

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	6/2013/0286/DM/TP
FULL APPLICATION DESCRIPTION:	Fell 1 No. Sycamore Tree protected by TPO CCD-34-2012
NAME OF APPLICANT:	Mr Trevor Hutchinson
ADDRESS:	Staindrop Hall, Front Street, Staindrop, Darlington, County Durham, DL2 3NH
ELECTORAL DIVISION:	Barnard Castle East
CASE OFFICER:	Paul Martinson Planning Officer 03000 260823 paul.martinson@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The site

1. The tree (named in the application as T1B) is a mature sycamore that is growing in what was formerly the rear garden of Staindrop Hall. It is protected by a Tree Preservation Order, imposed in 2012 following receipt of a Section 211 Notice (works to trees in conservation areas) to fell it. Due to its substantial height, the tree is visible from Front Street above the level of the boundary wall and can be seen more readily when the double vehicular access gates are open. It can also be seen from Public Footpath no. 22 which is located adjacent to the southern boundary of the site and is well used at school leaving and arrival times.
2. Staindrop Hall itself has been converted into 2 separate dwellings and the former coach house has also been converted to a dwelling. The garden has an extant planning permission for the erection of 2 detached dwellings. The site is bounded by a high brick and stone wall to the south and west. The tree is located at the western edge of the site close to the boundary with the neighbouring property. A yew tree (T2B) is growing alongside, whilst a younger and smaller sycamore (T3B) is located further south towards the southern boundary of the site.

The proposal

3. The application seeks to fell the sycamore tree T1B, claiming it has developed a lean and has suffered storm damage making it unstable. It is also considered that the pruning required as part of the development proposals would unbalance the tree and destabilise it further.
4. This application has been called to Committee at the request of Councillor George Richardson to consider the impact on the street scene and character of Staindrop

PLANNING HISTORY

5. This site has a long and complex planning history. Planning permission was granted in 2009 (6/2009/0012/DM) for the conversion of Staindrop Hall into 3 no. dwellings, the Coach House into 1 no. dwelling and the erection of 2 no. detached dwellings and an apartment block comprising 4 no. flats. The rear garden of Staindrop Hall was relatively wooded at this point with a number of mature trees that can be seen on the Tree Survey submitted with this application. The majority of the mature trees were scheduled for removal as part of the development process and the site was cleared and the trees removed in advance of the proposed works. However, despite the trees being removed, this development was never implemented. The conversion of the Hall took place under a later permission (6/2010/0426/DM) and the proposals for the 2 no. dwellings and apartment block was never carried out. This permission has now expired.
6. Planning permission has since been approved for 2 detached dwellings within the rear garden of Staindrop Hall in a different location to the 2009 approval (6/2011/0338/DM), adjacent to the western boundary of the site. The northern dwelling was proposed to be sited within the root protection area (RPA) of T1B. An acceptable scheme was eventually approved which allowed the tree to be retained in harmony with the dwelling. This required the dwelling to be constructed on pile foundations and the RPA of the tree to be protected during the construction process. Minor pruning works to allow for sufficient clearance of the roof of the proposed dwelling were also agreed at this stage.
7. Following the approval of the detached dwellings on 20/02/2012, the applicant submitted a Section 211 notice on 18/06/2012 to fell T1B. The accompanying tree report stated that the tree had developed a lean since the planning approval and had suffered storm damage in the 2011/12 winter. As such it was considered unstable and likely to fail in the near future. The tree's health was assessed by the Council's Arboriculturalist and it was determined that the tree was in a healthy condition and that there was no evidence of any newly acquired lean or any storm damage. As the tree was a substantial mature tree with high amenity value within the Staindrop Conservation Area and in good health, it was considered expedient to serve a Tree Preservation Order. This was formally confirmed on 04/10/2012.

PLANNING POLICY

NATIONAL POLICY:

8. Tree Preservation Orders and the application processes are governed by the Town and Country Planning (Tree Preservation) (England) Regulations 2012. The general principles and policy guidance are contained within the government document *Tree Preservation Orders: a Guide to the Law and Good Practice*.

LOCAL PLAN POLICY:

9. There are no specific planning policies relating to the consideration of tree applications contained within the Teesdale Local Plan however there are policies (ENV10, ENV11 and BENV4) relating to the protection of trees as part of the

consideration of development proposals that were taken into account during the determination of the planning approval for 2 dwellings at the application site (6/2011/0338/DM).

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.planningportal.gov.uk/england/government/en/1020432881271.html> for national policies; <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=8716> for Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

10. Staindrop Parish Council – No objections.

INTERNAL CONSULTEE RESPONSES:

11. Tree Officer – Considers that the application is simply a repeat of the Section 211 notice of June 2012 which resulted in a TPO being placed on this tree. It is considered that the application is intrinsically linked to the consent to erect 2 dwellings rather than the actual condition of the tree. The Arboricultural Survey Report, which was not written by an arboriculturalist, refers to outdated British Standards relating to development and trees and the suitability of this development close to this tree has already been addressed through at least 2 planning applications. There are fundamental flaws in the submitted tree report in respect of canopy spread and proximity of the tree to the approved dwelling. The report states that 5 metres on the canopy spread will need to be removed to give clearance to the dwelling, when in fact the actual figure is only 2.5m. There is also no evidence that the tree is close to failure, that it is in poor condition, or close to failure. The two shortened limbs on the tree attributed to storm damage are due to a saw cut and a snap, most likely from the construction traffic or the felling of adjacent trees.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at Spennymoor Council Offices.

PUBLIC RESPONSES:

12. A site notice was posted adjacent to the public footpath and the application was advertised on the weekly list. No representations have been received.

PLANNING CONSIDERATIONS AND ASSESSMENT

13. It is considered that the main issues in this instance relate to whether there is sufficient justification to fell a protected tree that makes a positive contribution to the Staindrop Conservation Area.

14. A TPO is imposed when there is a threat to a tree that is considered to be in good health and where the tree makes a valuable contribution to the amenity of the area. Once protected by a TPO there must be very good reasons for loss of such a tree. This is usually on the grounds of health, property damage, or danger and must be backed up by sound justification and evidence. Lack of amenity value of the tree is not an argument for loss of a TPO tree because it has been judged to have an amenity value when the TPO was imposed, but the impact of its loss can be considered
15. The site has seen the loss of a large number of trees over the last few years as a result of development approvals within the grounds of Staindrop Hall. None of these have actually been implemented as intended and therefore their loss seems unnecessary at this time and has impacted negatively on the character of the conservation area. This has increased further the significance of the remaining mature trees in the site, which make an important contribution to the visual amenity of this part of the Conservation Area. T1B is the sole remaining tree of this scale within what was formerly a comparatively wooded rear garden. The tree has good amenity value given its maturity and stature, its prominence from the Public Right of Way, visibility above the level of the high wall when viewing the site from Front Street and through the gates. It also contributes to the setting and amenity of the grade II listed Staindrop Hall. When the development of 2 dwellings was approved within in the grounds of Staindrop Hall the impact on this tree was an important consideration. In order for planning permission to be granted for the dwelling the applicant agreed to use pile foundations and special protective measures to allow the building to be constructed alongside the tree without harming its health or amenity value and this led to an acceptable outcome for both the development and the retention of the tree.
16. The main reasons given in this application for felling the tree, just 2 years later, are that it has developed a lean and that there is root heave to the north and subsidence to the south rendering the tree highly susceptible to failure in the near future. It is also argued that the tree has no arboricultural merit or amenity value. These are however the same reasons for removal that were considered as part of the Section 211 application in 2012, which led to the imposition of the TPO.
17. Apart from stating the fact in the submitted tree report, no evidence has been provided to substantiate the claims of a further lean and subsidence in the last 2 years. The Council's Tree Officer has visited the tree on a number of occasions and is satisfied that the tree is in good health with no stability issues.
18. The application documents also state that the tree has suffered storm damage in the winter of 2011/12 and is likely to fail in the near future. Again, the Council's Tree Officer has inspected the tree and is satisfied that the damage referred to is not symptomatic of storm damage and consists of a saw cut and a snap which is likely to be due to construction traffic or felling of the adjacent trees. In any case, neither are likely to have created stability issues.
19. A further assertion within the application is that the requirement of the planning permission to achieve 2m clearance from the canopy to the roof of the approved dwelling will lead to the loss of 5m of canopy on the east side of the tree, thereby exacerbating the instability of the tree and potentially causing it to fail in the near future. This has however, been incorrectly calculated and only around 2.5m of the

canopy would actually be lost through this requirement, which is considered reasonable and would not destabilise the tree or diminish its amenity value.

20. It is therefore considered that there is no evidence to support the applicant's claims that the tree is unstable or likely to fail in the near future. Furthermore the Council's Tree Officer has assessed the tree and concluded that it is in a healthy condition and does not exhibit any signs of being unstable. Because of significant loss of trees from the garden over time, this tree contributes to the amenity of the Staindrop Conservation Area and setting of the listed building (Staindrop Hall). Loss of the tree would negatively impact on the conservation area and the garden setting of Staindrop Hall. The planning permission that exists on site can be implemented successfully without felling of the tree and as such this is not a sufficient reason for its loss. The tree was considered worthy of special protection by TPO in 2012 and nothing has changed since. There are no valid reasons for loss of a protected tree which is healthy and which contributes to the amenity and character of the Staindrop Conservation Area.

CONCLUSION

21. The tree is in a stable, healthy condition with no evidence of any instability or likely failure in the near future with no evidence submitted to the contrary. Because of significant loss of trees from the garden over time, this tree contributes to the amenity of the Staindrop conservation area and setting of the listed building (Staindrop Hall). The planning permission that exists on site can be implemented successfully without felling of the tree. The tree was considered worthy of protection by TPO in 2012 and nothing has changed since. There are no valid reasons for loss of a protected tree which is healthy and which contributes to the amenity and character of the Staindrop Conservation Area, as well as the setting of the listed Staindrop Hall.

RECOMMENDATION

That the application be **REFUSED** for the following reasons.

22. There has been no evidence submitted with the application to demonstrate that the sycamore tree T1B is unstable or likely to fail in the near future, or that works required in connection with permission 6/2011/0338/DM are likely to destabilise the tree, or diminish its amenity value. The tree is considered to be in a healthy condition and its unjustified loss would have a detrimental impact on the character and amenity of the Staindrop Conservation Area, as well as the setting of the listed Staindrop Hall.

BACKGROUND PAPERS

Application Documents

Tree Preservation Orders: a Guide to the Law and Good Practice



Planning Services

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005

Fell 1 No. Sycamore Tree protected by TPO
CCD-34-2012 at Staindrop Hall, Staindrop

Date
21 November 2013