
2024/0119

Applicant: Mr R Bell

Site Address: 104 Bence Lane, Darton, Barnsley, S75 5DA

Description: Remove Ash tree T8 within TPO 10/1974

Site & Location Description:

The tree is located within the curtilage of a large, detached house on the corner of Bence Lane and Beaumont Road in Darton, Barnsley. The Ash tree is one of approximately 8 protected trees within the curtilage. The tree, along with other trees are located in the rear or rear side garden of the application dwelling where it borders with dwelling on Beaumont Road.

Planning History:

2020/1286 - Reduce overhanging branches by 2.5m to 3m and crown clean Sycamore tree within TPO 10/1974 – Approved with conditions 20th November 2021

2013/1362 - Removal of Horse Chestnut T1. Crown clean, remove epicormic growth and crown lift to 2m T2-T8, Crown thin T2 by 15%, T3 by 20% and T4-T8 by 25% - Approved with conditions 3rd February 2014

2008/1144 - Works to protected trees including crown lift and pruning works to trees T1-T8 within Tree Preservation Order No. 10/1974 – Approved with conditions 18th August 2008

Proposed:

The proposal is for the removal of a mature Ash tree, which is subject to a tree Protection order but appears to be suffering from Ash die back disease.

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.

Consultees: Forestry Officer – The Forestry officer agreed with the works, subject to a replacement tree being planted.

Representations

Neighbour notification letters have been sent to surrounding residents. One resident responded, broadly supporting the application but querying as to why other trees cannot be pruned or removed because of alleged interference and possible safety concerns within their garden.

Regarding the neighbour's concerns over the other trees, this would initially be considered a civil issue between the neighbouring dwellings. However, if a protected tree is affected by the concerns, similar approval as to what has been obtained in this application would be required. The neighbour would have the right to submit such a TPO application for works on the tree regarding overhanging branches within their garden. For such an application the neighbour may be required to obtain a tree survey.

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 Forestry Officer provided an assessment of the proposal, with the main section and conclusion outlined below:

The tree is a relatively mature specimens located within the garden of the property to the rear of the houses on Beaumont Road. The works proposed are to remove the Ash tree due to the presence of Ash Dieback. The tree is a prominent specimen clearly visible to residents and users of Bence Lane and Beaumont Road and as such has high amenity value in its own right and particularly as part of the group of trees in the garden.

The Ash tree does have the classic symptoms of Ash Dieback and as such with reluctance we must approve the removal and replacement of this tree due to its significantly declining condition as a result of the disease.

Like for like replacement will not be possible in this instance and as such I would consider that Hornbeam is a suitable substitute species in this instance. No suggestion has been made for the replacement and as such a species of suitable size as a replacement for the Ash has been conditioned. The applicant did note that they would like a tree of a much smaller stature than the one to be removed but diminishing the visual impact of the trees in this area long term is not generally considered appropriate. If the applicant does have some justification for a smaller tree or a species suggestion they would like considering we would be happy to receive this for consideration.

Prior to final completion of the application, the owner of the dwelling requested if an alternative tree could be planted instead of the suggested Hornbeam. In a conversation with the Forestry officer, it was agreed that the suggested tree by the owner, a Red Mountain Ash (also known as a Mountain Ash, Rowan or *Sorbus aucuparia*) would be a suitable alternative.

Recommendation

Approve with Conditions