

2021/0944

Mr G Hampshire

5 Shafton Hall Drive, Shafton, Barnsley, S72 8NY

Draw back by 2-3m Sycamore trees T1-T3 from over garden and Sycamore T4 from over the garage within TPO 1/1982

Site Description

The area is predominantly residential in nature with Shafton Hall Drive being comprised of bungalows. The trees subject to this application are all mature and prominent specimens which have been pruned significantly in the past. They are located to the south of 5 Shafton Hall Drive adjacent Lidgate Lane. The TPO also encompasses some trees that front onto High Street.

Proposed Development

The applicant seeks permission to draw back by 2-3m Sycamore trees T1-T3 from over garden and Sycamore T4 from over the garage within TPO 1/1982.

Planning History

B/96/0452/HR/TF – Crown clean and make safe five Sycamore within TPO 1/1982 in G1

B/96/0927/HR/TF – Fell Sycamore Tree T1, within Tree Preservation Order No. 1/1982

2010/0436 – Crown lift and remove dead branches of Sycamore trees T1-T5 within TPO 1/1982

2013/0100 – Fell Sycamore tree T1 within TPO 1/1982

2014/0490 – The works proposed are to crown clean T1, crown clean and crown thin T2, T3 and T4 by a maximum of 10% combined and to reduce the lowest limb which overhangs the public footpath of T4 by around 50%. within TPO 1/1982

2015/1027 – Sycamore tree T4 remove previously reduced over hanging limb within TPO 1/1982

2020/1376 – Crown clean and thin by 10% Sycamore trees T1, T2, T3 and T4 within TPO 1/1982

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 recommended that the application be refused.

Representations

Neighbour notification letters were sent to surrounding properties, no comments were 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 trees in question have been protected by a Tree Preservation order (TPO 1/1982) since the development was applied for back in 1982 and various works have since been applied for (see planning history). The trees initially were low hanging and quite dense in nature as little maintenance had been undertaken, however over the past 11 years various works have been undertaken to crown lift the trees and remove strategic limbs to ensure clearance from the house and over the garden.

The last works undertaken (2015/1027) were to remove a large limb in phases to achieve a final balanced appearance for that tree along with the others which minimised any risk to the property and to the public using the adjacent footpath.

The completion of these works has left the trees in a much better and easier to manage state and left a template for minor maintenance to be undertaken to the trees without drastic works needing to be undertaken. To this end an application (2020/1376) was received to crown clean and thin these trees by 15-20% at the end of 2020. Given the previous works to the trees to achieve the results so far and the significant works over a relatively short period of time that these would be detrimental to the trees at a time when they have had a few years of respite and are adjusting well to the significant works already undertaken. It was therefore agreed that these works would be reduced to a 10% crown clean and thin to allow the applicant to remove and dead, damaged or diseased branches and balance up these works. These works have minimal impact but will act to maintain the trees in a safe and suitable condition for their location.

This current application has been submitted when works were already agreed for these trees with the reasons for such being clearly understood by the agent who was dealing with the application on the applicant's behalf at the time. The proposed 2-3m reduction would remove a large amount of these tree's leafing areas which given the past works would be highly detrimental and could potentially lead to some decline in their health. Ultimately the trees will continue to grow and at some point, it is inevitable that some works to provide clearance from the property will be required but, in this instance, these pruning works have been applied for as they are desired rather than required as no evidence of issues with the trees have been provided showing that these works are needed. Ultimately the works proposed are a major amount of work which given the relatively recent pruning history of the trees, they wouldn't withstand well.

Ultimately these trees have been present and protected since the properties on Shafton Hall Drive were constructed and it must therefore be foreseeable to any owners that the trees must be retained and maintained in a sensible manner. It must also be foreseeable that the trees will overhang and will cast shade onto properties and that no amount of work short of removal (which the TPO is there to specifically prevent unless there is justification for this) would negate this. Suitable works for the trees of a 10% crown clean and thin have already been permitted as these are what we as the Council and the applicant's agent (at the time) acting on their behalf have devised as being suitable management in balance with their past maintenance history at this stage so as to prevent potential damage to the trees.

Conclusion

Overall, this application should be refused as the works have not been justified and would potentially prove detrimental to the tree's health, would impact on the aesthetics and visual balance of the trees and finally because suitable maintenance works have already been approved for these trees.

Recommendation

Refuse

In the opinion of the Local Planning Authority, the works proposed have not been justified and would potentially prove detrimental to the tree's health, would impact on the aesthetics and visual balance of the trees and suitable maintenance works have already been approved for these trees.