

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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

1 February 2006

Tree Preservation Order – 11/05/SC (Ashwell House, Fardells Lane, Elsworth) and 16/05/SC (72 Highfields, Caldecote)

Recommendation: To confirm without modification

Purpose

1. To review Tree Preservation Order no.11/05/SC in Elsworth and 16/05/SC in Caldecote.

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. Section 198 of the Town and Country Planning Act 1990 enables local planning authorities, where it is expedient in the interests of amenity, to make provision for the preservation of trees or woodlands in their areas, to make Tree Preservation Orders with respect to such trees, groups of trees or woodland, as may be specified in the Order.
4. Any such Order may prohibit the unauthorised cutting down, topping, lopping, uprooting, wilful damage, or wilful obstruction of trees and may require replanting of any part of woodland area filled in the course of permitted forestry operations.
5. Once made, Tree Preservation Orders remain in force for a provisional period of six months, but can be confirmed at any time.
6. At its meeting on 7th December 2005 (Minute 30 refers), the Development and Conservation Control Committee resolved, among other things,
 1. *That delegated authority be given to the Trees and Landscape Officer or, in that officer's absence, to the Trees and Landscape Assistant (a) to*

make and serve all Tree Preservation Orders (both emergency and non-emergency); and (b) 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

2. ***that the Development and Conservation Control Committee (or its successor committee or Group) reserve to itself determination of whether or not to confirm those Orders to which objections are raised and, if so, with or without modification.***

Considerations

- **11/05/SC – Ashwell House, Fardells Lane, Elsworth**

7. Tree Preservation Order 11/05/SC in Elsworth was made on 12 September 2005. A previous Order in identical terms was confirmed by Committee on 7th September 2005 (Minute 23 refers) due to an unfortunate administrative error in failing to identify a letter of objection. That Order will be revoked formally to avoid confusion.
8. The Council made the Order because the Field Maple tree was affected by a planning application. The tree contributes visually to the quality and character of the local environment and enhances the area, and is considered of such value as to warrant its retention.
9. The statutory period for the registering of objections to the Order ended on 14th October 2005.. The letter of objection, dated 4th May 2005, was re-affirmed upon service of the replacement Order. The objection related to (among other things)
 - the argument that the tree is not significant
 - the fact that the tree can hardly be seen from Fardells Lane
 - the tree's relation to a copse of trees
 - disagreement as to the tree's value

- **16/05/SC – 72 Highfields, Caldecote**

10. Tree Preservation Order 16/05/SC in Caldecote was made on 15 November 2005.
11. The Council made the Order because the oak tree is visually important within the vicinity and adds to the local character of the area.
12. The statutory period for the registering of objections to the Order ended on 9th January 2006. The letter of objection, dated 9th December 2005, referred to the following grounds
 - the objector's property adjoins that of 72 Highfields Road
 - the tree is of poor standard
 - the tree is not visible from any road, but only a few rear gardens
 - timing
 - similar trees nearby are not protected
 - proximity to the objector's house and boundary fence
 - the need for tree maintenance

Options

13. Under the legislation, the Council can confirm a Tree Preservation Order, confirm it subject to modification, or decide not to confirm it.

Financial Implications

14. There are no financial implications.

Legal Implications

15. Representations, in respect of an Order, must be made to the local planning authority, no later than the date specified in the Notice accompanying the Order. Before confirming the Order, the Authority must first consider any objection or representation. The Authority may confirm the Order with or without modification.
16. The validity of an Order may not be questioned, except by way of an application to the High Court.
17. Contravention of a Tree Preservation Order is an offence, under Section 210 of the Act, and it is an offence of absolute liability. On summary conviction, a person guilty of this offence shall be liable to a fine not exceeding £20,000, or on conviction of indictment, to a fine.

Staffing Implications

18. There are no staffing implications.

Risk Management Implications

19. Tree Preservation Orders are the principal means of protecting trees that are valued locally and might be lost as a result of future development. In making an Order, the main risk is one of administration in that any objections to it, which are not withdrawn, trigger a site visit, the consideration of amendment, and additional staff time. A further risk is that, where there is a suspicion that the proper legal process has not been followed, the Authority could be judicially reviewed.
20. The risk from not making a Tree Preservation Order in a particular case is that the tree, group, area or woodland could be damaged to the detriment of the local environment.

Consultations

21. A copy of this report has been sent to the local Members, Councillor MP Howell and Councillor NIC Wright (Elsworth) and Councillor R Martlew (Caldecote).
22. A site visit took place previously on 13 January 2006. Both Elsworth and Caldecote were visited. Councillors JPR Orme (Chairman of the Development and Conservation Control Committee), Councillor NIC Wright (Vice-Chairman of the Committee and local Member for Elsworth) and the Council's Trees and Landscape Officer were in attendance. It was decided that the Development and Conservation Control Committee should be recommended to confirm both Tree Preservation Orders without modification.

Conclusion

23. TPO number 11/05/SC (Elsworth) remains provisionally in force until 11th March 2006. TPO number 16/05/SC (Caldecote) remains provisionally in force until 14th May 2006. By confirming them now, the Council will ensure that the Tree Preservation Orders remain in force beyond those dates.

Recommendations

24. It is recommended that Tree Preservation Order 11/05/SC in Elsworth and 16/05/SC in Caldecote be confirmed without modification.

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

- Tree Preservation Order no. 11/05/SC In Elsworth and 16/05/SC in Caldecote and the relevant files maintained by the Trees and Landscape Section
- Letters dated 4th ~May 2006 from Bird and Tyler Associates relating to 11/05/SC, and 9th December 2005 from Mr Mark Turner relating to 16/05/SC

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