
East Area Planning Sub- Committee

14th October 2010

Report of the Assistant Director, Michael Slater

79 The Village, Haxby: TPO CYC 279 Birch

Summary

1. The subject of this report is a mature Birch tree situated on the rear garden boundary that separates 79 and 81 The Village, Haxby. A provisional tree preservation order (TPO) has been served on the Birch in response to a notification for the felling of the tree in Haxby conservation area. Members are asked to consider whether the public amenity afforded by the Birch outweighs the 'inconvenience' caused to the occupants of 79 and 81. The Village and their neighbours, as sited in the objections to the serving of the order. Subsequently, the options are i) to decide to confirm the TPO or ii) decide not to confirm the TPO, in which case the Birch tree may be removed.

Background

2. The local planning authority (LPA) received a six week notice of the owner's request to preferably remove the tree, or otherwise crown reduce it (ref: 10/00255/TCA). The tree was not previously subject to a TPO. Anyone proposing to cut down or carry out work on a tree in a conservation area is required to give the LPA six weeks' prior notice (a 'section 211 notice'). The purpose of this requirement is to give the LPA an opportunity to consider whether a TPO should be made. The LPA can deal with a section 211 notice either by deciding not to make a TPO, with the result that the owner may proceed with the works (as long as it is carried out within 2 years of the notice); or serve a TPO on the tree in order to retain it in the interests of amenity.
3. The reason given in the notification to fell the tree is it is too 'close to properties 79 and 81 thus endangering life and structure'.
4. Following a site visit, it was the tree officer's opinion that the tree should be retained because it is a good specimen and adds to the amenity of the area in particular as viewed from Sandyland.
5. Consequently a tree preservation order was served to prevent removal of the tree. Reasons for serving the order are given as follows: 'This tree adds to the visual amenity of this area. It is considered appropriate to make a Tree Preservation Order to ensure the welfare, shape, form and character of the tree is retained and safeguarded, as it makes a significant contribution to the visual amenity of the locality as viewed from the road and public footpath.'
6. The owner, occupier and immediate residents were informed of the serving of the provisional order.

7. This item has been brought to the attention of the planning sub-committee because objections to the serving of the order have been received by the local planning authority and the officer is minded to confirm the TPO.

Consultation

3. On receipt of the notification to remove the Birch (ref:10/00255/TCA) the local authority informed Haxby Town Council and both immediate neighbours, none of which raised any objections to the suggested removal of the tree.
4. Following the serving of the tree preservation order, written objections were received from the occupants at 81 The Village expressing that the tree 'severely' abuts into the garden of no.81.

The Church of England Pensions Board who are part owners of 81 The Village requested a report by arboriculturalist Mark Feather seeking his views as to whether the TPO is justified. The most pertinent points are as follows: From The Village the tree is partially obscured making its impact minimal, but the tree appears to be an attractive specimen from the south in an area devoid of any major trees, and is therefore of sufficient quality and amenity to justify a TPO. However the tree is approximately 19m high with an average crown spread of 6m radius. The gardens of the properties are small and narrow, resulting in the crown of the tree extending over three gardens. The crown covers a good proportion of 81 The Village and half the garden area of 79 The Village. It is only 6m from the rear of the property. Whilst the tree is an attractive specimen it does appear to be an unreasonable inconvenience to the adjacent properties.

The neighbour at 81 gave their own summary of the findings as follows, The inconvenience caused to 81 is: extensive shade; profuse shedding of small branches, pollen, seed, leaves and catkins; pigeons sitting in the trees and fouling the pavement and washing line.

In discussion with the occupant at 79 similar annoyances were expressed, in particular about small branches, including live wood, breaking out of the tree.

Options

4. The options are to either i) confirm the TPO or ii) not to confirm the TPO in which case the Birch tree may be removed. Whilst the neighbour at 81 has offered to provide a smaller, slower-growing replacement tree such as an apple or plum, the LPA can not apply conditions to this decision and therefore should committee decide not to confirm the TPO a replacement tree can not be officially requested or guaranteed.

Analysis

5. The Birch tree is mature and is very likely to have achieved its full size by now. It appears to have grown unrestricted resulting in a broad-spreading crown that can be clearly seen along the length of Sandyland, which is otherwise devoid of significant trees. Sandyland is not within the conservation area.
6. The conservation area boundary bisects the rear gardens of properties 75-83 The Village, Haxby. The Birch is just within the conservation area.
7. The top of the Birch can be viewed over the roof tops from The Village but its contribution to the amenity of the conservation area is small. There are a

number of other good mature birches within the grass verges along The Village. Birch is a relatively fast growing tree and not an uncommon species.

8. It is a broad, sizeable Birch that overhangs the gardens of 79 and 81, and even reaches the boundaries of 83 and 77. It is located approximately half way down the garden, as opposed to the bottom, thus dominating a considerable portion of the garden area.
9. It is only 6.5m from the single storey extension of 81 that houses a study and bathroom. In the opposite direction it is 6.5m from the garage. This should not be problematic if the tree is kept in a safe condition by regular inspections and tree surgery if required. Birch has a relatively low water demand and a fine rooting system therefore should not pose subsidence problems – indeed none are cited. However as it is positioned on the south side of the row of dwellings this proximity does result in considerable shading of a number of properties at certain times of the day and year.
10. Seasonal fall i.e. leaves, seeds and catkins are a normal part of a trees processes and are on the whole not considered to be such an inconvenience as to warrant the felling of trees. Similarly, it is part of nature's processes for birds to perch in trees and foul. It is not unusual for small amounts of wood to drop out of a tree of this maturity. Dead wood and broken branches may be removed from a tree without requiring notification to the LPA; nonetheless there is an ongoing need for maintenance in this respect.
11. Removal of the tree would result in the loss of a significant feature from Sandylands, but would provide relief for the owner and immediate neighbours.
12. The Birch is in fair condition therefore does not warrant removal on arboricultural grounds at this time. Nonetheless its safe useful life is probably limited to approximately 10-15 years, during which time some remedial tree surgery may be required.
13. Due to the age and species of the tree, a crown reduction is not recommended, however one limb could be reduced to reduce its weight and risk of failure resulting from a previous loss of limb that may weaken the junction. A crown reduction is possible though not recommended since it would significantly reduce the tree's amenity value and thus its suitability for protection, and is generally not good practice for a tree of this age and species unless required to make the tree safe.

Corporate Priorities

14. One of the council's corporate strategies is to 'make York a sustainable city', with an aim to be 'green, reducing our impact on the environment while maintaining York's special qualities'. The Council has an obligation to maintain and 'improve the quality of the local environment'. Where feasible trees should be retained as they provide a habitat, and shade in the summer months, reduce pollution, and improve the amenity and hence enjoyment of a street's environment.

Implications

15.
 - **Financial** No implications
 - **Human Resources (HR)** No implications
 - **Equalities** No implications

- **Legal** Following the Committee's decision, Legal will send a copy of the order, signed either confirmed or unconfirmed, to the tree owner and other representatives.
- **Crime and Disorder** No implications
- **Information Technology (IT)** No implications
- **Property** No implications
- **Other** N/A

Risk Management

16. No known risks. Despite the council serving a tree preservation order, the liability of the tree still lies with the tree owner. Applications to carry out works to the tree can still be made and if refused, the normal course of appeal can be followed.

Recommendation

17. Recommendation: Confirm the Tree Preservation Order

Reason: The tree is a large attractive specimen that offers a high public amenity value from Sandyland, a street that is otherwise lacking in trees, and would probably continue to do so for 10 more years or so.

Contact Details

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Report Approved Date Insert Date

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Wards Affected: *Haxby and Wigginton*

All

For further information please contact the author of the report

Background Papers:

Report by Mark Feather BSc M Arb RFS 8th May 2010

Annex 1

Tree preservation order CYC 279 Schedule 1 and map

Annex 2

Haxby conservation area boundary