



Appeal Decision

Site visit made on 18 August 2020

by A Blicq BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2020

Appeal Ref: APP/TPO/A2525/7160

Highway verge, 61 West Elloe Avenue, Spalding

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to undertake work to a tree protected by a Tree Preservation Order.
 - The appeal is made by Lincolnshire County Council against the decision of South Holland District Council.
 - The application Ref: H16-1064-18, dated 17 October 2018, was refused by notice dated 13 December 2018.
 - The work proposed is Fell Lime.
 - The relevant Tree Preservation Order (TPO) is South Holland District Council TPO 13 1983, which was confirmed on 13 February 1984.
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Decision

1. The appeal is allowed and consent is granted to fell lime protected under South Holland District Council TPO 13 1983 in accordance with the terms of the application Ref: H16-1064-18, dated 17 October 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than two years from the date of this decision.
 - 2) A replacement tree shall be planted during the first planting season (October – March) following the felling of the tree. The tree shall be *Tilia cordata* 'Greenspire', girth 10- 12 cms, and shall be supplied in accordance with BS 3936-1: 1992 Nursery Stock - Specification for trees and shrubs (or an equivalent British Standard if replaced). The tree is to be planted in the highway verge opposite 89 West Elloe Avenue or in another location agreed in writing with the local planning authority. The local planning authority shall be notified two weeks in advance of replacement tree planting.
 - 3) If within a period of five years from the date of planting, the replacement tree, (or any tree planted in replacement for it), is removed, uprooted, destroyed or dies, or becomes in the opinion of the local planning authority, seriously damaged or defective, a tree of the same species and size as that originally planted shall be by planted in the same place, unless the local planning authority gives its written approval to any variation.
 - 4) All tree work, including removal of the stump to a depth of at least 300mm below ground level, shall be carried out in accordance with British Standard BS 3998: Tree work: Recommendations (or an equivalent British Standard if replaced).

Main Issues

2. The main issues are the effects of the felling of the lime on the character and appearance of the area, and whether sufficient justification has been demonstrated.

Reasons

3. The lime is situated at the corner of West Elloe Avenue and Ladywood Road, and is one of a number of mature limes forming a long and impressive avenue along West Elloe Avenue. Although the avenue is highly distinctive, individual trees make a moderate contribution to the avenue's overall impact. Moreover, I noticed that the canopy of this particular lime was less extensive than that of others nearby, and also contains a significant portion of deadwood.
4. The lime is also part of a small group of trees of similar stature at this road junction and its removal would not create a particular void when viewing the avenue as a whole. Consequently, I conclude that this particular tree makes a minor to moderate contribution to the character and appearance of the area.
5. The lime is situated directly beside a dropped crossing for use by pedestrians travelling along West Elloe Avenue. The footway between the lime and the kerb is steeply inclined and deformed. This is a hazard to pedestrians wishing to cross Ladywood Avenue, particularly those who might be using mobility scooters or pushing prams. There is insufficient space to traverse around the lime's trunk and remain on the footway. Moreover the dropped kerb directs pedestrians to this part of the footway when crossing.
6. The officer's report states that there are alternative solutions to providing a remedy for the narrow footway but does not state what those options might be. As far as I could see the situation could only be resolved by relocating this section of footway behind the lime's trunk or altering the geometry of the junction. However, raised ground levels and the presence of other mature vegetation in the vicinity appear to preclude the option of relocating the footway. In my experience, road geometry at junctions is strictly controlled to ensure highway safety. In any case, extending the footway would also require the relocation of a large road gully. Neither option seems particularly feasible.
7. In this instance, I conclude that there is sufficient reason to fell the lime. The minor to moderate adverse effect on the character and appearance of the area would be offset by the planting of another tree further along the road where there is a gap in the avenue.
8. I have imposed the conditions suggested by the Council to ensure that works are carried out according to best practice and that a replacement tree is planted and established in an agreed location.
9. I conclude that the appeal should be allowed.

A Blacq

INSPECTOR