

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/17/02155/TPO
FULL APPLICATION DESCRIPTION:	Felling of 1 No. Sycamore Tree
NAME OF APPLICANT:	Mr Kevin Todd
ADDRESS:	Dunelm, Dene Road, Seaham, SR7 8QT
ELECTORAL DIVISION:	Murton
CASE OFFICER:	Paul Hopper (Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises a large detached dwelling with associated private garden to the front and rear located within the village of Dalton-le-Dale, Seaham and forms part of a linear arrangement of properties along Dene Road. The dwelling is framed by similar dwellings to the east and small substation to the west which interrupts the linear flow of dwellings along this route and by land as it rises to the north that hosts several mature trees in elevated positions that provide a soft, landscaped backdrop against which the dwellings themselves are viewed.

The Proposal

2. Consent is sought to fell one Sycamore Tree which is currently protected by a tree preservation order (TPO).
3. The application has been reported to committee at the request of Cllr Alan Napier. The reason for reporting the application to committee is the specific nature of the application and situation regarding the tree and the potential impact should it fail upon adjacent properties which can only be fully considered by visiting the site.

PLANNING HISTORY

4. The most recent planning history relating to the application site relates to a consent granted in 2016 to crown lift, crown thin, remove deadwood, crown reduce and balance the Sycamore Tree subject to the current Tree Preservation Order.

PLANNING POLICY

NATIONAL POLICY

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'

The following elements are considered relevant to this proposal:

NPPF Part 11 Conserving and Enhancing the Natural Environment. The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

PLANNING PRACTICE GUIDANCE NOTE: TREE PRESERVATION ORDERS – GENERAL

6. Paragraph 090 Reference ID: 36-090-20140306: This states that when considering an application to carry out works to a tree subject to a Tree Preservation Order the local authority is advised to;
 - Assess the amenity value of the tree and the likely impact of the proposal on the amenity of the area.
 - Consider, in light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it.
 - Consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions.
 - Consider whether any requirements apply in regard to protected species.
 - Consider other material considerations, including development plan policies where relevant; and
 - Ensure that appropriate expertise informs its decision.

Authorities should bear in mind that they may be liable to pay compensation for loss or damage as a result of refusing consent or granting consent subject to conditions. However, if the authority believes that some loss or damage is foreseeable, it should not grant consent automatically. It should take this factor into account alongside other key considerations, such as the amenity value of the tree and the justification for the proposed works, before reaching its final decision.

LOCAL PLAN POLICY:

Easington District Local Plan

7. Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.

EMERGING COUNTY DURHAM PLAN:

The County Durham Plan

8. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

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.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

9. Dalton-le-Dale Parish Council has not commented.
10. Cllr Napier has requested that the application be reported to planning committee.

INTERNAL CONSULTEE RESPONSES:

11. Landscape (Trees) Section notes that the tree has high visibility within the village and objects to its removal, advising that whilst it is a large and heavy structure and the failure of it would be catastrophic, there is insufficient justification contained within the application (amounting only to an assertion that the tree is large and could cause damage if it failed in a storm) to allow its removal at this time. Consequently, it is advised that the applicant engages an arboriculturalist to inspect the tree and produce a report for further consideration.

PUBLIC RESPONSES:

12. The application has been publicised by way of site notice and notification letters sent to adjacent occupiers. Two letters of support have been received in response citing the follow reasons;

Impact of the tree should it fail due to high winds or stormy conditions as at present whenever it is windy residents are worried that their house might be affected by some element of the tree falling and that although the tree has been classed as fairly healthy this hasn't prevented large branches breaking from the tree especially when it is in full leaf. This can be evidenced by one particularly large branch which can be seen on the ground under the tree.

The precedence for large tree removal within the village has already been set. The large tree outside the church has now been completely removed following a large branch falling from it last year and within the last few days two large elm trees.

Should residents concerns not be taken into consideration and their houses be damaged, or life safety issues arise from not allowing the applicant to remove the tree, then reference to these concerns being formally raised and ignored, would undoubtedly form part of a legal claim.

APPLICANTS STATEMENT:

13. The applicant has declined the opportunity to provide an additional statement.

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 <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

14. The relevant considerations when considering works to a tree covered by a tree preservation order are explained in planning practice guidance. These principally relate to an assessment of the amenity value of the tree, whether or not the proposal is justified and whether any loss or damage is likely to arise if consent is refused. In addition, Policy 1 of the Easington District Local Plan relating to general principles of development is relevant and states that the Council will have due regard to the provisions of the development plan in the determination of applications and development proposals and that new development should protect existing trees and hedgerows.

15. The Sycamore Tree in question is a notable and attractive feature in the visual environment of Dalton-le-Dale and is considered to make a positive contribution to the character and appearance of this part of the village. Despite being situated to the rear of the associated residential property the tree's elevated position is such that it is clearly visible when travelling in both directions through the village and as such is of high amenity value making a significant and positive contribution to the character of the area and this is a point noted by the Council's Tree Officer in objection to the application. Whilst the tree forms part of a collection of several specimens to the north of Dene Road it represents the largest of these specimens and as such is the most visually prominent with views of the full canopy available between Dunelm and the adjacent residential property in particular. Consequently, its loss would have a detrimental impact upon the appearance of the surrounding street scene and objection to the proposal in this regard is raised by the Council's Tree Officer.

16. Both the applicant and residents of two adjacent properties have raised concerns regarding the position of the tree on a steep slope, highlighting in particular its stability and the damage it would cause to life and property should it fall. Notwithstanding these concerns it is noted that the application is not supported by any arboricultural survey or assessment (to the appropriate British Standard) to demonstrate the tree poses an immediate risk in this regard, and that whilst the summary of a visual inspection raises concerns regarding the shape and structure of the tree, nevertheless confirms that the stem seems sound. In order for the Council to consent to removal of a tree subject to protection through preservation order it must be satisfied that this is justified and it must also be considered whether subsequent loss or damage is likely should consent be refused. The Council's Tree Officer whilst acknowledging that the consequences of the tree falling would be catastrophic, notes that the application does not include adequate information to demonstrate that this is likely such as to justify its removal. Therefore, and in accordance with guidance contained within the Planning Practice Guidance Note relating to Tree Protection Orders, the current submission does not provide adequate justification for the removal of the tree and cannot be supported. Whilst the applicant has been invited to provide further justification in this regard to support the proposal, no additional information has been provided. Therefore the Council has no option but to consider the case based on the submitted information.
17. An adjacent resident has noted a precedent for the removal of large trees elsewhere within the village in support of the application although no details have been provided other than a general indication of the position of one of the trees opposite an existing church and two Elm trees elsewhere in the vicinity. Whilst it would appear that none of the trees identified were subject to any specific protection through TPO the respondent recognises that the Elms were diseased and would not be subject to protection in this respect. Nevertheless, it is important to note that each application relating to works to a tree protected by TPO is considered on its own merits and the removal of a particular tree does not justify the subsequent removal of another within its immediate vicinity.

CONCLUSION

18. Given the significant and positive contribution that the tree makes to the character and appearance of the surrounding area, the Council's Arborist is unable to support the proposal to remove the tree despite concerns of the applicant and adjoining residents, particularly as the application offers little justification or evidence to justify this. The proposal is therefore considered to be contrary to Planning Policy Guidance Note relating to Tree Preservation Orders and policy 1 of the Easington District Local Plan as amended by Saved and Expired Policies September 2007.
19. Under the Council's current constitution and Scheme of Delegation, a decision on this application cannot be made by the planning committee. Instead the power is delegated to the head of planning and therefore a decision must be made in accordance with this procedure.

RECOMMENDATION

That the committee be **MINDED TO REFUSE** the application for the following reasons, with the final decision to be made and issued through powers delegated to the Head of Planning in accordance with the Committee's direction:

20. The proposed felling of the tree is not supported by adequate information to justify its removal and would be detrimental to the character and appearance of the surrounding area and local street scene in terms of visual amenity contrary to Policy 1 of the Easington District Local Plan, Planning Practice Guidance Note relating to Tree Preservation Orders and the Tree Preservation Order that protects it.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015. In this case, it has not been possible to reach a positive conclusion.

BACKGROUND PAPERS

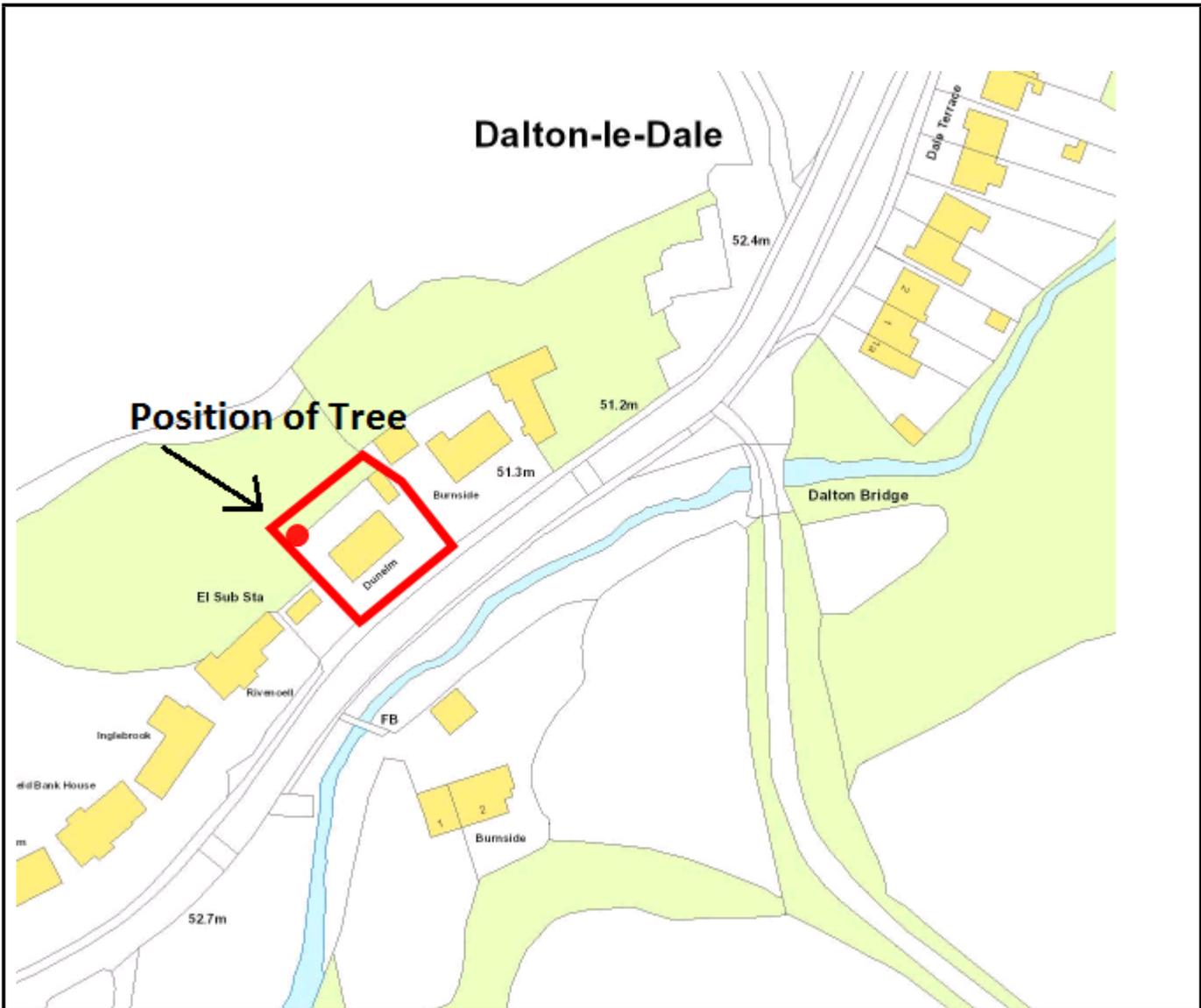
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

Easington District Local Plan 2007

Statutory, internal and public consultation responses



Planning Services

Felling of 1 No. Sycamore Tree

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Comments

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