

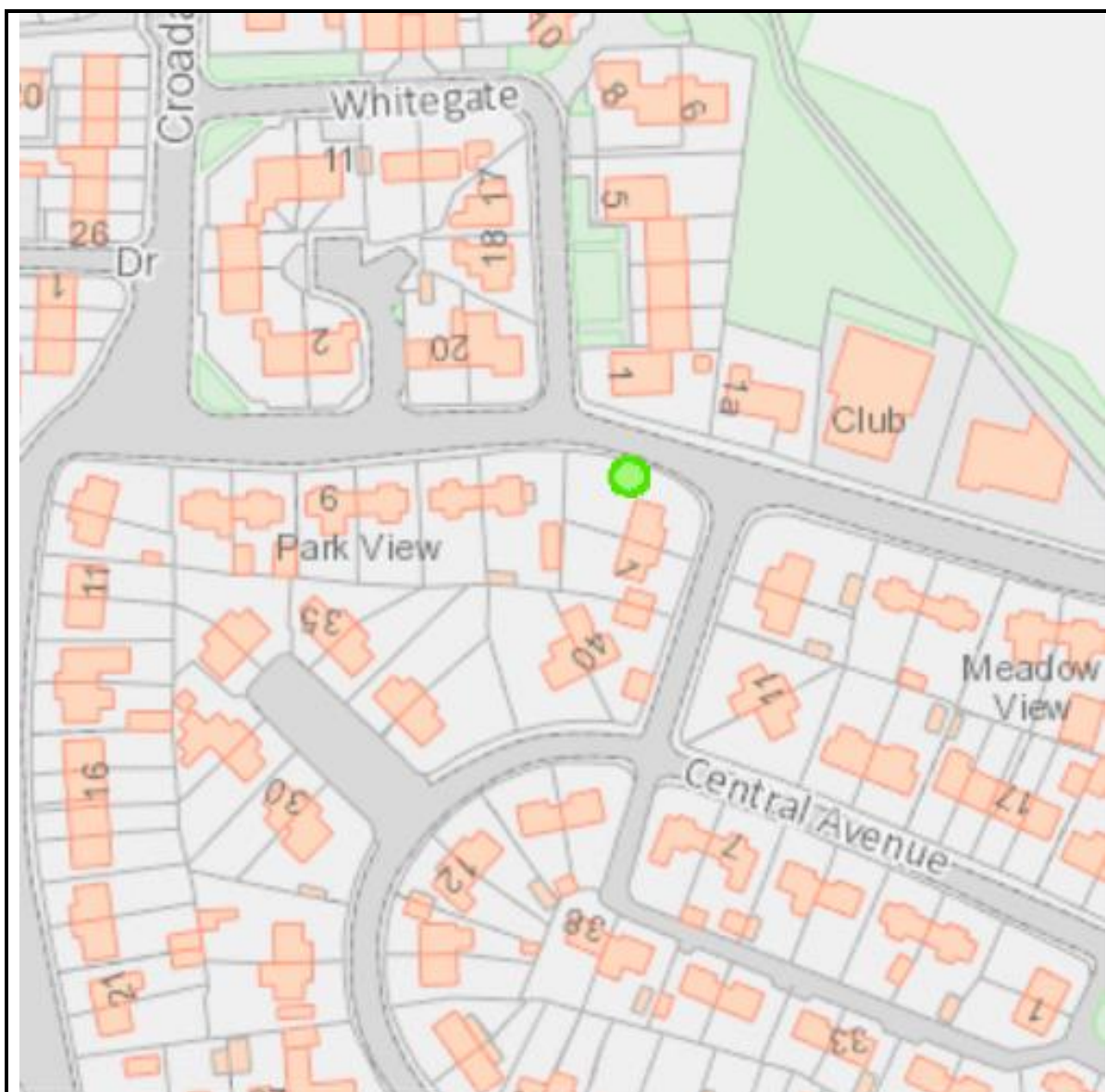


To: PLANNING PANEL

Development Management Section

Date of Meeting: 13/04/2022

Application Number:	4/22/2076/TPO
Application Type:	Tree Preservation Order
Applicant:	Mr Peter McVeigh
Application Address:	2 PARK VIEW, EGREMONT
Proposal	REMOVAL OF ENGLISH OAK TREE (RESUBMISSION OF 4/21/2541/TPO)
Parish:	Egremont
Recommendation Summary:	Refuse felling but allow pruning works



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Reason for Determination by Planning Panel

An Elected Member has requested that this application is referred to the Planning Panel for determination under the terms set out in the Council Constitution.

Site and Location

This application relates to a mature oak tree which is located within the garden area associated with a semi-detached dwelling at 2 Park View in Egremont. The position of the tree is indicated by a green circle on the map above.

Proposal

The oak tree is protected by a Preservation Order (TPO) as it is considered to add to the visual amenity of the local area.

This application seeks permission to fell the protected Oak tree. This is a resubmission of a previous application for the same works which was refused under delegated powers on 31 January 2022 (application 4/21/2541/TPO refers). This decision was informed by professional advice prepared by the Council's Consultant who is a qualified Arborist.

The applicant has submitted details to support the current application. He considers that there is justification to fell the tree for the following reasons:-

- The tree is resulting in an adverse impact on the health of his family
- The tree is endangering his house and also passing pedestrians and traffic on the public highway

Relevant Planning Application History

An application reference 4/21/2541/TPO was refused under delegated powers on 31st January 2022.

Consultation Responses

Egremont Town Council

Whilst Egremont Town Council are sympathetic towards the owner and his point of view, Councillors support the advice and recommendations of the arborist and the Planning Officer.

Consultant Tree Officer (Capita)

The oak tree shows signs of normal health and is located in the garden area, about 3-5m north of the house. The southern crown overhangs the house roof and northern crown overhangs the full width of the road.

The tree appears to be in a good condition with no significant defects. We expect it could last for 20-40 years. Careful pruning work, in accordance with the British Standard (BS 3998:2010), could reduce the size of the crown sufficiently to allow it to be retained.

The site is not within the Egremont Conservation Area.

Our TEMPO assessment shows this tree 'definitely merits' protection with a TPO.

Public Representations

The following representations have been received in response to this application:-

Opposition

1 letter of objection has been received which sets out that the tree could be managed rather than being removed and questions whether the Preservation Order that provides the tree with protection has been lifted.

Support

1 Letter of support has been received from a District Councillor from Egremont. He sets out that there are many hazards and concerns that need to be fully considered, including the significant impact that the tree is having on the applicant, his family and neighbours.

The branches of the tree now reach over the house, into surrounding overhead cable's and stretch across the (very busy) road into the garden area of the property opposite causing danger to the public and larger vehicles. The roots are also a major concern, visibly damaging the surrounding public pathways and potentially undermining the applicant's property.

There are numerous other issues, blocked drains, damage to property, blockage of light, bird mess etc, however the applicant's major concern is the impact to his wife's health.

I share the applicants concerns and would welcome the opportunity to support his application.

Planning Policies

Planning law requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Development Plan

Copeland Local Plan 2013 – 2028 (Adopted December 2013)

Core Strategy

Policy ST1 – Strategic Development Principles

Development Management Policies (DMP)

Policy DM28 – Protection of Trees

Other Material Planning Considerations

National Planning Policy Framework (NPPF)

Town and Country Planning Act 1990

Town and Country Planning (Tree Preservation) (England) Regulations 2012

Emerging Copeland Local Plan (ELP):

The emerging Copeland Local Plan 2017-2035 has recently been the subject of a Publication Draft Consultation. The Publication Draft Consultation builds upon the previously completed Issues and Options and Preferred Options consultations. Given the stage of preparation of the

Copeland Local Plan 2017-2035 some weight can be attached to policies within the Publication Draft where no objections have been received. The Publication Draft provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the National Planning Policy Framework.

Assessment

Relevant Policy Context

Policy ST1 of the adopted Copeland Local Plan seeks to protect green infrastructure and recognizes the important role that the natural environment and healthy ecosystems have to play in the future social, economic and environmental sustainability of the Borough. It also advocates the creation and retention of quality places.

Policy DM28 seeks to protect trees covered by Protection Orders and only permits works which are necessary and can be fully justified. Any application that would result in the loss of a veteran tree should demonstrate that the need for and benefits of the development will clearly outweigh the loss.

Government guidance is set out in the NPPF.

Para 131 of the NPPF recognizes the importance of trees and their important contribution to the character and quality of urban environments. It advocates that existing trees should be retained wherever possible.

Chapter 15 of the NPPF relates specifically to Conserving and Enhancing the Natural Environment. Paragraph 180 (criteria C) advises that development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.

Justification For Removal of Tree

The applicant has commissioned a tree surgeon to undertake an informal visual inspection of the tree to substantiate his case for its removal. The tree surgeons comments are summarized below:-

1. The tree occupies a dominant site between the house and a frequently used public road. The tree is on the boundary of the property line and the crown extends both towards the house and out over the public road. The tree dominates the site due to its sheer size.
2. It appears that the tree has had some branches removed in the past but has not had any recent work carried out to reduce or enhance the tree.
3. It appears that the lower branches across the road may be a risk to high sided vehicles. And some smaller branches show damage (possibly) from being hit by taller vehicles
4. The pavement under / next to the tree is showing some signs of 'lifting' this could be caused by the primary roots system from the tree, however this is only an opinion and would need further investigation to confirm.

5. There are signs of previous branch damage within the tree, leading to the conclusion that at some point a secondary branch has failed and broken free. The cause of such failure is unclear; however, the crown has several crossing branches within its canopy which could potentially, over time, become weak and fail. This may be the reason for previous branch failure but is not conclusive.
6. Some branches are extending out towards and over the edge of the house, these branches have the potential to cause damage to guttering and main roof if a branch were to fail, or in high wind / stormy weather. The tree is a mature Oak with an extensive canopy and appears to have outgrown its current position.

It should also be noted that the tree inspection submitted by the applicant to support his case is only the result of an informal initial visual inspection and does not constitute a full tree survey or assessment of potential.

Council Tree Consultant Advice

The Council's tree specialist has undertaken a full assessment of the tree, including its suitability for protection. He has concluded that the tree appears to be in a good condition with no significant defects and it is estimated that it could last for another 20-40 years. It warrants protection and has a significant benefit to the visual amenity of this area. On this basis he does not consider that the felling of the tree is either justified or necessary.

He has, however, advised that the undertaking of some pruning and reduction works in accordance with British Standards BS3998:2010 to the tree canopy would help to reduce the impact of the tree on the occupants of this property. This would help to maintain and enhance the amenity provided by the protected tree.

Planning Balance and Conclusion

A Tree Preservation Order is an order made by a Local Planning Authority to protect specific trees, groups of trees or woodlands in the interests of amenity.

Consent from the LPA is required for any felling, topping, lopping, uprooting, wilful damage and wilful destruction to a protected tree.

Based on the assessment undertaken by the Council's Tree Consultant the tree continues to warrant protection and its felling is not justified. Its removal would have a significant negative impact on the local environment and its enjoyment by the public.

It is, however, appropriate for some pruning works and crown reduction to be carried out to the tree which will ensure its maintenance and retention. These works would also reduce the impact of the tree on the occupiers of the property and the other residents within the immediate vicinity of the site.

Recommendation:-

REFUSE the felling of the protected tree

PERMIT the following works to the protected tree:-

1. Reducing the tree's crown radius to the north, east and west by 1-2 metres and creating a measurable 1-2 metre clearance from the building. This will leave a measurable crown radius of 4-5 metres overhanging the road and garden. The maximum pruned branch diameter should be less than 75mm. Carry out all pruning work in accordance with BS3998:2010 Tree work – Recommendations, section 7.6 'Crown lifting' and section 7.7 'Crown reduction and reshaping'.

Reason

In accordance with Section 198 of the Town and Country Planning Act 1990 and in the interest of good forestry and arboricultural practice.