



## Appeal Decisions

Hearing Held on 21 April 2022

Site visit made on 21 April 2022

**by G Rollings BA (Hons) MAUD MRTPI**

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

**Decision date: 15 July 2022**

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### **Appeal A Ref: APP/TPO/M0655/8004**

#### **8 Bowfell Grove, Woolston, Warrington, WA1 4FT**

- 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 trees protected by a Tree Preservation Order.
  - The appeal is made by Wendy Surtees against the decision of Warrington Borough Council.
  - The application Ref: 2020/37058, dated 1 June 2020, was refused by notice dated 29 July 2020.
  - The work proposed is the felling of three lime trees.
  - The relevant Tree Preservation Order (TPO) is The Warrington Borough Council (Land off Riversdale, Woolston) Tree Preservation Order 1999, which was confirmed on 6 December 1999.
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### **Appeal B Ref: APP/TPO/M0655/8096**

#### **7 Bowfell Grove, Woolston, Warrington, WA1 4FT**

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a failure to give notice within the prescribed period of a decision on an application for consent to undertake work to trees protected by a Tree Preservation Order.
  - The appeal is made by Mrs Kate Waddington against Warrington Borough Council.
  - The application Ref: 2020/37059, is dated 1 June 2020.
  - The work proposed is the felling of three lime trees.
  - The relevant Tree Preservation Order (TPO) is The Warrington Borough Council (Land off Riversdale, Woolston) Tree Preservation Order 1999, which was confirmed on 6 December 1999.
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## Decisions

1. **Appeal A** is allowed and consent is granted to fell trees protected by The Warrington Borough Council (Land off Riversdale, Woolston) Tree Preservation Order 1999 at 8 Bowfell Grove, Woolston, Warrington, WA1 4FT in accordance with the terms of the application, Ref 2020/37058, dated 1 June 2020 subject to the conditions at paragraphs 3 and 4 of this decision.
2. **Appeal B** is allowed and consent is granted to fell trees protected by The Warrington Borough Council (Land off Riversdale, Woolston) Tree Preservation Order 1999 at 7 Bowfell Grove, Woolston, Warrington, WA1 4FT in accordance with the terms of the application, Ref 2020/37059, dated 1 June 2020 subject to the conditions at paragraphs 3 and 4 of this decision.

3. The consented works hereby granted must take place within two years of the date of this decision.
4. A replacement tree in the location of each felled tree should be planted within the first planting season following the removal of each tree. The species and specification of the trees should be agreed with the Council and approved in writing.

### **Background and Main Issue**

5. Appeal A and Appeal B are each allocated to adjoining separate properties. Although the tree protection order concerns a line or parade of lime trees along the rear boundaries of these properties together with others at 6, 9 and 10 Bowfell Grove, the appeals only concern the trees directly abutting the rear boundaries of Nos. 7 and 8.
6. The main issues for both appeals, which were identified at the Hearing, are:
  - The effect of the removal of the lime trees on the character and appearance of the area; and
  - Whether sufficient justification has been demonstrated for the proposed felling.

### **Reasons**

#### *Character and appearance*

7. The lime trees form a parade along the contiguous rear boundary lines of properties on Bowfell Grove. I understand that they signify a historic property boundary which was retained in the layout of the residential estate. They are visible in the approach to the Bowfell Grove along Riversdale, as well the street itself, the surrounding residential properties and the Mersey Way footpath along the nearby river. Glimpses are also possible from other parts of Riversdale and Battery Lane, but clear views are restricted by buildings.
8. The trees have a significant height and were just in leaf at the time of my visit. Their linear arrangement is best appreciated from the Riversdale approach, although as a result of surrounding buildings only short-range unobstructed views are possible. Their crowns are seen over homes on Bowfell Grove and in the limited gaps between buildings. Although they are visible across the open land from the riverside path, these views are generally parallel with the tree line, appearing as a tightly clustered group with the parade effect not particularly apparent.
9. There are other tall trees visible in all views of the appeal trees, although none are direct neighbours. Overall, the area has a verdant nature. Due to the generally short-range nature of views of the trees and the limited impact on the medium-range view from the river, the trees have only a moderate contribution to the character and appearance of the local area, despite their immediate prominence. Accordingly, their loss would result in moderate harm to the character and appearance of the area.

#### *Reasons for felling*

10. Of the original group TPO, all but two small trees remain in the avenue. The parties are in agreement that there is nothing to suggest that the trees are in

- poor health or vigour or suffering from abnormal pest infestations, disease or decay. This was despite the Council's assessment of poor-quality past maintenance on some of the trees, although the trees appear to have been responsive to the works. Despite their proximity to fences, the appellants confirmed that the trees have visibly increased in height over the past few years. Notwithstanding, I saw nothing to suggest that the trees are unstable or dangerous or that they would not live for many more years.
11. I heard that the trees are responsible for a catalogue of issues and that they are significantly troublesome for the residents of Bowfell Grove. These include heavy leaf drop, especially in autumn, and the attraction of birds and other small animals that are responsible for garden mess. However, these are common issues with mature vegetation and despite an onerous maintenance burden, do not provide sufficient reasons for removal of protected trees.
  12. The trees shade the appellants' gardens for much of the day, together with moss growth, and also shade some windows during early hours of sunlight. Although I heard that shading is not persistent throughout the day, the Council clearly would have considered the presence of the trees in deciding to grant planning permission and their presence would have been taken into account when the houses were purchased.
  13. The shedding of dead or dying branches is a normal feature of mature trees. Inspection of the crowns during my site visit did not indicate that any large branches had been shed in recent years. Furthermore, routine arboricultural management of the trees would ensure that significant levels of deadwood do not accumulate thus reducing the likelihood of branches being shed into the garden.
  14. The production of honeydew from scale insects in the trees is a matter of significant concern for the appellants and, from what I heard, other neighbours. This is a common issue with lime trees and occurs throughout the months when trees are mature in leaf. A continuous mist fall is visible around the trees and results in a sticky coating of garden furniture and surfaces. Despite frequent clearing of the deposits, I heard that gardens are unusable for these reasons, and that honeydew also falls on garden users including pets. This is a problem that, while potentially could have been foreseen by prospective residents, is nonetheless significantly harmful to the occupiers' enjoyment of their gardens. The absence of any suitable method of control means that this harm cannot be satisfactorily ameliorated.
  15. I also saw that due to the crown height of the trees, they have only minimal usefulness as a visual privacy screen between the dwellings on Bowfell Grove and Riversdale.
  16. I acknowledge that removal of the disputed trees could expose the remaining trees in the parade to potential failure and it is likely that following these appeals, the owners of the remaining trees will also apply for their removal. Although replacement trees would be secured through an appropriate condition, it would take many years for these to reach a similar stature and thus achieve comparable protective and amenity value. However, a balancing exercise must be undertaken in relation to any application to fell protected trees, weighing the essential need for removed against the resultant loss of visual amenity to the wider area. In this case I am satisfied that the harmful effects on the living conditions of the appellants outweigh the trees' moderate

amenity value and contribution to the visual qualities of the area. Accordingly, there are sufficient grounds to justify the removal of the protected trees.

### **Conditions**

17. The appellants referred to Woodland Trust guidelines on native tree species and it was suggested that replacement trees would be chosen and planted in accordance with these, although no proposals or species were identified at the Hearing. Replacement trees are necessary to restore the amenity value lost to the area, and I have therefore applied a condition requiring the appellants and the Council to agree replacement species. I have not included a clause requiring replacement specimens with comparable value to those lost, as this would be imprecise and would not accord with the planning condition tests as set out the Planning Practice Guidance<sup>1</sup> and the *National Planning Policy Framework* (2021) (paragraph 56). I have also included the standard time condition.

### **Conclusion**

18. For the above reasons and having regard to all other matters raised, I conclude that the loss of the trees would result in moderate harm to the sylvan character of the area. However, sufficient justification has been provided to fell the trees, and the harm outweighs the benefits of their retention.

19. I therefore find both appeals should be allowed, and consent granted.

*G Rollings*

INSPECTOR

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<sup>1</sup> PPG reference ID: 21a-003-20190723; revision date: 23 07 2019.

## **APPEARANCES**

### FOR THE APPELLANTS

Wendy Surtees	Appellant
Kate Waddington	Appellant
Andrew Surtees	
CLlr Joshua Dixon	Borough Councillor, Rixton and Woolston Ward

### FOR THE COUNCIL

Simon Twigg RHS Cert Arb.	Tree and Woodland Officer
Richard Griffiths	Tree and Woodland Officer

### OTHER PARTIES

Philomena Shaw	Local resident
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