

Application Number:	2021/0175/TRC
Site Address:	Blue Lagoon, Farrington Crescent, Lincoln
Target Date:	17th February 2022
Agent Name:	Deadwood
Applicant Name:	Mr Andrew Founds
Proposal:	T001 Goat willow x2 - Fell. T002 Silver Birch- Fell. T003 Silver Birch- Fell. T004 Silver Birch- Fell. T005 Sycamore- Fell. T005.1 Oak- Crown lift to 3m. T006 Oak- Crown lift to 5.2m. T007 Silver Birch- Fell. T008 Goat willow- Coppice. T009 Silver Birch- Fell. T010 Silver Birch- Fell. T011 Silver Birch- Fell. T014 Goat willow- Coppice. T015 Goat willow- Coppice. T016 Oak- Reduce canopy back to suitable growth point over footpath. T017 Oakx2- Crown lift to 5.2m for highway clearance. Various tree species- Silver Birch, Willow.- Fell (Removing no more than 5m ³ of timber) (Part Retrospective)

Background - Site Location and Description

The Blue Lagoon is a lake situated off Farrington Crescent to the southwest of Lincoln. Its retention was required as an amenity space when the area was developed for housing in the 70s. Two conditions were attached to the planning permission at that time, the first required consent to be obtained from the City Council prior to carrying out any work to the remaining trees on the site and the second condition was the one which required the retention of the largest lake as an amenity area that is known locally as the Blue Lagoon. The lake is surrounded by narrow banks containing mostly self-set indigenous tree species and dense undergrowth, but only the trees are protected by the planning condition.

Site History

The area was never conveyed over to the City Council to be maintained at public expense and has remained in private ownership since the completion of the development during the 80s. Despite this, the land has remained open for public benefit and is used frequently by local residents as an accessible amenity area to walk around. Numerous properties back onto this area and therefore benefit from the view it provides. The lake was owned and managed by the police federation for the benefit of its members who fished there for several decades, but more recently was owned by a private local company prior to its transfer to the current owner and applicant. It would appear that this lake has been a small scale private fishing venue and used as such since the 70s.

The new owner received a grant from the Environment agency in 2020 to carry out works which sought to improve the biodiversity of the lake for the benefit of the fish and wildlife, which in turn would improve the angling experience for club members. The improvements included works to the banks and verges to clear organic matter and add beneficial planting. The owner started carrying out work to the area in November 2020 which included pruning and felling trees around the lake. Any work to trees in this area requires consent from the City Council in accordance with the planning condition, but no application was submitted, and the works were carried out in breach of the regulations.

Enforcement Officer Site Visit

The City Council became aware of these works following an enquiry from a member of the public as to whether the activities taking place had consent. No application was recorded

on the planning system and so an enforcement officer visited the site to investigate further. The officer discovered that numerous trees had been pruned or felled and, as there was not consent in place for such works, was of the view that a breach of the planning condition had occurred.

Issues

Following the visit by the enforcement officer, the City Council's Arboricultural officer inspected the works and concluded that he would have been unlikely to agree to the works that had been undertaken as they had not been carried out to British Standards. Officers therefore concluded that had the works been applied for prior to being undertaken, they would not have received a positive recommendation. The owner was advised of the suspected breach and further advised not to carry out any more work. The owner complied immediately with this request. The owner stated that they would like to continue to manage the area for the benefit of the lake and apply to carry out some more works to the trees with the City Council's consent, as the area had been unmanaged for decades and still required attention to improve biodiversity.

Public Consultation Responses

Whilst there is no formal consultation process for this type of application, because recommendations are based on a scientific assessment of the trees and their amenity value, local residents have expressed their objections to the work that took place without consent via the enforcement team. Some of that objection was because the owner had not obtained consent correctly where others have taken the trouble to do so and that this is not equitable. Officers always encourage landowners to engage in the correct process where consent is required, but there are still times when breaches occur. The sanction in this instance is the threat of enforcement action and a notice to replace the felled/destroyed trees. However, on this occasion, the landowner was apologetic once notified that a breach had occurred and explained that they had proceeded with the works on account of a misunderstanding around whether the trees were protected. The owner stopped work immediately upon notification of the breach and has cooperated with every request from officers, including one to submit an application.

Other complaints received related to the impact on wildlife and loss of trees, which in principle should be avoided due to the screening and view they provide, in addition to the benefits in relation to climate change. The land is privately owned, and the City Council has no lawful ability to prevent the submission of applications in relation to this area. The City Council also have no ability to require the owners to permit public access, nor is there a right to a view or screening from this private land. This matter is therefore one that cannot be taken into consideration as part of the assessment of this application.

The final issue that has been a cause of concern for local residents is the use of the area as a fishing venue. The owner has obtained grant funding from the Environment Agency to improve the biodiversity of the lake. Residents were concerned that the purpose of this was to increase fishing at the lake, which would be detrimental to residential amenity due to increased on-street parking on Farrington Crescent and activity around the lake. There are also no welfare facilities on site, so the prospect of anglers spending long periods of time at the lake is also a matter of concern for local residents. Officers have assessed the environmental grant works that have taken place, whether they would require planning permission and whether it would result in an increase in activity at the site, which could also require planning permission.

The works in themselves are small scale and considered de minimis as there has been very little operational development resulting from the improvements. The level of use of the lake for fishing is also ancillary to its allocation as an amenity area and the environmental works are not considered extensive enough to allow for an increase in anglers. The owner has stated that it will remain a member's only fishing venue that is intended to attract small scale family fishing for a few hours and would be for small species such as Rudd. There is no intention to stock the lake with larger species, like Carp, or encourage competition fishing which would see an increase in the number of anglers or for a longer period. The use was assessed by officers and considered ancillary to the amenity use, operating at a level that does not require planning permission.

Consideration

An application was submitted in February 2021, but it did not contain the tree survey that officers had requested and so the application was not progressed. Due to covid restrictions and the availability of the tree specialist appointed by the owner, that report was not submitted until January 2022. The application to be considered includes works to trees that the owner would like to carry out and lists the work that was carried out in breach. The application has been considered by the City Council's Arboricultural officers and the report of this assessment forms part of this application. Officers are not proposing to recommend approval for the unauthorised works that have taken place as it is unlikely the City Council would have permitted the extent of works undertaken or the manner in which they were carried out. However, as part of the consideration process, officers have assessed whether it would be necessary and appropriate to require replacement planting.

Whilst it is acknowledged that the retrospective works were not appropriate, the tree cover remains very dense around the lake, and it is considered that some of the trees are certainly supressing each other. In the interests of the proper planning and management of the area, it is not considered appropriate or necessary to replant any trees to replace the ones which were removed without consent as there remains a large number of mature trees. In considering the proposed works, officers are of the view that not all of these works are appropriate or necessary and support the assessment of the City Council's Arboricultural officer in recommending refusal of certain elements (as explained in the tree report within the application).

Whilst there have been several objections from residents regarding the activities of the owner, the City Council can only consider matters relevant to the tree application that has been submitted. The environmental grant works and use of the lake are not elements that can be taken into account in considering the proposed tree works, these elements have been concluded separately and do not form part of this application.

Conclusion

The owner has submitted a 10 year plan for the site and now fully understands his obligations in relation to the planning conditions and the need to apply for the City Council's consent prior to undertaking any future works. It is not considered that any of the proposed works will have a detrimental impact on the amenity of the lake, as required to be preserved by the planning condition, nor is it considered that there will be any detriment to the amenity of the area by permitting further works to be carried out to the remaining trees.

Application Determined within Target Date

No.

Recommendation

That the application is Split

That partial consent is granted to carry out certain works as detailed in the extract below from the City Council's tree report and that consent is refused for those works identified by the City Council's Arboricultural officer as not being appropriate.

T001 Goat willow x2 - Fell	approve	
T002 Silver Birch- Fell	approve	
T003 Silver Birch- Fell	approve	
T004 Silver Birch- Fell	refuse	
T005 Sycamore- Fell	approve	
T005.1 Oak- Crown lift to 3m	approve	
T006 Oak- Crown lift to 5.2m	approve	
T007 Silver Birch- Fell	approve	
T008 Goat willow- Coppice	approve	
T009 Silver Birch- Fell	approve	
T010 Silver Birch- Fell	refuse	
T011 Silver Birch- Fell	refuse	
T014 Goat willow- Coppice	approve	
T015 Goat willow- Coppice	approve	
T016 Oak- Reduce canopy back to suitable growth point over footpath		refuse
T017 Oakx2- Crown lift to 5.2m for highway clearance		approve

Additional works

T018 Goat Willow- Coppice for highway clearance		approve
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Retrospective works

Various tree species- Silver Birch, Willow. - Fell (Removing no more than 5m³ of timber)
no replacements required

Standard Conditions

- 01) The approved works must be carried out within two years of the date of this letter, any additional works, repeat works or works beyond this date will require a new application. All works must comply with British Standard BS3998:2010 Tree work - Recommendations.