

DELEGATED

AGENDA NO
PLANNING COMMITTEE

25 November 2009

REPORT OF CORPORATE DIRECTOR,
DEVELOPMENT AND NEIGHBOURHOOD
SERVICES

09/2358/X

1 Old Rectory Gardens, Yarm, TS15 9EN

Application to fell 2 Sycamore trees, 1 Ash tree, to remove deadwood from 1 Pine and 1 Sycamore tree and to crown trim 1 Beech tree.

Expiry Date 16 November 2009

SUMMARY

The Tree Preservation Order on this site was made on the 18th April 2005 and confirmed on 8th August 2005. The Order was made as the trees were considered to have amenity value, making a major contribution to the visual amenity of the area and would provide screening for a possible future development.

The application seeks consent to fell 2 sycamore trees, 1 ash tree, remove deadwood from 1 pine tree and 1 sycamore tree and to crown trim 1 beech tree. The 2 sycamores are not protected and permission is therefore not required.

15 letters of objection have been received to the application; on the grounds of the impact on the view/outlook, the impact on wildlife within the area and the general impact on the environment.

The Council's Arboricultural Officer has assessed the application and considers the proposed works are part of ongoing maintenance of the trees within the site and supports the works and states the 1 Ash tree that is to be felled is of poor structural form and not suitable for long term retention.

It is considered that due to the condition of the Ash tree that is to be felled and as the proposed dead wooding and trimming is considered by the Council's Arboricultural Officer as being in line with ongoing maintenance of the trees, approval should be given for the proposed works.

RECOMMENDATION

Application 09/2358/X be Approved subject to the following conditions:-

01. The work hereby approved shall solely be:

- 1. Felling of 1 no. ash and 1 no. sycamore located to the side of the property**
- 2. Felling of 1 no. sycamore tree located to the rear of the property**
- 3. Removal of visible deadwood from 1 no. pine tree and 1 no. sycamore tree**
- 4. Crown lifting of soft growth from 1 no. beech tree not exceeding 15% canopy volume, this shall include small diameter branches not exceeding 75 mm in diameter.**

Reason: In the interests of amenity and the maintenance of landscaping features on the site.

- 02. The 1 no. Ash tree that is to be felled shall be replaced with a specimen of type and species to be agreed with the Local Planning Authority before the removal of the tree. The replacement tree shall be planted within the first planting season following the removal of the tree. Should the replacement tree die, become damaged or diseased they shall be replaced within the first planting season following its demise with a type and species to be agreed in writing with the Local Planning Authority.**

Reason: In the interests of the visual amenities of the area.

- 03. The works hereby permitted shall be begun before the expiration of 12 months from the date of this permission**

Reason: To ensure appropriate works are carried out within a reasonable time period due to tree health and condition being variable over time and the recommended management for trees is based on tree condition at the time of inspection

- 04. All works to be done competently in accord with arboricultural best pruning practices and to a minimum standard of BS3998 Tree work recommendations.**

Reason: In the interests of the visual amenities of the area.

BACKGROUND

1. The Tree Preservation Order (The Old Rectory, Yarm) 2005 No. 601 was made on the 18th April 2005 and confirmed 8th August 2005. The Order protects 13 trees and was made as the trees were considered to have amenity value, making a major contribution to the visual amenity of the area and would provide screening for a possible future development.
2. Outline planning permission was given for the development of 4 houses on the site on the 14th July 2005 and full planning permission was given for 1 Old Rectory Gardens that now occupies the site on the 26th June 2006.

PROPOSAL

3. This application seeks permission to fell 2 Sycamore trees, 1 Ash tree, to remove deadwood from 1 Pine tree and 1 Sycamore tree and to crown trim 1 Beech tree.
4. The only works that require permission are the felling of 1 Ash tree (T13 on the TPO Plan) and crown trimming of 1 Beech tree (T12 on the TPO Plan). The proposed dead wooding of 1 Pine tree (T11 on the TPO Plan) and 1 Sycamore tree (T10 on the TPO Plan) can be carried out without the need for an application.
5. The 2 Sycamore trees that are to be felled are not protected via a Tree Preservation Order and permission is therefore not required.

CONSULTATIONS

6. The following Consultations were notified and any comments received are set out below:-
7. Building Control Manager
No comments received

8. Councillors

No comments received

9. Arboricultural Officer

I have inspected trees at Old Rectory Gardens in connection with the current application ref 09/2538/x.

10. I understand the applicant wishes to fell trees on the boundary and also prune back overhanging branches from some trees to increase canopy clearance near the house. I met with the applicant and also their appointed tree surgeon prior to the submission of the application to discuss proposed works. I have attached photos of the trees for your reference:
11. The proposed schedule of work concurs with what was described on site therefore I recommend conditional consent can be granted.
12. The removal of 2 trees to the side of the house was agreed on the basis that both trees were of poor structural form and not suitable for long term retention - this was mainly due to potential for substantial increased growth in a relatively confined space plus stem defects noted (e.g. mature size of sycamore is 20m). The Ash tree for example, was found to have a cavity adjacent to the main branch forks and therefore internal decay, which could severely weaken the tree and lead to major branch failure in future. This cannot be remedied by pruning other than pollarding back to the main forks however it was considered this type of excessive pruning would effectively destroy the tree plus any amenity it provided. The owner was justifiably concerned about safety in the event a major part of the tree failed and had reported previous branch failures - I could see some evidence of this at the time.
13. It is accepted the trees provide some screening to adjoining residents at present following the recent building of the house however it was proposed that replacement trees using alternative species be planted in approximately the same locations to mitigate against their loss. I considered this to be reasonable and appropriate management under the circumstances
14. The adjacent sycamore tree was similarly considered unsuitable although did not necessarily require imminent removal for arboricultural purposes. I noted that the boundary fence had been awkwardly constructed around its misshapen stem, which only served to exacerbate its poor suitability
15. I also questioned whether these trees were in fact TPO'd as I would not have normally recommended them for protection - I suggested to the applicant they included all tree work proposed in any case as it was not clear at the time.
16. The sycamore tree at the rear of the garden was recommended for removal due to poor form, which had resulted from too many trees growing too close together - it also did not appear to be protected via a TPO. This was also proposed on the basis it was in favour of the adjoining trees, which were in better condition and form.
17. At the time I considered this reasonable however unfortunately it does not appear on the site photographs taken.
18. It is otherwise proposed to prune the remaining trees to remove any visible deadwood and also soft growth in the lower canopy that extends over the garden towards the house. I agreed this was also acceptable as normal ongoing maintenance for these trees on the

basis that pruning was kept to a relatively small volume and did not impact on the trees' health and visual amenity.

19. I would therefore recommend consent for works as follows:

1. Felling of 1 no. Ash and sycamore to side of house as specified on application form
2. Felling of sycamore tree in rear garden as specified on application form
3. Removal of visible deadwood from 1 no. Pine tree and 1 no. Sycamore tree.
4. Crown lifting of soft growth from 1 no. Beech tree not exceeding 15% canopy volume - this may include removal of small diameter branches not exceeding 75 mm diameter.
5. All arboricultural works to be undertaken in accord with arboricultural best practices and to a minimum standard of BS.3998 Tree work recommendations.

PUBLICITY

20. Neighbours were notified and any comments received are below. 16 letters of representation were received, 15 objecting to the works and 1 in support of the works.

Audrey Tough - 40 Spitalfields Yarm

21. Please leave these four remaining trees alone, I have been in this house 37 years and the trees have always been part of these houses, as for the deadwood tree it has been like this long before I came in, the bees lived in them the birds, its lovely to see the young making a home of the tree, just what will happen to them if it is taken away.

22. Please come and see how near the house is to the end of my garden, I know he has fit a glass roof on the back end which he says is never clean due to the birds, but he as a builder should have known what a room on the back with a glass roof would cause some bother, with trees so near. Please help me to keep these lovely trees. At 75, I would like to live in this house for the rest of my life and look at tree not a building.

Hill - 38 Spitalfields Yarm

23. Whilst I cannot object to trees being suitably trimmed, the proposal smacks of wholesale butchery of protected trees for the sake of the applicant's whims. The developer knew of the trees and still went ahead and built close to them. Now it appears they're inconveniencing matters.

24. I object therefore on the grounds of it destroying the environment for the wildlife and being an effort to remove trees 'after the event' in a cynical way, without due regard to neighbours feelings.

Mr D Williams - 44 Spitalfields Yarm

25. I chose to live in this estate primarily because the original builder had sought to design the roads and house positions to maximise the use of pre-existing mature, native trees, e.g. the trees kept in the centre of Spitalfields square and along the edges of gardens and house plots.

26. Over the years I have observed and nurtured the local wildlife with much pleasure; pheasants, woodpeckers, hedgehogs, bats etc. I have put up nesting boxes, roosting pockets and bat boxes, made hedgehog hibernators and bought specialist feeding station for the many and varied birds that visit out garden to feed, including some migratory visitors.

27. I was opposed to the building on the rectory orchard and had been given to understand, when we bought our house that the land was never to be built on.

28. Before the development I could see right down to the other side of Yarm Bridge from my kitchen - a visually stunning vista in spring and summer, and warm, welcoming light in the winter.
29. The trees that are now under threat are a green separator to the rectory development for me, and home and haven to wildlife. There is no reason for felling or trimming. The developer knew that the trees were protected when he built his house beside them in 2007.
30. I am completely opposed to this proposal.

J Williams - 44 Spitalfields Yarm

31. I object to the proposal on the following grounds:
Loss of amenity. The above six trees are seen and enjoyed, not just by neighbours and visitors to Yarm cemetery, but also form part of the tree canopy which contributes to Yarm's green spaces. Recently the Woodland Trust identified an increasing threat to urban trees. These mature native trees should be saved intact for the benefit of the public.
32. Impact on biodiversity. . Trees sustain and support a variety of wildlife. And not just living trees the RSPB states that 30% of birds nest in holes or cavities in dead trees and these habitats are of great value for conservation. The fissures are also, according to the Bat Conservation Trust whom I contacted last week, prime roosting sites for the bats regularly to be seen flying around the trees on summer evenings at dusk. I have forwarded the BCT's publication entitled Bats and Trees in England which details legal obligations regarding these protected mammals.
33. Owner/Developers Awareness of TPO's. Planning application (06/1334/FUL) to build 1 Old Rectory Gardens was granted in June 2006 subject to conditions, two of which 07 and 08 relate to the continued protection of the trees.
34. Longevity of the Tree Preservation Orders. The TPOs were made in 2005. If any of the trees had been detrimentally diseased, dying or dangerous they would not have been put forward for inclusion in the TPO because arboriculturally they could not be defended.
35. Privacy and enjoyment. The stark roofs of both wings of this large property impinge upon our skyline the trees and in particular the untrimmed branches help to soften the effect of this amorphous mass. Photograph attached.

Ruddick - 26 Spitalfields Yarm

36. We have no objection to the removal of deadwood from 1 no Pine and 1 no Sycamore trees and to crown trim 1 no Beech tree and their correct management. We do object to the felling of 2 no Sycamore and 1 no Ash trees.

R W Wright - 30 Spitalfields Yarm

37. I would like to make the following comments:
38. The trees proposed for felling, lopping or crowning are all protected under Tree Preservation Order 2005 No. 601 dated 18-04-2005.
39. This order was made when planning permission was being sought to develop the Old Rectory field. It was made with the express purpose of preventing any developer and subsequent owners of any dwellings in Old Rectory Gardens from despoiling the long established line of trees bordering the Yarm Cemetery and the rear of Nos. 38-44 Spitalfields, Yarm.

40. This group of trees is a dominant feature of the Yarm southern skyline. Felling and crowning will ruin that feature which is appreciated by local householders and visitors to the Cemetery, who need privacy to grieve for their loved ones without being overlooked.
41. Regarding the protected trees between No. 1 Old Rectory Gardens and the properties of Nos. 38-44 Spitalfields, Yarm, has ownership of the boundary hedge, and hence the trees, been checked with the Land Registry? This seems to be a vital step; i.e. who actually owns the boundary?
42. Regarding the trees in the boundary between behind Nos. 38-44 Spitalfields, Yarm, if these are felled then privacy long enjoyed by the householders since 1965 will be lost in an instant. Privacy is vital and should be taken into careful consideration.
43. During development in 2006 this boundary lost an unprotected but well established holly tree over 30 feet in height, which I asked to be preserved, and also an ash tree. If the rest of the trees in the boundary bordering Nos. 38-44 Spitalfields, Yarm, are felled it will completely lose its character.
44. These long established trees contain a colony of tawny owls heard over many years and may be the roost of a colony of bats, which appear every spring and hibernate each autumn. This should be investigated by a qualified person before any work is considered as it would be illegal to disturb a bat colony roosting site.
45. Finally the trees themselves should be considered which is why they have a Tree Preservation order on them. They are well established over many years. The main tree in the group was a black poplar which was initially numbered T13 in the interim Preservation Order but was inexplicably left out of the final Tree Preservation Order 2005 No. 601, it was felled within a very short time which could be the fate of the others if the order was wholly or partially removed.
46. I would urge the Planning Committee to take these points of observation into consideration when making any decision on the application. A tree may take one hundred or more years to grow but can be destroyed in minutes and as a living object is irreplaceable.

D And J Young - 22 Spitalfields Yarm

47. We would wish to have the above-mentioned trees preserved for all the reasons you list: i.e. public enjoyment, wildlife & environmental issues. Also, might I add the trees were there already before the buildings were put up therefore should be allowed to remain.

Mr M Roach - 54 Spitalfields Yarm

48. I object to the removal of these trees they have been there for many many years and are very healthy. The owners of 1 Old Rectory Gardens are selfish people who should have thought about the impact of trees before they bought.

Mr And Mrs White - 91 Spitalfields Yarm

49. We protest at the felling of any trees that have preservation orders. They are a vital, but rapidly disappearing component of our local ecosystem, and therefore a very important habitat for local wildlife. As such they should be preserved and not felled or crown trimmed.
50. Unfortunately it appears to be a present 'fad' to remove trees without any real justification which has a great impact on flora and fauna, and makes lovely area like Yarm less visually and ecologically attractive.
51. Why bother with preservation orders in the first place if trees can be felled anyway? What's the rationale for the work on these trees?

52. The importance of these mature trees has not changed in the 4 years since the preservation order was made in 2005.

Mr and Mrs Grayson - 58 Spitalfields Yarm

53. The proposal to lop and fell the above trees surely contravenes the preservation order, as they are not a danger and much enjoyed by the long established householders whose gardens look onto them. The trees provide habitat for wildlife and removal would affect the water table, as they are so large and established. Disruption caused by and during the building of Rectory Gardens was considerable; other trees were removed some without consent, driveway damaged (but repaired). This seems the last straw these old trees deserve some respect and should not be removed on a whim. The new houses were built knowing of their existence and perhaps fewer houses on such a small plot would have meant both could be accommodated. It would appear the planning application for building was granted without a problem. The residents of Spitalfields enjoy the fact we are surrounded by trees which adds to the rural feel of our estate. So yes we are against this action.

Mrs M J Campion - 87 Spitalfields Yarm

54. I live on the square in Spitalfields which is overlooked by these trees and enjoy the benefit of seeing a wide variety of birds and wildlife. These include finches, wrens and thrushes and I have heard wood peckers, cuckoos, pheasants and owls. Wildlife includes bats, squirrels, foxes and even badgers have been seen and all within a 10 minute walk of a thriving high street. I believe that this wealth of wildlife is due to the number and variety of mature trees in the immediate location and that the felling and crowning of these trees will have a detrimental effect on the wildlife population and therefore the quality of life I currently enjoy from my home.

55. Yarm and its immediate surroundings are popular and much sought after residential areas and there is a wide range of housing estates to choose from, all with their own special atmosphere and I believe it is the mature trees that surround this little corner of Yarm that give it its unique personality and to lose these trees will spoil the particular character of this space. I feel that the quiet, peaceful quality of the square is as a direct result of these trees acting as a sound barrier, providing shelter, shade and structure to the area.

56. I understand that any felled trees are to be replaced by others, but as trees are living things, unlike a car or a kitchen they cannot simply be replaced and once they are gone they are lost forever. Any replacement trees will be of a size and scale that they will only be seen by a few whereas the current trees can be of benefit to a much wider number of Yarm's residents. Due to their scale they soften the skyline taking the sharp, angular shape away from rooftops; not only from as close to me in my front room but as they can be seen on the distant skyline, they add to the green curtain that envelopes Yarm and fixes it in its landscape. The trees form a boundary of Yarm cemetery and provide some privacy and shelter to mourners and people visiting the graves there, immature trees will not be able to do this.

57. I believe that the felling and crowning of these trees will be a great loss of a vital resource and I oppose the application.

Mr And Mrs J Twedde - 75 Spitalfields Yarm

58. We do not want any trees to be felled: i.e. 2 sycamore, 1 ash tree. We do not want the beech tree to be crown thinned. We are happy to have deadwood removed from 1 pine tree and 1 sycamore tree.

J K and E M Sibson - 89 Spitalfields Yarm

59. We are opposed to the felling of the trees covered by a preservation order since there must have been a good reason for the order to have been placed originally and the developer was fully aware of the situation prior to building.
60. Also there is clearly an environmental issue here, which cannot be simply set aside to satisfy the requirements of individuals.
61. We have no objection to the thinning work and shaping of preserved trees as others.

Mr and Mrs Wilson - 32 Spitalfields Yarm

62. We wish to strongly object to the felling or crown trimming of the beautiful, established trees mentioned in this application. These trees are essential to the feel and character of the area and are in keeping with Yarm's overall look, not to mention how important they are to the environment and wildlife in the area.
63. The trees were here long before the house and the owners bought the house/plot knowing and accepting that they were there. We are unable to understand how they have become a problem in such a short space of time. The trees were accepted when the house was built and they should be accepted now, not seen as an inconvenience that can just be removed.
64. A preservation order has been placed on these trees, if they are now allowed to be cut down the preservation order stands for nothing.

Mr and Mrs J Boddy - 24 Spitalfields Yarm

65. We object to the felling of any protected, mature trees, unless they become a danger to life and limb. In this area we need mature trees to soften the rooflines.

Joan Ormston - 85 Spitalfields Yarm

66. Yes I agree to treatment to the above trees.
67. As a pensioner I am finding it very hard to deal with the height and size of a tree behind 85 Spitalfields. It has been allowed to reach a height of approx 3 times the house.
68. Also a Scots Pine in front of 87 Spitalfields. Ridiculous tree for a small front garden very close to my house and maybe jeopardising the foundations.
69. Trees are lovely but need to be kept in order so close to houses.

MATERIAL PLANNING CONSIDERATIONS

70. The advice to Local Planning Authorities in respect of Tree Preservation Orders is set out in 'Tree Preservation Orders: A Guide to the Law and Good Practice (2000)' and the Addendum made in May 2009. This guidance draws from primary legislation set out in Town and Country Planning Act 1990 as amended and updated by the Town and Country Planning (Trees) Regulations 1999.
71. In deciding this type of application, the Local Planning Authority is not required to have regard to the development plan. Section 38(6) of the Planning and Compulsory Purchase Act is not therefore applicable, and there is no duty on the Local Planning Authority to make their decision in accordance with the development plan.
72. The Local Planning Authority are advised to:
- (1) Assess the amenity value of the tree or woodland, and the likely impact of the proposal on the amenity of the area, and

(2) In the light of their assessment at (1) above, to consider whether or not the proposal is justified, having regard to the reasons put forward in support of it.

73. And to consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions.

ASSESSMENT OF AMENITY VALUE

74. The application has been assessed by the Council's Arboricultural Officer, who has provided comment on all of the proposed work, although as previously stated not all of it requires permission.

75. The Arboricultural Officer has stated that the two trees to the side of the house that are to be felled are of poor form and not suitable for long-term retention, this is mainly due to the potential for substantial increased growth in a relatively confined space. One of these trees is protected, the Ash tree. The Arboricultural Officer found this tree to have a cavity adjacent to the main branch forks and therefore in the future internal decay could severely weaken the tree and lead to major branch failure. This cannot be remedied by pruning other than pollarding back to the main forks however the Arboricultural Officer considers this type of excessive pruning would effectively destroy the tree and any amenity it provided.

76. It is accepted the two trees provide some screening to adjoining residents at present following the recent building of the house however it is proposed that replacement trees using alternative species be planted in approximately the same location to mitigate against their loss. The Arborist considers the felling of these two trees to be reasonable and appropriate management under the circumstances.

77. The sycamore to the rear of the garden is recommended for removal by the Council's Arboricultural Officer due to poor form, which had resulted from too many trees growing too close together. Having looked at the TPO Plan the Arboricultural Officer has confirmed this tree is not protected via the TPO on the site and can therefore be removed without the need for permission from the Local Planning Authority.

78. The other proposed works are to prune 1 no. beech tree and remove deadwood from 1 no. pine tree and 1 no. sycamore tree. The Council's Arboricultural Officer agrees these proposed works are acceptable as part of normal ongoing maintenance for the trees on the basis that pruning is kept to a relatively small volume and did not impact on the trees' health and visual amenity.

79. Local residents have concerns in respect of the adverse impact of the loss of the trees on outlook, views, the quality of the environment and the impact on wildlife. There is only 1 tree to be felled that is protected, the Ash tree; this tree will be replaced with a species to be agreed. The proposed crown trimming is to be limited as outlined in the conditions earlier in this report. The dead wooding and removal of the two other trees do not require permission. It is considered that due to the condition of the Ash tree, its removal is necessary and as it will be replaced the impact on the visual amenity will be mitigated.

CONCLUSION AND RECOMMENDATION

80. It is considered that having regard to the condition of the 1 Ash tree that is to be felled and as the proposed dead wooding and trimming is considered by the Council's Arboricultural Officer as being in line with ongoing maintenance of the trees, approval should be given for the proposed works. The objections received are acknowledged but the professional view of the Council's Arboricultural Officer is that the proposed works are appropriate and it is

therefore recommended this application be approved subject to the conditions outlined earlier in the report which include for a replacement tree.

Corporate Director of Development and Neighbourhood Services
Contact Officer Miss Ruth Hindmarch
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Financial Implications:

None

Environmental Implications:

As Report

Human Rights Implications:

The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report

Community Safety Implications:

N/A

Background Papers

Application for consent to fell 09/2358/X
Tree Preservation Orders: A Guide to the Law and Good Practice (2000)
Town and Country Planning Act 1990
Town and Country Planning (Trees) Regulations 1999.

WARD AND WARD COUNCILLORS

Ward	Yarm
Ward Councillor	Councillor J Earl
Ward	Yarm
Ward Councillor	Councillor Mrs J. Beaumont,
Ward	Yarm
Ward Councillor	Councillor A B L Sherris