



Appeal Decision

Site visit made on: 25 March 2014

By: **Jim Unwin** BSCFor MICFor FArborA CEnv.
An Arboricultural Inspector appointed by the Secretary of State
for Communities and Local Government
Decision date: 01 May 2014

Appeal Ref: **APP / TPO / L3245 / 3669**
At: **No.4 Acton Burnell, Near Shrewsbury, SY5 7PA.**

- 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 Mrs Christine Harrison, against the decision of Shrewsbury Council.
- The application Ref: 13/04518/TPO, dated 05 November 2013, was refused by notice dated 05 December 2013.
- The work proposed, refused and appealed is felling one yew tree, T1 of the TPO.
- The relevant Tree Preservation Order (TPO) is the *Shrewsbury & Atcham Borough Council (No.4 Acton Burnell, Nr. Shrewsbury) Tree Preservation Order*, which was confirmed on 27 March 1985.

Decision

1. I grant the appeal to fell one yew tree, T1 of the TPO, subject to the following conditions:-
 - i) The felling for which consent is hereby granted shall be implemented within one year of the date of this decision.
 - ii) To avoid the risk of disturbing nesting birds, felling must be done outside bird nesting season, during the months from September to February inclusive.
 - iii) Felling shall be in accordance with section 4 of **British Standards BS3998:2010 Tree work - Recommendations**.
 - iv) During the first planting season (October to February inclusive) following felling, a replacement tree of a species to be agreed between local authority and appellants, but capable of achieving small size of up to 10m ultimate height, is to be planted within the plot of No.4 Acton Burnell, in a location to be agreed between the local authority and appellant. The replacement tree to be container grown (not rootballed); if broadleaved of Select Standard nursery stock, 10-12cm stem circumference and 3m-3.5m overall height; or if a conifer a minimum of 1.5m tall at planting.
 - v) If, within a period of five years from the date of planting, the tree (or any other tree planted as a replacement) is removed, uprooted, or destroyed or dies, another tree of the same size and species shall be planted within the first planting season following the removal, uprooting, destruction or death of the original tree.

Main Issues

2. I consider the main issues in this appeal are:
 - the impact the proposal would have on the appearance and character of the locality, and
 - whether the reasons given for felling the yew tree are sufficient to justify that course of action.

Reasons

- ***The impact the proposal would have on the appearance and character of the locality.***

Character of the locality

3. Acton Burnell is a small and compact rural village, with most dwellings in small irregularly-shaped plots clustered tightly around the central crossroads. Dwellings range from small to medium-sized, from very old to recent, and many older properties are terraced.
4. Farmsteads stand west of the crossroads and to the south west. A small village store and post office lies on the western side of the crossroads. To the east of the Village-centre cluster is the site of Concord College. Other roads lead quickly out of the Village into rolling mixed-agricultural countryside.
5. No.4 is a two-storey house set only 25m from the crossroads. The house is two-storey with a low roofline, set front-of-centre in a small plot. The front section is small, comprising asphalt parking running past the northern corner of the house, and a very small fenced & hedged garden immediately in front of the house. The rear garden is enclosed, and larger than the front garden; at about 14m wide, but only 9m long. The north-west corner does extend a little further and holds a small garden shed. It comprises a narrow paved area behind the house; and lawn. Most of the rear (western) third of the rear garden is occupied by a long-established brick & tile shed or outhouse, with a raised patio to its south. This outhouse may have been extended east quite recently.

Local tree cover

6. The very centre of Acton Burnell is too compact to hold many trees. A large Portuguese laurel only 5m tall but dense-canopied stands near the village store on the side of the road about 28m south from the appeal tree. About 40m north east from the yew is a tall silver birch on the opposite side of the road, and beyond this are many trees set in gardens on slightly higher ground. About 30m due north from the appeal tree is a large apple tree in a front garden, and north west from the appeal tree are other small to medium-sized garden trees such as Leyland cypress and birch. Starting about 60m east from the yew is a row of very large mature oaks and limes lining the road.
7. Located 4.5m west from the appeal tree, and 1m beyond No.4's rear-boundary wall, is a similar yew in a larger rear garden. There are no other trees in No.4's plot.

Amenity value of the appeal tree

8. The appeal yew is 12m tall, with radial crown spread of 5m to the north, 5.5m east towards the house 5.5m away, 3.7m south, and about 3m west where it merges completely with the yew to the west. Although not large, the yew has a substantial trunk of 82cm diameter, suggesting previous crown reduction or pollarding of the tree. Therefore, it is an older tree, potentially even a veteran tree, which increases its overall amenity value.
9. At the site visit the lower section of the yew was hidden in views from public places by other houses. The upper half of the tree is a skyline landscape feature seen in views from roads and nearby properties from the north east, east and south east (off the central crossroads). In views from the west the appeal tree is largely obscured by the crown of the adjacent yew.
10. Acton Burnell Conservation Area is considered by the local authority to be enhanced by trees, not only for their aesthetic appeal, but also for benefits they bring of shade, shelter, screening, enclosure or privacy. In this respect the appeal yew clearly contributes to the character of the Conservation Area: because the species is suitable for its historic Village centre location, because this tree is old with some historic value, and because the compact Village centre is relatively devoid of other trees. In this respect I do not agree with the appellant that the yew provides low amenity value.

Impact of proposed felling on the local landscape

11. Removal of the appeal yew would slightly erode the amenity value of its immediate residential locality. However, I agree with the appellant that following felling of the appeal tree, the yew to its west would still provide a similar skyline arboreal outline in views south west, west and north west, which are the main opportunities for public view of the appeal tree. However, given the tree's age and contribution to the character of the Conservation Area, strong justification would be required for the yew's removal.
- ***Whether the reasons given for felling the yew tree are sufficient to justify that course of action.***

Tree location

12. The rear garden of No.4 is the property's main outdoor amenity space. It is relatively small. The appeal tree's canopy occupies the whole length of the garden, and a significant proportion of its width. The yew's crown is dense and evergreen, so shading and domination continue year-round. Light interception to the garden, and to rear windows of the house, is made worse by the presence of the adjacent yew to the west.
13. The local authority has permitted crown lifting pruning to 5m on the house side. I consider this insufficient to materially reduce the level of over-bearing and light interception caused by the tree. Pruning would have to be much harder: perhaps pollarding back to the main trunk, to provide any significant improvement to living conditions at the rear of No.4.

14. I note here the local authority's concern that no arboricultural reasons have been provided to support yew removal, such as hazard or subsidence damage. However, in this situation of such over-bearing by a tree in a small rear garden, I do not consider that technical reasons for felling are required.

Debris from tree

15. Most trees shed material throughout the year onto surfaces below. I have sympathy with the issue of berries making surfaces slippery. In isolation it would carry little weight as justification to remove the yew, but in this appeal I consider this issue adds to the over-bearing and dominance the yew imposes on the rear of No.4.

Replacement tree

16. I hesitate to require a replacement tree in the rear garden of No.4 because it is small. However, the yew is being granted for removal because this specimen is particularly dominant. There are many varieties of tree which can grow to a sufficient height to provide public amenity so close to the centre of Acton Burnell: about 10m, but can maintain a much narrower crown than the appeal yew. Therefore, on balance, it is appropriate to plant another tree, but subject to conditions in paragraph 1 above.
17. Suitable species could be birch, or another open-canopied tree, such as a common rowan (*Sorbus aucuparia*). The appellant's suggestion of a berry-bearing native tree is sensible, but a smaller tree such as a hawthorn or smaller variety of rowan would not be suitable. In order to provide visual impact, a replacement tree should be of reasonable size at planting, hence the requirement for Select-Standard nursery stock.
18. The local authority suggests any replacement is planted in the vicinity of the appeal tree. However, this might result in shading and suppression of its growth by the other yew, so a location further north might be appropriate.

Conclusions

18. The appeal yew tree is not tall, but it has a large and dense canopy. It provides high amenity value to the centre of Acton Burnell, and contributes to the character of the Acton Burnell Conservation Area.
19. The yew significantly over-bears and dominates the rear of No.4's house and its rear garden. This cannot be materially ameliorated by the pruning permitted by the local authority. Some of the appeal yew's visual amenity can be substituted by another yew to its west. Therefore, there is justification to remove this old yew tree.
20. For these reasons I grant the appeal to remove the appeal yew, T1 of the TPO, standing in the rear garden of No.4 Acton Burnell: subject to a replanting condition.

Jim Unwin **Arboricultural Inspector.**