
2024/0895

Barnsley MBC

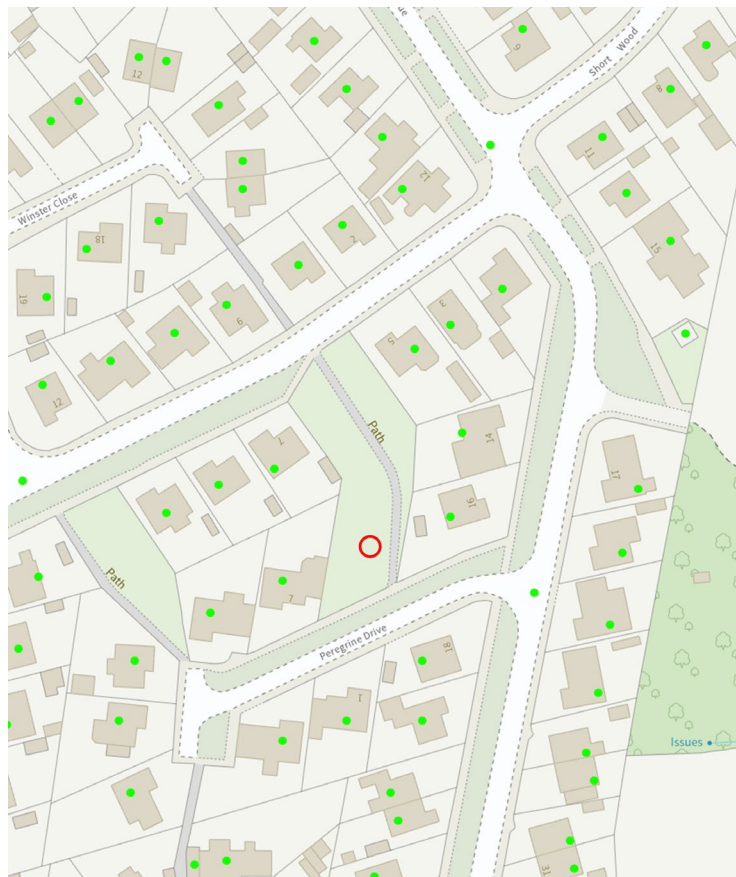
16 Green Spring Avenue, Birdwell, Barnsley, S70 5RW

Dismantle Oak tree T18 to ground level within TPO 43/2009

This application is being brought before members as it has been submitted by the Council.

Site Description

This application relates to an area of local neighbourhood greenspace located to the rear and west of 16 Green Spring Avenue. The greenspace is a grassed area situated between Peregrine Drive to the south and Timothy Wood Avenue to the north and is bounded by dwellings to the east and west. The tree in question is a mature Oak tree located to the west of the western rear boundary of 16 Green Spring Avenue. There are several other trees within the greenspace.

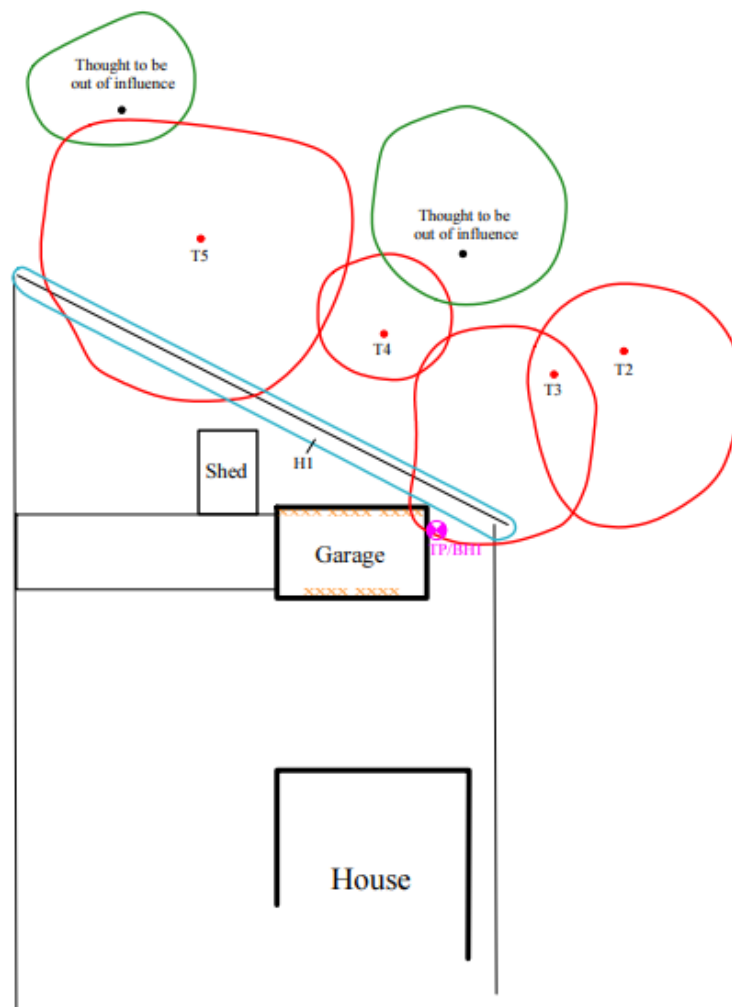


Planning History

There is no planning history associated with this site.

Proposed Development

The applicant is seeking permission to remove an Oak tree T18 (T5) of Tree Preservation Order 43/2009. A root barrier would be provided in the vicinity of T13 (T2), T15 (T3) and T17 (T4) to prevent a reoccurrence of damage. These trees will be retained. Replacement planting comprising 3no. English Oaks is also proposed in the immediate vicinity of removed Oak tree T18.



Policy Context

The statute law in relation to Tree Preservation Orders (TPOs) is included in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

The purpose of a Tree Preservation Order (TPO) is to protect trees which bring significant amenity benefit to the local area. Local planning authorities protect trees in the interests of amenity by making Tree Preservation Orders (TPOs) which prohibit the cutting down, uprooting, topping, lopping, wilful destruction or wilful damage of protected trees without the consent of the local planning authority.

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. Generally, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. Local planning authorities should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath, although, exceptionally, the inclusion of other trees may be justified. 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 in relation to the administration of TPOs is available in the 'Tree Preservation Orders: A Guide to the law and Good Practice' 2000.

This guidance states that 'local planning authorities 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 local planning authority's policies for deciding applications for consent under a TPO; but they should include policies on measures that the local planning authority will take, when dealing with applications to develop land, to protect trees and other natural features and provide for new tree planting and landscaping.'

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

Consultations

Forestry Officer – No objection subject to conditions.

Representations

Neighbour notification letters were sent to surrounding properties and the application was advertised by a site notice, expiring 15th November 2024. No representations were received.

Assessment

Principle of Development

The purpose of a Tree Preservation Order (TPO) is to protect trees which bring significant amenity benefit to the local area. In considering a TPO application the local planning authority 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 the proposal is justified, having regard to the reasons put forward in support of it.

Trees and Replacement Planting

The tree is a large mature Oak located to the west of the application site in the Timothy Wood Avenue public Greenspace. The tree is positioned in a highly prominent location and forms part of a wider group of trees and as such has a high amenity value.

Unfortunately, the tree has become implicated in damage to the adjacent dwelling, 16 Green Spring Avenue. The removal of the tree is unavoidable due to the presence of a gas main which makes the installation of a root barrier impractical should the tree remain. It has been clearly demonstrated that the tree is a causal factor in the damage, and likewise, the use of a root barrier to retain the other trees also implicated in the damage shows that every effort has been made to retain the Oak tree.

Regrettably, there are no grounds on which to object to the proposal and consent must therefore be given to the removal of the tree from a planning perspective. However, the trees are not owned by the affected residential property. It must therefore be made clear that the approval of this application is in no way a suggestion that the tree owners have consented to their removal. This is a decision for the tree owner. The local planning authority has based its decision on the evidence provided and has removed the legislative barriers should the owner(s) wish to consent to the works. In addition, it should be noted that if the tree owners do not consent to the removal of the trees, then despite the approval for their removal, the trees remain protected unless they are physically felled within the two-year time period.

Replacement planting is required, and it is proposed that the felled tree would be replaced at a ratio of 3:1 with a total of 3no. replacement trees to be planted. The replacement trees would comprise English Oaks (*Quercus robur*) and are to be planted at a sensible distance apart but as close to the tree to be removed as possible. The replacement trees, including the specimens proposed, are considered entirely suitable for their setting in the greenspace.

To secure replacement planting a condition will be attached to any forthcoming decision.

The Forestry Officer was consulted on this application, and in considering the above, no objection was raised from an arboricultural perspective.

**Recommendation -
Approve with Conditions**