

## **Development Control Committee** **8 July 2020**

### **Planning Application DC/20/0600/TPO – 52 Street Farm Lane, Ixworth**

<b>Date Registered:</b>	02.04.2020	<b>Expiry Date:</b>	28.05.2020 EOT 17.07.2020
<b>Case Officer:</b>	Connor Vince	<b>Recommendation:</b>	Refuse Application
<b>Parish:</b>	Ixworth & Ixworth Thorpe	<b>Ward:</b>	Ixworth
<b>Proposal:</b>	TPO 429 (2006) Tree Preservation Order - 1no. Maple (T1 on plan and T2 on order) fell		
<b>Site:</b>	52 Street Farm Lane, Ixworth, IP31 2JE		
<b>Applicant:</b>	Deborah Scott		

**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 Development Control Committee following consideration by the Delegation Panel.**

**The Officer's recommendation is to refuse consent for the felling of the T5 – 1no. Field Maple for which consent is sought for.**

**The application was referred to the Delegation Panel as Ixworth Parish Council and a Ward Member supported the felling of the tree. The Tree Officers' recommendation is for REFUSAL.**

## Proposal:

1. TPO consent is sought to fell 1no. Field Maple.

## Application Supporting Material:

- Application Form
- Sketch Plan
- Photographs
- Arboricultural Officer's Comments

## Site Details:

2. The tree stated in the application is located within a residential cul-de-sac, situated directly south of 52 Street Farm Lane. The application tree is subject to the Tree Preservation Order 429 (2006).

## Planning History:

3.

Reference	Proposal	Status	Decision Date
SE/12/1135/TPO	TPO429(2006)4 - Tree Preservation Order Application Fell one Field Maple tree (T5 on Order).	Application Refused	03.10.2012
DC/15/2385/TPO	TPO429(2006)5 - Tree Preservation Order Application - 1no Maple Tree (T5 on Order) (i) crown raise 3.5m (ii) lateral crown reduction of up to 2 metres to the south west (iii) reduce height up to 2 metres	Application Granted	19.01.2016
DC/20/0600/TPO	TPO 429 (2006) Tree Preservation Order - 1no. Maple (T1 on plan and T2 on order) fell	Pending Decision	

### **Consultations:**

4. The Arboricultural Officer recommended refusing consent for the felling of the 1no. Field Maple on the basis that the harm to amenity is not justified by the justifications put forward by the applicant for the removal of this tree. This is discussed in more detail below.

### **Representations:**

5. Ixworth Parish Council: The members wish to support this application due to the damage that the tree is causing to drainage in the area. The applicant also stated she would be willing to replace the tree with a more suitable species.
6. Ward Member Councillor John Griffiths: Support - Having supported the application (alongside every member of the Parish Council, and others in Ixworth, and unaware of any local objections whatsoever) I am delighted to hear that your initial recommendation was one of Approval. Having read the comments of the arboricultural officer, I am however both rather surprised and disappointed that they have caused you to reverse this recommendation to one of Refusal. For what it is worth, I have to say I and others personally find the comments rather woolly, insubstantial and certainly no reason to refuse this particular application.

### **Public Interest generated by the application:**

7. Two comments of support from neighbours.

### **Policy:**

8. Assessment of Tree Preservation Order (TPO) works are not made with reference to specific Development Management Policies. Rather, they are assessed on the basis of good arboricultural practise, balancing the need and justification for the works against any harm to amenity.

### **Officer Comment:**

9. The issues to be considered in the determination of the application are:
  - Reason for the works
  - Impacts on the visual amenity of the local area
  - Impacts on residential amenity
10. The tree subject to this application is a mature Field Maple. It is actually T5 of the order, not T2 as cited in the application. It is of significant age for a Field Maple and pre-dates the housing development. The tree appears to have no significant defects at this time. The tree has had previous crown reductions (*DC/15/2385/TPO*), and has a well-balanced and compact crown. It could not be described as dominating any of the properties, and is of a scale that fits in well

with the location. The tree also appears to be the only remaining tree from a group of trees protected by a TPO in 2006, and as such is more significant.

11. The tree is located at the front of properties at the end of a cul-de-sac. As such it is visible from this cul-de-sac, but also from the main road the cul-de-sac joins from. As such it does contribute significantly to the verdant character of the village, which is also adjacent to a conservation area. Removal of the tree would therefore have a detrimental impact on the amenity of the area.

#### Reasons cited for felling

12. The first reason cited is damage to driveways. The location of the tree adjacent to tarmac driveways has caused some moderate uplifting from surface roots and buttress incremental growth. The damage caused by the uplifting is described by the Tree Officer as 'moderate only', and typically this type of damage can be repaired. A further alternative solution would be a flexible paving solution which would cope with moderate movement more successfully over time. This would allow the tree and its amenity value to be retained but is not an option the applicant appears willing to consider. On this basis, it is not considered that this reason is sufficient to justify the removal of the tree, either alone or in combination.
13. The second reason cited in the application is blocking off and damaging drains. However, in most cases tree roots entering a drain would not justify the removal of a tree with significant amenity value, as generally tree roots will only enter an already failed drain. Removal of the tree will not prevent other roots entering a failed drain for example. Again, therefore, it is not considered that this reason is sufficient to justify a removal of the tree, again neither alone nor in combination with any other reasons.
14. The final reason cited in the application is the size of the tree, and being located in a residential area, and which is therefore not a suitable sized tree for its location. However, the tree is approximately 7-8 metres tall, and of similar height to the surrounding buildings. It is well spaced from the residential dwellings, with good levels of light and air around the properties, and it is entirely appropriate, and desirable, that residential areas benefit from tree cover, for all the amenity and environmental benefits trees provide. The majority of residential areas have tree cover similar to this, and this would not be a reasonable reason to remove a tree with significant amenity value, again, neither alone nor in combination with any other reasons.

#### Legal Issues

15. The application also raises the question of responsibility for the damage caused to the driveway, and blockage of drains. A Local Planning Authority, in some circumstances, can be liable for loss or damage as the result of a planning decision.
16. Having consulted Legal Services, it is confirmed that by reason of Regulation 24 of the 2012 Regulations, compensation is a possible

consequence. The relevant TPO appears to be post 1999, which means that the compensation rights are more limited than they would otherwise be. Claims have to be made within 12 months of the decision to refuse or impose conditions.

17. In the circumstances of this case, and noting the issues discussed in the preceding section, Officers remain of the opinion that, balancing all matters, refusal remains justified. Members should note that the question of liability is not a material planning consideration and their deliberations should concentrate on the amenity value of the tree and the justification for removal put forward in the application.

#### Response to Neighbour Comments

18. Support and comment from two adjacent properties is noted. Turning to the comments from number 50, the first point is the species of the tree, which is a Field Maple. This is a very different tree from a Sycamore. While seeds may be a minor nuisance for gardeners, this would rarely be sufficient grounds for removing a tree with significant amenity value. For example a much larger Walnut tree was noted in the neighbour's property, which will shed as much fruit. In addition, many seeds are wind borne, and the seed bank in any location will always result in vegetation growing, and this would be considered routine maintenance for a garden. The neighbours' comments then reiterate the uplifting to the driveway and blocked drains, covered above.
19. Turning to the comments from number 54, the Arboricultural Officer advises that much of the information provided by the tree surgeon, as cited, is inaccurate. It should be noted the mature tree sizes quoted do not relate to this tree. This is a mature Field Maple. The species typically has a mature height of 7 to 8 metres, very different from other members of the Acer genus, quoted in the neighbour's comments. Its age is 'mature'. This means it is in the final third of its life, which is the stage where growth slows and trees have typically reached their maximum size. In addition, the species responds well to sympathetic crown reductions, which long term will enable the size of the crown to be managed appropriately.
20. With specific reference to shading of number 54, this would not be considered significant. The tree is located a significant distance from the property, with the closest part of the crown over 10 metres from the front of the house, and there are high levels of both direct and indirect light to the property. The tree is of similar height to surrounding buildings and given the aspect, would not be described as unduly, or unreasonably shading the property. This level of shading would not generally justify removal of a tree with significant amenity value.
21. As highlighted above, there is some moderate uplifting to driveways, which has caused moderate damage. As such, this is the primary factor in considering this application.
22. It is noted that the substantive issue regarding the application concerns the damage caused to the applicant's driveway versus the

amenity value attributed to the tree. It is also noted that it is the opinion of the Tree Officer that the tree can be retained whilst there is an alternative solution to damage caused to the driveway by incorporating flexible paving to the affected area. With all the aforementioned in consideration, the proposed felling of the Maple Tree is recommended for refusal.

**Conclusion:**

23. In conclusion, the proposal to remove the Field Maple Tree is considered to be unacceptable

**Recommendation:**

24. It is recommended that consent for these works be **REFUSED** for the following reason:

1. The tree in this application is the only remaining in what was a line of trees that were incorporated into the estate when it was developed. The tree is visible from public vantage points and forms an attractive backdrop to dwellings along this road. As such, the tree makes a positive contribution to the character and appearance of the area and is an integral feature of the mature and verdant landscape of the locality. The removal of the tree would leave a noticeable gap within the landscape and would markedly erode the mature and verdant landscape of the locality. This would give rise to considerable harm to the character and appearance of the area. Given the age and amenity value attributed to the tree and given the alternative solutions which would address the uplifting and damage to driveways, in this circumstance, it is not considered that a complete felling of the tree would be justified and would not outweigh the adverse visual impacts that would arise. As a consequence, the removal of the tree would not be justified.

**Documents:**

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/20/0600/TPO](https://www.dorsetcouncil.gov.uk/DC/20/0600/TPO)