
Delegated report Officer: Richard Rodgers

Application ref. DMOT/2021/1529

The felling of ash tree covered by South Derbyshire District Council Tree Preservation Order no. 298 on Land to the rear of 42 Church Road, Egginton, Derby

Valid date: 21/09/2021

Consults expired: 02/11/2021

EIA development? No

Section 106 agreement? Not required

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

DMOT/2020/1164 - Crown lifting of ash tree - approved 4 Jan 2021;

Responses to consultations and publicity

Egginton Parish Council have commented that:

- The tree in question does not belong to the applicant. It is owned by South Derbyshire District Council and is not situated on the applicant's land;
- The tree is located on the Catherine Jonathan Playing Field leased by Egginton Parish Council;
- The tree is protected by a TPO;
- The tree is perfectly healthy;
- The tree has been assessed recently by SDDC's Tree team and consent given to prune only - see: DMOT/2020/1164. The Parish Council scheduled the work but before it could be carried out the tenant of No 42 Church Road submitted a Planning Application to have the tree felled.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness)
- Local Plan Part 2 (LP2): BNE7 (Trees, Woodland and Hedgerows)

The relevant national policy and guidance is:

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

The relevant legislation is:

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

Planning considerations

In taking account of the application documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Whether the works are justified given the protected status of the tree.

Planning assessment

Whether the works are justified given the protected status of the tree

The Council's Tree Officer has offered that this is a healthy tree with the potential to live for a further 10-20 years but noted that some works could be done to reduce its potential to drop limbs etc, with excessive 'end weight' noted in parts of its outer crown - see relevant history. Pruning therefore (still an extant approval) would remove some of the nuisances raised.

To agree to its felling however, cannot be professionally supported, without the submission of a specialist drains survey (of which one has not been provided), concern raised, that an engineering solution (which would repair the drains and allow for the retention of the tree as a viable alternative) has not properly been considered,; suggesting as a minimum a formal CCTV survey, as a fair way to tell if roots are indeed present and the issue is simply not caused by leaf drop. Without that evidence however (and to where costs of felling/loss of amenity verses repair cannot be considered) it is advised to refuse the application.

Recommendation

Refuse

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 made:	03/12/2021
Report agreed:	03/12/2021
Authorised officer:	Steffan Saunders
