

Appeal No: APP/TPO/E0345/8715
Planning Ref: 210923/TPO
Site: 51 Orchard Grove, Emmer Green
Proposal: Fell one Oak tree in rear garden
Decision level: Delegated
Method: Written Representation
Decision: Appeal Dismissed
Date Determined: 8 November 2022
Inspector: Rory MacLeod BA MRTPI

1. BACKGROUND

- 1.1 A TPO (68/01) was placed on three Oak trees at Orchard Grove prior to its development and the trees were successfully retained as part of that development. The appeal relates to the Oak in the rear garden of No. 51 Orchard Grove.
- 1.2 Pruning of the tree was agreed in 2016 (ref 161535) and felling was refused with a crown reduction approved as an alternative in 2020 (ref 200714). The appellant submitted a new application to fell in 2021. However, as there had been no change in circumstances since the refusal the year before, this too was refused resulting in the appeal.
- 1.3 There were no arboricultural reasons for the felling, i.e. there were no concerns about the condition of the tree. The main reason for felling was the nuisance cited from bird droppings impacting use of the garden, affecting the decked area and washing - reiterated by the appellant by submission of regular photographs of bird droppings on washing during the appeal period.
- 1.4 The neighbour at 7C Lowfield Road commented on the application (but not the one in 2020), supporting the felling in order that her TV signal is not and (based on its recent new location) will not be blocked in the future by the tree. This was not included in the application so was not formally considered, albeit officers considered that the blocking of the aerial would not be a reason to fell the tree and limited weight was put on this by the Inspector.
- 1.5 Officers noted that, as stated in the decision notice for 200714, the Oak in question is one of three Oaks successfully retained during the development of Orchard Grove. The tree is highly visible from various locations, including from Lowfield Road (a main route through Caversham Park Village) and as such provides high amenity value to the vicinity. The removal of the tree would have a significant detrimental impact on amenity and has not been justified in arboricultural terms. In addition, officers stated in the decision that bird droppings (along with other natural, nuisance issues) are commonly cited reasons for tree work and felling. Given the urban nature of Reading, protected trees are often in conflict with residents from this respect and allowing the felling of all such trees would have a highly negative impact on the character and appearance of the borough. Approving the felling of one tree on the grounds of bird dropping nuisance would set a very unwelcome precedent at a time when the retention of trees and increasing the canopy cover is a high priority, as a result of our climate emergency declaration and adoption of our second Tree Strategy.
- 1.6 The reasons put forward to support the felling were not considered to outweigh the loss of amenity that would result from the felling, hence officers refused the felling on 26 July 2021.

2 SUMMARY OF DECISION

- 2.1 The Inspector considered the main issues to be the effect of the proposed removal of the tree on the character and appearance of the area, and whether sufficient justification has been demonstrated for the proposed felling.

2.2 The Inspector considered that the Oak tree has high public amenity value and that its felling would give rise to considerable harm to the character and appearance of the area, stating that: *'The oak tree is also prominent in views from various positions along Lowfield Road, particularly across the triangular green in front of 7-11 Lowfield Road from where the oak tree's rounded canopy presents a pleasing feature'*. The Inspector commented that:

'Nuisance associated with bird droppings along with other naturally occurring potential nuisance issues, such as the falling of leaves and branches, are common issues for trees in urban areas near to housing. Their effect on the living conditions of residents would rarely outweigh the amenity value of protected trees if such trees are to contribute to an area's character and appearance'.

And that:

'The tree would have been present at the time of construction of the houses at this end of Orchard Grove, and whilst it would have grown since then, the size of its canopy appears to have been managed to retain its amenity value whilst mitigating its impacts on occupiers'.

2.3 The application form included a claim that the issues are impacting on the appellant's mental health, hence the Inspector considered this under the Equality Act 2010 and commented that:

'There does not appear to be a direct correlation with nuisance from the tree. There is no detailed medical or other evidence before me to substantiate the claims made in the appeal submissions to link adverse mental health, with nuisance from the oak tree, or to expand on how the self-diagnosis has been arrived at. In these circumstances the weight that I can apply to this issue can only be limited'.

2.4 The appellant has offered to plant a replacement tree (as would be required); the Inspector commenting that:

'Any replacement would take many years to reach a similar stature and provide a comparable level of visual amenity as the appeal tree. As such, replacement planting would not be sufficient to mitigate the harm that would arise to the character and appearance of the area'.

2.5 The Inspector concluded that:

'With any application to fell a protected tree, a balancing exercise needs to be undertaken. The necessity for the works applied for must be weighed against the resultant loss to the amenity of the area. In this case, the felling of the tree would result in considerable harm to the character and appearance of the area. In my judgement, insufficient justification has been demonstrated for its proposed felling'.

2.6 The appeal was therefore dismissed.

Assistant Director Planning, Transport & Public Protection Services Comment:

This appeal decision is welcome, particularly after such a long period, given that the comments made by the Planning Inspector upheld the amenity value assessment by Officers and that insufficient reasons for felling had been provided. The decision is particularly welcome given the Council's climate emergency declaration and the need to retain trees for their contribution to climate change mitigation and in accordance with policy EN14 and the aims of our adopted Tree Strategy.

Case officer: Sarah Hanson

