

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

**REPORT TO:** Development and Conservation  
Control Committee

7 July 2004

**AUTHOR/S:** Finance and Resources Director

### Tree Preservation Order – Haslingfield

#### Recommendation: Confirm without modification

#### Purpose

1. To review Tree Preservation Order no. 02/04/SC, made under delegated powers at 4 Orchard Road, Haslingfield.

#### 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. Once made, Tree Preservation Orders remain in force for a provisional period of six months, but can be confirmed at any time.

#### Considerations

4. Tree Preservation Order 02/04/SC was made on 28<sup>th</sup> April 2004.
5. The Council made the Order because it considered the walnut tree in question to make a considerable visual contribution to the surrounding area, and because it is located on land that has been cited as a reason for refusal of a recent planning application.
6. The statutory period for the registering of objections to the Order ended on 1<sup>st</sup> June 2004. One letter of objection was received within that period. The bases of that objection were as follows:
  - (a) the tree is a poor specimen

- (b) the tree is only visible to the very limited number of dwellings on land that adjoins that corner of 4 Orchard Road, and is hardly visible from any public road or area
- (c) the tree has minimal visual impact on the village, and the Order will adversely affect the tree as it will prevent maintenance of it.

Point (a) is subjective, contradicting the professional view of the Council's Trees and Landscape Officer. Point (b) seems unclear as the contention that it is hardly visible from any public road or area suggests that it is in fact visible: its potential loss may have an adverse affect on such areas. Point (c) is incorrect: a Tree Preservation Order does not prohibit maintenance of the tree or trees covered by it. Indeed, such prohibition would destroy the object of the Order, the purpose of which is to preserve. However, a TPO does require maintenance to be carried out in consultation with the Council to ensure that it is suitable in the context of the Council's reasons for making it.

- 7. The Council served the Order on a range of individuals and organisations in line with requirements laid down in the Town and Country Planning Act 1990. Regrettably, it wrongly identified the owner of the land. The objector is in fact one of the Executors of the Estate of which 4 Orchard Road forms part. Case law confirms that, where a person has direct knowledge of an Order, due service on that person can be assumed. The Council considers that the Estate has sufficiently direct knowledge of the TPO to render it unnecessary to re-serve itthe Order. A site visit, to which the Chairman and Vice-Chairman of the Committee and the local Member (Councillor Mrs EM Heazell) were invited, took place on 23<sup>rd</sup> June 2004 to assess the substantive objections referred to in paragraph 6 above.

#### **Options**

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

#### **Financial Implications**

- 9. There are no financial implications.

#### **Legal Implications**

- 10. There are no legal implications given the existence of case law referred to in paragraph 7 above.

#### **Staffing Implications**

- 11. There are no staffing implications.

#### **Risk Management Implications**

- 12. There are no risk management implications.

#### **Consultations**

- 13. A copy of this report has been sent to the local Member, Councillor Mrs EM Heazell.

## **Conclusion**

14. TPO number 02/04/SC remains provisionally in force until 27<sup>th</sup> October 2004. By confirming it now, the Council will ensure that the Tree Preservation Order remains in force beyond that date. The Chairman and local Member attended the site visit, and agreed with the Trees and Landscape Officer that the Order should be confirmed without modification.

## **Recommendations**

15. It is recommended that Tree Preservation Order 02/04/SC in Haslingfield be confirmed without modification.

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

- Tree Preservation Order no. 02/04/SC in Haslingfield and the relevant file maintained by the Trees and Landscape Section
- Letter dated 19<sup>th</sup> May 2004 from Mr EP Dunell

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