

Development Management Delegated Decision Report

B/24/0153



SUMMARY OF APPLICATION			
Application Reference	B/24/0153		
Application Type	Notification to carry out works on trees		
Proposal	Notification under s211 for works to trees within a conservation area to include: 1 - Large multi-stemmed sycamore tree to be removed for safety reasons due to signs of decay and ivy beginning to effect the sound growth of the tree higher into crown		
Location	The Elms, Thornimans Lane, Frampton, Boston PE20 1AJ		
Applicant	Ms Claire Stemp		
Agent	Mr Tim Ruck, Terra Firma & Beyond		
Received Date:	05-Apr-2024	Consultation / Publicity Expiry Date:	07-May-2024
Valid Date:	05-Apr-2024	Statutory Expiry Date:	17-May-2024
Date of Site Visit:	15-Apr-2024	Extension of Time Date:	-----
Objections received?	None		
5 day notification record: Not applicable			
	Councillors notified	Date	Response received – date
Recommendation	Make a tree preservation order to protect the tree		
Report by:	Simon Eldred		
Date:	22 nd April 2024		

OFFICER REPORT

SITE AND SURROUNDINGS:

The notification concerns a mature, multi-stemmed sycamore which is growing at the top of the bank to the Frampton Towns Drain and within the front garden to The Elms, Thornimans Lane, Frampton.

DETAILS OF PROPOSAL:

It is proposed to fell the tree. The reasons put forward to justify these works are:



- *“safety reasons due to signs of decay ... and ivy beginning to effect the sound growth of the tree higher into crown”;*
- *“the tree is growing into overhead wires which will effect their integrity”;* and
- *“the tree is growing on a bankside of a ditch which seems to be becoming unstable.”*

RELEVANT HISTORY:

No recent, relevant history.

RELEVANT POLICIES:

The tree is located within the Frampton 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 indicates that:

1. it is *“a rather nice, healthy tree for a multi-stemmed sycamore”* and the images provided as part of the application *“do not show any signs of decay or obvious tree risk features which suggest the tree is in anything other than good health and structural condition”*;
2. *“ivy can be severed and/or removed without requiring a local authority’s permission, and doing so would improve light levels and reduce the load on the stem in winter”*; and
3. *“for clearance of the overhead wires, we would normally consider minor ‘keyhole’ pruning to achieve 0.5m clearance in all directions de minimis work and not require an application/notice. If the overhead wires are electric, the local network distributor will periodically maintain the minimum safety clearance.”*

THIRD PARTY REPRESENTATIONS RECEIVED:

No third-party representations have been received.

EVALUATION:

The Frampton Conservation Area contains large numbers of mature and semi-mature trees, and is generally very verdant. The Conservation Area’s character benefits greatly from the presence of trees.

The tree which is the subject of this notification is located within the curtilage to the dwelling known as The Elms, and on the northern bank-top of the Frampton Towns Drain. Largely unobscured views of the tree are available from Thornimans Lane, and it has considerable visual significance in the street-scene thanks to its height and the breadth of its crown (being multi-stemmed). It is visually prominent and is considered to have significant public amenity value. The felling of the tree will have a significant negative impact on the local environment, and upon the character and appearance of the surrounding part of the Frampton Conservation Area.

The application form sets out three arguments to justify the tree’s felling.

1. Safety reasons due to signs of decay ... and ivy beginning to effect the sound growth of the tree higher into crown - At the site visit, no signs of decay or structural problems were noted. Furthermore, East Lindsey’s Arboricultural Officer reports that the images provided as part of the application *“do not show any signs of decay or obvious tree risk features which suggest the tree is in anything other than good health and structural condition”*. The Arboricultural Officer also indicates that *“ivy can be severed and/or removed without requiring a local authority’s permission, and doing so would improve light levels and reduce the load on the stem in winter”*. In all, therefore, this argument is not considered to provide a sound justification for the proposed works.
2. The tree is growing into overhead wires which will affect their integrity – At the site visit, cables were noted in the vicinity of the tree. However, East Lindsey’s Arboricultural Officer indicates that *“for clearance of the overhead wires, we would normally consider minor ‘keyhole’ pruning to achieve 0.5m clearance in all directions de minimis work and not require an application/notice. If the overhead*

wires are electric, the local network distributor will periodically maintain the minimum safety clearance.” In all, therefore, this argument is not considered to provide a sound justification for the proposed works.

3. The tree is growing on the bankside of a ditch which seems to be becoming unstable – At the site visit, it was noted that the tree (along with many others) is growing on the northern bank-top of the Frampton Towns Drain. However, no signs of damage to the bank were noted. Furthermore, such problems are considered to be unlikely, given that tree roots will often increase the stability of a bank. In all, therefore, this argument is not considered to provide a sound justification for the proposed works.

Concerns have also been expressed that the tree may have re-grown from an underground stump, and is therefore suspect in safety terms and unsuitable for protection. However, whilst East Lindsey’s Arboricultural Officer confirms that this may be the case *“such regrowth does not inherently create a risk feature. Coppicing – deliberately cutting a tree at ground level to encourage the development of shoots to produce multiple first order branches – has been undertaken by man for millennia. It can create branch unions which may be weak, but not all such unions are likely to fail. Such failure seems less likely on this tree which has a more or less upright branching growth habit, a crown structure not easily penetrated by gusts of wind, and is well sheltered. The fact that some of our oldest trees have been coppiced in the past shows that this isn’t an obvious risk feature.”*

CONCLUSION:

The tree is considered to have sufficient public amenity value to merit protection, and the proposed works will entirely destroy its amenity value, with a significant negative impact on: the local environment; and the character and appearance of the surrounding part of the Frampton Conservation Area. The reasons put forward to justify the proposed felling are not considered to be robust.

In line with the Planning Practice Guidance quoted above it is therefore considered expedient for a tree preservation order to be made.

RECOMMENDATION:

Make a tree preservation order to protect the tree.