

**2022/0539**

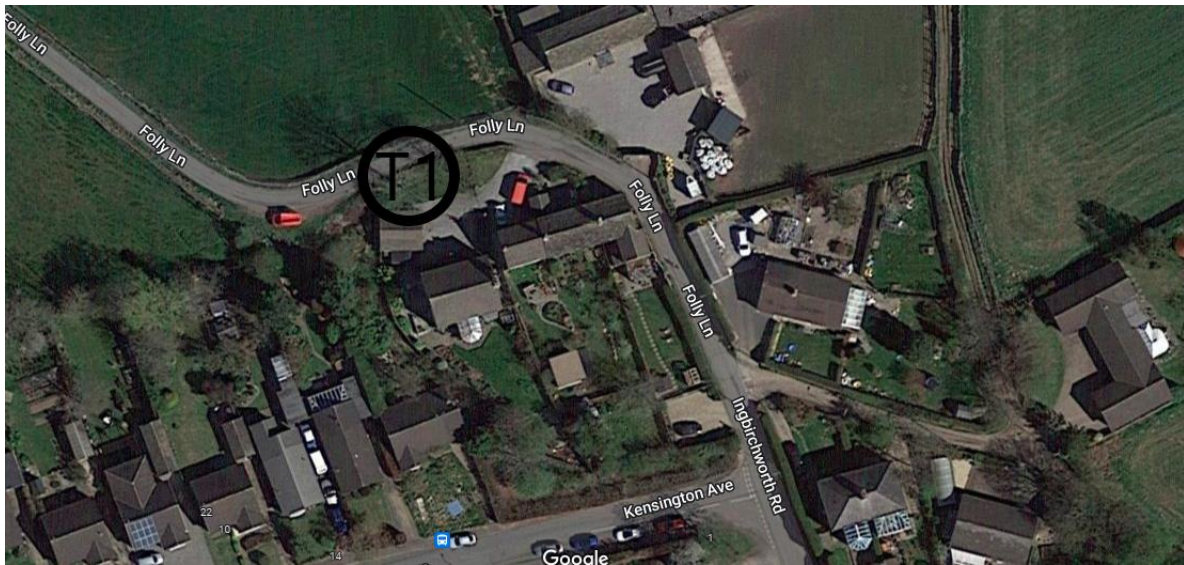
Faye Elliott

Remove Ash tree T1 and replace with new Hornbeam within TPO 17/1994

Folly Wood Cottage, Folly Lane, Thurlstone, Sheffield, S36 9QF

### **Description**

The tree is an early mature Ash tree which is located to the front of Folly Wood Cottage, close to the applicant's double garage building. The tree is prominent as it is set adjacent to Folly Lane and can be seen from surrounding areas.



### **Proposed Development**

Remove Ash tree T1 and replace with new Hornbeam within TPO 17/1994. The application form states that the tree requires removal due to the presence of Ash dieback disease.

## **Policy Context**

The statute law on TPO's is in the Town and Country Planning Act 1990 and in the Town and Country Planning (Trees) Regulations 1999.

Primarily the aim of making a TPO is to protect the amenity value of the tree or trees. 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 the 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 make their decision in accordance with the development plan.'

## **Consultations**

Tree Officer – Approve with conditions

## **Representations**

Local residents were informed by neighbour notification letter. 2 objections have been received which raise the following concerns:-

- The die back is minimal
- The tree has been recently pruned
- Impact upon wildlife/birds
- Who will be planting the Hornbeam replacement
- Trees should not be cut down unless they are dangerous
- Impact of the loss of the tree on climate change

## **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 Tree Officer has been consulted as part of the application and has no objections to the removal and replacement of the tree. The tree is an early mature Ash located on the front boundary of the property adjacent to the garage.

Objections have been received which raise concerns with regard to the removal of the tree for reasons such as, the impact upon wildlife, climate change and the severity of the infection. Regrettably the tree is showing early symptoms of Ash dieback and sadly this disease will ultimately kill the tree. It could be retained in the short term; however, this would only be delaying the inevitable and leave the tree as a reservoir for the disease. As such, the removal and replacement of this tree is the only option, whether done now or in the near future as it becomes a health and safety issue. It is not possible to replace the tree with a new Ash and as such Hornbeam has been suggested as a suitable replacement by the agent, which would be planted by the applicant within the next planting season following the felling of the tree. The Tree Officer has confirmed that this is acceptable.

The proposed removal of the Tree is justified, given that the tree is diseased and once the replacement tree is established, there should not be any significant impact upon visual amenity.

**Recommendation: Approve with conditions**