

DELEGATED

**AGENDA NO
PLANNING COMMITTEE**

14 April 2021

**REPORT OF DIRECTOR OF FINANCE,
DEVELOPMENT AND BUSINESS SERVICES**

20/2479/X

Eldon House, High Lane, Maltby

Application to fell 1no. Ash Tree subject to tree preservation order 80 (00.8.5.98)

SUMMARY

The Ash Tree is located within the front garden area of Eldon House which fronts on to the main highway running through the village of Maltby. The surrounding area is of a residential nature.

The application seeks to fell the Ash Tree on grounds of structural damage to the driveway, footpath, drainage system and gas pipe. A Defect Analysis Report accompanies the application

The application comes before members as it falls outside of the scheme of delegation, as six letters of support have been received from five of the notified residents alongside the Parish Council contrary to the Officers recommendation.

In the opinion of the Principal Tree and Woodland Officer there is no material change in circumstance since the last application in 2018 which was refused. Advice was given previously and recently reiterated that the tree would benefit from some pruning works.

It is noted that the Defect Analysis Report provides a visual assessment and description of some of the damage to the driveway and nearby boundary wall and makes comments with regards the potential for drain damage and interference with the nearby gas pipe. It also states the visible cracking to the dwelling is not as a result of the tree but is likely a result of thermal shrinkage cracking within the render. The report concludes there is potential for further damage if the tree is not maintained and this reflects the professional opinion of the Principal Tree and Woodland Officer regarding property maintenance.

Overall, the tree is a prominent healthy tree forming part of the overall character of the village and remains worthy of protection via a Tree Preservation Order. Given that there is no justification for the removal of the tree, it is considered its removal would result in a significant and negative visual impact upon the character of the surrounding area.

The existing arrangement of the site would not be able to accommodate the re-planting of a replacement tree.

RECOMMENDATION

Planning application 20/2479/X be Refused for the following reason;

Insufficient justification

01. In the opinion of the Local Planning Authority insufficient justification has been provided to allow for the felling of the Ash Tree which is considered to be in good health and condition and is prominently located adjacent to the main road through Maltby Village. The loss of the tree would be detrimental to the visual amenities of the area.

BACKGROUND

1. A Tree Preservation Order (TPO) was confirmed for the tree, under order 00.8.5.98 on the 16th October 1987.
2. Previous works to the protected tree have been sought with the removal/cutting back of overhanging branches being approved in December 2013 (application reference 13/2530/X). However, more recently an application to fell the tree was refused (application 18/2425/X) for the following reason.

In the opinion of the Local Planning Authority insufficient justification has been provided to allow for the felling of the Ash Tree which is considered to be in good health and condition and is prominently located adjacent to the main road through Maltby Village. The loss of the tree would be detrimental to the visual amenities of the area.

SITE AND SURROUNDINGS

3. The Ash Tree is located within the front garden area of Eldon House which fronts on to the main High Lane running through the village of Maltby. The surrounding area is of a residential nature.

PROPOSAL

4. The application seeks to fell the Ash Tree on grounds of structural damage, with the accompanying application form highlighting damage to the driveway, adjacent footpath, drainage system and gas pipes as being the justification for the trees removal.
5. The application is accompanied by a Defect Analysis Report which highlights similar observations.

CONSULTATIONS

6. The following Consultations were notified and any comments received are set out below (in summary):-

Principal Tree & Woodland Officer - From my general observations when assessing the TPO application, the tree was considered to be in good health and condition with the reported branch failure most likely to have been a random isolated failure during high winds.

The tree canopy was noted to have some minor deadwood and therefore may benefit from some remedial pruning. It was also considered that some 'crown reduction' works e.g. by 20% may be beneficial as this would serve to reduce wind loading on the tree, whilst also limiting the future size of and spread of the tree. The Council normally approve any proposed works that are considered appropriate or necessary for the tree in question and that are in line with good practice management. However, in response to the recent application I could not see sufficient reason to warrant complete tree removal. Lesser pruning work may be appropriate, combined with other localised property repairs adjacent to the tree.

Maltby Parish Council - The tree has been discussed at various meetings of Maltby Parish Council with the Parish Council investigating and supporting the removal of the tree for some time. They consider that the tree is not suitable for a front garden and the roots are causing serious issues with drains. Northumbrian Water have had to deal with blocked drains on many occasions and during heavy rain the drains flood, combined with heavy leaf fall in the autumn this becomes a serious slipping hazard.

The Parish Council is concerned at the size of the tree and the roots and fear that further damage to the drains is inevitable if it is not removed.

Northumbrian Water

No comments received

PUBLICITY

7. Neighbours were notified and seven letters of support have been received, with the associated comments set out below (in summary) :-

Support comments

- The tree is unsightly and detracts from the overall attractiveness of the village
- Tree is causing significant damage to the paths and driveways of properties nearby and roots are affecting drains and property
- Impacts on drainage system are causing flooding problems every time rain falls
- Every year in Autumn when the leaves drop it is a slipping hazard for residents walking up and down high lane
- Tree should not be subject to a TPO
- Tree blocks out natural light and interferes with the TV aerial situated on neighbouring properties roof
- Tree is too big to be situated close to housing
- Tree overhangs High lane causing some obstruction to large vehicles including farm traffic passing through the village.

Supporters

1. Mr David Wilson & Mrs Wendy Jane Wilson - 9 Pennyman Green, Maltby
2. Mrs Nikki Joyce - Colonsay, High Lane
3. Mr Mark Mawson - Garth House, High Lane
4. Mr Christopher Davies - Rose Cottage, High Lane
5. Julie Scott - Meadowfield, High Lane
6. Mr Derek Mackereth – Dunsmore Villa, High Lane
7. Mr Christopher Ellis - Bampton, High Lane

PLANNING POLICY

8. Where an adopted or approved development plan contains relevant policies, Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that an application for planning permissions shall be determined in accordance with the Development Plan(s) for the area, unless material considerations indicate otherwise. In this case the relevant Development Plan is the Stockton on Tees Borough Council Local Plan 2019.

9. Section 143 of the Localism Act came into force on the 15 January 2012 and requires the Local Planning Authority to take local finance considerations into account, this section s70(2) Town and Country Planning Act 1990 as amended requires in dealing with such an application the authority shall have regard to a) the provisions of the development plan, so far as material to the application, b) any local finance considerations, so far as material to the application and c) any other material considerations.

National Planning Policy Framework

10. The purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic social and environmental objectives.

11. So that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11) which for decision making means;
 - approving development proposals that accord with an up-to-date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Local Planning Policy

12. The following planning policies are considered to be relevant to the consideration of this application.

Strategic Development Strategy Policy 8 (SD8) - Sustainable Design Principles

1. The Council will seek new development to be designed to the highest possible standard, taking into consideration the context of the surrounding area and the need to respond positively to the:
 - a. the appearance of the development, including the contribution made by existing trees and landscaping;
 - b. Landscape character of the area, including the contribution made by existing trees and landscaping;

Natural, Built and Historic Environment Policy 5 (ENV) - Preserve, Protect and Enhance Ecological Networks, Biodiversity and Geodiversity

7. Existing trees, woodlands and hedgerows which are important to the character and appearance of the local area or are of nature conservation value will be protected wherever possible. Where loss is unavoidable, replacement of appropriate scale and species will be sought on site, where practicable.

MATERIAL PLANNING CONSIDERATIONS

13. The application comes before members as it falls outside of the scheme of delegation, as six letters of support have been received from five of the notified residents and the Parish Council contrary to Officers recommendation.
14. The Councils Tree and Woodland Officer has inspected the tree in connection with the current application and notes the proposal and reasons given for works. An application has been previously refused 2 years ago for the felling of this tree on the same grounds.
15. The overall conclusion is that the tree remains to be in good health and condition and contributes positively to the visual amenity of the area. The professional opinion of the Principal Tree and Woodland Officer is that the tree is suitable for retention subject to pruning works alongside localised maintenance and repairs to the property.
16. The applicant has been advised regarding the suggested works. However, they would not proceed with this option and confirmed that the application should be considered as it stands.
17. The Principal Tree and Woodland has considered the submitted report and associated support letters and the individual aspects raised are set out below;

Damage to driveway/s

18. From my observations this was primarily due to the driveway layout and construction being of an unsuitable specification. The result is that the driveway construction has caused significant compaction on top of the trees root plate which impedes aeration and drainage. This commonly causes increased surface rooting and swelling of anchorage roots close to the base of the tree.
19. An alternative option would include a replacement with a porous, flexible surface such as flexi pave or gravel.

Damage to drains

20. Tree roots cannot break and enter sound pipework and will normally grow around any solid object in the ground. They may however exploit defects such as leaking seals, broken joints, cracks etc which typically occur in old earthenware drainpipes as they deteriorate with age. Root ingress is commonly a consequence of this and the solution often requires localised repairs, re lining, or replacement of old poor-quality pipe work.
21. Modern pipes by contrast are constructed using flexible plastic pipes with robust seals and are not affected. Any drainage repairs needed are therefore down to 'property maintenance' and therefore does not require tree removal.

Damage to public footpath

22. This is the responsibility of Stockton Council and the public footpath is subject to regular inspection and maintenance - in the event there is any obvious trip hazard or defect the Highway maintenance teams will often undertake localised repairs.

Tree too large for the village / Ash trees should not be protected via TPO

23. All species of tree can be protected via TPO and often this often includes large species of tree such as Ash - all trees can be managed via appropriate pruning and maintenance depending on their location.

Leaf fall / slip hazards

24. Leaf fall is a natural seasonal occurrence and leaf litter will accumulate anywhere there are trees and does not justify a reason to prune or remove a tree.

Tree is unsightly/ adds nothing to aesthetics of the village

25. The tree is prominent within the village and is in good health and condition - it is worthy of protection via TPO based on the criteria given in the legislation as it makes a significant contribution to local amenity and environment.

Obstructs vehicles

26. The public highway was considered to be sufficiently clear, however in the event of any obstruction being caused the owner can arrange to prune the tree to ensure clearances are maintained (e.g. 5m above the carriageway/2.5m above the footway) - this is permitted under an exemption under the Highways Act 1980 and does not require written permission by Stockton Borough Council.

Tree blocks light and tv reception

27. The owner can apply to undertake pruning works to alleviate this if required - it was previously recommended that some pruning could be undertaken instead of felling the tree, e.g. 20% crown reduction - this can include selective reduction and removal of branches near the house.

Tree is located near a gas pipe and may cause damage

28. There is no evidence of any damage and it is also highly unlikely the tree roots will cause direct damage to a gas pipe, similar to drains, tree roots will grow around any 'obstacles' in the soil and

are primarily located near the surface. Gas pipes are also constructed using robust/flexible materials often inside protective ducts.

Defect report

29. The defect report provided by Joe Fraser Chartered Surveyors provides a visual assessment and description of some of the damage noted to the driveway nearby boundary wall and makes comments with regards the potential for drain damage and interference with the nearby gas pipe. It also concludes that visible cracking to the house/extension is not due to the tree but likely due to 'thermal shrinkage cracking' in the render.

CONCLUSION

30. In summary, it is considered that there has been no material change since the last application in 2018 which was refused.

31. In the opinion of the Tree and Woodland Officer, little or no property maintenance has taken place which includes a number of issues that can be addressed without having to remove the tree. The previous recommendations regarding pruning the tree have not be considered.

32. Nevertheless, the tree is a prominent healthy tree and which has significant visual impact, it remains worthy of protection via TPO and its removal would have a negative effect on the general visual amenity of the area. The application is therefore recommended for refusal.

Director of Finance, Development and Business Services
Contact Officer Jade Harbottle Telephone No 01642 528716

WARD AND WARD COUNCILLORS

Ward	Ingleby Barwick East
Ward Councillor	Councillor Sally Ann Watson
Ward Councillor	Councillor Ted Strike
Ward Councillor	Councillor Alan Watson

Human Rights Implications:

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

Background Papers

Stockton on Tees Local Plan Adopted 2020