

2022/0247

Mr Winston Walker

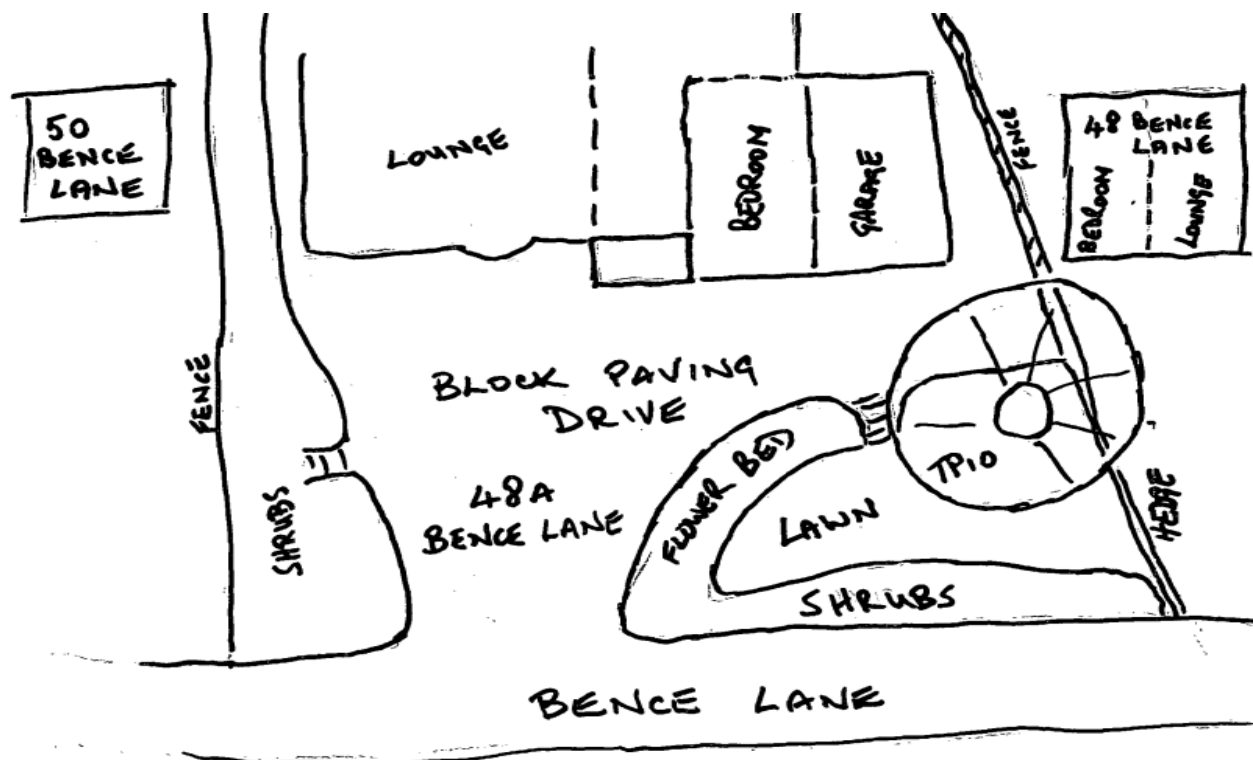
48A Bence Lane, Darton, Barnsley, S75 5PD

Remove Sycamore Tree T1 within TPO 10/1999

Site Description

The tree in question is a Sycamore Tree located to the front of 48A Bence Lane. The tree is under the ownership of 48A Bence Lane and located within the dwelling's curtilage.

Proposed Development



The applicant seeks permission to remove the Sycamore Tree T1 within TPO 10/1999.

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, 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 raised 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;

- How many saplings would have to be planted to offset the loss of this one magnificent tree.
- Once numerous on Bence Lane these large mature trees have been systematically removed.
- Not only do these trees enhance the properties on Bence Lane, but they also provide a first and last line of defence from the noise and pollution of the nearby M1, which due to the natural "amphitheatre" of its setting can be quite intrusive.
- The removal of yet another mature tree also impacts on the wildlife of the area, when I first moved to my property flocks of Starlings and Goldfinches would use these higher trees as staging posts before roosting in very large numbers and these numbers have dramatically reduced coincidentally with the loss of the taller trees.
- There is also a large bat colony roost within approximately 30 metres of this tree, which uses the tree canopies on my property and also this particular tree canopy to hunt insects.
- We are strongly opposed to the removal of this tree.

One comment was received and in summary raised the following points;

- Concerned that this will be the 2nd of the 3 trees that may be taken down which have been covered by a preservation order over the last 20 years or so on this land. The 1st tree was taken down in order for 48A to be built about 20 years ago.
- Should the tree be diseased or be causing genuine problems for the property, then I have absolutely no objection to its removal, but I would be concerned if this was not the case, especially with it being near to the fields with lots of wildlife. There are owls hooting at night-time, and in the summer there are lots of bats.
- It would be a shame to lose one of the oldest trees in the neighbourhood if there is no genuine reason to remove it.

Two letters of support were received and in summary raised the following points;

- We are in support of the tree to be removed at 48A Bence lane.
- The tree branches are very close to a bedroom window and are also blocking light to a bedroom and garden.
- The tree has been previously struck by lightning. It would be life threatening should it come down and hit a property.
- Extremely worried over the tree over several years and fully support the removal of the tree.

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.

This application is to remove a large mature and highly prominent Sycamore tree which has significant amenity value. The tree is located in the front garden of the property which is elevated above the road and as such the tree is highly prominent and forms an integral part of the wider population of large mature trees.

Regrettably the tree has a very large wound at the base with the onset of significant decay. Whilst not being in imminent danger of failure ultimately the wound is such that sooner rather than later the decay will lead to the tree becoming dangerous. As such its removal at this stage is sensible before the tree becomes a risk when its decline is ultimately a certainty.

Replacement planting will be required, however the nature of the garden means replacement with a new large growing specimen is not practical and as such an alternative medium sized tree has been suggested which is in keeping with the garden area available.

Recommendation

Approve with conditions