused by tree debris which resulted in hospital visits. In addition to this the canopy of the tree extended over much of the garden and drive meaning that excessive bird droppings were a constant nuisance and health hazard which could not be avoided. The constant shedding of the needles caused the gutters and drains to be regularly blocked and constant attempts to keep them clear were considered unreasonable.

After careful consideration it was agreed that the above problems were unable to be satisfactorily remedied by selective pruning due to the close proximity of the tree to the main structure of the house, drive and gutters and reluctantly it was resolved to allow the felling of the tree subject to a suitable replacement. It is not considered, given the site specific circumstances, that the same justification could be used on the current application property.

Turning to those neighbour comments not already considered above.

Tree owner's health:

Whilst it is suggested that the tree poses a threat of further health problems preventing the applicant from looking forward to her remaining years, on the positive side trees play an important role in enhancing our quality of life and this is acknowledged in the Governments Sustainable Development Strategy. Not only do trees have a visual quality, but they also enhance the environment by improving air quality, and reducing the 'Greenhouse' effect by removing carbon dioxide from the air and releasing oxygen. Each year a mature tree produces enough oxygen for ten people. Trees are also an effective sound barrier, can limit noise

pollution and recent research shows that they also help reduce the stress of modern life. In addition trees benefit the environment and the landscape, and are an integral part of the ecosystem providing benefits to wildlife and biodiversity.

In light of this it is argued that far from being an unwelcome nuisance and encumbrance to the landowner, the many benefits that a tree provides need to be embraced. It is reasoned that the applicant was aware of the presence of the protected tree at the property when entering into the purchase and has lived with both its positives and negatives for many years, therefore it is not considered that the tree contravenes her human rights which are taken into consideration within the Planning Act.

Pine needles are a hazard, they fall into neighbouring gardens and footpath at rear and prevent neighbour's young children from playing barefoot in garden. Needles block gutters causing further maintenance costs:

The above comments have been made by the neighbour to the north west of the tree, (No. 36) however there is a very large Pine at No 34 which is situated adjacent to the boundary between the two properties and it is more likely that the majority of debris is generated by this tree rather than the Pine subject of this application. Nevertheless there are other options to explore to address these issues, gutter guards could be installed and there are various types of beach footwear that children could wear to prevent splinters.

In conclusion, the Scots Pine is considered to be an important landmark tree in the locality. The reasons put forward by the applicant to warrant its removal are not considered sufficient to justify its felling, and as such would not be in the interests of good arboricultural practice. The removal would therefore be contrary to saved policy BE17 of the Shepway District Local Plan Review Saved Policies which seeks to protect trees which are covered by a Tree Preservation Order.

RECOMMENDATION

In light of the above, it is considered that planning permission should be refused.

HUMAN RIGHTS

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

Case Officer: Jo Daniels

Report and draft decision notice completed and passed to senior officer.

Name: Jo Daniels Position: Planning Technician Date: 15/6/18

Report and draft decision notice amended (if appropriate)

Name: Position: Date:

Senior Officer

Report not agreed. Details of further work required as follows:

Name:

Position:

Date:

Report and draft decision notice agreed and file passed to admin to issue decision.

Name: D.Campbell Position: DM Team Leader Date: 19.06.18