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# Appeal Decision

Site visit made on 29 October 2019

**by G D Grindey MSc MRTPI Tech Cert Arb**

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

**Decision date: 27 November 2019**

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**Appeal Ref: APP/TPO/R5510/7211**

**135 Long Lane, Hillingdon, Middlesex UB10 0AT**

- 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 fell trees protected by a Tree Preservation Order.
  - The appeal is made by Mrs Kirti Maisuria against the decision of the Council of the London Borough of Hillingdon.
  - The application Ref: 11429/TRE/2018/185, dated 18 September 2018, was refused by notice dated 21 December 2018.
  - The work proposed is fell 3 Oak trees.
  - The relevant Tree Preservation Order (TPO) is The London Borough of Hillingdon TPO No 724 (2014) in respect of 3 Oaks at 133 & 135 Long Lane Hillingdon, which was confirmed on 26 August 2014.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. There are two main issues in the determination of this appeal. These are: (i) the amenity value of the 3 Oaks and the likely impact of the proposed felling and (ii) whether the works are justified in the circumstances of this case. These flow from the advice in the government's on-line Planning Practice Guidance<sup>1</sup>.

## Reasons

*Issue (i) the amenity value of the 3 Oaks and the likely impact of the proposed felling*

3. The Oaks are magnificent mature trees, located in the front garden of the property and broadly near the back edge of the pavement. They therefore have high public visibility along this busy street. The 3 trees and the others in the locality frame the street scene and offer some relief from the built up environment. They add scale and maturity to the area; their leaves will be filtering some of the air-pollution from the busy street adjacent as well as deadening some traffic noise, in addition to the biodiversity they represent.
4. Felling any or all the trees would negatively impact hugely on the character and appearance of the area and I conclude on issue (i) the Oaks have a very positive impact on the amenity of the local environment and its enjoyment by

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<sup>1</sup> para 103 ref ID36-103-20140306

the public. Felling any or all of them would harm the character and appearance of the street.

*Issue whether the works are justified in the circumstances of this case*

5. The appellant's application refers to, firstly, a deficiency of vitamin D for herself and her son. I have seen the letter from Dr Soman of the Acorn Medical Centre which confirms this; I note the Dr does not suggest that the trees are to blame. Indeed, the NHS website<sup>2</sup> is clear that our bodies create vitamin D from direct sunlight on our skin when we are outdoors. The website states "Our bodies cannot make Vitamin D if we are sitting indoors by a window as ultraviolet B (UVB) rays can't get through the glass". Thus the presence of the trees in the front garden cannot be causing the vitamin D deficiency to anyone within the house. UVB rays cannot penetrate the house, whether or not the trees are there, so the trees are immaterial to the vitamin D level of the occupants. The trees lie to the east of the house and are set some distance from it so will not contribute to much shading of the house.
6. The second matter raised is bird droppings falling on the front garden. However, I saw that the front garden is paved and so it should be easy to clean if required, although it seemed to me that there was sufficient play space not beneath the canopy of the trees such that bird droppings need not be encountered. All properties require routine maintenance of cleaning and sweeping; the need for cleaning is not in any way unusual.
7. In any event birds sitting in trees is a normal, expected and natural feature or occurrence with all trees located in all environments. We cannot fell protected trees because birds sit in them. It seems to me that people, when moving to a pleasant and very attractive area with many protected trees, must accept that the protected trees are an integral part of that environment; otherwise the result will be a gradual erosion of the streetscape quality, as trees that people later object to, are lost. Presumably the choice to buy the dwelling has been based, in part at least, on its position within an attractive environment.
8. The third matter raised is the size of the driveway and difficulties encountered driving in and out. However it seems to me that this would have been evident at the time of purchase of the property and would have been part of the decision-making process. It seems at least possible that minor adjustments could be made to the footprint of the driveway, but it did not seem to me to be impossibly narrow.
9. Lastly, it is alleged that the trees are damaging the front wall of the garden, along the back edge of the pavement. Subsidence can only occur if there is shrinkable clay present which dries out and shrinks when the water is extracted by vegetation. The government is very clear on this matter. Reports should be provided by a structural engineer, supported by technical analysis from other experts<sup>3</sup>; it is not enough to allege harm flows from a particular tree unless convincing evidence is provided. I have none submitted here.
10. The original application appears to be suggesting that the trees belong to the Council:- "you as the owner of the trees should maintain the damage caused by your property" as the last paragraph states. Elsewhere the appellant

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<sup>2</sup> <https://www.nhs.uk/live-well/healthy-body/how-to-get-vitamin-d-from-sunlight/>

<sup>3</sup> Planning Policy Guidance: link from paragraph 065 Ref ID 36-065-20140306

describes the trees as “in my front garden” so I am not quite sure of the point being made here. In any event, ownership is not a matter for me. I note the appellant’s offer to plant trees elsewhere but no other location could in any way compensate for the loss of 3 mature Oaks from this busy street.

11. Taking account of all the foregoing matters both individually and in combination, no justification has been provided to fell any or all of the Oaks. Lastly, I apologise for the delay in dealing with the appeal, this has been caused by a backlog of case-work. The appeal is dismissed.

*Gyllian D Grindey*

Inspector