

2021/0506

Mr Gary Turner

22 Wood Walk, Wombwell, Barnsley, S73 0NG

Fell Oak tree and Beech tree marked on plan within TPO 1/1977

Site Description

The trees in question are an Oak Tree and Beech Tree located to the rear of 22 Wood Walk. The trees are under the ownership of 22 Wood Walk but are not in the dwelling's curtilage and instead form part of Wombwell Wood.

Proposed Development

The applicant seeks permission to fell the Oak tree and Beech tree within TPO 1/1977.

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 had no objections subject to conditions.

Representations

Neighbour notification letters were sent to surrounding properties, one was objection was received from a resident in Elsecar and raised the following point;

- The application was not supported by a tree survey or arboricultural report

Although a report of this kind was not submitted the LPA's Forestry Officer had no objections therefore negating the need for such a report.

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 trees which are subject to this application are all located within the ownership of 22 Wood Walk but remain protected as part of the wider woodland area.

The Oak tree is a poor specimen which has been heavily suppressed and has the onset of decay at its main branch union. The whole canopy/upper stem bends at almost 90 degrees and as such the suppression of this tree along with the onset of decay means that it is acceptable for its removal and replacement.

The Beech tree was thought to be dead by the applicant however it had come into leaf by the time of the site visit, although clearly later than would be expected. The tree has a major wound on the stem with much of the bark delaminating and it is clear the tree is in decline; therefore, the removal and replacement of this tree is also acceptable.

The final tree was noted by the applicant upon the site visit as being dead and as such it is exempt from needing an application, however it will need to be replaced still and as such its replacement has been attached to this decision for the avoidance of any doubt.

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

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

Recommendation

Approve with conditions

1. The proposed tree works should be completed within 2 years of the date of this consent.
Reason: To ensure that adequate notice is given for the works to be inspected and approved by the Local Planning Authority.
2. Not less than five working days notice of the date of the proposed work shall be given in writing to the Local Planning Authority and the tree surgery shall be carried out to the standards set out in BS3998.
Reason: To ensure the work accords with good arboricultural practice.

3. Within the first planting season the Oak, Beech and Silver Birch trees to be removed shall be replaced by a new Oak (*Quercus robur*), a new Beech tree (*Fagus sylvatica*) and a new Silver Birch (*Betula pendula*). The new trees shall be planted within the Woodland TPO area.

Specification: Standard sized trees (10-12cm girth) shall be planted and affixed (with flexible tree ties) to a tanalised tree stake (minimum diameter 75mm) at a height of no more than 1m above ground level. In order to aid establishment a suitable mulch shall be applied (e.g. semi-composted woodchip to a minimum depth of 75mm) around each tree to a radius of 1m. The trees shall be watered immediately after planting then whenever required to ensure successful establishment. Within two weeks of planting the Local Authority Tree officer shall be informed and invited to inspect the new trees. The new trees shall be subjected to a Tree Preservation Order in replacement of the felled tree. Any tree which fails to become established within 5 years from planting shall be replaced with another tree of the same original specification.

Reason: In the interests of the visual amenities of the locality.

Informative

Before proceeding with the notified works, you should ensure that you have the permission of the owner, and comply with all other relevant legislation, for example it is an offence to disturb nesting birds, and bat roosts.