

**Allerdale Borough Council**

**Planning Application WTPO/2021/0027**

**Development Panel Report**

**Reference Number:** WTPO/2021/0027  
**Valid Date:** 22/11/2021  
**Location:** Sycamore House, Sandale Village, Sandale  
Boltongate, Wigton, CA7 1DE  
**Applicant:** Gary Smith  
**Proposal:** Sycamore (T1) remove to completely eliminate risk of large limb or the tree itself coming down

**RECOMMENDATION**

That the application to fell the tree detailed within the submitted application is refused.

**1. Summary**

<b><u>Issue</u></b>	<b><u>Conclusion</u></b>
Amenity value	The loss of the tree will result in immediate significant detriment to visual amenity
Justification	Insufficient evidence has been provided with the application to justify the removal of the tree

**2. Introduction**

2.1. A Tree Preservation Order (TPO) was made in December 1990. The TPO consists of 1 individual tree designation (T1). This application seeks to remove T1.

**3. Proposal**

3.1. The details for consideration are:-  
Application form dated 22.11.2021  
Screenshot of location  
Arboricultural Assessment – Revised 19.11.2021

**4. Site**

4.1 The application site is a detached residential property with a garden and driveway to the front with a large mature Sycamore tree on the perimeter of the garden, adjacent to the access road. There are further residential dwellings to the

immediate north and south of the site with agricultural fields to the east and west. A number of trees line the road to the west upon the boundaries of the agricultural fields.

## **5. Relevant Planning History**

- 5.1 WTPO/2021/0016 - Crown thin up to 30%, crown reduce by 1 metre, remove one of the lowest limbs leaning out towards the entrance to the property, roughly 6" in diameter – Granted with conditions 21.06.2021

HOU/2021/0196 - Taking down of existing conservatory and erection of new living room extension – Granted with conditions 21.10.2021

## **6. Representations**

- 6.1. **Bolton's Parish Council** – Bolton's parish Council object to this application on the following grounds; the arboriculture assessment accompanying the application does not provide evidence that the tree, in its entirety, poses a risk to property or life. On the contrary the assessment statement states that the tree is in 'moderate condition' as opposed to poor or dangerous condition. Additionally the priority for any works is graded low. No consideration is given in the report to the possibility of pruning the tree and removing the dead limbs, or reducing the height of the crown, which would eliminate the risk of failing limbs or damage to the property in the event that the tree itself were to fail. Bolton's Parish Council requests that an independent survey be undertaken to assess any potential risks posed by the tree. If the conclusion of that survey is that the tree does need to be felled, Bolton's Parish Council further requests that a condition be applied to any consent that requires replanting of a native species of tree or, as suggested in the report, a hedge, within a specified time period.

## **7. Legal background**

- 7.1 The primary legislation relating to Tree Preservation Orders is the Town and Country Planning Act 1990 as amended by section 192 of the 2008 Planning Act. The 1990 Act provides the ability for secondary legislation to be made setting out the statutory framework for the making and confirming of Tree Preservation Orders. Currently this is the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into force on 6 April 2012.

## **8. Policy and Guidance Framework**

- 8.1 Following the publication of the first National Planning Policy Framework (NPPF) in 2012<sup>1</sup> the government commenced the on-line National Planning Practice Guidance (NPPG) to replace guidance such as circulars. The NPPG is a live document that can be updated. At the time of this report it advised that:-

“Local planning authorities can make a Tree Preservation Order 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’.

Authorities can either initiate this process themselves or in response to a request made by any other party. When deciding whether an Order is appropriate, authorities are advised to take into consideration what 'amenity' means in practice, what to take into account when assessing amenity value, what 'expedient' means in practice, what trees can be protected and how they can be identified."<sup>2</sup>

<sup>1</sup> A 3<sup>rd</sup> edition of the NPPF now applies (Feb 2019)

<sup>2</sup> Paragraph: 005 Reference ID: 36-005-20140306 Revision date: 06 03 2014

## 8.2 Amenity

It is noted that 'Amenity' is not defined in the primary or secondary legislation so a judgement has to be made. The NPPG advises that Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future. It cites various criteria which can be used by councils to make the judgement:-

- **Visibility** - The extent to which the tree can be seen by the public. It should normally be visible from a public place, such as a road or footpath, or accessible by the public.
  
- **Individual, collective and wider impact** - Public visibility alone will not be sufficient to warrant an Order. The Council also needs to consider size and form; future potential as an amenity; rarity, cultural or historic value; contribution to, and relationship with, the landscape and; contribution to the character or appearance of a conservation area.

Where relevant the Council may also consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

## 9. History

- 9.1 A Tree Preservation Order (TPO) was made on the tree in December 1990. This was following the grant of planning permission for the dwelling at the application site (planning ref. 2/1990/0540).
  
- 9.2 An application to fell the tree was submitted last year (planning ref. WTPO/2021/0016). The report submitted at the time of the application recommended various works but did not recommend felling of the tree. Following advice from officers that the application would likely be refused given the lack of supporting justification for the tree's removal, the application was amended in line with the recommendations provided in the submitted report and consent was granted on 21.06.2021 for the following works; Crown thin up to 30%, crown reduce by 1 metre and remove one of the lowest limbs leaning out towards the entrance to the property, roughly 6" in diameter

9.4 The application submitted for consideration seeks approval to remove the protected Sycamore tree to completely eliminate the risk of the tree or a large limb coming down and damaging the property and/or vehicles, access road and residents. The application confirms the applicant has reported the tree shredding at least one or two large branches per year and has suggested replanting with native broadleaf such as a Beech hedge to mitigate the loss of the tree.

## 10. **Assessment:**

10.1. The tree is considered to be a prominent feature which is clearly visible from public vantage points within the village of Sandale. The tree is a mature specimen and was safeguarded around the time planning permission was granted for the residential dwelling. Whilst there are other trees on the opposite side of the road, there are no individual trees fronting the roadside of the dwellings within close proximity of the protected Sycamore and officers consider due to its size and close proximity to the public highway, the loss of this tree would be clearly apparent to residents of the village familiar with this area.

10.2 The submitted qualified report states the reasons for removing the tree is to eliminate the risk of the tree or large limbs coming down onto the house, vehicles or road, given it being a mature specimen having reached its full size with a heavy crown and a lean towards the property. The report also states the tree has some visible signs of some dead larger limbs that are likely to fail in the coming windy winter months and also refers to the tree having epicormic growth at the butt and lower trunk which would indicate the tree is undergoing some stress which could mean it is failing further into the heartwood or simply because it has been heavily pruned. No risk assessment has been included in the report and the priority given for the recommend work is low; up to 12 months.

10.3 A TEMPO assessment has been carried out in relation to tree which resulted in a score of 15; TPO defensible. This score was reached following the following criteria (listed with scores and definitions):-

### Part 1: Amenity Assessment

- a) Condition and suitability of TPO – score of 3 (fair/satisfactory)
- b) Retention span (in years) & suitability for TPO – score of 2 (20-40 suitable)
- c) Relative public visibility & suitability for TPO – score of 4 (large trees, or medium trees clearly visible to the public)
- d) Other factors – score of 1 (trees with none of the above additional redeeming features)

### Part 2: Expediency assessment

Score of 5 – immediate threat to tree

### Part 3: Decision guide

Total score of 15 – TPO defensible

- 10.4 Following the call in of the application to development panel, an independent assessment of the tree has been carried out on behalf of the Council. The assessment consisted of two methods; Visual Tree Assessment and Quantified Tree Risk Assessment. The subsequent report provided following the assessment of the tree concludes there are no obvious signs of decay within the tree therefore the most likely reason for the epicormic growth is the extensive pruning wounds and loss of branches on the tree and that the risk in which the tree poses is “tolerable” and thus works can be carried out to reduce any risk.
- 10.5 Permission has already been granted for various works to the tree (WTPO/2021/0016). These works would provide a reduction in the overall canopy of the tree therefore reducing any risk associated with the age and size of the tree. In addition to this, dead branches can be removed under the exceptions of the regulations. The exceptions allow removal of dead branches from a living tree without prior notice or consent.

## **11. Conclusions**

- 11.1. The tree is considered to make a significant contribution to visual amenity, meeting the criteria set out in the TEMPO assessment. Insufficient evidence has been provided with the application to justify the removal of the tree, and an independent report carried out on behalf of the Council concludes the risk identified from the tree is “tolerable” and the previous works approved, if carried out, will lessen that risk resulting in there being no justification to remove the protected tree.

## **12. RECOMMENDATION**

- 12.1 It is recommended that the application is refused for the following reasons;
- The loss of this mature tree would result in immediate significant detriment to the visual amenity of the locality
  - Insufficient qualified evidence has been provided with the application regarding any potential future harm or risk to to justify the removal of the tree.

