



Appeal Decision

Hearing held at the site on 22 July 2026

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2026

Appeal Ref: APP/TRN/R1845/9845

Land adj. 7-8 New Street, Stourport-on-Severn, Worcestershire DY13 8UL

- The appeal is made under regulation 18 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a Tree Replacement Notice.
 - The appeal is made by Mayville Development Limited, against the issuing of the notice by Wyre Forest District Council.
 - The Notice was issued on 6 July 2023.
 - The requirements of the notice are to: *"(1) Have the remnants of the Cedar cut down and removed from the site, and the stump ground down; (2) plant 1 x Cedrus Atlantica 'Glauca' with a height of 4 metres, planted within 1 metre of the location of the original cedar tree; and (3) Maintain the tree for a period of 5 years from planting during which time, if it dies, is damaged or seriously diseased, to replace it with a tree of a similar size and species to that originally planted"*.
 - The period for compliance with the Notice is: for action (1) above, *"any time, but prior to action 2"*; for action 2, *"between 1 November 2023 and 29 February 2024"*; and for action 3, *"immediately following compliance with action 2"*.
 - The appeal is proceeding on the grounds set out in section 208(1) (a), (b), (c) and (d) of the Town and Country Planning Act 1990.
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Decision

1. The appeal is allowed in part only. The requirements in the Tree Replacement Notice as to the size of the replacement tree, and the period for compliance, are varied as set out in the attached Schedule. In all other respects the Notice is upheld, and the appeal is dismissed.

Background

2. The appeal site comprises a plot of privately-owned amenity land attached to Nos 7-8 New Street, a listed building currently used as offices. The building and land are owned by the appellant company, Mayville Development Limited. The land contains a number of trees. Prior to the date when the relevant works were carried out, these included a Red Oak and an Atlas Blue Cedar. At some time, believed to have been in February 2023, these two trees were subjected to works involving the lopping or removal of the majority of their side branches.
3. The site lies within the Stourport-on-Severn No 2 Conservation Area (the CA). All trees within CAs are protected by Sections 210-213 of the Town and Country Planning Act 1990. In particular, Section 213 provides that, where such a tree is removed, uprooted or destroyed, it shall be the duty of the

owner of the land to plant a replacement tree at the same place, as soon as reasonably possible. The same section also provides for that duty to be enforced through the serving of a Tree Replacement Notice (TRN).

4. In the present case, although the TRN served by the Council identifies the works to both the Atlas Blue Cedar and the Red Oak as a breach of the relevant legislation, its requirements relate only to the first of these, which is required to be removed and replaced.

Reasons for decision

The appeal under ground (a)

5. Ground (a), as set out at Section 208 of the 1990 Act, is that the conditions giving rise to the duty to replant either do not apply, or have already been complied with. In this case, the main reason advanced by the appellant in relation to this ground is that, as a matter of fact, the Cedar tree has not been removed, uprooted or destroyed, and that therefore the duty does not apply.
6. At the hearing, I saw that the unauthorised works to the Cedar appeared to have involved lopping off all of the tree's lateral branches, numbering somewhere in excess of 30, at distances varying between 0.5m – 2.5m from the trunk. At the time of the works, as far as I can tell, this must have left the tree with no foliage, and a series of bare stub ends, each with one or more large pruning wounds. Judging from the random positioning of the cuts, and the nature of the wounds left, the works appear to have been carried out without following any recognised arboricultural guidance, such as BS3998: 'Tree Work Standards'.
7. By the time of my visit, some three and a half years on, some regrowth had appeared from some of the stubs, amounting to what appeared to be around 30-35% of the cut branches. It is evident therefore that, as of today, the Cedar tree remains alive. However, the national Planning Practice Guidance (PPG) states that, for the purposes of the relevant legislation, it is not necessary for a tree to have been completely obliterated; the tree may still be considered to have been 'destroyed' if it has been rendered useless as an amenity, or as something worth preserving¹.
8. In the present case, the regrowth that has taken place is concentrated mainly in the topmost part of the tree, with only a few isolated patches lower down. The regrowth is also, as one would expect, only from the tips of those branches. Elsewhere, the tree now comprises only a bare trunk with a plethora of unsightly branch stumps, the majority showing no signs of life at all. As a result, the tree as a whole no longer displays anything like a natural shape or foliage pattern, and is unrecognisable as an example of its species. In its present condition therefore, I agree with the Council that the Cedar tree no longer has any amenity value. Indeed in my view it detracts from the character and appearance of the surrounding area, and consequently also has a negative impact on the CA and on the setting of the adjoining listed building.

¹ PPG paragraph 137; ID ref. 36-137-2014-0306

9. In reply to my questions at the hearing, the Council's tree officer stated that, in his opinion, if the tree were left in place, few if any additional branches would now be likely to produce any regrowth, other than those that have already started that process. This was for reasons relating to the reduced capacity that the tree now has for photosynthesis, due to its severely depleted foliage. Consequently, the tree would be unlikely to regain its original natural form. In the absence of any technical evidence to the contrary, I have no reason to doubt this prognosis.
10. This being so, it seems to me that whilst the tree might make some further growth from those relatively few branches that have already sprouted, the pattern of that growth would continue to be grossly unbalanced, and indeed would be likely to become exaggeratedly so. And in the meantime, the pruning wounds would remain as a potential pathway for pathogens and disease. Based on the evidence available, it seems to me that the damage that has been caused to the tree would not be likely to be rectified by leaving nature to take its course.
11. I appreciate that the Red Oak, which was subject to unauthorised pruning works at the same time as the Atlas Blue Cedar, has subsequently recovered to some degree, and shows signs of being capable of regaining something resembling a natural-looking shape. But different tree species respond to pruning in different ways, and this was evidently recognised in the Council's decision, at an early stage, not to require the Oak to be replaced. The behaviour of the Oak is therefore not a reliable guide to the recovery prospects of the Cedar.
12. In the light of all the above, I find myself in agreement with the Council, that, as a result of the unauthorised lopping, the Cedar tree has now lost almost all of the amenity value that it must once have had, rendering it useless as an amenity, and no longer worthy of preservation. Having regard to the terms of the legislation therefore, the tree has been destroyed. It follows that the appeal on ground (a) fails.

The appeal under grounds (c) and (d)

13. Ground (c) is that the planting of a replacement tree in accordance with the notice would not be in the interests of amenity, or would be contrary to good forestry practice. Ground (d) is that the place on which the tree is required to be planted is unsuitable for that purpose.
14. In this case, the requirement in the TRN is to plant a replacement tree, following the removal of the existing one, within one metre from the location of the original.
15. The appellant questions the suitability of the specified location, given its proximity to other trees. However, the location is to the south of the main tree group, ensuring that the new tree would have adequate light, and also far enough away from both that group and the Red Oak to avoid undue competition for moisture. No specific conflict with any relevant good practice guidance is identified.
16. An alternative position closer to either New Street or William Bullock Close would be more likely to lead to branches overhanging the highway, and

eventually having to be trimmed; and could also potentially risk the stability of the low retaining wall around that corner of the site. Any location further from those roads would result in the new tree having less prominence in the public realm, and thus less amenity value. Replanting within a metre from the current tree position would, in all likelihood, mean that the existing rootball would have to be dug out in its entirety, which otherwise might not be necessary. But nevertheless, on balance, it seems to me that the location specified in the Notice is the most preferable of the options available.

17. The appeal on grounds (c) and (d) therefore fails.

The appeal under ground (b)

18. Ground (b) is that the requirements of the notice are unreasonable in respect of the period for compliance, or the size or species of trees, specified in it.

19. With regard to the species, that specified in the TRN, *Cedrus Atlantica Glauca*, would be a direct, like-for-like replacement of the original. To my mind this would provide an attractive contrast with the background trees, and as such, I agree that this would be the most suitable species for the location.

20. Regarding the size, the TRN requires a tree 4 metre high at the time of planting, corresponding to either a 'heavy standard' or 'extra heavy standard' specification. The main benefit of requiring a tree of this size is that this would provide an immediate visual presence, to begin to compensate for the loss of original tree.

21. I appreciate that a tree which is smaller at the time of planting would be likely to grow more quickly. But even so, according to the evidence at the hearing, the length of time needed for the smaller tree to outgrow the larger could be up to 20 years. I also acknowledge that a smaller tree would require less maintenance in the early stages, and thus have a better chance of success. However, it also seems likely that a smaller tree would be more vulnerable to vandalism or misuse, given the appeal site's present exposure to public access (albeit that this is on a permissive basis only).

22. I am fully aware that planting the tree, and maintaining it until it becomes established, would be significantly more costly for a 4m tree than for a smaller option. But on balance, I consider a tree of the size specified in the Notice to be the most appropriate option in the circumstances of this case.

23. Turning to the period for compliance, the period specified in the TRN was effectively 6 months, but was calculated to embrace the whole of the next planting season following the date on which the Notice took effect. This seems to me a reasonable approach. Adopting the same logic, the next available planting season from now is that which will commence on 1 November 2026, running through to 28 February 2027. These are therefore the applicable dates for a decision made now.

24. Accordingly, the appeal on ground (b) succeeds in so far as the compliance period is varied to reflect the passage of time since the Notice was originally served. In all other respects, the appeal under ground (b) fails.

Other matters

25. In addition to the grounds discussed above, Section 208 also provides under Ground (aa) for an appeal on the grounds that, in all the circumstances of the case, the duty to replant under Section 206 should be dispensed with. Whilst the present appeal does not refer specifically to Ground (aa), I have considered whether any of the circumstances relating to the case are such as to justify taking that approach.
26. At the hearing, the Company's representative stated that the works were carried out by persons unknown, without the Company's consent or knowledge. This account is not contradicted by any other evidence, although neither is it supported by anything conclusive. I appreciate that the financial costs of complying with the Notice are likely to be significant. However, the relevant legislation² makes clear that the duty to replant attaches to the person who is the owner of the land at the relevant time. Whilst I have considerable sympathy with the appellant company for the position it finds itself in, having regard to the evidence before me, I can see no clear grounds for dispensing with the duty to replant in this particular case.
27. I have considered all the other matters raised, but none alters my conclusion based on the matters set out above.

Conclusion

28. For the reasons explained in this decision, I conclude that the period for compliance with TRN should be varied in accordance with the attached Schedule of Variations. To this extent only, the appeal is allowed. In all other respects the Notice is upheld, and the appeal is dismissed.

J Felgate

INSPECTOR

² Section 213(3) of the 1990 Act

SCHEDULE OF VARIATIONS

The Tree Replacement Notice issued to Mayville Development Limited by Wyre Forest District Council on 6 July 2023 is hereby varied as follows:

- 1) In Section 4 of the TRN, subsection (2) of the 'Time for Compliance' is deleted and replaced with the words:

"(2) Between 1 November 2026 and 28 February 2027".

APPEARANCES

FOR THE APPELLANT

Mark Tranter Appellant

John Hamilton Advisor

FOR THE LOCAL PLANNING AUTHORITY

Sam Hawkins Planning Enforcement Officer

Paul Allen Tree Officer