
2022/1183

Mr M Whicker

Crown clean and thin Oak tree by 30% within TPO 40/2008.

11 St Christophers Close, Ardsley, Barnsley, S71 5DA

Site Description

The tree in question is an Oak tree, located within the curtilage of 11 St Christophers Close, Ardsley, at the convergence of the rear gardens of properties 46, 48 and 50 Roehampton Rise, 16, 18 and 20 St Andrews Way and 9 and 11 St Christophers Close.



Planning History

2016/0678 – Crown lift Oak tree to a height of 5m – approved August 2016

2019/0051 – Removal of Oak tree – withdrawn by applicant – February 2019

2021/0873 – Removal of Oak tree – Refused August 2021 – *In the opinion of the Local Planning Authority, insufficient information has been submitted to justify the removal of the tree. As such the removal of the Oak Tree, which is subject to Tree Preservation Order 40/2008, is considered inappropriate and would result in harm to the visual amenity of the area.*

Proposed Development

The applicant seeks permission to crown clean and thin the Oak tree by 30%.

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; two letters of comment have been received, one which supports the application, however both letters make comment that the works are not enough to reduce the impact on the safety of the surrounding properties.

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 tree is a large prominent Oak tree situated on the boundaries of and overhanging several gardens. The tree has not been worked on for some time and as such following previous pruning the canopy is now very dense. The works proposed are to crown clean and thin the tree by 30%, the maximum amount which can be considered acceptable under the current standards. This course of action is entirely sensible given the nature of the tree and its location. The works will act to open up the canopy and remove any dead, diseased or damaged branches whilst maintaining the aesthetics of the tree. Works in excess of this would highly likely result in reaction growth to compensate for the loss of material which would ultimately lead to a worsening of any issues the tree may be causing and as such the tree officer feels that the works proposed will provide the maximum benefit whilst not being detrimental to the tree.

The works proposed are sensible and proportionate and are appropriate for the issues experienced with the tree. Representations from neighbours have been submitted wishing more works to be undertaken, however as noted above these would likely exacerbate any issues they are experiencing with the tree. Likewise, consideration can only be given to the works submitted within the application.

The tree officer has raised no objection to the proposal from an arboricultural perspective subject to the inclusion of conditions.

Other Issues

Reference has been made to the amount of tree works which have been undertaken with the crematorium grounds, to the rear of the properties located on Roehampton Rise. These works, which includes the removal of trees have been required to facilitate the maintenance and repair of the rear, retaining boundary walls; these works were subject to consent and any trees which were removed as part of the application are subject to replacement planting. Nevertheless, each application is based on its own merits.

Recommendations

Approve with Conditions