



B/05/1062/WW Erection of seven dwellinghouses and one block of five garages Refuse

2006/0102 - Development comprising 5 apartments in a two-storey block, two storey office building with parking spaces and retention of existing storage building. Approved

2006/1032 - Modification of Conditions 5 & 10 attached to planning consent 2006/0102 (being the erection of 5 apartments, an office block and the retention of a storage building). Condition 5 limits development to First Choice Developments. Condition 10 precludes the use of the site for open storage. Approve

2008/1788 - Vary Condition 1 of application 2006/1032 (being the development comprising 5 apartments in a 2 storey block, 2 storey office building and retention of existing storage building) Condition 1 relates to storage purposes. Approve

2015/1388 - Demolition of existing single storey workshop, erection of three storey apartments providing 7 no. flat studios, new reconfigured external works and car parking (Outline) Refuse

2018/0562 - Variation of condition 7 (hours of commercial use) and condition 9 (hours of deliveries) of app 2006/0102 (Development comprising 5 apartments in a two-storey block, two storey office building with parking spaces and retention of existing storage building) Withdrawn

2019/1490 - Retention of site boundary screen/attenuation fencing Approve

2021/1455 Crown clean and crown lift Sycamore tree to 5.2m above ground level and reduce away from neighbouring properties on the western boundary by 2-2.5m and also on the eastern portion of the canopy away from the office building. Crown clean and thin the Hornbeams by 20% and crown lift to 3m above ground level. The portion of Hornbeams overhanging the neighbouring gardens to the west shall also be reduced back by 2-2.5m towards the boundary line. Approve

2022/1147 Single storey kitchen extension to office building Approve

### **Proposed Development**

The applicant is seeking permission to Fell the Sycamore tree T1 within TPO 12/1996.

### **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, 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**

Forestry officer – Refuse.

## **Representations**

Neighbour notification letters have been sent to surrounding residents. No representations have been received.

## **Assessment**

### Principle of development

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.

The Council's Tree Officer inspected the trees and has assessed them as follows:

"The tree is a large prominent Sycamore situated in the car park of Heritage Court. The tree has significant amenity value. The application is to remove the tree due to a desire to create two additional car parking spaces, due to potential issues with drains along with the tree blocking light to neighbours and natural arisings such as sap and falling leaves.

The tree is protected by a Tree Preservation Order and as such must be retained unless there is justification for its removal. TPO's were brought into law to ensure trees with amenity value were retained long term as part of their environment so that issues such as those noted and development pressures didn't lead to their premature demise. The removal of a protected tree must be considered as a last resort as the tree has been assessed and deemed as important to the area in order to be protected. In this instance no reason for removal beyond perceived threats to drains, natural arisings and occurrences such as sap, shade and leaf fall and that the applicants wish to create two new car parking spaces have been put forward.

Many of the issues noted as reasons for the removal of the tree relate to any tree protected or not. A trees natural function and actions cannot be considered as a reason for removal as ultimately these are common to all trees. If leaves falling and sap were to be considered as sufficient reason to remove a tree then ultimately this would negate any TPO as all deciduous trees lose their leaves and several species drop sap as well as flowers and seeds. Likewise the creation of two

new parking spaces cannot be considered reason for removal; trees are a constraint to development, particularly TPO trees where there is a presumption in favour of retention. Given they are considered a constraint to development it would not seem prudent to allow the removal of a perfectly healthy high value tree for construction works.

Potential damage to drains is also noted as a reason for removal, however no evidence of actual damage has been put forward. Perceived threats cannot be considered a reason for removal as ultimately this may not happen in which case the tree would have been removed for no reason. There must be a presumption in favour of retaining trees in light of perceived threats as otherwise anyone could allege potential damage against any tree and necessitate its removal without any issue actually occurring. Allowing this trees removal on this basis would ultimately set a dangerous precedent where the removal of any tree could be justified because damage may occur in the future.

The tree survey submitted to support the application in effect does the opposite clearly demonstrating that the tree is in good structural and physiological condition and has a significant life expectancy of over 40 years. This demonstrates that there is no physical reason to remove this tree and that it can be retained long term.

Ultimately no real reasons for removal have been put forward only the concerns of the tree owner with regards to natural arisings from the tree, shading of neighbouring properties, the potential issues to drains and the desire to create two new parking spaces. If the owner wishes to pursue the removal of the tree further then this will need to be done on an evidential basis and we will need the actual physical reasons why the tree requires removal providing.

The removal of the tree is not acceptable and no evidence as to why the tree requires removal has been provided, as such I would recommend that this application be refused.

## **Recommendation**

**Refuse**