



*St Edmundsbury*  
BOROUGH COUNCIL

**DEV/SE/16/08**

# **Development Control Committee**

## **7 January 2016**

### **Tree Preservation Order Application**

**DC/15/2196/TPO**

**11 Northgate Avenue, Bury St Edmunds**

**Date:** 27 October                      **Expiry Date:**  
**Registered:** 2015

**Case Officer:** Aaron Sands                      **Recommendation:** Grant Approval

**Parish:** Bury St Edmunds Town                      **Ward:** Risbygate

**Proposal:** TPO 218(1972)42 - Tree Preservation Order - 1no. Lime - Fell

**Site:** 11 Northgate Avenue, Bury St Edmunds IP32 6BB

**Applicant:** Mrs Julia Hadley

**Synopsis:**

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

**Recommendation:**

It is recommended that the Committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

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## **Background:**

**This application is referred to the Committee due to the interest shown by Councillor Julia Wakelam as a neighbour of the property and as one of the Ward Members and in the interests of openness and transparency.**

## **Proposal:**

1. Permission is sought for the felling of a Lime tree sited at the end of a row of 8 no. Lime trees comprising G8 of Tree Preservation Order 218 (1972). The application form states the poor health of the tree as the reason for the felling.

## **Application Supporting Material:**

2. Information submitted with the application as follows:
  - Application Form
  - Tree Inspection Report
  - Location Plan

## **Site Details:**

3. The site comprises a two storey, semi-detached dwelling within the Housing Settlement Boundary. The tree is one of three located within the rear of number 11 Northgate Avenue, with the line of Lime Trees continuing in gardens along Stephenson Place. The trees are visible in glimpses along Northgate Avenue with a more substantial view along Stephenson Place. They have historically been maintained as pollarded trees.

## **History:**

4. SE/11/1107 - TPO218(1972)33 - Tree Preservation Order Application - Fell one Lime tree with G8 on Order. Refused. 07/11/2011. Dismissed at Appeal 28/05/2012
5. SE/11/0605 - TPO218(1972)32 - Tree Preservation Order Application - Pollard 3 Lime trees (to reduce height by 3 metres) - trees within Group G8 of Order. Refused 08/07/2011
6. SE/08/0526 - TPO218(1972)28 - Tree Preservation Order Application - Remove all suckers to a height of one metre to three Lime trees (marked 1, 2 and 3 on plan) and reduce height of Lime tree closest to house (1 on plan) by two metres. All trees within group G8 on Order. Split Decision. 03/06/2008

### **Consultations:**

7. Arboricultural Officer: *No objection – the tree is showing signs of white rot and appears to be in poor health and felling would be appropriate. It is advised that a replacement may not be successful given the constraints of the area.*

### **Representations:**

8. Town Council: No objection
9. Councillor Julia Wakelam (as a neighbour):
  - Objection, the report does not adequately diagnose the fungus as Honey Fungus and the tree should be preserved for the reasons given by the Inspector in 2012 (*under appeal ref. SE/11/1107*)

### **Officer Comment:**

10. The issues to be considered in the determination of the application are:
  - Amenity of the Tree
  - Health of the Tree
  - Replacement of the Tree

#### Amenity of the Tree

11. The Lime tree forms the end tree of a group of Lime Trees retained from the development of the area. This row contributes to the leafy character of the area and is visible from Stephenson Place and in glimpsed views along Northgate Avenue. The trees are an important feature of the area, despite a wealth of tree cover in the area and it can therefore be considered that the tree has substantial amenity value, worthy of protection by TPO.

#### Health of the Tree

12. The Arboricultural Officer has visited the site and has noted that the tree is suffering from a white rot decay that has spread extensively and has meant that retention of the tree is not considered to be viable from an arboricultural perspective. Noting that such decay might spread to other trees in the area it would be arboriculturally appropriate to remove the tree to protect them and to prevent failing that could lead to property damage and endanger nearby residents.
13. Comments received from the Arboricultural Officer have indicated that the tree appears to have been damaged in the past arising from human causes. While the damage of the tree is an offence it is not considered that this would prejudice the removal of the tree given its failing health. The condition of the tree is such that, regrettably, its removal is justified. In reaching this position only arboricultural matters can be taken into account so, for example, it would not be reasonable to retain a tree that was otherwise considered to be unhealthy or dangerous, particularly noting that the disease may spread if this tree is not removed, simply on

the basis that there are suspicions about how the tree came to be unhealthy. Rather an objective assessment must be made and, in this instance and context, such an assessment points towards agreeing to the removal of the tree.

14. However, and all that said, and whilst the judgement above must be made objectively, if there are extraneous matters that have caused or otherwise contributed towards the decline in health of the tree, such that there are suspicions that a criminal offence might have occurred, then this is plainly not a matter that can be lightly disregarded. As such the matter has been passed to the enforcement team who will investigate appropriately. That said, it must be noted that this is a separate investigation and issue to the determination of this proposal, the judgement of which cannot be fettered by any concern that the health of this tree might (or of course might not) be as a result of any illegal human intervention.

#### Replacement of the Tree

15. Previous appeal decisions in relation to the felling of the tree have noted that a replacement tree would go some way to alleviate the loss of amenity caused by the felling. It should be noted that suspicions as to the cause of the decline in health of this tree cannot be used for or against in making a judgement as to whether or not a replacement tree is required. While the arboricultural officer notes that the constraints of the site may not be conducive to a replacement tree it is considered, however, that such a replacement should be sought in order to limit the considerable harm caused to the amenity of the area. The inspector in the case of appeal ref. SE/11/1107 comments that;

'[a replacement] would, in time, provide a feature and some screening that would be more constant without the need for regular pollarding. It would nevertheless be unlikely to reach the scale of the lime tree and would take some time to replace the amenity and screening currently afforded by it.

While a replacement of another lime might more appropriate in the context of the area the site constraints are considered to be inappropriate for a tree of this type and a tree more suited to a garden setting (in particular a variety of 'Malus') is considered to be most appropriate in this instance, striking the right balance between the suitable for the setting whilst also going some material way towards replacing the amenity value otherwise lost as a result of any approval under this application. .

#### **Conclusion:**

16. In conclusion, the tree is considered to be of sufficiently poor health so as to outweigh the strong positive contribution made to the character of the area. It is considered that its retention would be unreasonable in these circumstances where it might lead to safety issues and the spread of disease to other trees along this particular line and in the nearby vicinity. However, on balance, noting the discussion above, it is considered reasonable to require a replacement specimen to be planted.

**Recommendation:**

It is **RECOMMENDED** that **Approval be Granted** subject to the following conditions:

1. Standard time limit (2 years)
2. Accordance with latest arboricultural standards
3. Replacement tree required (please see appendix A for a replacement planting specification)

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online.

<https://planning.westsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=NWZGWDPD05M00>

Case Officer: Aaron Sands

Date: 21 December 2015