

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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

5 October 2005

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

### Tree Preservation Order – Fulbourn

#### Recommendation: To make an Order

#### Purpose

1. To seek the Committee's authority to make and serve a Tree Preservation Order in respect of land at 35 Pierce Lane, Fulbourn..

#### 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. Local planning authorities may make Tree Preservation Orders if it appears to them to be, "expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area." (Town and Country Planning Act 1990, section 198(1)).
4. The Act does not define the word "amenity", nor does it set out the circumstances in which it is the interests of amenity to make a Tree Preservation Order. However, the Secretary of State takes the view that TPOs should be used to protect selected trees and woodlands if their removal would be likely to have a significant impact on the local environment and on the general public's enjoyment of that environment. Local authorities should be able to demonstrate a degree of public benefit before they make a Tree Preservation Order. For example, the tree should be visible from the Highway or some other public place.
5. Local planning authorities should be prepared to explain to landowners why their trees or woodlands have been made the subject of a Tree Preservation Order. Factors, which the LPA might take into account, include:
  - visibility from a public place
  - individual impact of the tree – its size, form, future potential, rarity and so on
  - wider impact of the tree, given its suitability in its particular location and the presence of other trees in the vicinity

6. Even if a Tree Preservation Order is desirable on amenity grounds, it may still not be expedient to make it if, for example, the tree or woodland, is under good arboricultural management. However, it may be expedient to make an Order if, say, it is likely that the tree would be cut down, or otherwise pruned in such a way as to have a significant impact on the amenity of the area.

### **Considerations**

7. The land in question is at 35 Pierce Lane, Fulbourn. A plan of the area is attached at **Appendix 1**.
8. A schedule of trees is attached at **Appendix 2**.
9. The Trees and Landscape Officer considers that the Council should make an Order in this case because it would preserve the Horse Chestnut, thus contributing to the street scene, and to replace a previous tree which was afforded statutory protection.

### **Options**

10. The Development and Conservation Control Committee must determine whether or not to impose a Tree Preservation Order in this instance.

### **Financial Implications**

11. The Council has made budget provision for Tree Preservation Orders.

### **Legal Implications**

12. The landowner is Mr P. James, 35 Pierce Lane, Fulbourn, Cambridgeshire, CB1 5DJ. The District Council would serve an Order and Notice on Mr James and send copies to other "interested parties", including neighbours and utilities.
- 13.. If made, the Order would take effect, provisionally, upon due service of it, and remain in force as such for six months or until confirmed, whichever is the sooner, Following service, those affected would have a period of not fewer than four weeks during which they could object to the Order. Such objections must be in writing and can be made for any reason, including:
  - to challenge the LPA's view that it is expedient in the interests of amenity to make the Order
  - to claim that a tree included in the Order is either dead, dying or dangerous
  - to claim that a tree is causing damage to property
  - to point out errors in, or uncertainties with, the Order
  - to claim procedural irregularities
14. If an objection is received within the stated period, the Council must carry out a site visit. Members must take into account all objections and other representations before deciding whether or not to confirm the Order. 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

- 15.. 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.

### **Staffing Implications**

16. None.

### **Risk Management Implications**

17. 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.
18. 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**

19. The local Members, Councillor Mrs S Doggett and Councillor NJ Scarr, have been consulted.

### **Recommendations**

20. It is recommended that the Committee authorise officers to make and serve a Tree Preservation Order in respect of one Horse Chestnut tree in the front garden of 35 Pierce Lane, Fulbourn, adjacent to the road frontage and, subject to there being no formal objection, which is not withdrawn and which therefore triggers a site visit, to confirm the Order in due course.

**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
- Documentation relating to this proposed Tree Preservation Order on a file maintained by the Trees and Landscape Section

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