Planning Inspectorate

Appeal Decision

Site visit made on 21 March 2026

by Elaine Benson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2026

Appeal Ref: APP/TPO/D0520/10784

29 Louthe Way, Sawtry, Cambridgeshire PE28 5TR

- 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 (TPO).
- The appeal is made by Mr William Kirkwood of 2 Spriggs Close, against the decision of the Huntingdonshire District Council.
- The application Ref: 25/00808/TREE, dated 13 December 2024, was refused by notice dated 8 July 2025.
- The work proposed is tree NT3 (ash) fell and replace.
- The relevant TPO is the Huntingdonshire District Council TPO 2494 Land off Louthe Way, Sawtry, Huntingdon, Cambridgeshire which was confirmed on 10 March 1995.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are firstly, the effect of the proposed felling of the ash tree on the character and appearance of the area and secondly, whether sufficient justification has been demonstrated for these works.

Reasons

3. The appeal relates to a semi-mature, multi-stemmed ash tree. It is some 11m tall, with a 4m canopy spread and appears to be in fair overall physiological and structural condition. The ash is within a belt of protected medium and large canopied trees which are a significant feature in the local landscape.

4. Due to its size and location, the tree is readily apparent in views from the public realm, with its canopy visible from Spriggs Close and Louthe Way. From Louthe Way it can also be seen as part of a linear row of trees. The ash contributes positively to the area's pleasant character which is enhanced by the large number of mature trees in the locality and it provides an attractive background to the houses around it. Removal of the ash would significantly harm the character and appearance of the surrounding area, including by partially degrading the belt of trees.

5. In the light of the contribution that the appeal tree makes to local amenity and the harm that would arise from its felling, any reasons given to justify the proposed

works need to be compelling. I now turn to the reasons put forward for these works, the second main issue.

6. The ash stands in the back garden of 29 Louthe Way (No 29), close to its rear boundary fence with 2 Spriggs Close (No 2). The canopy of the ash partially overhangs the neighbouring gardens to the side and rear. The appellant seeks to fell the ash for reasons including concerns that the ash is too close to neighbouring properties. He states that at 10m from No 29 and 6.7m from No 2, the tree causes shading and impacts on overall amenity. I consider that the ash is at a sufficient distance from the nearest habitable rooms windows and the most usable areas of the garden of No 2 to prevent unacceptable impacts on living conditions.

7. I understand the appellant's concerns about the potential future impacts of the tree, including encroachment. However, as with all trees, regular monitoring of the ash would enable timely decisions about its maintenance to be made. Moreover, the proximity of the tree to the house would have been apparent to prospective residents prior to choosing to live there. Indeed, such matters are common for tree owners and go together with living in an area which is defined by a mature landscape and which provides an attractive area in which to live.

8. The appellant's Tree Assessment Report (the Report) states that the ash is a woodland tree without sufficient space to grow normally. However, there is little evidence to support this assertion and in my experience ash trees are commonly found in residential settings. Furthermore, it is also asserted that the tree could grow to a height in excess of 21m. This would suggest a normal growth pattern for a healthy ash and in itself would not justify felling the tree. But in any event, this appeal decision would not preclude future applications for tree works if and when circumstances change. I note that an application for pollarding the ash has already been refused and that the Report indicates that future pollarding would harm amenity. However, other works may well be appropriate in the future.

9. The appellant queries whether the erection of No 2 should have been allowed, given its proximity to the tree. I do not have the planning history of the wider site. However, it appears that the TPO was made in the light of future residential development in the area around it. Furthermore, it can reasonably be assumed that the location of trees and the relevant regulations relating to foundation depth were considerations at that time. But in any event, I am required only to determine the appeal that is before me on the basis of the current situation, which includes the residential setting of the ash.

10. Moreover, works to protected trees which are proposed on the basis of structural risk or alleged damage to property should be supported by technical evidence from a relevant engineer, building surveyor or other appropriate expert that demonstrates that the tree is a material cause of the problem and that other factors have been eliminated as potential influences so far as possible. No such evidence has been provided. Indeed, the appellant's own Report states that "no damage was

seen in the main building that could be attributable to trees". Accordingly, the proposed felling of the ash is not justified on this basis.

11. I recognise the appellant's willingness to replace the ash tree, subject to the agreement of the species with the tree's owners. However, any replacement planting would take many years to reach the stature of the appeal tree and to reinstate a similar level of visual amenity. Replacement planting would therefore be inadequate to mitigate the harm I have identified to the character and appearance of the area.

12. In terms of other matters raised, I note that Sawtree Town/Parsh Council does not object to the proposal, however this does not outweigh the concerns I have set out above. The appellant disputes the validity of and reasons for making the original TPO and claims that the characteristics of the appeal ash are insufficient to warrant its inclusion in the TPO. However, the validity of the TPO is not a matter for consideration in this appeal, which is only to determine the acceptability of the proposed tree works on their merits under the 'fast track' appeals procedure. Furthermore, Section 284 of the Town and Country Planning Act 1990 makes clear that the validity of an order cannot be challenged in any legal proceedings, including appeals, except by way of applications to the High Court within 6 weeks of the TPO being confirmed.

13. The appellant considers that a recent consent to fell 2 protected ash trees at nearby 17 Louthe Way sets a precedent for the appeal proposal. Whilst the evidence about that consent is limited, it appears that the justification for the works included the structural impact of and condition of the trees. The two cases are not therefore comparable. But in any event, I am required to determine this appeal based only on the circumstances pertaining to the appeal ash tree.

14. A number of concerns are referred to by the appellant, including the failure of the Council to publish all of the appellant's submissions on its website and inconsistencies in the processing of applications relating to the ash. He also states that a previous consent for felling the ash was subsequently withdrawn due to issues relating to replacement planting, whereas I note that the Council's officer report indicates that "another application was submitted incorrectly to remove this (tree) and another one nearby". The full circumstances are not before me. However, matters relating to procedural fairness and consistency are more appropriately addressed through the Council's own complaints procedures and are not matters for consideration in this appeal.

15. In conclusion, with any application to carry out works to protected trees, a balancing exercise needs to be undertaken. The essential need for the works applied for must be weighed against the resultant loss to the amenity of the area. In this case, the felling of the ash tree would give rise to significant harm to local amenity. In the absence of detailed and convincing arboricultural or other technical

evidence to support the appellant's concerns, I conclude that the proposed works have been insufficiently justified.

16. Accordingly, for the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Elaine Benson

INSPECTOR