

Allerdale Borough Council

Planning Application WTPO/2022/0010

Development Panel Report

Reference Number: WTPO/2022/0010
Valid Date: 11/07/2022
Location: Hill Farm, Causeway Road, Seaton
Applicant: Trustees of the Copsey family Trust
Proposal: Works to TPO
Proposed felling of t1 and t5 because of Ash dieback.

RECOMMENDATION

Grant the felling of the Ash trees T1 and T5 (subject to a condition securing the planting of a heavy duty replacement oak trees for each tree)

1.0 Summary

<u>Issue</u>	<u>Conclusion</u>
Amenity value	The trees were protected as part of a cluster of mature individual trees within the grounds of Hill Farm which are of amenity value as a landscape feature within the streetscene.
Justification	<p>The loss of both of Ash trees T1 and T5 is on the grounds of evidence of Ash dieback which has increased since member's last consideration of the works. It results in it representing a safety threat to the occupiers of the neighbouring bungalow (1a Causeway Rd, Seaton)</p> <p>The applicant had previously agreed under the earlier TPO application to scale their initial felling request for T1 down to an alternative of 40% crown thinning works, albeit it was acknowledged the condition of the tree will need to be monitored in the future.</p>

2.0 Introduction

- 2.1 To recall, on 5th January 2018 a tree preservation order (TPO/1/2018) was made following the felling of a mature tree on the eastern perimeter of Hill Farm's grounds. The TPO was made as a group designation and was modified during the course of the assessment deleting the individual tree T6 from the order due to concerns about its health. The final confirmed TPO group designation comprises of 7 Sycamore trees (ref: T2, T3, T4, T7, T8, T9 and T10) and 2 Ash trees (ref T1 and T5).
- 2.2 Works to these protected trees were considered under WTPO/2020/0023 at a panel meeting in March 2021. Members initially had deferred the application at an earlier meeting of the Development Panel to enable an exploration of alternatives to the felling of the trees. An independent Arboriculturist revisited the tree for a peer assessment and the application was modified in response to the recommendations. It was resolved to allow the felling of T5 subject to a replacement heavy duty tree and allow 40% crown thinning to T1 which would be the subject of further review.

3.0 Proposal

- 3.1 The proposal solely relates to :-
- a) The felling of the Ash tree T1 and T5.
- 3.2 Albeit the tree report refers to proposed works to other protected trees at the site, the applicant has confirmed that the proposal solely relates to the specific trees T1 and T5, thus the details under consideration under WTPO/2022/0010 are:-
- Application form registered 11/07/22
 - Hill Farm tree report dated 29th June 2022
 - e-mail and plan dated 5/08/22 confirming the proposal solely relates to trees T1 and T5.
- 3.3. As the council has previously granted consent for the felling of T5, this is not a consideration under the current proposal, subject to securing the replacement tree as under the former approval.

4.0 Site

- 4.1 The application site is located within the grounds of Hill Farm, Causeway Road, Seaton. The protected trees form a line on the western and southern boundaries of the site.
- 4.2 The neighbouring land to the south is occupied by a residential bungalow (1a Causeway Road).

5.0 Relevant planning History

- 5.1 The current tree works application was prompted by a review of the health of the two Ash trees following the council's previous TPO works decision in 2021. They had been initially surveyed as part of the approved housing estate development under 2/2018/0493 but then resurveyed again under the tree preservation order application in response to the later complaint on safety grounds .
- 5.2 Tree T6 had been omitted from the made TPO due to an identified wound. This individual tree, irrespective of the wound, still had the potential to contribute to the landscape amenity. Subsequently, the Council made a separate TPO (TPO/2020/0014) to protect this neighbouring sycamore.

6.0 Representations

- 6.1 These comments relate to the proposal prior to its amendment (it now proposing the loss of trees T1 and T5).

Seaton Parish Council

- 6.2 Object to the felling of the TPO trees, as it is of the understanding that trees can recover from Ash dieback. Both trees are in full leaf. The council consider that it is just over 12 months since an application for the felling of the trees was submitted and in questioning what may have changed in such a short time refers the planning authority to the overall motives of the applicant. It would suggest that if the authority is minded to consider the application, it arranges an independent survey to guide its understanding.

Other representations

- 6.3 No other representation have been received

7.0 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.

8.0 Development Plan policy

Allerdale Local Plan Part 1 (2014)

- 8.1 Policy DM17 – Trees, Hedgerows and Woodlands is relevant as are the accompanying supporting paragraphs. Paragraph 399 (on page 180) advises that trees will be expected to be replaced in a 2:1 ratio although the paragraph

explicitly refers to where development resulting in the loss of trees, which is not the case here.

9.0 Other policy guidance

9.1 Following the publication of the National Planning Policy Framework (NPPF), 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. In terms of assessing applications for works to/felling of protected trees, the NPPG advises as follows;-

“In considering an application, the local planning authority should assess the impact of the proposal on the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it. The authority must be clear about what work it will allow and any associated conditions.”¹

9.2 The following paragraph² of the NPPG provides a series of bullet-pointed criteria for the Authority to consider;-

- a) Assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area;
- b) consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it;
- c) consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions;
- d) consider whether any requirements apply in regard to protected species;
- e) consider other material considerations, including development plan policies where relevant; and
- f) ensure that appropriate expertise informs its decision;
- g) assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area;
- h) consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it;
- i) consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions;
- j) consider whether any requirements apply in regard to protected species;
- k) consider other material considerations, including development plan policies where relevant; and
- l) ensure that appropriate expertise informs its decision.

¹ Paragraph: 089 Reference ID: 36-089-20140306 Revision 6/3/14 Accessed at <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

² Paragraph: 090 Reference ID: 36-090-20140306 Revision 6/3/14 Accessed at <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

10.0 Assessment

- 10.1 The trees are considered to be prominent features which are clearly visible within the streetscape on Causeway Road and it is accepted that the trees are of amenity value. The grounds for undertaking the works to the 2 Ash trees is solely due its diseased status. The applicant's tree consultant's report considers the condition of T1 gives cause for concern as it has deteriorated in its condition since the earlier surveys in 2018 and 2020. The tree has lost leaf density and is likely to be suffering from Ash dieback which is prevailing in the area.
- 10.2 In order to evaluate the merits of this application, given the views of both the parish council and the considerable former debate by members in seeking to minimise the extent of any tree works under the earlier application, the Council commissioned an independent peer assessment of the trees.

The conclusions of the peer assessment were:

- a) T1- reference is made to the councils earlier decision on this application which a 40% crown thinning and removal of overhanging branches. In assessing the works two methods were adopted: visual assessment and QTRA (Quantified Tree Risk Assessment).
- Accept that the tree is suffering Ash dieback and has shown greater decline since the original per assessments in 2018 and 2020. The existing targets associated with this tree are the dwelling, however the room potentially impacted is the kitchen and where the occupier would be alert when in this room and have a greater chance of escaping a failing tree.
 - Due to its separation distance from the dwelling the majority of any failures would fall into the rear garden. There is also a garage on the applicant's site which is within the impact zone, but has not been considered as it is within their control.
 - In assessing options, albeit consent has been granted to carry out works to retain the tree in a safe way, these have not been undertaken. As a consequence the peer assessor is of the professional opinion that the only option on safety grounds is now to fell the tree.
 - The option of pruning works is no longer applicable, as the tree is already compromised and pruning works would add to stress to the tree that could accelerate its decline and make it even more susceptible to failure. Thus felling is the better option of safety grounds subject to the planting of a replacement heavy standard Oak tree.
- b) T5; The peer assessment did also review the details of T5 but officers given the former existing consent to fell the tree do not attribute any weight to this part of the assessment i.e. the principle of the works has already been accepted.

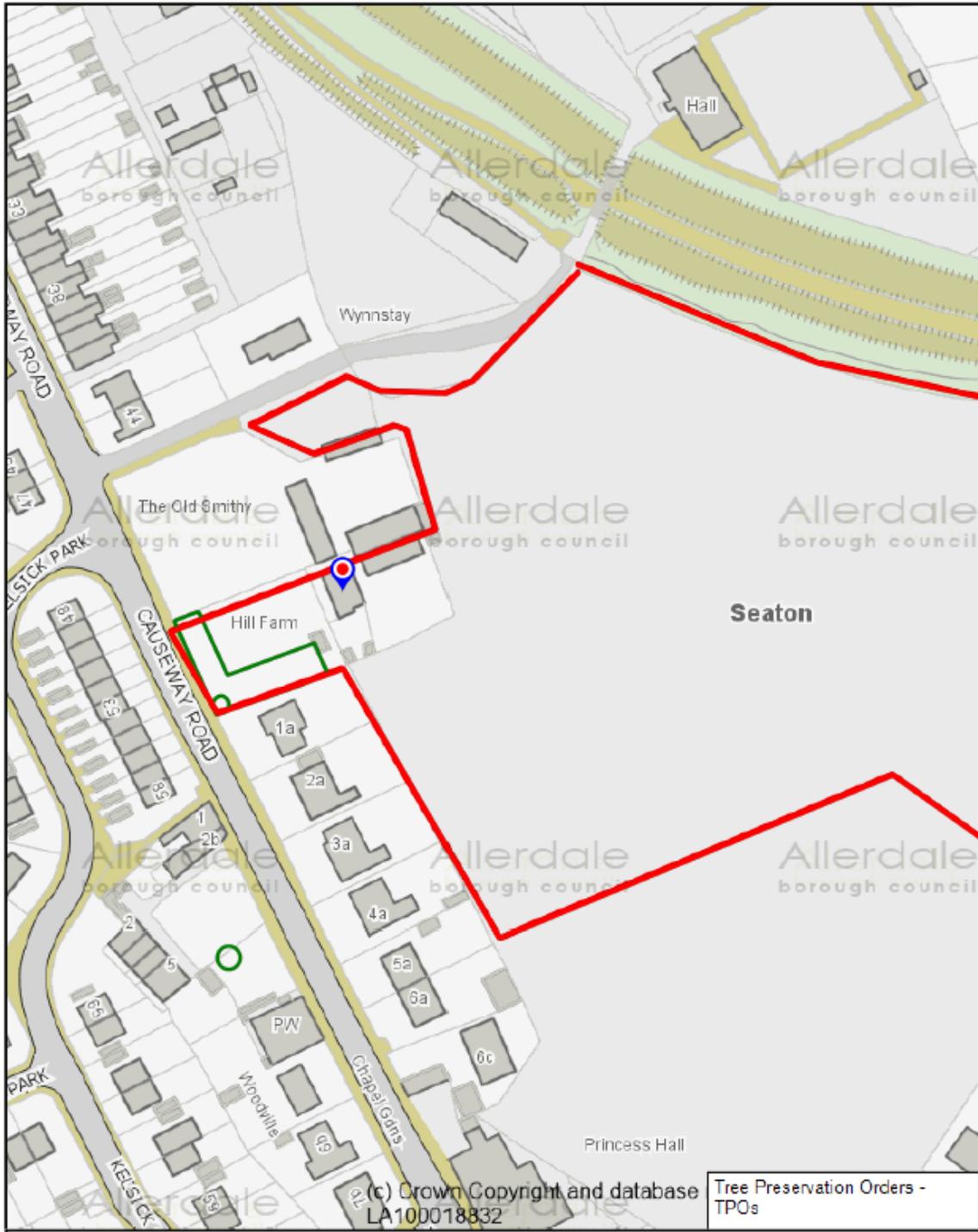
- 10.3 Members were previously advised that the previous tree works application had been prompted following safety concerns by the neighbouring property. However the complainant did not specify what type of works were necessary and the option to fell had derived from the re-examination of the trees by the applicant's arboriculturist. However, during the course of Panel's former consideration of the application, an objector questioned whether the preferable option of pruning was feasible as this lesser extent of works would retain the amenity value of the tree. This was supported by the ward councillor who advised he had been informed by a tree surgeon that this was achievable.
- 10.4 However the current peer report concluded there was a "significant risk" and due to the distance of the tree from the targets of the dwelling, occupiers and declining condition that removal is the only safe option.
- 10.5 It is considered necessary, on the grounds of future amenity value that a replacement tree for T1, (similar to T5) is secured by condition. The number of replacement trees has been carefully considered by officers with particular regard to reasonableness and the proximity of the neighbouring properties. Although paragraph 399 of the Local Plan Part 1 specifies a ratio of 2:1 for trees lost as a result of a development proposal, this is not the case here and a 1: 1 ratio is considered appropriate.

11.0 Conclusions

- 11.1 The important amenity grounds for the initial TPO is not disputed.
- 11.2 There is no overlap of felling works associated with the former approved housing development. The two applications are therefore independent with their own bespoke grounds for undertaking their respective works.
- 11.3 This application has been amended during the course of its assessment omitting some of the trees from the schedule of proposed works. Furthermore consent has previously been recently granted for T5 to be felled. Given the findings of the peer tree consultant's reports on the safety concerns on the application's remaining Ash tree T1 and that these works are neither directly related to the approved development or related to their amenity value, officers consider there are reasonable and valid overriding safety grounds for the felling of the other Ash tree T1 tree subject to the replanting of a replacement tree.

RECOMMENDATION

Grant the the felling of the Ash trees T1 and T5 (subject to a condition securing the planting of a heavy duty replacement oak trees for each tree)



Tree Preservation Orders - TPOs