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2022/1119

Mrs H Robinson

Fell Horse Chestnut tree T1 within TPO 9/1978.

1 Kings Croft, Worsbrough Dale, Barnsley, S70 4SX

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### Site Description

The tree in question is a mature Horse Chestnut, located within the curtilage of 1 Kings Croft and is protected as part of the wider area TPO. The tree's canopy is visible from the surrounding area and forms an intrinsic part of the group of trees.



### Proposed Development

The applicant seeks permission to fell 1no. Horse Chestnut tree T1 within TPO 9/1978

### 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 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 have been sent to surrounding residents; one letter of comment was received in relation to the lack of information on Planning Explorer, the system was updated, and no further comments 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.

The mature Horse Chestnut is located within the rear garden of the applicant's property and forms part of a wider area TPO. The tree's canopy is visible from the surrounding area and forms an intrinsic part of the group of trees.

The tree was noted to be suffering from Honey Fungus and does have significant symptoms of this with major areas of delaminating bark and major crown dieback and ultimately the condition of the tree is such that its removal is required on health and safety grounds.

As with any removed tree, replacement planting will be required, however the disease issues associated with Horse Chestnut mean replacement with this species may not prove sensible. As no replacement has been proposed but the applicant then a Sweet Chestnut shall be conditioned as its replacement. If the applicant suggests a suitable alternative the authority would happily consider this.

## **Recommendations**

### **Approve with Conditions**