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## Appeal Decision

Site visit made on 29 January 2013

**by Simon Pryce**

an Arboricultural Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: **25 FEB 2013**

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**Appeal Ref: APP/TPO/E2530/3032**

**Windmill Lodge, Windmill Way, Stamford, Lincs, PE9 2RH**

- 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 Mr B Coleby against the decision of South Kesteven District Council.
  - The application Ref: S12/2833/TPO, dated 1 November 2012, was refused by notice dated 12 December 2012.
  - The proposed work is the felling of one sycamore.
  - The relevant Tree Preservation Order (TPO) is the South Kesteven District Council. Stamford [Windmill Way] TPO, 1990, which was confirmed on 13 March 1990.
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### Decision

1. This appeal is dismissed.

### Main Issues

2. In my view the main issues in this appeal are:
  - 2.1 The tree's amenity value.
  - 2.2 The tree's safety and stability.
  - 2.3 The effect of the tree on living conditions nearby, including shade, leaf litter and honeydew drip.

### Reasons

#### *Amenity value*

3. The tree has an asymmetrical crown, but that is normal in trees growing at the ends of rows and edges of groups and it is natural looking. The row is a major local feature and the tree is one of the larger ones. It is not quite as tall as the central ones, but accounts for a large part of the width when the row is viewed from the side, so is prominent as an individual as well as contributing significantly to the group. It is a prominent feature of the garden, but well away from the house. It is closer to the houses on the other side of Windmill Way, but the first branches start well above ground, so the effect is not as oppressive as it might otherwise be. It is readily visible as an individual and as part of the group from a significant part of Windmill Way and from the surrounding gardens, although I accept that it is not as noticeable as an individual from Empingham Road and Casterton Road. There are some other

trees in the vicinity, but it and the group as a whole make a significant and positive contribution to the character of the area. In my view there would therefore need to be compelling reasons for allowing it to be removed.

### **Safety**

4. The tree's size and location create a potential for it to cause considerable damage in the event of a major failure. The possibility of that occurring during exceptional winds cannot be dismissed entirely, but there are no signs of any decay or other defects that might create an abnormal risk. There are also options for work to lessen the tree's weight and wind resistance. While I accept that safety is a valid concern I do not consider the risk associated with this tree is sufficient to justify removing it simply as a precaution.

### **Effect on living conditions**

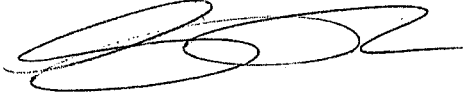
5. The tree is to the north of the nearest houses and the crown starts well above ground, so it will not block significant amounts of direct sunlight. I accept that it will cast a shadow in the garden of Windmill Lodge, but light levels near it will not be unreasonably low even when it is in leaf. The crown will also intercept some rainfall in the garden of Windmill Lodge and some water will be absorbed by the roots but, from my observations this does not constrain use of the garden so severely as to justify removing the tree.
6. During the growing season sycamores are often colonised by aphids which suck the sap and excrete honeydew, a sugary liquid, which is sticky and can make smooth surfaces slippery in the wet. However nearly all of the ground under the tree is the garden or road, on which this is unlikely to be a significant problem, although I accept that some of it might drift onto cars parked nearby. However it is water soluble and can be cleaned off without undue difficulty. Felling the tree would reduce the quantity but, with other sycamores growing nearby it would not eliminate the problem. I recognise that honeydew is an inconvenience, but it is seasonal and I do not consider that it is severe enough to warrant removing a tree with significant amenity value.
7. Fallen leaves can be an inconvenience and can accumulate in quantity at times. However they are a natural, seasonal phenomenon and can be cleared from paths and areas where they might cause a slip hazard without undue difficulty, although I recognise that this might need to be done regularly during the autumn. Removing the tree would reduce the quantity but, as there are several other sycamores nearby, it would not eliminate the problem and, in my view, would not be sufficient grounds for removing this tree.
8. The carriageway near the tree's base is uneven in places, but looks to have been laid to a high standard and I could see no sign that it had been damaged by roots. In that event the surface could be repaired without the need to remove the tree, so I am not persuaded that this justifies felling the tree.

### **Conclusions**

9. The tree is prominent as an individual and as part of the group and, while I accept that it is not particularly visible from the main roads, it makes a significant contribution to local amenity, so there would need to be compelling reasons for allowing it to be removed.
10. Its size and location create a potential for considerable damage in the event of a major failure, but there are no signs of any decay or other defects that might

create an abnormal risk and there are options for work to reduce weight and wind resistance, so I do not consider that felling is justified simply as a precaution. The tree will create shade and block some rainfall, but neither of these problems is severe enough to warrant removing it. Honeydew and fallen leaves can be an inconvenience, but both are seasonal phenomena that can be dealt with without undue difficulty and do not warrant removing the tree. There are no clear signs of root damage to the road and, in that event, it could be repaired without removing the tree.

11. Having given these matters careful consideration I therefore dismiss this appeal.



**Arboricultural Inspector**



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# Appeal Decision

Site visit made on 19 February 2013

**by Michael R Moffoot DipTP MRTPI DipMgt MICMI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 4 March 2013**

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**Appeal Ref: APP/E2530/D/13/2189792**

**67 Harrowby Road, Grantham, Lincolnshire NG31 9ED**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Trevor Digan against the decision of South Kesteven District Council.
  - The application was refused by notice dated 18 December 2012.
  - The development proposed is described as 'change front garden into parking area involving a drop kerb to the pathway in front of garden wall'.
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## Decision

1. The appeal is allowed and planning permission is granted to drop kerb and create parking area at 67 Harrowby Road, Grantham, Lincolnshire NG31 9ED in accordance with the terms of the application Ref S12/1692/FULL dated 4 July 2012, and subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: (i) site location plan and (ii) 1:50 scale site plan.

## Procedural Matter

2. The Council's decision notice describes the proposal as 'drop kerb and create parking area'. I consider that this more succinctly describes the development and I shall determine this appeal on this basis.

## Application for Costs

3. An application for costs was made by Mr & Mrs Trevor Digan against South Kesteven District Council. This application is the subject of a separate Decision.

## Main Issue

4. The main issue is the effect of the proposed development on highway and pedestrian safety on Harrowby Road.

## Reasons

5. No 67 Harrowby Road is a semi-detached, two-storey family dwelling located in a predominantly residential part of the town. Vehicular access to the property presently consists of a dropped kerb some 2.7m wide. The front boundary wall

- has been demolished, and the proposal involves widening the dropped kerb by 4m so that the front garden area can be used for parking more easily.
6. In the row of housing between Nos 41 and 87 Harrowby Road some 14 properties have dropped kerbs (some full width) and off-street parking, and one dwelling has forecourt parking although the associated kerb has not been dropped. Few properties have turning space within the site, and I understand that planning permission has been granted for a number of the accesses.
  7. There are few parking restrictions in the area and on-street parking space on Harrowby Road and surrounding streets was plentiful during my mid-afternoon site visit. Although no parking surveys have been provided, conditions would no doubt be different during the evening and at weekends when more residents would be at home and there would be greater demand for parking on the highway.
  8. However, whilst widening the dropped kerb would result in the loss of a parking space to the front of No 67, it would provide at least one additional space on the front garden area of the appeal site, and possibly two. Accordingly, whilst parking space on the highway would be slightly reduced, additional space within the appeal site would lessen demand for on-street parking. Local residents who park on the road would not therefore be disadvantaged to any material extent. Moreover, I have seen no evidence to show that the proposal would create on-street parking problems in the wider area as some parties contend.
  9. Turning within the appeal site would not be possible, and the proposal would involve vehicles either reversing into the site and exiting in a forward gear or driving in and reversing out. Either manoeuvre would involve some interruption to the free flow of traffic on Harrowby Road, but it would be little different to a vehicle manoeuvring in and out of a parking space on the street to the front of the property.
  10. I acknowledge that there would be potential for vehicles entering or leaving the site to obstruct people using the footway. However, visibility for a driver would be reasonable in both directions, and given the relative infrequency and short duration of such manoeuvres and the low speeds involved I am satisfied that the safety of pedestrians would not be materially compromised. In this respect, I note that there is no accident data in relation to vehicle movements to and from properties on Harrowby Road, and the County Council as highway authority offered no objections to the scheme. The wider dropped kerb would present no greater problem for pedestrians or those using pushchairs than the existing access, nor would it be an appreciably greater hazard in winter.
  11. In summary, the proposal would not materially harm highway and pedestrian safety, and would not therefore conflict with the broad objectives in the *National Planning Policy Framework* concerned with highway safety.

### **Other Matters**

12. I understand that the locality is being considered for conservation area status by the Council, but as far as I am aware it has not been formally designated. Moreover, I have seen no details of a proposed crossing in the vicinity of the appeal site. These matters therefore have no bearing on the planning merits of the case.

13. The front boundary wall has already been demolished, and the dropped kerb and the hardstanding within the site would not materially harm the character and appearance of the street scene. No technical evidence has been provided to show that the proposal would increase flooding, and I see no grounds to believe that it would harm biodiversity in the area.
14. There is no reason to suppose that the proposal would lead to friction between residents as a result of competition for on-street parking spaces, and I have seen no evidence to show that it would affect business operations at the church or church hall or the long term future of the buildings.
15. The issue of precedent has also been raised, and whilst I acknowledge that the Council may find it difficult to resist further similar applications this does not justify dismissal of the appeal proposal on these grounds.
16. It may be the case that the appellants could access the forecourt via the existing single dropped kerb, but an application has been made and refused and it is for me to determine the subsequent appeal. Finally, concerns regarding the Council's handling of the application at the Committee stage relate to procedural matters and do not affect my consideration of the merits of the case.

### **Conclusion**

17. For the reasons given, I conclude that the proposal is acceptable and the appeal should succeed subject to a condition listing the approved plans to facilitate minor material amendments.

*Michael R Moffoot*

Inspector