

Development Control Committee 6 November 2019

Planning Application DC/19/1463/TPO – 85 Raynham Road, Bury St Edmunds

Date Registered: 16.07.2019 **Expiry Date:** 10.09.2019

Case Officer: Connor Vince **Recommendation:** Refuse Application

Parish: Bury St Edmunds Town Council **Ward:** Tollgate

Proposal: TPO218(1972) - Tree Preservation Order - Beech T1 - Fell

Site: 85 Raynham Road, Bury St Edmunds

Applicant: Mr Gary Fowler

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

Recommendation:

It is recommended that the Committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

Connor Vince

Email: connor.vince@westsuffolk.gov.uk

Telephone: 01284 757373

Background:

This application is referred to the Development Control Committee following consideration by the Delegation Panel.

The Officer's recommendation is to REFUSE consent for the felling of the T1 – 1no. Beech.

The application was referred to the Delegation Panel as a Ward Member supported the felling of the tree, contrary to the Town Council and Tree Officers' recommendations for REFUSAL.

A site visit is proposed for 4 November 2019.

Proposal:

1. TPO consent is sought to fell 1no. Beech.

Application Supporting Material:

- Application Form
- Sketch Plan
- Photographs
- Arboricultural Officer's Comments

Site Details:

2. The application site comprises of a two storey, detached dwelling. The application tree in question is situated in the rear garden of the property, No. 85 Raynham Road. The application tree is subject to the tree preservation order 218(1972).

Planning History:

3.

Reference	Proposal	Status	Decision Date
DC/15/1585/TPO	TPO218(1972)40 - Tree Preservation Order - 1 no Beech Tree - (i) Crown raise on side of no. 83 to 5 metres (ii) Crown reduce by 1 metre as amended by email received 16th September 2015.	Application Granted	02.10.2015
DC/17/1997/HH	Householder Planning Application - (i) Two storey side extension (following demolition of existing garage) and (ii) single storey rear extension	Application Granted	29.11.2017
DC/19/1463/TPO	TPO218(1972) - Tree Preservation Order - Beech T1 - Fell	Pending Decision	

Consultations:

4. The arboricultural officer recommended refusing consent for the felling of the 1no. Beech.

Representations:

5. Bury St. Edmunds Town Council: 25.07.2019
 - Objection on the grounds that it is a young tree and on the lack of the justification.
6. Ward Member Cllr David Nettleton: 17.09.2019
 - The tree dominates this small back garden and has no amenity value to the residents of 85 Raynham Road. Its removal would free up space for the enjoyment of the dwelling and allow for the hanging out of washing, the elimination of bird droppings on the small lawn for the benefit of the young child who lives there with his parents.

Policy:

7. Assessment of Tree Preservation Order (TPO) works are not made with reference to specific Development Management Polices. Rather, they are assessed on the basis of good arboricultural practise, balancing the need and justification for the works against any harm to amenity.

Officer Comment:

8. The issues to be considered in the determination of the application are:
 - Reason for the works
 - Impacts on the visual amenity of the local area
 - Impacts on residential amenity

T1 Beech Tree

9. T1 *Fagus Sylvatica*. This semi-mature Beech is located in the rear garden of the property. Due to its size and nature, it is visible from the surrounding public roads, predominantly from the public road of Raynham Road itself, meaning the greatest amenity value will be from within this housing development. The tree is also visible from the wider public accessible area. It is visible from the public footpath which runs adjacent to the rear gardens of properties on Raynham Road and County Upper School's playing field, from which the tree is also visible, but to a lesser extent. The tree has also had a crown reduction of 20% in the past (application reference SE/05/02723) to reduce the visible crown of the tree. Therefore, the tree would be described as having a moderate amenity value (neither excessively high nor excessively low).

10. Within the application form, details have been provided regarding the sought permission for the felling of the tree. These details are as follows:
- Excessive size and shading (Approx. 75% of garden crown cover – only 10m away from property – At least 12.5m high)
 - If the tree were to fall, it would destroy the property. Applicants state they have had to declare this to their home insurance company.
 - Branches have fallen during high winds and on people whilst sitting in the garden. A particular concern with two young children.
 - Due to areas that do not receive sunlight in the garden, fungus has grown around the tree and on the grass. A particular concern with two young children.
 - The garden is covered in bird excrement due to the presence of the tree. A particular health concern with two young children. Also a nuisance when drying clothes in the rear garden.
 - Neighbour is said to experience the same issues (although there has been no clarity on which neighbour this refers to and no comments have been received from neighbours regarding the application).
 - The tree is said to be in poor condition – The tree has various large stems coming from it at about 1.5m above ground level. A particular concern as one leans towards the house. It has created a hole in between the stems that constantly has water and leaves in and can't be healthy for a tree. This may cause structural issues to the tree in future and to the property if it falls.
 - In summary, in the opinion of the applicant, the tree is too large for the garden, is affecting the quality of life for the applicant, as well as health and safety concerns, particularly with two young children playing in the garden. This leaves the applicant feeling anxious that the tree will cause catastrophic damage to the property. The applicant makes reference to a number of properties on the street where trees that are too large have been felled and seeks the same to occur to the Beech in question.
 - The applicant is happy to plant new trees in a more suitable location and must be proportionate to the size of the garden.

11. After a site inspection by the Arboricultural Officer, the recommendation for the application was for refusal. Comments made by the Arboricultural Officer addressed the aforementioned concerns submitted within the application form and are as follows:

"This semi mature Beech tree is located in a rear garden. However, its size and stature is sufficient that it is visible above the roofs of the houses from Raynham Road, contributing to a verdant backdrop to the housing. It is also visible from the playing fields of 2 schools to the rear of the properties, and paths and roads around Klondyke. As such, the tree contributes significantly to the amenity of the area.

12. The reasons stated for its removal are as follow:

1. Excessive size and shading

13. *For a beech tree, this is a moderate specimen in size. It has been previously crown reduced, and has responded remarkably well for the species. It would be hard to describe the size of the tree as excessive. The application states 75% of garden crown cover, and it must be assumed this is the amount of the property that the crown directly overhangs. However, the tree covers approximately 50m² over the property. The rear garden itself is*

approximately 140m², and as such the tree could be described as covering approximately 30% of the rear garden, and less than 20% of the entire property.

- 14. A second point is made that if the tree were to fall it would destroy the house. It should be noted, that it would not be reasonable to fell every tree that could fall on a target. If this were the case we would have no street trees, or trees around properties. The question, should be, is it likely the tree will fall? No arboricultural information relating to the condition of the tree has been submitted, and at the time of viewing the tree, I observed no significant defects from a ground based visual inspection. The declaration to an insurance company regarding the location of the tree would not be considered a material consideration.*
- 15. A third point relating to the size of the tree is falling branches, but no information relating to limb failure has been submitted. It is unclear whether the fallen branches were normal deadwood, or failure of live branches with specific defects. Removal of deadwood does not require TPO consent, and would be considered routine maintenance. I observed no significant signs of tree health issues, or structural defects that would relate to limb failure. Given the amenity value of the tree, removing it for reasons of limb failure would not be justified without sufficient evidence.*
- 16. The next point made about the size of the tree, is reference to fungus growing because of lack of light. There is no correlation between fungal activity and sunlight, and I would surmise the use of woodchip around the tree may be one cause for emergence of fungal fruiting bodies. However, it could also be that a pathogenic fungus has colonised the root structure of the tree, and species such as *Meripilus giganteus* would be a significant cause of concern and would warrant further investigation. Without any description or photographs of the mentioned fungus, it is impossible to determine what this is. At the time of my inspection I did not note any fungal fruiting bodies, or signs of decline in the tree which may indicate colonisation. Without further information, this would not justify removal of the tree.*
- 17. The next 2 points relate to seasonal nuisance in the form of bird excrement and honey dew. Both are a natural occurrence, and would not normally be considered a significant nuisance. As the tree only covers approximately 30% of the rear garden, it would be reasonable to assume the areas most affected by fouling from roosting birds, and honey dew would be limited to those areas. Finally, the application states the tree is in poor condition, yet section 6.1 of the Application has not been completed. It describes "various large stems coming from it at about 1.5m above GL". This would be described as the main union, and all non-apically dominant trees will have a main union. I noted no significant defects in the main union, which would be described as reasonably well formed, typical of species. It should also be noted that the crown structure, due to previous reductions, would be described as squat, with reduced weight loading acting on the main union. The application also describes a crotch pool, formed between the crotch of 2 or more limbs. This would not be considered significant at this time, in terms of the tree's health or structural stability.*
- 18. Overall, removal of this tree would not be justified at this time, based on this Application. The tree's response to previous crown reductions would*

indicate that it can be effectively managed in the location and context. Reducing the tree to the previous reductions points (SE/05/02723) would be an acceptable alternative proposal."

19. The arboricultural officer also submitted supplementary comments supporting their previous comments recommending the refusal of the application. These comments also respond to the ward member comments received.
20. *"The tree in this application, which as previously stated has significant amenity value, would not be described as dominating the back garden. The garden itself is of moderate, or typical, size by modern standards. I have previously quantified the actual size and extent of the tree and the garden, in my previous response. Based on extensive experience of assessing TPO applications, and case history of the appeal system, I would strongly disagree that the tree dominates the property, to an unreasonable degree.*
21. *The tree in this application is part of a line of trees that were incorporated into the estate when it was developed. The tree is visible from public vantage points as previously stated and forms an attractive backdrop to dwellings along this road. As such, the tree, along with others within the line, makes a positive contribution to the character and appearance of the area and is an integral feature of the mature and verdant landscape of the locality. The removal of the tree would leave a noticeable gap within the wider tree line and would markedly erode the mature and verdant landscape of the locality. This would give rise to considerable harm to the character and appearance of the area.*
22. *With regard to whether the tree provides amenity value to the applicant, this would not be of material planning consideration. Amenity value is not measured by the amenity to the tree owner, and TPO guidance clearly identifies what should be considered as amenity value. I would maintain my assessment of the amenity value, as detailed in my previous response, and above.*
23. *With respect to removal of the tree freeing up space for the enjoyment of the dwelling, I find it difficult to understand what space this will create. The tree has a moderate crown spread, with sufficient clearance below the crown for free use of the space. In effect, the only space the tree takes up is the footprint of the main stem, which is little more than a couple of square metres.*
24. *It should be noted, removing the tree will not eliminate bird droppings. Bird droppings occur even where there are no trees for birds to perch within. The actual level of bird fouling, based on my inspection, would not be considered severe, and birds would also merely relocate to adjacent trees and vegetation. I noted moderate levels of bird fouling, that would not outbalance the amenity value of the tree. It should also be noted that I observed bird droppings in parts of the garden that are not overhung by the trees. Generally, bird fouling would not justify the removal of a protected tree that would have significant harm to the amenity and character of the area. I would reference examples of planning appeals such as Appeal Ref: APP/TPO/C1435/6585. In this case the inspector stated "Issues with falling leaves and other debris from trees are not uncommon and, whilst these matters may create a maintenance inconvenience, they also go hand-in-*

hand with living in an area which is defined by a mature landscape and which provides an attractive place to live and work. The same is true of falling sap." Bird fouling would be considered within the same context as the aforementioned minor seasonal nuisances.

25.I can see no significant impact on the reasonable use of the garden for a child, no significant health risks have been identified.

26.Of significance is also the fact that the tree clearly was present before the current occupiers took ownership, and they would have been aware of its presence and the Tree Preservation Order in place. As previously stated, the tree has been previously reduced, and has responded very well. There is no reason the tree cannot continue to be managed with appropriate and periodic crown reductions, to maintain it at its current, or slightly reduced, crown size.

27.As previously stated, I maintain a strong objection to removal of this tree, for the reasons stated in the application."

As such, it is for the comment stated above that the recommendation for the application is for refusal.

Other matters

28.Bury St. Edmunds Town Council object to the felling of the Beech tree to the lack of justification within the proposal and the fact that the tree is young. This is noted.

Conclusion:

29.In conclusion, the proposal to remove the Beech Tree is considered to be unacceptable

Recommendation:

30.It is recommended that the Tree Preservation Order consent of the T1 Beech Tree be **REFUSED** for the following reason:

1. The tree in this application is part of a line of trees that were incorporated into the estate when it was developed. The tree is visible from public vantage points and forms an attractive backdrop to dwellings along this road. As such, the tree, along with others within the line, makes a positive contribution to the character and appearance of the area and is an integral feature of the mature and verdant landscape of the locality. The removal of the tree would leave a noticeable gap within the wider tree line and would markedly erode the mature and verdant landscape of the locality. This would give rise to considerable harm to the character and appearance of the area. Given the age and amenity value attributed to the tree and given also the lack of information regarding the condition of the tree, in this circumstance, it is not considered that a complete felling of the tree would be justified and would certainly not outweigh the adverse visual impacts that would arise. The view the applicant has about the effect this tree has upon their residential amenity has been noted. However, no significant nuisance effects have been identified that would be sufficient, either alone or cumulatively, to withstand the scrutiny of an appeal. As a consequence, the removal of

the tree would not be justified.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/19/1463/TPO](https://www.dca.dc.gov/document/DC/19/1463/TPO)