
2023/0035

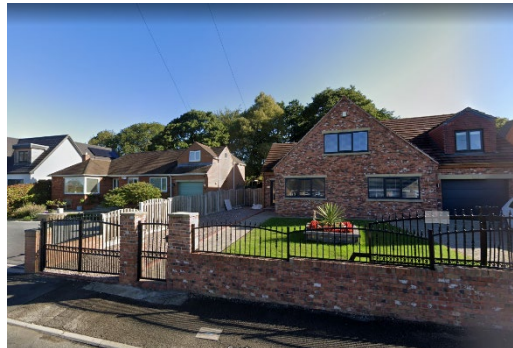
IG Environmental Services

Remove Turkey Oak T1, Lime T4 and Cedar T5 within TPO19/1973.

152 Intake Lane, Pogmoor, Barnsley, S75 2HU

Site Description

The trees in question are a Turkey Oak, Lime, and Cedar trees, located within the curtilage of 152 Intake Lane. The Turkey Oak is located adjacent to the western boundary with 23 Oakfield Walk, with the Lime and Cedar trees being located adjacent to the northern and eastern boundaries with 148 Intake Lane.



Proposed Development

The applicant seeks permission to remove 1no Turkey Oak T1, Lime T4 and Cedar T5 within TPO19/1973. due to soil shrinkage related subsidence to 152 Intake Lane.

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; 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 are large, prominent specimens which are highly visible to both residents and commuters through the local area. Unfortunately, the trees have been implicated in soil shrinkage related subsidence as the main contributing factor to the damage to 152 Intake Lane. The documents provided show that thorough investigations have been undertaken to ascertain the cause of the damage and the experts who have contributed to the investigation have concluded that the trees are the primary cause of damage and that they should be removed so an effective repair can be made. Regrettably, there are no grounds on which to object to the proposal and as such consent must be given to the removal of the trees from a planning perspective despite their evident value.

As with any removed tree, replacement planting will be required, it is acknowledged that the trees are to be removed due to structural implications, however an engineered solution/root barrier should be installed at the time of replacement planting in order to prevent a re-occurrence of the damage. The applicant has not put forward a suggestion as to suitable species for replacement planting, therefore the authority has defaulted to like for like replacement planting, which along with the engineered solution will be conditioned.

Recommendations

Approve with Conditions