2021/1507

Mr Christopher Groom

The Old Quarry, Common Road, Brierley, Barnsley, S72 9EA

Remove and replace Ash trees T5, T39, T41, T42, T43, T46, T47, T48 and T50 with Field Maple, Apple, Birch, Rowan and Oak, Crown reduce Apple tree T15 by 2m, Fell Apple tree T18 and replace with anew Apple tree and crown reduce Sycamore tree T20 by 2m within TPO 10/1994

Site Description

The trees in question are 9 Ash trees, 2 Apple trees and a Sycamore tree located to in the curtilage of The Old Quarry, Common Road, Brierley. The majority of trees to be replaced are prominent species set to the front and rear of the host dwelling and visible from Common Road. The trees are under the ownership of The Old Quarry, Common Road, Brierley.

Proposed Development

The applicant seeks permission to remove and replace Ash trees T5, T39, T41, T42, T43, T46, T47, T48 and T50 with Field Maple, Apple, Birch, Rowan and Oak. To crown reduce Apple tree T15 by 2 meters and Fell Apple tree T18 and replace with a new Apple tree. To crown reduce Sycamore tree T20 by 2 meters within TPO 10/1994.

Policy Context

The statue 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, LPA's are not required to have regard to the development plan. Section 54A of the Act, 88 therefore, does not apply to the LPA's decision, which means that there is no general duty on the LPA to indicate otherwise.

Consultations

The LPA's Forestry Officer was consulted and had no objections subject to conditions.

Representations

Neighbour notification letters were sent to surrounding properties, one objection was received and in summary raised the following points;

- Objects to the tress identified as T42, T43, T46, T47, T48 and T50 being removed or replaced
- The trees currently offer a high degree of privacy and screening

It is noted that the replacement off the trees in question will impact upon levels of screening currently provided, however in this circumstance there is a necessary need to replace the trees.

Assessment

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.

The Ash trees are significant and prominent specimens being located on top of the quarry, they have been poorly pruned in the past and regrettably they are showing signs of Ash dieback. It appears that the poor previous management has hastened the decline of the tree and how susceptible to Ash dieback they are. Unfortunately, there is no recovery from this disease and as such, particularly in light of their locations, the removal and replacement of these trees is the only sensible option as they will decline rapidly and ultimately become dangerous.

The Apple tree to be removed has major structural issues and a major cavity. Given its location adjacent to the road again its removal and replacement is the only practical option. The pruning works proposed are relatively minor and will reduce the canopies back into a more balanced shape. These works carried out correctly will not be detrimental to the trees and in the case of the Apple tree will reduce some of the stress to help prolong the life of what is an old tree.

The LPA's Forestry Officer deems that the level of works proposed are in line with the British Standard BS3998 and good arboricultural practice, as such there is no objection to the proposal.

The removal and replacement of these trees is henceforth justified and necessary and therefore acceptable from an arboricultural perspective.

Recommendation

Approve with conditions