

# Development Management Delegated Decision Report

B/24/0090



SUMMARY OF APPLICATION			
<b>Application Reference</b>	B/24/0090		
<b>Application Type</b>	Notification to carry out works on trees		
<b>Proposal</b>	Notification under s211 for works to trees within a Conservation Area to include:  T6 - Lime - Carry out a crown reduction of between 1m and 2m in both height and crown diameter, with pruning cuts to not exceed 4cm in diameter		
<b>Location</b>	Churchyard of St Peter and St Paul's Church Willington Road, Kirton, Boston, PE20 1HX		
<b>Applicant</b>	Mrs Diane Fairweather, Kirton Parish Council		
<b>Agent</b>			
<b>Received Date:</b>	04-Mar-2024	<b>Consultation / Publicity Expiry Date:</b>	Not applicable
<b>Valid Date:</b>	18-Mar-2024	<b>Statutory Expiry Date:</b>	<b>29-Apr-2024</b>
<b>Date of Site Visit:</b>	15-Apr-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>Recommendation</b>	Do not make a tree preservation order in respect of this tree.		
<b>Report by:</b>	Simon Eldred		
<b>Date:</b>	16 <sup>th</sup> April 2024		

## OFFICER REPORT

### SITE AND SURROUNDINGS:

The notification concerns a mature lime tree, growing towards the north-western corner of the curtilage to St Peter and St Paul's Church, Kirton.



### **DETAILS OF PROPOSAL:**

The notification originally proposed either: the reduction of the tree to previous pruning cuts; or the reduction of the canopy by 2m all round. Following the receipt of comments from East Lindsey District Council's Arboricultural Officer, the notification was amended to propose the reduction of the tree's canopy by between 1m and 2m in height and crown diameter, with pruning cuts to not exceed 4cm in diameter.

The works are proposed in order to increase the availability of light to the nearby Lime Tree Cottage, 1 Willington Road and to reduce the amount of branches/twigs dropped into that property's curtilage.

### **RELEVANT HISTORY:**

B/22/0238 – a notification under Section 211 to carry out various works to trees in a Conservation Area was withdrawn on 28<sup>th</sup> July 2022.

### **RELEVANT POLICIES:**

The tree is located within the Kirton Conservation Area. In considering a Section 211 Notice, the Borough Council essentially has two options: to make a tree preservation order if justified in the interests of amenity; or decide not to make a tree preservation order, in which case the proposed works can be carried out.

The provisions of the Government's Planning Practice Guidance are of relevance. The Guidance states that, in deciding whether a tree in a conservation area merits TPO protection *"the authority's main consideration should be the amenity value of the tree, In addition, authorities must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Even if the tree's amenity value may merit an Order the authority can still decide that it would not be expedient to make one."*

The Guidance indicates that 'amenity' *"is not defined in law"* ... but that ... *"Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future. When considering whether trees should be protected by an Order authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking account of the following criteria:*

- *Visibility – The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.*
- *Individual, collective and wider impact – Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including: size and form; future potential as an amenity; rarity, cultural or historic value; contribution to, and relationship with, the landscape; and contribution to the character or appearance of a conservation area.*
- *Other factors – Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as*

*importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.”*

### **CONSULTATION RESPONSES:**

East Lindsey District Council’s Arboricultural Officer:

- indicated that severe crown reduction such as originally proposed “*should be used only as a last resort for retaining a valuable tree which would otherwise pose an unacceptable risk to people or property, or would be susceptible to loss due to structural collapse. There is no evidence to suggest the tree poses an unacceptable risk that such management is appropriate*”; and
- suggested that “*crown reduction of 1m to 2m in both height and crown diameter, with pruning cuts not to exceed 4cm diameter*” would be acceptable, and would “*be compatible with the maintenance of tree health and structural condition, and the aesthetic value of the tree, while also going some way to meeting the owner’s management objectives and alleviating any concern they have over the tree.*”

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

No third party representations have been received.

### **EVALUATION:**

The character of the Kirton Conservation Area benefits greatly from the presence of trees and, in particular, the churchyard contains large numbers of mature trees.

The tree which is the subject of this notification is prominently located at the western end of an avenue of trees which line a footway running east-west through the churchyard - in particular, views from Willington Road are unobscured. The tree has been pollarded at approximately 5.5m above ground level, but has made strong re-growth from these historic cuts. Notwithstanding the effects of these earlier works and the fact that the churchyard contains many other mature trees, the lime is:

- substantial in size;
- visually prominent; and
- attractive in form,

and is considered to have significant public amenity value.

It is considered that the proposed works will not substantially reduce the tree’s amenity value and will not have a negative impact upon the local environment or the character and appearance of this part of the Kirton Conservation Area. In line with the Planning Practice Guidance quoted above it is considered that, although the tree’s amenity value potentially merits an Order, the proposed works are sufficiently minor that it is not expedient to make one.

### **RECOMMENDATION:**

Do not make a tree preservation order in respect of this tree.