

In the matter of St Peter, West Blatchington

Judgment

1. The petitioners, being the churchwardens of the parish, seek a faculty for the felling of mature Scots pine tree.
2. Public notice led to a letter of objection from a married couple whose names are recorded on the Court file. They were informed of their right to become a party to the proceedings and sent a blank Form 5. No reply was received, and no Particulars of Objection lodged. In the circumstances I take account of the contents of the letter in determining this petition, as well as a brief email in response from the petitioners.
3. The writers of the letter indicate they are long-term residents of the area (although not necessarily of the parish). The wife recalls playing under the tree as a child in the 1960s. They consider that it is not a good reason to fell the tree simply because one person was struck by a falling pine cone. They consider that felling the tree would be detrimental to the visual amenity of the church and the graveyard.
4. The petitioners rely on an expert report of Kevin Rodgers RFS Cert Arb, ISA TRAQ of New Timber Land Management Limited. The report records that the tree is 18 m in height with a crown spread of 8 m and a diameter at breast height of 600 mm. Minor dead wood is present through the crown. It continues:

The tree is situated at the junction of two paths within the grounds of the church and the crown spreads over an area used as an entrance for a pre-school. An abundance of pine cones are produced which take two years to mature. These pine cones are the subject of concern as previously persons passing have been struck by falling cones, The falling of pine cones upon passing persons does pose a significant risk of injury.

5. Mr Rodgers states that other options have been looked at to mitigate against injury, but all have been discounted, other than felling.
6. I am sympathetic to the observations made in the letter of objection. As the photographs provided with the petition illustrate, this mature tree contributes significantly to the attractive setting of this charming Sussex church. The loss of this tree will be detrimental to appearance of the churchyard.
7. The notification of advice indicated that the DAC did not object to the proposal. It considered the loss of a healthy mature tree to be regrettable, although it acknowledged that the petitioners had to consider risk of injury to passers-by. The

DAC recommended consultation with the CBC, but I did not consider that special citation was either necessary or proportionate.

8. The petitioners indicate that two adult men have been struck by falling cones in the recent pass. They submit, correctly in my view, that the size and weight of the cones are such as to cause significant injury were they to fall on a child or an infirm elderly person. The number of cones (estimated at 130), is such that the risk of one striking a passer-by can properly be categorised as significant, rather than speculative or fanciful. In the particular circumstances of this case, the determinative factor seems to be the proximity of the tree to a well-used pedestrian thoroughfare where young children attending pre-school events or the Sunday school would be particularly vulnerable. This Court will not lightly interfere where a parish has carried out a careful assessment of risk in good faith.
9. I therefore direct that a faculty may pass the seal permitting the felling of the tree on condition (i) that the work is carried out by a suitably qualified contractor with adequate public liability insurance in place and (ii) that a replacement tree of a species approved by the archdeacon be planted during the current or next growing season at a location approved by the archdeacon.
10. The costs of the petition are to be paid by the petitioners prior to the felling of the tree.

The Worshipful Mark Hill QC
Chancellor

15 August 2019