



Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER:

APPEAL UPDATE REPORT

APPEALS DETERMINED

Appeal against the refusal of permission for the felling of one Oak tree covered by Tree Preservation Order 66 at 27 Lintzford Road, Hamsterley Mill (DM/17/02328/TPO).

An appeal against the refusal of permission for the above development was received on 16th November 2017. The application was refused under delegated powers for the following reasons:

'The tree contributes to the visual amenity of the street scene and no satisfactory justification has been made for the proposed works. For these reasons the works proposed would have a detrimental impact on the character and appearance of the area and are considered to be unacceptable and contrary to Policy EN9 of the Derwentside District Local Plan and Part 11 of the NPPF.'

The appeal was dealt with by way of written representations and an unaccompanied site visit.

The Inspector considered the main issue for consideration in the determination of the appeal to be whether the felling of the healthy mature Oak tree be allowed due to the significant safety risk to the health and wellbeing of the appellant's foster child.

The Inspector felt that given the undisputed medical evidence before him and given careful consideration to the exceptional and unique circumstances of this child are such that the ingestion of the acorns from the Oak tree would pose a significant risk for the extended period over which they are typically shed. A balancing exercise must be undertaken in relation to any application to fell a protected tree.

Consequently, the essential need for a tree to be removed must be weighed against the resultant loss of visual amenity to the wider area.

It was noted that there would be a loss of visual amenity, however, the Inspector was satisfied that the safety issues significantly outweighed the harm in this particular instance and that there was sufficient justification for the removal of the protected tree.

Applying the balance it was concluded that whilst the loss of the tree would harm the leafy character of the area its removal is justified on the grounds of the safety of the child. The Inspector concluded that on balance there was sufficient justification to allow the removal of the tree.

Report prepared by Tracey Outhwaite, Assistant Planning Officer.