
2022/0901

Mr G Howell

25% reduction in height for 1 Beech and 1 Silver Birch as shown on plan within TPO 4/2004.

1 Pogmoor Lane, Pogmoor Barnsley S75 2LQ

Site Description

The trees subject to this application are located within the front garden of 1 Pogmoor Lane, adjacent to the front boundary, at the junction of Pogmoor Lane and Farm House Lane. They are early mature specimens and are situated within a prominent position within the street scene and can be viewed from the wider area.

Proposed Development

The applicant seeks permission to reduce 1no Beech tree and 1no Silver Birch tree by 50% in height within Tree Preservation Order (TPO) 44/2008. No justification or reason has been submitted as part of the application, other than the applicant's desire to undertake these works.

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 – Recommends that this application be refused as the works are not considered acceptable or in line with best practice as per BS3998:2010.

Representations

Neighbour notification letters were sent to surrounding residents; no representations have been received.

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.

As noted, the trees are highly prominent, early mature specimens located along the northern front boundary of 1 Pogmoor Lane, immediately adjacent to the boundary with the highway and the junction of Farm House Lane and Pogmoor Lane.

The applicant proposes to top/reduce the height of both by 25%, the works proposed are far in excess of any works which could be considered acceptable in arboricultural terms; both in terms of being highly detrimental to the tree due to the level of leafing area to be removed and the impact on their structural integrity, in addition to the aesthetics of the trees once completed.

It was noted in the application that the works were proposed due to movement at the base of the Silver Birch and damage to the wall caused by the Beech; however, no evidence of this has been submitted. The applicant was asked to provide the necessary supporting evidence to justify the works proposed in terms of both the damage and the condition of the tree or to consider proposing alternative, less damaging works to maintain the trees.

Whilst some photos were provided, these did not provide any further detail to that outlined within the application form and, to date, no additional information relating to the request has been provided. Likewise, no alternative, more sympathetic scheme of works has been put forward for consideration.

Therefore, the authority has no option but to recommend this application be refused due to the damaging nature of the works proposed and the lack of information pertaining to the justification for the works put forward.

Conclusion

In the opinion of the Local Planning Authority, the works proposed do not comply with best practice as per BS3998:2010 in that the 25% reduction in height or topping would result in a significant loss of leafing material and would physically damage the trees and their long-term sustainability, and as such is unacceptable.

Recommendation

Refuse

In the opinion of the Local Planning Authority, the works proposed do not comply with best practice as per BS3998:2010 in that the 25% reduction in height or topping would result in a significant loss

of leafing material and would physically damage the trees and their long-term sustainability, and as such is unacceptable.