

APPEALS RECEIVED

Site: HEYWOOD COTTAGE, CHURCH ROAD, STAWLEY, WELLINGTON, TA21 0HP

Proposal: ERECTION OF A SINGLE STOREY EXTENSION WITH GARAGE TO THE FRONT AND RELOCATION OF ACCESS AT HEYWOOD COTTAGE, CHURCH LANE, STAWLEY

Application number: 35/15/0006

Appeal reference: APP/D3315/D/15/3138558

Site: 24 PORTLAND STREET, TAUNTON, TA1 1UY

Proposal: ERECTION OF PROJECTING BALCONY TO REPLACE JULIET BALCONY ON SOUTH WEST ELEVATION AT 24 PORTLAND STREET, TAUNTON

Application number: 38/15/0286

Appeal reference: APP/D3315/D/15/3138359

Appeal Decisions

Site: GREENACRE HOUSE, HONITON ROAD, SHOREDITCH, TAUNTON, TA3 7BL

Proposal: APPLICATION TO FELL ONE OAK TREE INCLUDED IN TAUNTON DEANE BOROUGH (ORCHARD PORTMAN NO.1) TREE PRESERVATION ORDER 1996 AT GREENACRE, SHOREDITCH, TAUNTON (TD652)

Application number: 30/15/0027T

Reasons for refusal:

The tree has a high amenity value and is very prominent. It is considered that there is insufficient justification for removing the tree entirely. It is not agreed that the tree is in severe decline, as stated in the report. The report recommends that pruning works would be sufficient to make the tree acceptably safe (see Notes).

Appeal decision: DISMISSED

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3/25 Hawk Wing (Env)
Temple Quay House
2 The Square
Bristol
BS1 6PN

Direct Line: 0303 444
Customer Services: 0303 444 5000
Fax No 0117 372 6298
e-mail: environment.appeals@pins.gsi.gov.uk

Tree Officer
Taunton Deane Borough Council
The Deane House
Belvedere Road
Taunton
Somerset
TA1 1HE

Your Ref: 30/15/0027/T
Our Ref: APP/TP0/03315/4809
Date: 17 November 2015.

Dear Sir/Madam

**THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND)
REGULATIONS 2012, SINO. 605
APPLICATION FOR CONSENT TO CARRY OUT WORKS TO PROTECTED TREES
APPELLANT: Stephen Bushell
SITE: Greenacre, Shoreditch, Taunton, TA3 7BL**

I enclose a copy of our Inspector's decision on the above appeal.

The appeal decision is final unless it is quashed following a successful challenge in the High Court on a point of law (see enclosed leaflet). If the challenge is successful the decision may be quashed but the case will probably be returned to the Secretary of State for re-determination. However, if it is to be re-determined, it does not necessarily follow that the original decision on the appeal will be reversed.

An application under Section 288 of the Town & Country Planning Act 1990 must be made to the High Court promptly and in any event within 6 weeks of the decision in question. This is an absolute time limit that cannot be extended by the Court.

A challenge must be made on one or both of the following grounds:

- (1) the decision is not within the powers of the above-cited Regulations;
- (2) any of the relevant statutory requirements have not been complied with.

A decision will not be overturned by the Court merely because someone does not agree with an Inspector's judgment. It would need to be shown that a serious mistake was made by the Inspector when reaching his or her decision or, that the site visit was not handled correctly, or that the appeal procedures were not carried out properly. Even if a mistake has been made, the Court may decide not to quash the decision if it is decided that the interests of the person who has sought to challenge the decision have not been prejudiced.

If you have any complaints or questions about a decision, or about the way we have handled the appeal write to:

Appeal Decision

Site visit made on 23 October 2015

by Keith Rushforth

BSc(For), FICFor, FARborA, MCIHort

an Arboricultural Inspector appointed by the Secretary of State for Communities and local Government

Decision date: 17 November 2015

Appeal Ref: APP/TP0/03315/4809

Greenacres, Shoreditch, Taunton, TA3 7BL

- 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 (TPO).
 - The appeal is made by Mr Steve Bushell against the decision of Taunton Deane Borough Council.
 - The application Ref: 30/15/0027/T, dated 1 June 2015, was refused by notice dated 3 August 2015.
 - The proposed work is to fell one oak (T2).
 - The relevant TPO is the Taunton Deane Borough (Orchard Portman No. 1) Tree Preservation Order 1996, which was confirmed on 20 March 2015.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed work on the appearance and setting of the area and whether the condition of the tree provides justification for the work.

Reasons

The effect of the proposed work on the appearance and setting of the area

3. The tree is located at the edge of the 83107 opposite one of the entrances to the race course and is prominent in the views in this part of Shoreditch.
4. Accordingly I conclude that compelling reasons need to be demonstrated to outweigh the impact of the proposed work.

Whether the condition of the tree provides justification for the work

5. At the time of the site inspection the tree was in the early stages of losing the 2015 foliage. However, a significant proportion of the foliage remained and this was of a light green to yellow colour, which is typical of the early stages of autumn leaf drop. The crown shows a reasonable density of foliage on the branches. The crown contains some deadwood, including the branch shown in the appellant's arboricultural assessment report at Fig. 3. Neither the foliage nor the structure provide evidence of major decline in the tree's condition.

6. The 2015 extension growths appear satisfactory for a tree of its size and age which suggests adequate root function.
7. The base of the bole shows good buttressing with no evidence of significant defects.
8. Accordingly whilst I note that there are some defects, including the deadwood and crossing branches mentioned in the appellant's arboricultural report, I find no evidence to support the assertion that the tree is in severe decline. I also find no evidence that the tree is likely or liable to be uprooted during the normal course of events.
9. The appellant's arboricultural report includes a Quantified Risk Calculation which is based on several assumptions. The assessment assumes that no mitigation work is carried out. However, the report recommends work to the tree and the Council's decision recommends "pruning works." Accordingly I attach no weight to the calculation.

Other Matters

10. A proforma observation from Pitminster Parish Council has ticked the "Supports the granting of permission for the following reason(s)" box but presented no reasons for the support.

Conclusions

11. The tree makes a significant contribution to the setting of Shoreditch.
12. There is evidence of some defects in the crown but these can be addressed without need or justification for felling the tree.
13. There is no evidence that the tree is likely to be uprooted.
14. Therefore I do not find any compelling support for the proposed felling of the tree and accordingly I dismiss the appeal.

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Arboricultural Inspector