

# Development Management Delegated Decision Report

B/24/0113



SUMMARY OF APPLICATION				
<b>Application Reference</b>	B/24/0113			
<b>Application Type</b>	Application for works affecting a TPO			
<b>Proposal</b>	<p>Application for works to trees subject to Tree Preservation Orders (Boston No.8) to include:</p> <p>T10 &amp; T11 - Oak - Crown raise lower branches to 5.5m, remove dead wood and crossing rubbing branches from within canopy's . Garfits Lane side - reduce the road side back in by 2-3m T12 - Fell due to bracket fungus</p>			
<b>Location</b>	105, London Road, Boston PE21 7EZ			
<b>Applicant</b>	Mr Wilson Boardman			
<b>Agent</b>	Mr Greville Bray, East Coast Access			
<b>Received Date:</b>	20-Mar-2024	<b>Consultation / Publicity Expiry Date:</b>	17-Apr-2024	
<b>Valid Date:</b>	20-Mar-2024	<b>Statutory Expiry Date:</b>	01-May-2024	
<b>Date of Site Visit:</b>	22-Apr-2024	<b>Extension of Time Date:</b>	-----	
<b>Objections received?</b>	None			
5 day notification record: 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</b> Consent for:</p> <ul style="list-style-type: none"> <li>• T10 – the removal of lower branches to raise the crown to approximately 5.5m above ground-level, and the reduction of its western and northern crown spread by a maximum of 2m;</li> <li>• T11 - the removal of lower branches to raise the crown to approximately 5.5m above ground-level, and the reduction of its northern crown spread by a maximum of 2m; and</li> <li>• T12 – felling. However, the applicant should be: <ul style="list-style-type: none"> <li>○ invited to submit details of the tree proposed to be planted in replacement, and its intended location; and</li> </ul> </li> </ul>			



	reminded that the tree should not be felled before it has been checked for active bird nests, bat breeding or roosting sites, or evidence of use by any other protected species.
<b>Report by:</b>	Simon Eldred
<b>Date:</b>	23 <sup>rd</sup> April 2024

## **OFFICER REPORT**

### **SITE AND SURROUNDINGS:**

The application concerns three trees growing within the garden to 105 London Road, Boston. They are:

- a mature oak, growing at the property's north-western corner and protected as T10 of the Boston Tree Preservation Order No. 8 (1972);
- a mature oak, growing close to the centre of the property's frontage onto Garfit's Lane and protected as T11 of the Boston Tree Preservation Order No. 8 (1972); and
- a mature sycamore growing close to the property's north-eastern corner, but to the west of the vehicular access onto Garfit's Lane and protected as T12 of the Boston Tree Preservation Order No. 8 (1972).

### **DETAILS OF PROPOSAL:**

It is proposed to:

- T10 – remove dead wood and crossing/rubbing branches from within the canopy, remove lower branches to raise the crown to approximately 5.5m above ground-level, and reduce the spread of the western and northern sides of the canopy by between 2m and 3m. These works are proposed in order to: increase light within the garden; increase headroom over the highway; and prevent nuisance to dwellings on the northern side of Garfits Lane and users of the vehicular access to 2 Garfits Lane;
- T11 - remove dead wood and crossing/rubbing branches from within the canopy, remove lower branches to raise the crown to approximately 5.5m above ground-level, and reduce the spread of the northern side of the canopy by between 2m and 3m. These works are proposed in order to: increase light within the garden; increase headroom over the highway; and prevent nuisance to dwellings on the northern side of Garfits Lane; and
- T12 – fell. Felling is proposed because the tree's health is compromised – it *“has bracket fungus on the trunk close to the ground. The tree's bark is cracking and breaking away ...”*

### **RELEVANT HISTORY:**

B/06/0662 – consent was granted on 6<sup>th</sup> November 2006 for crown lift and branch reduction to 1 sycamore and 2 oaks.

### **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.*

*The authority must decide the application before it, so it should not issue a decision which substantively alters the work applied for. The authority could, however, grant consent for less work than that applied for.*

*The authority should make absolutely clear in its decision notice what is being authorised. This is particularly important where the authority grants consent for some of the operations in an application and refuses consent for others.”*

### **CONSULTATION RESPONSES:**

No consultation responses have been received.

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

No third-party representations have been received.

## **EVALUATION:**

**T10** – this tree is large in size and is prominently located (just behind the hedge which defines the property's boundary onto Garfits Lane). Although the wider area contains large numbers of mature trees, T10 possesses substantial public amenity value and makes a significant and positive contribution to the character and appearance of its surroundings. The proposed works will undoubtedly have negative impacts upon this amenity value, but it is considered that the scale of these impacts will be acceptable and justified:

- given that the proposed crown raise will not involve the removal of any significantly-sized branches; and
- provided that the crown-spread is reduced by no more than 2m (given the extent to which the crown currently overhangs the highway and the vehicular access to 2 Garfits Lane).

**T11** - this tree is large in size and prominently located just behind the hedge which defines the property's boundary onto Garfits Lane. Although the wider area contains large numbers of mature trees, T11 possesses substantial public amenity value and makes a significant and positive contribution to the character and appearance of its surroundings. The proposed works will undoubtedly have a negative impact upon this amenity value, but it is considered that the scale of these impacts will be acceptable and justified:

- given that the proposed crown raise will not involve the removal of any significantly-sized branches; and
- provided that the crown-spread is reduced by no more than 2m (given the extent to which the crown currently overhangs the highway and the vehicular access to 2 Garfits Lane).

**T12** - this tree is large in size and prominently located just behind the hedge which defines the property's boundary onto Garfits Lane. Although the wider area contains large numbers of mature trees, T12 possesses substantial public amenity value and makes a significant and positive contribution to the character and appearance of its surroundings. The site visit confirmed the problems highlighted on the application form (fungal fruiting bodies close to the main stem's base on its southern side, and area of lost and loose bark) and, given the tree's proximity to the highway and dwellings, it is considered that the tree's felling is justified.

On the application form, the agent indicates *"if you require a re-plant for this tree, the customer is open to what you would prefer to replace it with. Having said that .. the whole site is very crowded with good specimens already and I don't think it's necessary"*. However, under Section 206 of the Town and Country Planning Act 1990, there is a duty upon a landowner to replace a TPO tree that is removed because it presents an immediate risk of serious harm. The replacement tree 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. The replacement tree will be automatically protected by the original Order.

Paragraph 153 Reference ID: 36-153-20140306 of the National Planning Practice Guidance (PPG) indicates that *"the authority and landowner may agree on planting, for example, one tree of a different species or two trees of a smaller species to replace one of a large species" ... "It may not be necessary (or practical) for the replacement tree to be planted in the exact position of the original tree. But the place should at least correspond with the original position described in the Order and shown on the map."* Given this advice,

it is considered that the applicant should be invited to submit details of the proposed replacement tree and its location.

**RECOMMENDATION:**

**GRANT** Consent for:

- T10 – the removal of lower branches to raise its crown to approximately 5.5m above ground-level, and the reduction of its western and northern crown spread by a maximum of 2m;
- T11 - the removal of lower branches to raise its crown to approximately 5.5m above ground-level, and the reduction of its northern crown spread by a maximum of 2m; and
- T12 – felling. However, the applicant should be:
  - invited to submit details of the tree proposed to be planted in replacement, and its intended location; and
  - reminded that the tree should not be felled before it has been checked for active bird nests, bat breeding or roosting sites, or evidence of use by any other protected species.