

OFFICERS REPORT

Application No: Y19/1291/FH

Location: 120 Sandgate High Street Sandgate Kent CT20 3BZ

Proposal Works to trees situated within a conservation area to fell two Palms and replant with Olearia x Hastii shrubs

ASSESSMENT

Performance data:-

Date application valid: 22/11/19

Applicable 6 week target date: 3/1/20

Planning Performance Agreement (PPA) or Planning Extension Agreement (PEA) ? Y/N

If Yes, revised 8/13/16 week target date:

Is the application being determined after 26 weeks without a PPA or a PEA? Y/N

SITE VISIT

Carried out site visit on 28/11/19

The site and proposals were assessed from Sandgate High Street.

SITE

The site is 120 Sandgate High Street, an inner terraced four storey listed dwelling currently divided into flats. The site is set in an elevated location at the western end of the busy coastal village of Sandgate and within the Sandgate High Street conservation area.

The two mature Palm trees, one large and spreading, and the other with a high compact canopy. They are situated within the small front garden just behind the rag stone retaining wall fronting the property. They are highly visible in the street scene, making some contribution to the visual amenity of the conservation area in this attractive coastal location.

RELEVANT HISTORY

None

PROPOSAL

The application is for the felling of the trees on the following grounds:

The largest Palm has outgrown its location

It poses a nuisance to neighbours

It has spikey sharp leaves causing cuts and damage

It overhangs the pavement and requires constant management

It blocks light to the building

It takes moisture from the garden making it difficult to establish new planting

Ideally the applicant hopes that both trees could be removed and replanted elsewhere but is willing to replace them with Olearia x Hastii shrubs

CONSULTATION RESPONSES

Consultation responses are available in full on the planning file. The main points raised are summarised below.

Sandgate Parish Council: No objections

REPRESENTATIONS

One representations received and is available in full on the planning file. The main points raised are summarised below.

Objection:

The Palms typify the beauty of an English coastal village and enhance the character of Sandgate

They give Sandgate a summery feel

The Fan Palm is used as a roosting shelter for small birds and offers protection from predators

Trees are important to the environment - they remove pollutants from the atmosphere

Roots may absorb a lot of water - Sandgate is located in a flood area

We would be disappointed if the trees were removed, they are viewed as a novelty

Removal of the trees would be a step in the wrong direction

RELEVANT POLICIES

Shepway District Local Plan Review Saved Policies: SD1; BE4

Shepway Core Strategy Local Plan 2013: dsd

APPRAISAL

The two Palms are not native to this country but due to the mild climate in South East England, do well in this location.

The Palms, in particular the larger of the two, appear to have outgrown their location and are encroaching over the adjoining property and the adjacent footpath, as well as blocking light to the windows of the flats. In addition their demand for water and the shade they create has made the establishment of new planting difficult. The encroachment and shading issues appear to be ongoing, and not easily solved without spoiling the form of the trees.

In addition the leaves have sharp points and are likely to pose a danger to the public. The tree owner has a 'common law' duty of care to:

'Take reasonable care to avoid acts or omissions which they can reasonably foresee would be likely to injure their neighbour'

The tree owner also has a duty under the Occupiers Liability Acts to take reasonable steps to ensure visitors or trespassers on their land are safe. This means that if a tree causes damage to a person or property then the tree owner may be liable. The applicant has highlighted the danger that could be caused by the sharp pointed leaves and it is difficult to see how the tree could be successfully managed to prevent such incidents occurring.

The LPA cannot refuse consent or grant consent subject to conditions for works to trees situated within a conservation area, therefore within the six week period the LPA will decide whether to make a Tree Preservation Order to prevent the works being carried out. TPOs should only be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public and LPA's should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. Whilst the trees are highly visible in the street scene, they are not considered to possess high public visual amenity value and in the Council's Arboricultural Manager's opinion, would not warrant a TPO, given that at best they are large tree form shrubs.

It is judged that their loss is unlikely to be detrimental to the character or appearance of the conservation area. Conservation areas are defined by their architectural and historic merits, trees simply serve to enhance their appearance. In this instance the quality and appearance of the apparently well maintained, handsome property the trees obscure possesses greater visual merit than the two Palms in the front garden.

With regard to the objections raised, it is acknowledged that the Palms could be seen to typify the beauty of an English coastal village and may well enhance the character of Sandgate. Furthermore it is understood that the objector views the trees as a novelty and would be disappointed if they were removed, but it is demonstrated above why they do not warrant the making of a TPO to secure their retention.

It is recognised that the Fan Palm may be used as a roosting shelter for small birds and offers protection from predators, however there are other areas of vegetation, particularly to the west of the site, that are suitable for providing alternative accommodation for wildlife.

It is agreed that trees are important to the environment, particularly for their ability to remove pollutants from the atmosphere and by absorbing rain water, and therefore their removal could be seen as a step in the wrong direction. The trees stand on the busy main road linking the coastal towns of Folkestone to Hythe, to Romney Marsh and beyond and as such it is thought that pollution levels in this area are quite high. However it is thought that the removal of two relatively small trees is unlikely to increase to any great degree the levels of pollution in this location.

Under the scheme of delegation, the application has been discussed with a senior officer and it has been resolved to raise no objections to the removal of both trees. As mentioned above, the non-native trees have low visual amenity value when compared to the surrounding historic buildings and historically would not have formed part of the street scene. As such it is not considered that their removal will be detrimental to the local landscape or to the character or appearance of the conservation area.

HUMAN RIGHTS

I have also taken into account the human rights issues relevant to this application. In my view, the Assessment section above and the Recommendation represents an appropriate balance between the interests and rights of the applicant (to enjoy his land subject only to reasonable and proportionate controls by a public authority) [and the interests and rights of those potentially affected by the proposal (to respect for private life and the home and peaceful enjoyment of their properties)] and the wider public interest.

PUBLIC SECTOR EQUALITY DUTY

In determining this application, regard has been had to the Public Sector Equality Duty (PSED) as set down in section 149 of the Equality Act 2010, in particular with regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it. It is considered that the application proposals would not undermine objectives of the Duty.

It is considered that the application proposals would not conflict with objectives of the Duty.

RECOMMENDATION

In light of the above, it is considered the proposal complies with the above policies and the NPPF and therefore no objections are raised.

Case Officer: Jo Daniels

Report and draft decision notice completed and passed to senior officer.

Name: Position: Date:

File passed to admin to issue decision. Falls within the scheme of delegation (no requirement to pass to senior officer).

Name: Jo Daniels Position: Planning Technician Date: 3/1/20