

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Development and Conservation
Control Committee
AUTHOR/S: Finance and Resources Director

7 December 2005

Tree Preservation Orders – Notification of service of 16/05/SC in Caldecote, and re-evaluation of process

Recommendation: To note service and approve suggested process

Purpose

1. (a) To inform Members about a Tree Preservation Order in respect of land at Highfields, Caldecote.
- (b) To consider streamlining the process for dealing with Tree Preservation Orders.

Effect on Corporate Objectives

2..	Quality, Accessible Services	Not applicable
	Village Life	The presence and protection of the natural environment enhances the quality of village life.
	Sustainability	The presence and protection of trees helps to control pollution levels, and therefore contributes to the Council's commitment to the climate change agenda. Trees provide an important micro habitat for both flora and fauna.
	Partnership	Not applicable

Background

3. Tree Preservation Order no. 16/05/SC (Highfields, Caldecote) was served by officers on 15th November 2005. It was not deemed an emergency (it was not, for example, linked to a planning application) for which officers currently have delegated authority to act. However, it was considered sufficiently important that service should not be delayed until after the December meeting of the Development and Conservation Control Committee. The Order relates to an oak tree in the rear garden of 72 Highfields, Caldecote, and was made because the tree is visually important within the vicinity and adds to the local character of the area. It remains in force, provisionally, until 14th May 2006.
4. The Town and Country Planning Act 1990 prescribes the form that Tree Preservation Orders should take, but leaves it for Local Planning Authorities to determine their own internal processes. The current practice at this Council is as follows:
 - (a) where a Tree Preservation Order is deemed necessary as a matter of emergency, officers have delegated authority to serve such an Order. In such a case, a report seeking confirmation of the Order would be presented to the Development and Conservation Control Committee within six months of service, regardless of whether or not any objections to it have been received.

- (b) Where a Tree Preservation Order is deemed necessary, but there is no emergency, perhaps because it has been requested by the land owner, a report is presented to the Development and Conservation Control Committee seeking authority to make the Order and further, subject to there not being any objections, to confirm it within six months of service without further reference to Committee.
 - (c) In the case of both (a) and (b) above, a valid objection to a Tree Preservation Order triggers a Member site visit and a report to Committee for Members to determine whether or not to confirm.
- 5. There is nothing to prevent Local Planning Authorities from delegating to officers the entire process of making and confirming Tree Preservation Orders.
- 6. The Council can either:
 - confirm the Order, having not received any objections
 - confirm the Order, without modification, having considered objections but rejected them
 - confirm the Order, subject to such modifications it deems expedient
 - decide not to confirm the Order
- 7. There is no right of appeal to the Secretary of State against the making or confirmation of a Tree Preservation Order. Once the Order has been confirmed though, an aggrieved, interested party may, within six weeks of the date of confirmation, apply to the High Court to have the decision reviewed.

Considerations

- 8. Members may feel that there is a better way of processing Tree Preservation Orders.

Options

- 9. The Committee has a number of alternative options:
 - (a) continue the procedure outlined in paragraph 4
 - (b) extend delegated authority to officers to make and serve *all* Tree Preservation Orders (both emergency and non-emergency) with Committee determining whether or not to confirm them and, if so, with or without modification.
 - (c) extend delegated authority to officers
 - to make and serve all Tree Preservation Orders (both emergency and non-emergency)
 - to determine whether or not, in consultation with the Chairman and Vice-Chairman of the Development and Conservation Control Committee and the local Member or Members, to confirm them and, if so, with or without modification,.
 - (d) extend delegated authority to officers
 - i to make and serve all Tree Preservation Orders (both emergency and non-emergency);
 - ii to determine whether or not, in consultation with the Chairman and Vice-Chairman of the Development and Conservation Control Committee, and with the local Member or Members, those Orders to which no objections are raised should be confirmed and, if so, with or without modification; and

- iii. reserve to itself determination of whether or not to confirm those Orders to which objections are raised and, if so, with or without modification.

Financial Implications

10. Options (a) and (b) are cost neutral. Options (c) and (d) may result in small cost savings in not having to prepare and print reports. The average Tree Preservation Order report, with appendices, amounts to 5-6 pages, and the print run currently is 72.

Legal Implications

11. The issue is one of administrative efficiency and effectiveness. The changes outlined in this report respect the legal requirements imposed by the Town and Country Planning Act 1990.

Staffing Implications

12. None.

Risk Management Implications

13. There are no risk management implications.

Consultations

14. The Democratic Services Manager, Head of Legal Services and Trees and Landscape Officer have been consulted in preparing this report.

Recommendations

15. It is **recommended** that the Committee
 - (1) notes service of Tree Preservation Order 16/05/SC at 72 Highfields, Caldecote, and gives officers delegated authority to confirm it, subject to there being no objections; and
 - (2) extends delegated authority to the Trees and Landscape Officer or, in that officer's absence, to the Trees and Landscape Assistant
 - to make and serve all Tree Preservation Orders (both emergency and non-emergency); and
 - to determine whether or not, in consultation with the Chairman and Vice-Chairman of the Development and Conservation Control Committee, and with the local Member or Members, those Orders to which no objections are raised should be confirmed and, if so, with or without modification; andreserves to itself determination of whether or not to confirm those Orders to which objections are raised and, if so, with or without modification.

Background Papers: the following background papers were used in the preparation of this report:

- Tree Preservation Orders – A Guide to the Law and Good Practice, Department of the Environment, Transport and the Regions 2000

Contact Officer: Ian Senior – Democratic Services Officer (Tel: (01954) 713028)