

# Development Management Delegated Decision Report

B/24/0069



SUMMARY OF APPLICATION				
<b>Application Reference</b>	B/24/0069			
<b>Application Type</b>	Application for works affecting a TPO			
<b>Proposal</b>	<p>Application for works to trees subject to Tree Preservation Order West Skirbeck No2 &amp; West Skirbeck No 2 1957:</p> <p>T01 - Oak Tree - Prune Limb to the branch junction to give 100cm clearance, remove branches less than 20cm diameter within 4 metres of roof &amp; raise crown by 2 metres</p> <p>T599 - Crack Willow - Fell</p> <p>T600 - Sycamore - Fell</p> <p>T604 - Crack Willow - Fell</p>			
<b>Location</b>	59, Garfits Lane, Boston PE21 7EX			
<b>Applicant</b>	Miss Angela Butler, GFI Properties Ltd			
<b>Agent</b>				
<b>Received Date:</b>	20-Feb-2024	<b>Consultation / Publicity Expiry Date:</b>	20-Mar-2024	
<b>Valid Date:</b>	20-Feb-2024	<b>Statutory Expiry Date:</b>	<b>02-Apr-2024</b>	
<b>Date of Site Visit:</b>	07-Mar-2024	<b>Extension of Time Date:</b>	-----	
<b>Objections received?</b>	None			
<b>5 day notification record:</b> Not applicable				
	<b>Councillors notified</b>	<b>Date</b>	<b>Response received – date</b>	<b>Ok to continue</b>
<b>Recommendation:</b>	<p><b>GRANT Consent for the following works to the oak:</b></p> <ul style="list-style-type: none"> <li>removal of branches of less than 20cm diameter that are within 4m of the roof; and</li> <li>pruning of the lowest limb growing in north-easterly direction to a branch junction immediately above the roof.</li> </ul> <p><b>GRANT Consent for the felling of the sycamore.</b> The applicant should, however, be reminded</p> <ul style="list-style-type: none"> <li>of their duty (under section 206 of the Town and Country Planning Act 1990) to plant a replacement tree of an</li> </ul>			



	<p>appropriate size and species at the same place as soon as they reasonably can; and</p> <ul style="list-style-type: none"> <li>that the replacement tree will be automatically protected by the original Order.</li> </ul> <p><b>REFUSE Consent for the raising of the oak's crown by 2m</b> for the following reason:</p> <ul style="list-style-type: none"> <li>The tree contributes positively to the character and appearance of its surroundings and the proposed works would significantly reduce its public amenity value, and are not justified by the findings of the accompanying tree report.</li> </ul> <p><b>INFORM the applicant</b> that the crack willows are not protected by the West Skirbeck (Boston) Tree Preservation Order No.2 (1957), and that consent is therefore not required for their felling.</p>
<b>Report by:</b>	Simon Eldred
<b>Date:</b>	21 <sup>st</sup> March 2024

## **OFFICER REPORT**

### **SITE AND SURROUNDINGS:**

The application concerns four trees growing within the garden to 59 Garfits Lane, Boston. They are:

- a mature oak growing immediately to the south-west of the dwelling;
- a mature sycamore growing to the north-east of the garden pond;
- a crack willow growing to the north-east of the garden pond; and
- a crack willow growing to the south of the garden pond.

The application assumes that all four trees are protected by the West Skirbeck (Boston) Tree Preservation Order No.2 (1957) but, whilst trees growing on the property are covered by Group G1 of the Order, no crack willows are listed. Consequently, it is considered that these trees are not protected. The Order does, however, list oaks and sycamores within Group G1, and it is considered that the oak and the sycamore are both protected by the Order.

### **DETAILS OF PROPOSAL:**

It is proposed to:

- carry out a range of works on the **oak** in order to: improve airflow over the dwelling's roof and alleviate dampness and moss-growth; address potential serious safety risks; and address risks of potential damage from smaller debris. The proposed works are:
  - raising the tree's crown by 2m;
  - removing branches of less than 20cm diameter that are within 4m of the roof; and
  - pruning a limb of the tree to a branch junction above the roof;

- fell the **sycamore**, which is infected with the fungus *Kretzschmaria deusta*;
- fell the **crack willows**, both of which are considered to be in poor/dangerous condition. [N.B. The crack willows are not considered to be protected by the Tree Preservation Order, and these proposed works do not therefore require consent.]

#### **RELEVANT HISTORY:**

No recent, relevant planning history.

#### **RELEVANT POLICIES:**

Paragraphs 089 Reference ID: 36-089-20140306, 090 Reference ID: 36-090-20140306, 091 Reference ID: 36-091-20140306, and 095 Reference ID: 36-095-20140306 of the National Planning Practice Guidance (PPG) indicate that:

*“In considering an application, the local planning authority should assess the impact of the proposal on the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it. The authority must be clear about what work it will allow and any associated conditions.”*

*“When considering an application the authority is advised to:*

- *assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area;*
- *consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it;*
- *consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions;*
- *consider whether any requirements apply in regard to protected species;*
- *consider other material considerations, including development plan policies where relevant; and*
- *ensure that appropriate expertise informs its decision.”*

*“In general terms, it follows that the higher the amenity value of the tree or woodland and the greater any negative impact of proposed works on amenity, the stronger the reasons needed before consent is granted. However, if the amenity value is lower and the impact is likely to be negligible, it may be appropriate to grant consent even if the authority believes there is no particular arboricultural need for the work.”*

*“When determining applications for consent under an Order, the authority may:*

- *grant consent unconditionally;*
- *grant consent subject to such conditions as it thinks fit;*
- *refuse consent.”*

#### **CONSULTATION RESPONSES:**

No consultation responses have been received.

#### **THIRD PARTY REPRESENTATIONS RECEIVED:**

No third-party representations have been received.

## **EVALUATION:**

The **oak** is mature, substantial in size, and highly attractive in its form. Although:

- the surrounding area is generally well-treed and verdant; and
- views of the oak from public vantage points are partially obscured by other trees at 59 Garfits Lane and neighbouring properties,

this tree nonetheless has significant public amenity value.

However, the tree is growing very close to the dwelling, and its canopy significantly overhangs the roof. Although the tree is generally not in contact with the roof, it is accepted that the proposed works to:

- remove branches of less than 20cm diameter that are within 4m of the roof; and
- prune one limb of the tree to a branch junction above the roof

are justified in terms of providing the dwelling's occupant with greater 'comfort'/'peace-of-mind' whilst having only a negligible impact upon the tree's amenity value.

In contrast, the proposal to raise the tree's crown by 2m would involve the removal of a very large limb which is growing away from the dwelling and towards the south-west. Although the tree report which accompanied the application identifies that this limb *"appears to have dead bark on its top side"* it does not recommend its removal and indeed notes that the *"tree shows no sign of structural faults"*. Thus, although the application suggests that the tree *"could have catastrophic impact on bungalow"* no evidence is put forward to suggest that this is likely or that works need to be carried out to prevent such potential impacts. In all, it is considered that the proposal to raise the tree's crown:

- would significantly reduce the tree's public amenity value; and
- is not justified by the accompanying tree report.

The **sycamore** is mature, substantial in size, and is an attractive specimen. Although:

- the surrounding area is generally well-treed and verdant; and
- views of the sycamore from public vantage points are partially obscured by other trees at 59 Garfits Lane and neighbouring properties,

this tree nonetheless has significant public amenity value.

However, the tree is infected with *Kretzschmaria deusta* (brittle cinder fungus) - fruiting bodies are visible towards the base of the tree's main stem (on its south-eastern side). This fungus will degrade the strength of the tree's timber and compromise its stability, and thus the proposed felling is considered to be justified. Nonetheless, where a tree is removed because it presents an immediate risk of harm, landowners have a duty (under section 206 of the Town and Country Planning Act 1990) to plant a replacement. The Planning Practice Guidance indicates that *"replacement trees should be of an appropriate size and species and planted at the same place as soon as the owner of the land can reasonably do this ... a replacement tree planted because of the duty under section 206 is automatically protected by the original Order."*

The **crack willows** are not considered to be protected by the Tree Preservation Order, and an evaluation of the impacts of the proposed works is therefore not required.

## **CONCLUSION:**

Following the advice set out in the Planning Practice Guidance quoted above, it is considered:

1. appropriate for consent to be granted for:
  - the felling of the sycamore;
  - the removal of branches from the oak which are less than 20cm diameter and are within 4m of the roof; and
  - the pruning of the lowest limb of the oak which grows in a north-easterly direction to a branch junction above the roof.
2. appropriate for consent to be refused for the raising of the oak's crown by 2m.
3. that the decision letter should indicate that the crack willows are not protected by the West Skirbeck (Boston) Tree Preservation Order No.2 (1957), and that consent is therefore not required for their felling.

**RECOMMENDATION:**

**GRANT Consent for the following works to the oak:**

- removal of branches of less than 20cm diameter that are within 4m of the roof; and
- pruning of the lowest limb growing in north-easterly direction to a branch junction immediately above the roof.

**GRANT Consent for the felling of the sycamore.** The applicant should, however, be reminded

- of their duty (under section 206 of the Town and Country Planning Act 1990) to plant a replacement tree of an appropriate size and species at the same place as soon as they reasonably can; and
- that the replacement tree will be automatically protected by the original Order.

**REFUSE Consent for the raising of the oak's crown by 2m** for the following reason:

- The tree contributes positively to the character and appearance of its surroundings and the proposed works would significantly reduce its public amenity value, and are not justified by the findings of the accompanying tree report.

**INFORM the applicant** that the crack willows are not protected by the West Skirbeck (Boston) Tree Preservation Order No.2 (1957), and that consent is therefore not required for their felling.