

**Committee Date: 4<sup>th</sup> July 2013**

**Reference: 13/00351/TCA**

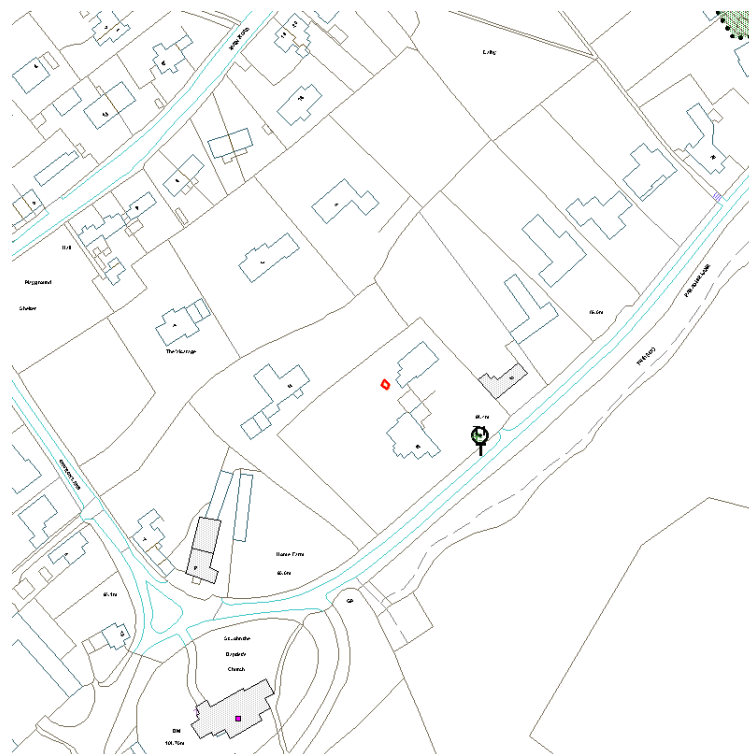
**Date**

**Submitted: 20<sup>th</sup> May 2013**

**Applicant: Mr J Orson**

**Location: Parsonage House, 13 Paradise Lane, Old Dalby**

**Proposal: Fell one Yew tree**



**Introduction:-**

**The proposal is to fell a Yew 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 trees 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

11/00760/TCA - Removal of 1 Evergreen Oak tree. – approved 11<sup>th</sup> November 2011

12/00559/TCA – removal of one Wisteria – approved 2.10.12

12/00737/TCA – removal of one Wellingtonia – Tree Preservation Order placed upon it

**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.

<b>Consultation reply</b>	<b>Assessment of Head of Regulatory Services</b>
<b>Parish Council</b>	None received to date

**Representations:**

None have been received to date.

**Assessment**

The grounds of Parsonage House are mature gardens with many trees and shrubs. The Yew tree is located immediately adjacent to a coachhouse/garage block within the grounds of Parsonage House.

The application has not been received with an accompanying structural survey report, but it is known that some cracking to the internal walls of Parsonage House have taken place over several years and the tree has been implicated as contributory factors in subsidence damage related to clay shrinkage.

The Yew tree is located approximately 38 metres from Paradise lane and is of low amenity value to the streetscene, growing well away from the lane.

### **Conclusion**

It is considered that the Yew tree is not considered to merit protection by means of a Tree Preservation Order and the removal of this tree is acceptable.

**RECOMMENDATION:** - The Yew tree is not worthy of a tree preservation order as it does not contribute to the amenity value of the streetscene.

Officer to contact: **Mrs Karen Jensch**

**Date: 24<sup>th</sup> June 2013**