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## Appeal Decision

Site visit made on 18 April 2017

**by A J Mageean BA (Hons) BPI PhD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 10 May 2017**

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**Appeal Ref: APP/ENV/3163723**

**5 Elswick Close, Washford Park, Shrewsbury SY3 9QR**

- 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.
  - The appeal is made by Mr David Joseph Arkinstall against the decision of Shropshire Council.
  - The application Ref: 16/04024/TPO, dated 25 August 2016, was refused by notice dated 25 October 2016.
  - The work proposed is fell silver birch tree.
  - The relevant Tree Preservation Order (TPO) is Shrewsbury and Atcham Borough Council Tree Preservation Order relating to Meole Brace 2002, which was confirmed on 6 December 2002.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the removal of the silver birch tree on the character and appearance of the area, and whether sufficient justification has been demonstrated for its removal.

### Reasons

3. The tree is located in the front garden of No 5 Elswick Close adjacent to its boundary with No 4. It is a youthfully mature specimen with a balanced conical form commensurate with its age. The wider estate has a range of mature trees and shrubs in both gardens and public areas, including a number of other mature silver birch trees of similar size and form. Whilst it is not clear whether the appeal tree was part of the original landscaping of the estate, it is nonetheless part of the informal landscape setting which gives this area its pleasantly verdant character.
  4. The appeal tree itself is notable as a central element of the street scene within this short Close, with its appearance in the view into the Close from Pendle Way being particularly striking. It is also part of the backdrop to the wider area, including Washford Road. As such, whilst I agree that there is a reasonable density of trees and shrubs within the garden of No 5 and this local area, the appeal tree itself makes a significant contribution to the landscape setting. Its loss would therefore cause harm to the character and appearance of this area. Whilst I note that the appellant would accept a smaller replacement tree this would be unlikely to make a comparable contribution to the local landscape.
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5. In this context any reasons given to justify the harm caused by the removal of the tree need to be convincing. It is to those reasons, the second main issue, to which I now turn.
6. There is nothing before me to suggest that the tree is of poor health or vigour, or that it is suffering from pests, disease or decay. Furthermore I saw nothing on site to suggest that the tree was unstable or more likely than any other healthy tree to drop branches in high winds, or that it would not live for many more years to come.
7. I recognise that the tree has caused some damage to the pavement, though this appeared to have been repaired at the time of my site visit. Concern is also expressed about the potential damage to the pavements on the driveway to No 4. Without details of the means by which the pavements have been laid it is not possible to say for certain whether or not damage could occur, however I accept the Council's view that significant root development in this area is unlikely to occur. Furthermore, no evidence has been presented to suggest that further damage to the pavement is likely to be a significant problem in the future.
8. I accept that given the position and orientation of the tree it has an impact on the sunlight and daylight reaching the front garden and front elevation windows of this property and its neighbour, at certain times of the day. At the time of my site visit, at around 11.30am, the tree did shade part of the front garden, though much of it was in full sun. I recognise that this situation changes throughout the day (and times of the year) but it seems to me that the tree does not block sunlight or daylight from most of the property and garden areas for most of the time.
9. I recognise that there is some local support for the removal of the tree, particularly based on the view that the leaf and seed drop from such trees can cause nuisance at certain times of the year. Reference is made to potential damage to property and to such litter being a health and safety hazard, particularly when wet. However, whilst I recognise that the appellant also has to manage leaf and seed fall from other local trees and shrubs, the inconvenience of regular maintenance and management is not uncommon within areas characterised by a mature landscape which provides for an attractive setting.
10. I accept that birch pollen can affect those people sensitive to such allergens at certain times of the year, however there is no evidence before me to suggest that this is a particular problem in the present case.
11. Whilst the appellant refers to the felling of trees on a nearby traffic island, details of the circumstances of this case are not presented and so I am unable to draw comparisons.
12. In any application to fell a protected tree a balancing exercise must be undertaken. The essential need for the work proposed must be balanced against the resultant loss to the amenity of the area. In this case there has simply been insufficient evidence put forward to justify the removal of this protected tree.
13. In conclusion, I have found that the loss of the silver birch tree would result in significant harm to the character and appearance of the area. As insufficient justification has been provided to fell this tree the appeal should be dismissed.

*AJ Mageean* INSPECTOR