

Application Reference: 2024/0842

Site Address: 4 Mount Pleasant Close, Bolton Upon Dearne, Rotherham, S63 8PA

Introduction:

This application seeks permission to Reduce 1 primary leader/branch overhanging conservatory from Turkey Oak T1 by 4m to leave suitable lateral branches within TPO 1/1981

Relevant Site Characteristics

The contemporary yellow stone detached dwelling is located in a small cul-de-sac style development of five houses, leading off Wath Road in the village of Bolton-Upon Dearne. The dwelling features an open plan front garden with a short driveway, garage and rear conservatory. The Turkey Oak tree and its neighbouring tree are part of a group of protected trees located adjacent to eastern elevation of the dwelling, with this particular tree overshadowing part of the rear garden and conservatory.

Site History

No relevant site history since planning consent was initially granted for the cul-de -sac in 2016 planning application No. 2016/1107.

Detailed description of Proposed Works

The initial proposal was described as a reduction to one branch of the identified protected tree, which is shown on a photograph to be overhanging a conservatory. Follow-up information was provided through an annotated photograph indicating that a whole branch was proposed to be removed, which differed significantly from the original description.

Relevant policies

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, LPAs 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

The application has been advertised in accordance with Article 15 of the Town and Country Planning Development Management Procedure (England) Order 2015.

Any neighbour sharing a boundary with the site has been sent written notification and the application has been advertised on the Council website.

No representations have been received.

Forestry Officer: Refuse

Planning Assessment

Principle

In line with good practice, 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. The tree subject to this application is prominent and provides significant amenity value.

Assessment

The Council's Tree Officer briefly inspected the tree and has made the following assessment of the tree and proposed works:

"The tree is a large, prominent, mature specimen which along with its neighbour is a significant feature and as such has high amenity value. The works proposed were to shorten back the limb overhanging the applicant properties conservatory to a suitable lateral branch. We therefore requested confirmation of exactly which branch was being referred to and where it was to be pruned back to. The agent then responded that they intended to remove the whole limb rather than what was applied for. Given the increase in the level of works proposed we asked that a new updated application be submitted to reflect this so local residents could be reconsulted, however I have had no further communication with the agent since my last response requesting the submission of new application and the withdrawal of this one. Given the lack of clarity and

justification provided so far along with the lack of communication to remedy this I feel there is no option but to refuse the application.

As an aside I feel that the removal of the limb would not be appropriate and shortening it back would be preferable, particularly due to the much larger wound which would be left as a result of the removal of the limb compared to reducing it back to a suitable pruning point.”

RECOMMENDATION: Refuse

Justification

Contact was made with the applicant to firstly request detailed confirmation of the proposed works. Following receipt and review of the information provided, secondary contact was made outlining the possible options for resolution or withdrawal of the application. A more than sufficient time has passed with no reciprocal contact. Therefore, in accordance with the recommendation of the Forestry Officer, the application has been recommended for refusal.

STATEMENT OF COMPLIANCE WITH ARTICLE 35 OF THE TOWN AND COUNTRY DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2015

Due regard has been given to Article 8 and Protocol 1 of Article 1 of the European Convention for Human Rights Act 1998 when considering objections, the determination of the application and the resulting recommendation. it is considered that the recommendation will not interfere with the applicant's and/or any objector's right to respect for his private and family life, his home and his correspondence.