

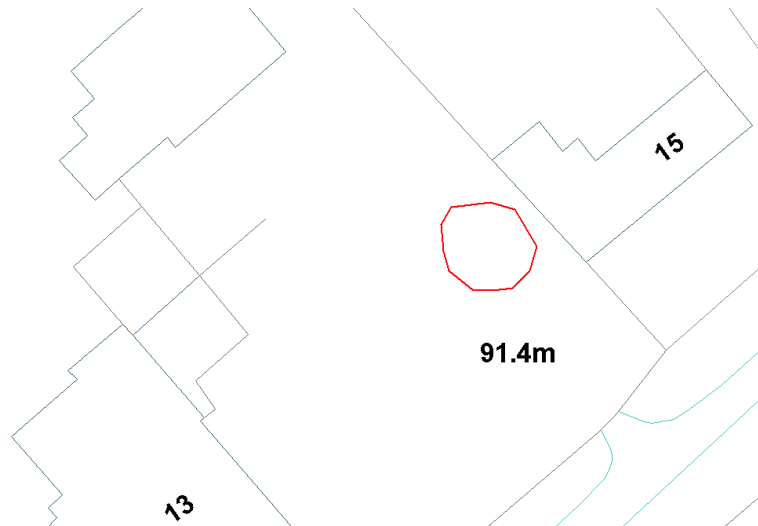
Reference: 11/00760/TCA

Date Submitted: 27.9. 2011

Applicant: Mr David Riley

Location: Parsonage House, Paradise Lane, Old Dalby

Proposal: Fell one evergreen oak tree



Introduction:-

The proposal is to fell one evergreen oak tree

The application site is located within the village envelope and Conservation Area for Old Dalby. The application is to be considered by Committee due to the tree belonging to Councillor J Orson, being a Councillor of Melton Borough Council.

Relevant History:-

09/00800/TCA - Remove 1 Yew tree also reduce and reshape 16 trees including 4 Yew, 1 Cotoneaster, 1 Crab Apple, 3 Acer, 1 Cherry, 1 Larch, 1 Prunus, 1 holly, 1 laburnum, 1 evergreen oak and 1 Lime Tree to a maximum of 30%. – approved 27.11.09

Policies & Guidance:-

DETR Tree Preservation Order: A Guide to the Law and Good Practice

The Town and Country Planning Act 1990 makes special provision for trees in Conservation Areas which are not the subject of a Tree Preservation Order. Under Section 211 anyone proposing to cut down or carry out works on a tree in a Conservation Area is required to give the Local Planning Authority six weeks' prior notice (a 'section 211 notice'). The purpose of this requirement is to give the Local Planning Authority an opportunity to consider whether a Tree Preservation Order should be made in respect of the tree.

What the Local Planning Authority can do:-

The Local Planning Authority can deal with a section 211 notice in one of three ways. They may:

- (1) Make a TPO if justified in the interests of amenity. The proposal would then have to be the subject of a formal application under the TPO 112 or

- (2) Decide not to make a TPO and allow the six week period to expire, at which point the proposed work may go ahead as long as it is carried out within 2 years from the date of the notice, or
- (3) Decide not to make a TPO and inform the applicant that the work can go ahead.

The Local Planning Authority cannot refuse consent. Nor can they grant consent subject to conditions (such as a condition requiring the planting of a replacement tree). This is because a section 211 notice is not, and should not be treated as, an application for consent under a TPO.

The Local Planning Authorities' main consideration should be whether the tree merits a TPO. The Authority should therefore assess the amenity value of the tree. Special attention must be paid to the desirability of preserving the character or appearance of the Conservation Area. Responses to any publicity should also be considered. If the LPA decide that the tree does not merit a TPO they should either allow the six week period to expire or write to the person who gave the section 211 notice to say the work may go ahead. They may wish to offer practical advice on how the work should be carried out, but they cannot impose conditions.

Melton Local Plan

The site is located within the Village Envelope and Conservation Area for Old Dalby as defined within the saved Melton Local Plan.

There are no relevant Local Plan Policies applicable when considering this form of notification. The notification is to give the Council the opportunity to serve a Tree Preservation Order if necessary. The main criteria to be considered is whether the trees concerned have any amenity value, and whether the proposed works are appropriate.

Consultations:-

There is no statutory requirement to consult members of the public or any other agencies on this form of notification.

Consultation reply	Assessment of Head of Regulatory Services
Parish Council	None received to date

Representations:

None have been received to date.

Assessment & Conclusion

The grounds of Parsonage House are mature gardens with many trees and shrubs. The evergreen oak tree is located within 4 metres of 15 Paradise Lane, which is a grade II Listed Building. A structural report from M D Prosser and Associates has been received alongside the application to remove the tree. The survey states that damage to plaster finishes internally and mortar joints externally to the front and side elevations may have been caused by differential foundation settlement towards the front corner following the recent prolonged dry spell, causing drying shrinkage of the sub-soil. Movement has been exacerbated by extraction of moisture by the fine roots of the nearby Oak and yew trees.

The Oak tree does have amenity value in terms of the streetscene, however, because of the potential for further structural damage to the grade II listed building, 15 Paradise Lane, it would not be suitable for a Tree Preservation Order.

RECOMMENDATION: - Consent to work on trees

Officer to contact:

Mrs Karen Jensch

26 October 2011