2021/1435

Mr P Landon

Fell Horse Chestnut tree T1 within TPO 2/1983

The Grove, High Street, Dodworth, Barnsley, S75 3RQ

Site Description

The tree in question is a Horse Chestnut tree and is located along the front side boundary of The Grove, High Street, Dodworth.

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 fell a Horse Chestnut tree within TPO 2/1983.



Policy Context

The statue 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 letter of comment has been received in relation to:

- The tree is a beautiful old tree that supports a wide range of wildlife. On that basis we object to its being cut down.

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 Horse Chestnut tree which is located along the side boundary of The Grove, 82 High Street, Dodworth.

The tree officer discussed this tree some years ago with the owner whilst attending the site to inspect a storm damaged tree in the rear garden. It was noted at the time that the tree had some defects but it was decided to retain it for as long as possible particularly as the owner is immensely proud of, and enjoys the trees in their garden.

The tree has now come to the end of its safe retention life. The issues with recent branch failures and early senescence coupled with the evident cavities and decay all mean that the tree is in major decline and will ultimately become a serious health and safety issue in the not-too-distant future particularly in its location so close to properties.

The works required to maintain and retain the tree would be so severe as they would negate any benefit from retaining it. Therefore the council must concur with the application that the removal of the tree is the only practical option.

The tree will require replacing however, and given the disease issues with Horse Chestnut it is suggested a new Sweet Chestnut is used as replacement rather than a Horse Chestnut.

I can confirm with regret that the removal of the tree is necessary and as such there is no objection from an arboricultural perspective.

Recommendation

Approve with conditions