
2024/0517

Mrs Maria Smith

Crown clean and thin Beech tree by 20% and Silver Birch by 15% and reduce both in height by 5% within TPO 12/2002

19 The Balk, Staincross, Barnsley, S75 6JJ

Site Description

The application relates to a Beech and a Silver Birch tree on the north boundary of both 19 The Balk, 19a The Balk and the agricultural land to the north of the site. The trees provide screening between the site and the agricultural land and assist in softening the boundary. Given this, the trees provide significant amenity value.

Planning History

B/85/0162/DT - Erection of extension to dwelling – Historic Decision

B/86/1235/DT - Erection of stable – Historic Decision

B/02/1831/DT - Erection of detached dormer bungalow with integral garage. (Revised Scheme) – Approved subject to conditions

B/03/1064/DT/TF - Removal of 2 Birch, 3 Beech and 2 Conifer Trees and remove four lower branches of Fir Tree within TPO. – Consent subject to conditions

B/03/1355/DT - Erection of side two storey extension to dwelling – Approved subject to conditions

B/04/0438/DT - Erection of two storey side extension and increase width of vehicular access. – Approved with conditions

B/04/2188/DT - Erection of first floor and single storey rear extensions to dwelling. – Approve with Conditions

2013/0760 - Erection of single storey detached garage to front of property. – Refuse

2020/0609 - Crown clean and thin Beech tree by 20% and Silver Birch by 15% within TPO 12/2002. – Approve with conditions

2020/0837 - Single storey rear extension and side balcony extension. – Approve with Conditions

Proposed Development

The applicant is seeking permission to crown clean and thin the Beech tree by 20% and the Silver Birch by 15% and reduce both in height by 5%.

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 trees subject to this application are medium sized and provide significant amenity value as a boundary softener between the site and the agricultural land to the north.

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

"Upon seeing the trees it was notable that they appear severely diminished and appear to have been heavily reduced as is evidenced by the street view photography from 2022 showing poor quality regrowth from a heavy reduction, however no reduction works were approved with the last application which comprised of crown thinning works of 20% (Beech) and 15% (Silver Birch) in 2020.

The trees are in a poor state due to the heavy reduction works with a significant amount of poor quality reaction growth, additional works at this stage would only worsen the situation for these trees and as such I feel that continued works will further the stress reaction and regrowth of the

trees, this is particularly pertinent given the works description is largely the same as the previous which lead to the significant damage caused. This would be further exacerbated by the reduction in height which would cause significant structural issues for the trees.

I therefore feel there is no option but to refuse the application at this stage to allow the trees time to recover from the poor quality damaging works they have suffered previously. When they have had time to recover some sympathetic light pruning will be required to try and re-establish their form.”

In view of the above it is the opinion of the Local Planning Authority that the trees are currently in a poor state due to previous heavy reductions works, allowing for poor quality reaction growth. The proposed crown clear and thin would only worsen the situation and the reduction in height would cause significant structural issues for the trees, which are subject to Tree Preservation Order 12/2002.

Recommendations

Refuse