

Application Reference Number:	2025/0382
Proposal Description:	Fell Ash tree T1 within TPO 6/1996
Location:	35 Norwood Drive, Brierley, Barnsley, S72 9EG

Recommendation:

Refuse

Site Description

The application site relates to an ash tree at the rear of 35 Norwood Drive, Brierley, Barnsley, S72 9EG. The site is located behind the dwelling house outside the applicant's boundary. However, the tree overhangs into the rear garden of 35 Norwood Drive. The surrounding area is a mix of agricultural and residential in nature. The residential dwellings are a mix of detached and semi-detached properties.

Planning History

No recent or relevant applications.

Proposed Development

The applicant has proposed to fell an ash tree T1 within TPO 6/1996. The tree overhangs the applicants rear garden and has provided photos of the tree and has claimed that the tree is damaged.

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

Trees – Object, lack of sufficient supporting information.

Public right of way – No objections.

Representations

A site notice was posted at the site due to the TPO impacting on a public right of way. 5 letters of opposition were received by members of the public, raising the following concerns:

- Wildlife inhabiting the tree
- Loss of tree
- Tree is historically old.
- Beneficial environmental asset
- Aesthetical appearance

Assessment

The main issues for consideration are as follows:

- TPO Trees.

For the purposes of considering the balance in this application the following planning weight is referred to in this report using the following scale unless the NPPF establishes a specific weight:

- Substantial
- Considerable
- Significant
- Moderate
- Modest
- Limited
- Little or no

Trees

The Council's Tree Officer is required to be consulted upon in regard to this application as they are able to give professional advice to the information that has been submitted. The Tree Officer has made the following comments in regard to the application:

The information provided by the applicant does not present any evidence as to why the tree's current condition necessitates its removal has been provided at this stage, only details of past issues with the last being two years since. We require up to date information as to why this tree now requires removal (structural issues or disease etc.) Rather than just pruning works for general maintenance etc. Without the required justification we would have no option but to refuse the application due to a lack of information as it stands.

The applicant has not provided a tree survey and has not provided any other information to support their claim.

The Tree Officer therefore objections to the scheme, due to the lack of supporting information. Substantial weight has been given to this section in regard to planning weight.

Planning Balance and Conclusion

The information that has been submitted to the LPA is not sufficient to justify the loss of a TPO tree at the site. The Council's Tree Officer has given their professional advice on the scheme and has objected to the scheme due to lack of information. In light of the information above the proposal is recommended for refusal.

Recommendation

Refuse

Justification

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.