

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Planning Committee

2 March 2016

**AUTHOR/S:** Planning and New Communities Director

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**TPO Number:** 07/15/SC

**Parish(es):** Linton

**Proposal:** To consider objections lodged against the provisional Tree Preservation Order

**Site address:** Land at 1 Horseheath Road, Linton

**Owner(s):** John Loveday, Aquabridge Law LLP

**Recommendation:** To confirm the Tree Preservation Order without modifications

**Key material considerations:** Amenity value

**Committee Site Visit:** 1 March 2016

**Departure Application:** N/A

**Presenting Officer:** Ian Lorman, Tree Officer

**Application brought to Committee because:** Objection raised against the making of provisional Tree Preservation Order

**Date by which decision due:** 23 June 2016

### Executive Summary

1. On 23 December 2015 a Tree Preservation Order (TPO) was served covering two mature trees. The trees are numbered T1 and T2 on the schedule to the TPO. Tree T1 is a Cedar and T2 a Pine which are located in the front garden to no.1 Horseheath Road. Both trees are clearly visible when viewed from the highway.
2. TPOs are served on a provisional basis in the first instance to allow a period of 28 days in which third parties may make objections or representations for the consideration of the Council before the decision is made to confirm the order (make it permanent) either in its original form, in a modified form or to allow the TPO to lapse and become void, which occurs after the expiration of six months from the date of service if it is not confirmed (23 June 2016).

### Representations

3. The site owner lodged an objection to the TPO by letter on 18 January 2016. The reasons for the objection are:

- A *“South Cambridgeshire District Council have already stated that they have no objection to the trees being removed as they are of no particular merit; and*
- B *Both trees are potential health and safety hazards due to the elevated nature of the site and their locations – the Cedar adjoining the road and the Pine adjoining the new house that is currently under construction as well as the road.”*

4. The objector has provided evidence that the Council previously raised no objection to the removal of the trees subject of this TPO in the form of an email from Rosalind Richardson (former SCDC Tree Officer) dated 2 April 2012 and a draft, proposed layout plan relating to pre-application discussion dating from December 2012.

### **Planning Assessment**

5. The Tree Warden for the Parish of Linton and Linton Parish Council had requested the TPO be made due to ongoing planning issues at the site. A planning application proposing redevelopment of the site for a number of dwellings has recently been refused for reasons unrelated to the trees covered by the TPO (over-development). The most recent proposed development showed the trees being retained and included measures for their protection during construction. The TPO would have helped to ensure the physical protection of the trees during construction had the development been approved or in the event of a future approval.
6. The evidence provided by the objector regarding the Council previously raising no objections to the removal of the TPO trees is in excess of three years old. There is no evidence that the Council opined that they [the trees] are of no particular merit.
7. The recent planning history of outline planning applications demonstrates that there is a strong desire and willingness to retain both the Cedar and the Pine tree as part of a scheme. The loss of, or harm to trees has not been cited by the Council as a reason for refusal or for objecting to the following planning applications:
- S/2504/14/OL (withdrawn) – The illustrative layout showed both trees being retained  
S/2109/15/OL (refused) – The illustrative layout showed both trees being retained
8. No evidence has been provided to qualify comments made in relation to the potential health and safety hazards posed by the trees. The most recent outline planning application (refused) includes a tree survey undertaken during September 2014 in which no concern was raised about the health and safety hazards posed by either the Pine or the Cedar trees.
10. TPOs are made in order to protect amenity but ‘amenity’ is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.
11. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.
12. The extent to which the trees or woodlands can be seen by the public will inform the authority’s assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

13. Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:  
size and form;
  - a future potential as an amenity;
  - b rarity, cultural or historic value;
  - c contribution to, and relationship with, the landscape; and
  - d contribution to the character or appearance of a conservation area.
14. While the trees are not within, or can be seen from, a conservation area, both the Cedar and the Pine make a positive contribution to amenity and the character and setting of this part of Linton.
15. Apart from this provisional TPO there is no other legal protection mechanism preventing the removal of these trees.

### **Recommendation**

16. Officers recommend that the Committee confirm TPO 07/15/SC without modification.

### **Background Papers:**

- Tree Preservation Order no. 07/15/SC
- DCLG Online Planning Guidance / Tree Preservation Orders

### **Report Author:**

Ian Lorman  
Telephone Number:

Tree Officer  
01954 713405