

Item No. 1.6

Ref. No. DMOT/2019/1054

Valid date: 02/09/2019

Applicant:
Martin Buckley
South Derbyshire District Council

Agent:
N/A

Proposal: The felling of a pine tree covered by South Derbyshire District Council Tree Preservation Order No.157 at Bretby Heights, Newhall, Swadlincote

Ward: Newhall & Stanton

Reason for committee determination

This item is reported to Committee as the Council is the applicant.

Site Description

The site where the pine tree stands is public open space between the rear gardens of dwellings fronting Woods lane and the road known as 'Bretby Heights', which serves dwellings. The land is bunded and consists of rough grass, brambles and various trees. The trees in the group are the subject of Tree Preservation Order No.157.

The proposal

The proposal is to fell a pine tree within the area covered by the group Tree Preservation Order.

Applicant's supporting information

The applicant (the Tree Officer for the Council) advises that the tree is leaning towards the rear garden of No.161 Wood Lane with one branch resting on the garden fence. He describes that phototropic action as the cause of the leaning, as 2 large sycamores are suppressing its crown. He concludes that no replacement tree is necessary [for visual amenity purposes] as the adjacent sycamores will grow to fill the void. However, 3 rowan will be planted as the land is Public Open Space.

Relevant planning history

None.

Responses to consultations and publicity

None.

Relevant policy, guidance and/or legislation

The relevant legislation is:

- Town and Country Planning (Tree Preservation) (England) Regulations 2012

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): BNE3, BNE4
- 2017 Local Plan Part 2 (LP2): BNE7

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Planning considerations

Taking into account the application made, the document submitted and the site and its environs; the main issues central to the determination of this application are:

- The current condition of the tree and its impact on private property; and
- The impact of the proposed works on the visual amenities of the area.

Planning assessment

Policy BNE7 of the LP2 states that:

“The felling of protected trees, groups of trees or woodland and/or removal of important hedgerows, will be considered in accordance with the relevant national guidance and regulation, taking account of particular of their amenity, ecological, landscape and historic value. Where protected trees and/or hedgerows are subject to felling or removal, a replacement of an appropriate number, species, size and in an appropriate location will normally be required”.

The pine tree is leaning towards the rear garden of 161 Wood Lane, as described by the Tree Officer, and a large branch is resting on the fence. There is the potential for this to cause damage to private property and be a potential safety hazard. Any remedy to these issues in the form of felling must be balanced against the public amenity impact of the loss of the tree.

It is considered that the visual amenity impact of felling the tree will be limited. This is because the tree is of low amenity value as it is leaning and has a suppressed crown and because the tree is situated amongst other trees including two sycamores, and their canopies will quickly fill the void left by the pine. The felling is, therefore, justified and no replacement tree is required by condition to offset the loss. However, the Tree Officer's proposal to plant 3 rowan trees within this area of Public Open space is welcomed, which can be mentioned in an informative.

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation

GRANT permission subject to the following conditions:

- 1 The work hereby approved shall be carried out within two years of the date of this consent.

Reason: To conform with Regulation 17 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, in order to enable the Local Planning Authority to consider any proposals beyond this period in the interests of safeguarding the amenity value of the tree(s).

Informatives:

- a. The applicant is encouraged to provide 3 rowan trees within the area of Public Open space within their control.