
2021/0627

Mr D Melling

Fell Ash tree T1 within TPO 9/1978.

5 Kings Croft, Worsbrough Dale, Barnsley, S70 4SX

Site Description

The tree in question is an Ash tree and is located to the front of 5 Kings Croft.

The tree is a large, mature, highly prominent specimen 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 remove 1no Ash tree within TPO 9/1978 and replace with 1no Field Maple.

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, 88 therefore, does not apply to the LPA's decision, which means that there is no general duty on the LPA to indicate otherwise.

Consultations

Forestry officer – no objections subject to conditions.

Representations

Neighbour notification letters were sent to surrounding residents; one letters of comment has been received from a resident of Elsecar; the main point of concern being that:

- There is no supporting evidence or enough information regarding the condition of the tree or the reasons for refusal

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.

This application relates to a large mature, high amenity Ash tree which is located to the front of 5 Kings Croft.

The applicant seeks permission to remove the tree and replace it with a Field Maple; the application form indicates that there is a significant amount of dieback in the upper canopy, a large amount of stress reaction growth, two historic major limb failures.

The tree which is subject to this application is a large mature and highly prominent Ash. The tree is a major feature of this housing development and contributes positively to the street scene.

The tree officer concurs with the comments of the agent in that the tree is in poor condition with significant dieback and deadwood as well as some stress related reaction/epicormic growth, and given the trees close proximity to dwellings and the level of dieback it is felt that its removal and replaces is the sensible option.

No tree report has been submitted as part of this application as the tree officer is in agreement with the tree surgeon in relation to the defects put forward, which were evident at the time of the site visit. It is considered that the management of this tree is not a suitable option given its location in a residential setting and proximity to residential properties.

It is proposed to replace the tree with a new native Field Maple; ideally the tree would be replaced like for like, however the issues relating to Ash dieback make this impossible. A natural choice would be for a large growing native species such as Oak or Lime, however given the constrained of the site it is not considered a sensible option. Field Maple are native species and reach a reasonable mature size.

The tree officer deems that the level of works proposed are in line with the British Standard BS3998 and good arboricultural practice and as such there is no objection to the proposal.

Recommendation

Approve with conditions