
2022/1140

Mr R Seed

Reduce Horse Chestnut T1 by a third within TPO 24/1973.

The Vicarage, St Pauls, Burton Road, Monk Bretton, Barnsley, S71 2HQ

Site Description

The area is predominantly residential in nature, Burton Road is a busy arterial route linking the Town Centre with the settlements to the north.

The tree subject to this application is located within the front garden of The Vicarage associated with St Paul the Apostle Church. The tree is sited forward of the dwelling, approximately 2m behind the front boundary wall, adjacent to the driveway to the property.

The tree is a large and mature specimen of a uniform shape and is situated within a prominent position within the street scene and can be viewed from the wider area.



Proposed Development

The applicant seeks permission to reduce 1no Horse Chestnut tree by 33% all round within Tree Preservation Order (TPO) 24/1973. No justification or reason has been submitted as part of the application, other than the tree blocking out light to The Vicarage and leaves blocking gutters.

Policy Context

The statute law on TPO's is in The Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Primarily the aim of making a TPO is to protect the amenity value of the tree or trees. Local Planning Authorities (LPAs) may make a TPO if it appears to them to be: 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

The Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. Normally trees should be visible from a public place e.g. road or footpath for a TPO to be made but the courts have decided that trees should be protected for "pleasure, protection and shade they provide". Taking this into account trees should be considered for other aspects of amenity that they provide other than visual amenity.

Government advice and guidance available on the administration of TPOs, is:- 'Tree Preservation Orders: A Guide to the Law and Good Practice' 2000.

The guidance states that 'LPAs must include in their plans land use and development policies designed to secure the conservation of natural beauty and amenity of the land. Plans should not, however, include policies which are unrelated to the development or use of land. They should not therefore include the LPA's policies for deciding applications for consent under a TPO; but they should include policies on measures that the LPA will take, when dealing with applications to develop land, to protect trees and other natural features and provide for new tree planting and landscaping.'

In deciding an application, LPA's are not required to have regard to the development plan. Section 54A of the Act, therefore, does not apply to the LPA's decision, which means that there is no general duty on the LPA to make their decision in accordance with the development plan.

Consultations

Forestry officer – Recommends that this application be refused as the works are not considered acceptable or in line with best practice as per BS3998:2010.

Representations

Neighbour notification letters were sent to surrounding residents; two letters of comment have been received from surrounding properties in relation to:

- The tree is over large posing a health and safety risk to passers-by and the occupants of the vicarage
- Blocking out light to the vicarage

Assessment

Principle of Development

In line with good practice, primarily the aim of making a TPO is to protect the amenity value of the tree or trees. In considering TPO applications the LPA is advised:

(1) to assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area, and

(2) in the light of their assessment at (1) above, to consider whether or not the proposal is justified, having regard to the reasons put forward in support of it.

As noted, the tree is a large, mature, highly prominent Horse Chestnut with high amenity value located adjacent to Burton Road in the front garden of The Vicarage of St Paul's Church.

The applicant proposes to reduce the tree by a third, all around, to reduce the overall size of the canopy due to it blocking light to the dwelling and the leaves blocking gutters. The proposed pruning works are in excess of any works which could be considered acceptable in arboricultural terms; in terms of being highly detrimental to the tree, due to the level of leafing area to be removed and would decimate the aesthetics of the tree, a main reason why trees are protected by preservation orders.

It is generally accepted that no more than a third of a tree's leaf bearing material should be removed in one pruning operation. BS3998:2010 notes that where a reduction is concerned a 30% reduction in crown volume is considered to be approximately equivalent to a 12% reduction in the overall branch length. For example, a branch of 5m long would be shortened back by approximately 0.6m to achieve a reduction of 30% of the tree's leafing area.

It is therefore demonstrable that reducing the canopy by 33% in length would, by virtue of the nature of a trees structure, almost completely remove the entire leaf bearing structure of the tree. The works proposed are therefore way beyond what could be considered as routine maintenance and would prove damaging to the tree. Likewise, no justification has been provided, beyond loss of light and blocked gutters, as to the reasons that these damaging works have been proposed to a highly prominent, protected tree.

Therefore, there is no option but to refuse the works proposed on the basis that they would be damaging to the tree.

Conclusion

In the opinion of the Local Planning Authority, the works proposed do not comply with best practice as per BS3998:2010 in that a reduction of the canopy by 33% in length of the canopy would result in the loss of almost the entire leaf bearing structure. This would damage the tree aesthetically and physically and the creation of many pruning wounds could ultimately open the trees to decay, and as such is unacceptable.

Recommendation

Refuse