

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 06 September 2023

APPLICATION REF. NO:	23/00236/TF.
STATUTORY DECISION DATE:	15 th August 2023.
WARD/PARISH:	HEIGHINGTON AND CONISCLIFFE; HEIGHINGTON PARISH COUNCIL.
LOCATION:	2 Darlington Road; Heighington.
DESCRIPTION:	Felling of 1 no. Sycamore protected by Tree Preservation Order (No.8) 1995.
APPLICANT:	Mr. Keith McAllister.

RECOMMENDATION: REFUSE PERMISSION (*see details below*).

Application documents including application forms; submitted plans; supporting technical information; consultations responses and representations received; and other background papers are available on the Darlington Borough Council website via the following link:- <https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=RQVYS6FP0BM00>

APPLICATION AND SITE DESCRIPTION:

Description Of The Site And Surrounding Area.

1. The Sycamore Tree (*identified as T.1 in the TPO Schedule*); that is the subject of this application is located within the grounds of the application site, 2 Darlington Road; Heighington.
2. The Tree stands in the front garden of no. 2 Darlington Road a detached dwelling; located adjacent to the main road leading into the village. The Sycamore is a mature specimen and has an imposing presence within the street scene. The immediate area surrounding the application site is seen in conjunction with other nearby mature trees; providing a green setting to the entrance to the village. As such, the tree forms an important part of the wider landscape setting of the area; contributing as a strong element to the local skyline giving the Sycamore substantial public amenity value.

3. The tree is not situated within a designated Conservation Area; however the tree is clearly seen adjacent the Heighington Conservation Area.

4. There are no further TPO trees on site.

Proposal.

5. The application seeks consent to conduct the following works:-

Description of Works.

7. The applicant has provided a brief description of the proposed works and the reasons for the works which can be summarised up as follows: -

“The proposed felling is required due to defects within the boundaries and landscaping in the location of the Sycamore Tree.”

RELEVANT PLANNING HISTORY:

8. There is no relevant planning history for the site.

MAIN PLANNING ISSUES:

9. The main planning issues relevant to this application are:-

- Amenity value of the tree.
- Impact on the local environment.

PLANNING POLICIES:

The application must be considered in the context of Part VIII of the Town & Country Planning Act and The Town & Country Planning (Tree Preservation)(England) Regulation 2012, the National Planning Policy Framework (NPPF) (2021) and Tree Preservation Orders: A Guide to the Law and Good Practice and the National Planning Practice Guidance.

RESULTS OF TECHNICAL CONSULTATION:

11. The councils Senior Arboricultural Officer has *objected* to the planning application in raising the following points: -

a. It is recommended that authorisation be *refused* to remove the tree; as there are no visible signs that the co-dominate stems have an inclusion and that it is split; the Ivy is still in situ over the co-dominate stems.

- I disagree that the tree is too large for its location as there are many trees in similar locations. There are thousands of trees which are in closer proximity to dwellings.
- Damage to buildings due to vegetation-linked subsidence is far less frequent than is often commonly believed. However; occasionally difficulties can occur when inadequate foundations are placed on a shrinkable clay soil; adjacent to the roots of vegetation. It is then; usually in periods of extended drought that effects can be noted of movement in a building's foundations
- Leaves and birds nesting in trees is a natural occurrence; to remove a tree due to leaf fall and bird dropping is poor arboreal practise as this would set a dangerous precedent if it were undertaken for that reason. Clearing fallen leaves is up to the owner.
- The wall adjacent to the tree should be reconstructed to allow movement of the tree.
- The tree is highly visible from a public place and as such contributes significantly to the landscape adjacent to the Conservation area.
- The structural report is not from a Structural Engineer.

RESULTS OF PUBLICITY AND NOTIFICATION:

12. Occupiers of neighbouring properties were advised of the proposal by way of letter and a site notice has been displayed.

13. Two letters of representation have been received in *support* of the application which are summarised below.

- The tree is exceptionally large and could potentially cause structural damage.
- Seeds from the tree scatter into the garden and take root as well as gathering on the sloping drive which in wet weather becomes slippery and dangerous.

15. Heighington Parish Council have been consulted and are in *support* of this application.

PLANNING ISSUES/ANALYSIS (*Planning Considerations*):

16. The determining issues in this application are the affect that the proposed works would have on the amenity value of the area and whether sufficient justification has been provided for its felling in the light of its protected status.

18. The councils Senior Arboricultural Officer has conducted a visual inspection of the tree; and following the conclusion of the inspection it was concluded that:-

a. The mature Sycamore (<i>Acer psuedoplatanus</i>) appeared to be in reasonable condition and good form at the time pf the inspection. The tree has co-dominate stems and Ivy has created a visible constraint to this area. The bark has been damaged on the trees stem; allegedly when the Ivy was severed and as such chainsaw cuts are visible. Also, bolts have entered the trees trunk seemingly to secure the fence.
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b. The tree makes a significant contribution to public visual amenity.
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c. the proposed works are <i>not justified</i> as the applicant has not shown any evidence to suggest conclusively that the trees structural integrity has been compromised, the tree is still highly visible, and is an important feature as you enter and leave Heighington.
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19. The applicant has provided a Structural Report into the perceived defects to the boundaries and landscaping within the location of the Sycamore Tree (T.1); the main issues of which are: -

- Cracking to the stone boundary wall adjacent to the tree.
- Cracking to the timber post to the timber fence adjacent to the tree.
- Cracking to the surrounding hard landscaped surfaces.

20. The primary purpose of the Structural Report was to assess the impact that the Sycamore Tree was having upon the boundaries and landscaping of the site and also to the application property and the adjacent highway.

21. In addition to the Structural Report the applicant has also provided a Tree Report. The Tree Report focused mainly on the overall structural condition of the tree and the subsequent need to fell the tree rather than the perceived issues with the tree roots and the damage that the trees roots are allegedly causing to the retaining boundaries and landscaping .

22. The Structural Report; implies that the defects to the boundaries and landscaping have occurred due to pressure caused by the root action of the tree. However, the structural report failed to provide any substantial evidence to suggest that this is the case. The submitted Structural Report focused more on the distance the tree was from the main house; the trees age and declining its condition.

23. It should be noted that the Structural Report was commissioned by a building consultancy and not by a structural engineer and as such the report made no reference to an alternative solution to alleviate the perceived defects to the boundaries and landscaping rather than felling a healthy tree which is statutorily protected.

24. **Key Issues:** -

- Impact upon visual amenity (*the effect of the proposed felling of a protected tree upon the character and appearance of the area*).

- Whether sufficient justification has been demonstrated for the works (*felling*).

Impact upon the amenity of the area.

(Amenity value of the Sycamore Tree and the likely effect of its removal).

25. The tree has a preservation order placed upon it in accordance with The Town and Country Planning (Tree Preservation) (England) Regulation 2012.

27. It is the subject of a Tree Preservation Order and is therefore considered to have a prominent level of amenity value. The work as proposed has been assessed by the councils Senior Arboricultural Officer.

28. The Tree; can be seen from a distance within both Darlington Road and surrounding streets. This makes the tree a landmark feature within the street scene and provides a significant contribution to the character of the Conservation Area therefore the reasons to justify the proposed felling need to be compelling. The Sycamore Tree (T.1); is a large tree in a reasonable condition and in the council's opinion the area's amenity would be harmed by the tree's removal.

29. The felling of the Sycamore Tree (T.1); would create a large void on the eastern side of the site close to its entrance; and as such any replacement tree would take many years to reach the same stature and level of visual amenity value as of the existing specimen. As such, replacement planting would not be sufficient to mitigate the harm that would arise to the character and appearance of the Conservation Area from its removal.

30. Therefore in the opinion of the Local Planning Authority the proposal to fell the tree is unacceptable due to its amenity value. Furthermore, the tree is healthy and in a reasonable condition and the unjustified loss of the tree would have a negative impact on the visual amenity of the area.

Whether sufficient justification has been provided for the proposed felling.

(Whether the felling is justified in the circumstances of this application);

32. The Local Planning Authority is required to consider the public benefit of proposed works to protected tree(s); and whether the reasons given for its removal justify this course of action.

33. the applicant has indicated that the roots of the tree are perceived to be causing damage to the boundaries and landscaping of the property.

34 It should be noted however that they can often become degraded over time due to their cosmetic nature whether trees are present or not. Consequently, they require periodical maintenance or restructure.

35. However notwithstanding the above; the applicant has provided a Structural Report, but the report concentrated more on the distance the tree was from the main house and the risk of it failing rather than focusing on the perceived damage as caused by the tree's roots.

36. No alternatives to the felling of the Sycamore have been provided.

37. After considering all the above; it is felt that there is no justification to fell the Sycamore Tree as in the councils opinion it would be possible to accommodate both the tree and repair the wall using appropriate engineering techniques.

42. In dealing with an application to fell protected tree(s); a balancing exercise needs to be undertaken. The justification for the felling must be weighed against the resultant loss to the amenity of the area.

43. In this case the felling of the tree would have a demonstrably harmful effect on the visual amenity of the area; and the points put forward to justify its removal fall short of outweighing the harm that would be caused.

Conclusion

44. Based on the councils Senior Arboricultural Officer's assessment the tree is considered to be a healthy reasonable specimen. It is not considered that the reasons given to support the felling are sufficient to justify its removal. Many of the issues raised could be dealt with by property maintenance or repair.

PUBLIC SECTOR EQUALITY DUTY:

45. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998:

46. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

RECOMMENDATION:

49. To **REFUSE** consent.

REASON:-

In the opinion of the Local Planning Authority the Sycamore Tree (T.1) is considered to be in reasonable form and condition and is highly valuable tree in the street scene, contributing to the

visual amenities of the area. The proposed felling has not been adequately justified; and alternatives have not been adequately explored. It's removal would therefore be contrary to Part VIII of the Town & Country Planning Act and The Town & Country Planning (Tree Preservation)(England) Regulation 2012; the National Planning Policy Framework (NPPF) (2021) and Tree Preservation Orders and Planning Practice Guidance (PPG).