

18/00011/TPO1

Tree Preservation Order 2018 No.11
At: North east of The Briars, Raby Lane, East Cowton
For: Mr M Scales

The report is brought to Planning Committee as there has been a representation contrary to the recommendation.

1.0 SITE, CONTEXT AND PROPOSAL

- 1.1 This report considers the confirmation of Tree Preservation Order (TPO) 2018/11.
- 1.2 The tree is located on the roadside in Raby Lane within a hedgerow boundary, approximately 12m to the north east of the existing neighbouring dwelling known as The Briars. The hedgerow forms the roadside boundary to a field.
- 1.3 The tree is a sycamore with an elm tree intertwined and has been made the subject of a Tree Preservation Order.

2.0 RELEVANT PLANNING & ENFORCEMENT HISTORY

- 2.1 In February 2018 the Council received a planning application for the construction of a dwelling (18/00414/FUL). The application included a proposal to remove the hedgerow in order to provide visibility splays. Plans were provided to demonstrate that the required splays could be implemented even with the retention of the tree. Planning permission for the dwelling was granted on 24 July 2018.
- 2.2 It was considered that the tree made a positive contribution to local visual amenity and as such the Council imposed a Tree Preservation Order to protect the tree, on 9 August 2018.
- 2.3 An objection from the owner has been received regarding the making of the Tree Preservation Order.

3.0 RELEVANT PLANNING POLICIES

- 3.1 The relevant policies are:

Core Strategy Policy CP16 - Protecting and enhancing natural and man-made assets
Development Policies DP30 - Protecting the character and appearance of the countryside
National Planning Policy Framework - published 24 July 2018

4.0 CONSULTATIONS

- 4.1 An objection to the imposition of the TPO has been received from the applicant whose planning application for the construction of a dwelling lead to the imposition of the TPO. The comments are summarised as follows:
 - Our agreed visibility splay is within inches of the tree in question. If we are prevented by a TPO from cutting, topping or lopping of this tree it will in effect prevent us from being able to maintain the visibility splay as the tree grows, or

in the event of any weather damage which could dis-lodge a branch and obscure visibility, endangering ourselves and the public if this cannot be addressed with immediate effect;

- The agreed planning permission requires the finished floor level of the dwelling to be 200ml above road level. The tree itself sits about 2ft above road level. Should we have to excavate the driveway to a similar level there is no way of knowing at this stage if this could expose the root structure making it a danger to the building and those working on the site;
- We have had an arborist take an informal look at the tree, his initial comments being that the tree is not of particular visual importance, and that the thick covering of ivy will likely cause the tree to fail in the coming years, and more importantly, will cover any cracks or damage to the trunk which could make the tree unsafe, which is of particular significance as it is growing by the roadside and in the vicinity of powerlines;
- While we are both happy to keep the tree and eager to do what we can to make this happen, we feel that keeping control of the tree with regard to the proximity to the build, the agreed visibility splay, and the safety of ourselves, contractors, and the public; is more important than the local visual amenity value.

4.2 East Cowton Parish Council – make the following comments:

- Was a survey of the immediate locality carried out before the order was made?
- The TPO appears to protect a single sycamore tree when there are other trees in the immediate vicinity including two elm trees, one of which is immediately adjacent and effectively intertwined with the sycamore.
- There is also a species-rich hedge.
- In those circumstances the Parish Council would have anticipated the making of a group TPO to include the hedge and both elm trees.

4.3 A letter of support has been received from a local resident whose comments are summarised as follows:

- Support the Tree Preservation Order (TPO). This is a substantial tree forming part of an ancient hedgerow and has huge amenity, street scene and ecological value on the entrance to this village as have other trees along this hedgerow which would benefit from similar preservation attention.
- There is also a known presence of bats in the vicinity which are likely to roost among the ivy clad trunk and branches and use the area regularly as a readily available supply of insects
- This bank along the roadside rises steeply to about one metre high and is where the developed root system will be present; destruction of the root system would compromise the existence of the ash tree and could not be avoided to obtain a suitable access driveway.

5.0 OBSERVATIONS

5.1 The tree is located in a prominent position at the entrance to the village from the north, clearly visible from the road and from adjacent properties.

5.2 The presence of the mature tree on the roadside adds visual amenity value to the approach into the village. The tree is considered to be of visual merit and contributes to the character and appearance of the village.

- 5.3 An independent report has been undertaken by North Yorkshire County Council on behalf of the District Council, which considers that the future life expectancy of the tree is medium to low. There is a stem on the northern side of the tree that is dead and there is a large wound on the northern side of the trunk.
- 5.4 As planning permission has been granted for the construction of the dwelling and associated works, the confirmation of the order could lead to a requirement for changes to the approved scheme to avoid damage to the root system as a result of the creation of the new access. This would not outweigh the need for a preservation order should the tree be of such significance but due to the above comments it is not considered that the tree is not of sufficient merit.
- 5.5 The conclusion of the North Yorkshire County Council's Arborist's report is that the TPO should not be confirmed.
- 5.6 A hedge cannot be included within a Tree Preservation Order. Consideration of the removal of the hedge was discussed within the report to Planning Committee in respect of the planning application.

6.0 CONCLUSION AND RECOMMENDATION

- 6.1 The tree contributes to the amenity of the area when considered against the relevant planning criteria and results in a degree of public benefit. The report from North Yorkshire County Council's Arborist concludes that the tree has a medium to low life expectancy and the TPO should not be confirmed.
- 6.2 It is therefore recommended that TPO 2018/11 is not confirmed.