2022/0395

Mr J Harrod

Fell leaning Poplar tree T1 within TPO 7/1978.

1 Belridge Close, Barnsley, S75 1HZ

Site Description

The tree in question is a Poplar tree which is located along rear the boundary of 1 Belridge Close, adjacent to the public footpath which runs along the rear boundaries of these properties, linking The Leylands with Wilthorpe Road to the south.

This application relates to a young Poplar tree which is located within Area TPO 7/1978 and covers a thin strip of the residential estate from the industrial estate to the north and Wilthorpe Road to the south.



Proposed Development

The applicant seeks permission to remove 1no Poplar within Area TPO 7/1978

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 (Local Planning Authority) 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 – no objections subject to conditions.

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.

This application relates to a young Poplar tree which is located along rear the boundary of 1 Belridge Close, which is located within Area TPO 7/1978 and covers a thin strip of the residential estate from the industrial estate to the north and Wilthorpe Road to the south.

The tree in question is leaning out over the garden and deviates significantly from the line of its companions. This in itself is not considered an issue and certainly not one which would necessitate the removal of the tree in its own right. However, the tree leans due to it being out competed for light by the neighbouring trees; the situation will therefore only deteriorate over time as the trees continue to grow, to the detriment of all the trees within the group. It is therefore considered prudent to remove this specimen to allow for the development of the remaining trees in the group/row.

This is one of the rare situations where replacement planting will neither be practical or sensible as ultimately it would recreate the situation for which the tree is being removed. Therefore in this instance no new replacement planting will be required to mitigate for the loss of this tree.

Recommendations
Approve with Conditions