

Parish: Bedale

Ward: Bedale

Committee date: 16 March 2023

Officer dealing: Angela Sunley

Target date: 21st June 2023

5

22/00016/TPO2

Confirmation of Hambleton District Council (Bedale Parish Council) Tree Preservation Order 2022 No 16

At: 33 South End, Bedale, DL8 2BJ

The report is brought to Planning Committee as an objection has been made to the Tree Preservation Order

1.0 Site, Context and Proposal

- 1.1 This report considers the case for the confirmation of Tree Preservation Order (TPO) 22/00016/TPO2.
- 1.2 The tree is located within the front garden of 33 South End, Bedale. The site is in a prominent location in the Conservation Area.
- 1.3 The Tree Preservation Order was served following the submission of a Conservation Area Tree application to fell the tree.

2.0 Relevant Planning History

- 2.1 00/50119/CAT - Proposed felling of 2 fir trees. Granted 11 January 2001
- 2.2 22/00645/CAT - Works to tree in a Conservation Area. Granted 26 April 2022
- 2.3 22/01720/CAT - Works to fell tree in a Conservation Area. Granted 26 August 2022
- 2.4 22/02787/CAT - Works to fell tree in a Conservation Area. Refused 16 January 2023. This is the tree subject of the current TPO application.

3.0 Relevant planning policies

- 3.1 The relevant policies are:

Local Plan Policy E4: Green Infrastructure
Local Plan Policy E7: Hambleton's Landscapes
Tree Preservation Orders: A Guide to the Law and Good Practice
National Planning Policy Framework

4.0 Consultations

- 4.1 Representations

Neighbour / Owner Objection-

- The root system is causing structural damage to the retaining garden wall of 33 South End and to the wall of 1 Victoria Terrace.
- The root system is severely affecting the driveway of both houses, creating trip hazards.
- The tree is poorly located and closer than the recommended separation distances.
- The tree presents a foreseeable risk of structural damage in the future and as such the TPO should not be served.

Barnes Associates Objection –

- Whilst the amenity value of the tree is recognised the Council neglect to state that the tree is having a harmful impact on other aspects of the Conservation Area.
- The TPO fails to reflect the foreseeable direct damage resulting from the tree in this location.
- Owing to the position of the tree and the impact on structures in the vicinity the TPO will result in elevated management costs for the owner.
- The Council could be liable for compensation if the TPO is confirmed.
- It is considered that there may not be an engineering solution to allow the tree and the structures to co-exist.
- The proposed TPO fails to follow the Tree Evaluation Method for Preservation Orders which was developed for the review of a TPO.
- Following this assessment the tree is considered to fail to score sufficiently highly to benefit from a TPO.

5.0 Analysis

- 5.1 The main issues are: i) whether the tree contributes to the amenity of the area to such an extent that it should be protected by Tree Preservation Order, given the owners intention to fell the tree; ii) whether the tree is likely to result in foreseeable damage to property
- 5.2 The purpose of a tree preservation order is to protect trees which are deemed to be of significant amenity benefit to the local surroundings especially if they are in immediate risk of removal.
- 5.3 The tree in question is a large specimen tree in a prominent location in the Conservation Area. There are limited trees of this scale and form in the vicinity and as such this tree is considered to contribute significantly to the significance and visual amenity of the Conservation Area.
- 5.4 It is generally accepted that the tree is in good health and form and in terms of its vigour and longevity could be retained.
- 5.5 Where a tree is at risk and contributes positively to amenity the Council should consider the application of a Tree Preservation Order. 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.
- 5.6 Government guidance states that TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or

confirmed. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath, although, exceptionally, the inclusion of other trees may be justified. The benefit may be present or future; trees may be worthy of preservation for their intrinsic beauty or for their contribution to the landscape or because they serve to screen an eyesore or future development; the value of trees may be enhanced by their scarcity; and the value of a group of trees or woodland may be collective only. Other factors, such as importance as a wildlife habitat, may be taken into account which alone would not be sufficient to warrant a TPO.

- 5.7 The Local Planning Authority should also assess the tree's particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value as a screen or contribution to the character or appearance of a conservation area.
- 5.8 It may be expedient to make a TPO if the LPA believe there is a risk of the tree being cut down or pruned in ways which would have a significant impact on the amenity of the area. In this case it is the express intention of the land owner to fell the tree.
- 5.9 The tree in question effectively stands alone in this part of the street and is a very prominent feature in the conservation area. The height and shape contribute to the significance of the tree.

Foreseeable impacts

- 5.10 Where damage to property owing to the retention of a tree by way of a TPO the Local Planning Authority must consider whether it is reasonably foreseeable that the retention of the tree will result in harm to property. It is reasonable to assume that in making this assessment the tree will be maintained.
- 5.11 In this case the applicant and their adviser suggest that the retention of the tree by way of the TPO is unreasonable as it will result in significant additional expense for the owners of both the adjacent properties, owing to on-going damage to walls and the driveway in the vicinity of the tree.
- 5.12 A site visit has been undertaken by the case officer who witnessed small areas of existing damage to the adjacent wall through cracking of the wall along with areas of root heave in the driveway. There was no evidence of damage to the nearby buildings.
- 5.13 It is clear from case-law that the service of a TPO where there is foreseeable harm to property can result in the requirement to pay compensation owing to unreasonable expense having to be gone to in order to maintain structures in the vicinity of the tree.

Planning Balance.

- 5.14 In this case the balance of the decision falls between the matter of the significant contribution that the tree makes within the street and conservation area and the identified current and potential future harm that the tree is likely to cause.

- 5.15 In officers view, the extent of the current and potential future harm is not significant, being a low boundary wall and driveway which is resulting in a minor degree of harm which could be mitigated through maintenance.

6.0 Conclusion and Recommendation

- 6.1 It is considered that the tree contribute positively toward the amenity, character and appearance of the area.
- 6.2 It is therefore recommended that TPO 2022/No.16 Order be **CONFIRMED**.