

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 4 August 2021

APPLICATION REF. NO: 21/00417/TF

STATUTORY DECISION DATE: 23rd June 2021

WARD/PARISH: HUMMERSKNOTT

LOCATION: 45 Clare Avenue Darlington DL3 8SJ

DESCRIPTION: Felling of 1 no. Horse Chestnut (T13) and 1 no. Beech (T17) protected under Tree Preservation Order 1970 (No.3) (Amended description)

APPLICANT: Mrs Amrit Khokhar

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS (see details below)

APPLICATION AND SITE DESCRIPTION:

1. The Horse Chestnut (T13) and Beech (T17) trees the subject of this application are protected by Tree Preservation Order (No. 3) 1970 and located within the rear curtilage of No. 45 Clare Avenue, to the south west of the property. The Beech tree (T17) is close to the southern boundary with Carmel College. There are other trees within the rear curtilage of the property which are also protected by the same order but do not form part of this application.
2. Permission is sought to fell the both the Horse Chestnut and Beech tree. An Arboricultural Survey submitted with the application identifies that both trees are diseased (*Kretzschmaria deusta*) and recommends they should be felled due to structural compromise.
3. The proposal has been amended since it was first submitted in that a further Horse Chestnut tree (T15) has been removed from the proposal because it was not identified in the Arboricultural Survey as requiring felling.

MAIN PLANNING ISSUES:

4. The main planning relevant to this application are: -
 - Effect on Protected Trees

- Amenity Values of The Trees

PLANNING POLICIES:

5. Relevant development plan policies are those seeking to ensure that works to protected tree consider of: -
 - The health and stability of the trees, their future likely lifespan, and their public amenity value (saved Local Plan Policy E13).
 - Protect and enhance healthy ancient woodland, mature trees, street trees (Policy C15).

RESULTS OF TECHNICAL CONSULTATION:

6. The Arboricultural Officer has been consulted and considers the felling to be justified and recommends that authorisation be approved subject to replacement trees being planted.

RESULTS OF PUBLICITY AND NOTIFICATION:

7. Eight letters of objections have been received with the responses summarised below:
 - Possible remedial work such as removal of overhanging branches has not been suggested and no decay testing has been done other than a visual assessment. Full extent of the disease/damage has not been determined given that the trees are in full leaf and full of flowers
 - Fungus infestation is probably slow growing, is in a minute quantity in relation to size of tree and it would be prudent to monitor over next few years
 - The trees are highly visible from outside of the site, contribute to the visual amenity of the street scene and should be protected given that they are important for the environment and a home for wildlife.
 - If approval is given, trees should be replaced as per Arborist's recommendation (16cm girth) as larger specimens would have a better chance of establishing and would more rapidly contribute to the public visual amenity.
 - Council's Tree and Woodland Strategy 2021-2031 states that trees should only be felled as a last resort and approval would set a precedent
 - Decision has already been made based on Arborist's recommendation
8. One letter of representation has been received from Carmel College which raises the following issues:
 - The letter of representation from Carmel College supports the felling on the grounds that both the trees are diseased, are in a poor state and in the opinion of an independent arboricultural consultant require felling especially as T17 is in close proximity to the boundary with the college

PLANNING ISSUES/ANALYSIS:

9. Saved Local Plan Policy E13 (Tree Preservation Orders) states that when determining application to fell or carry out works to protected trees, the Council will take into account the health and stability of the trees, their likely future lifespan and their public amenity value.
10. The submitted Arboricultural Survey provides written and photographic evidence that the Horse Chestnut (T13) and the Beech tree (T17), identified in the report as T2 and T1 respectively, are both suffering from disease and require removal due to them being structurally compromised.
11. The report states that T1 (Beech tree) is decaying at the base with the action of the decay-causing fungi which is expected to become increasingly significant resulting in structural compromise at the base of the tree. Internal inspection has found considerable decay already present with the tree becoming pre-disposed to sudden failure during storm conditions. The removal of the tree is considered to be a high priority given the risk to surrounding school buildings and properties should the tree fail. The report also states that T2 (Horse Chestnut) is similarly structurally compromised at the base, albeit the tree's crown has already failed in sections reducing overall wind impact on the tree. The removal of the tree is also recommended in view of the risk to surrounding school buildings and properties.
12. The Council's Senior Arboricultural Officer has carried out a visual inspection of the trees and has recommended that the proposed felling of the trees is justified given that the trees are both diseased with *Kretzschmaria deusta* pathogens which has caused the trees' structure to be compromised (photographic evidence was taken at the site visit). The disease weakens the strength of the wood, making it brittle and likely to fail in adverse weather conditions and both trees pose a risk to surrounding properties as they are adjacent to Carmel College and nearby dwellings.
13. The Senior Arboricultural Officer also advises that there are no chemicals available to eliminate the disease, nor is there any treatment to stop or reduce the effect *Kretzschmaria deusta* has on any tree. The size of the fungus is immaterial as this does not give an indication of the decay within the tree. He also advises that it is impossible to predict the safe life expectancy of the trees and if there was nothing of value within the falling distance of the trees then there could be a case for monitoring the trees health. However, the close proximity to the college and residential dwellings, in this instance, is deemed sufficient justification.
14. The felling of the trees would be subject to the replanting of two replacement trees, a Beech tree (*Fagus sylvatica*) and a Horse Chestnut (*Aesculus hippocastanum*) which would be secured by planning condition. The condition requires that these trees be planted no later than the next planting season following the felling of the trees and should the trees die or become diseased, the applicant would be required to replace the trees.

15. The proposed felling of the trees will result in the loss of two protected trees which, together with other protected trees located within the rear of the application property and also to the rear of properties on the south side of Clare Avenue, contribute significantly to the visual amenity of the surrounding area. In this instance however it has been demonstrated by the submission of an Arboricultural Survey with the application that the trees are diseased and pose a risk to nearby dwellings and school buildings should they fail in storm conditions. The trees have also been inspected by the Council's Senior Arboricultural Officer who has confirmed the trees are diseased. He also advises there is no known treatment for the disease and in view of the proximity of the trees to nearby property recommends the trees be felled, and replacements planted. On this basis, the proposal is considered to comply with Saved Local Plan Policy E13.

CONCLUSION AND RECOMMENDATION:

16. The felling of the trees the subject of this application is justified on the basis that the trees are diseased and pose a risk to surrounding properties should they fail in storm conditions as a result of the disease. The trees have been inspected by the Council's Senior Arboricultural Officer and raises no objection to the proposal subject to a condition requiring that replacement trees be planted. The proposal is therefore considered to comply with Saved Policy E13 of the Borough of Darlington Local Plan, and accordingly:

IT IS RECOMMENDED THAT PLANNING PERMISSION BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS: -

- 1) The felling works hereby permitted shall be undertaken within two years of the date of this permission

REASON - To accord with the provisions of The Town & Country Planning (Tree Preservation) (England) Regulations 2012

- 2) Not later than the next planting season immediately following the felling of the trees hereby permitted, 1 No. Beech Tree (*Fagus sylvatica*) and 1 No. Horse Chestnut Tree (*Aesculus hippocastanum*) (10 – 12cm girth, containerised tree or airpot) shall be planted as close to the original trees as possible. The replacement trees shall be deemed to be included in the preservation order under which this consent is given, as though it had originally been specified therein. Thereafter the applicant shall provide written confirmation that the replacement trees have been planted in accordance with the terms of this condition within 28 days of the planting. Should the replacement trees die, or become seriously diseased, the landowner must replace the trees as per the original replacements.

REASON: In the interests of visual amenity

- 3) All work to trees shall be carried out to BS Specification 3998 (as amended) and are to be carried out by a qualified and insured arborist.

Reason - To safeguard the health of the trees.