

Forest Heath District Council

**DEVELOPMENT
CONTROL
COMMITTEE**

3 AUGUST 2016

DEV/FH/16/021

Report of the Head of Planning and Growth

TREE PRESERVATION ORDER TPO 3, 2016 – LAND NORTH OF STATION ROAD, LAKENHEATH

Synopsis:

A provisional Tree Preservation Order (TPO) was made on trees on land north of Station Road, Lakenheath, on 2 June 2016. The TPO was served to protect the mature trees on this site which are an important landscape feature characteristic of the area and of the Breckland landscape character type. This TPO is required to prevent the precipitous removal of trees on this potential development site and protect retained trees into the future when, if the site is developed, they will increase in their public amenity value. The statutory consultation period for the TPO expired on 4 July 2016. An objection to the confirmation of the TPO has been received.

It is recommended that Members **confirm** the TPO without modifications.

Commentary:

1. The District Council's Standing Orders allow for the making of provisional Tree Preservation Orders by your Officers, subject to reporting any representations relating to such action at the Development Control Committee.
2. A Tree Preservation Order was made on 2 June 2016 to protect trees on land north of Station Road, Lakenheath.
3. The reason for the Tree Preservation Order was that:

The tree belts and pine lines are an important landscape feature characteristic of the area and of the Breckland landscape character type. The trees are of high visual amenity value particularly in the immediate vicinity of the road forming a gateway to the village when approaching along Station Road. This Tree Preservation Order has been made to

protect these landscape features which are potentially threatened by proposed development.

4. The trees are located within the large area of agricultural land bordered by; Station Road to the south, the Cut-off Channel to the north, Rabbithill Covert to the south west, residential gardens to Drift Road to the west, and Plantation Farm employment area to the north east. Concern arose because the initial proposals for development included the removal of many of the trees which if retained would enhance the development and provide an attractive setting for the new dwellings.
5. This Tree Preservation Order (TPO3 2016) supplements existing orders (TPO1 1984 and TPO2 2013) which protect adjacent tree belts along this road and on the opposite side of the road which together form the treed gateway to the village.
6. Representations have been made in relation to the Tree Preservation Order by an agent on behalf of the developer and the landowner of the land. The main areas of contention are that:
 - the TPO is unnecessary and unreasonably restrictive when considered alongside the extensive survey works and co-operation of Pigeon Investment Management Ltd as part of the negotiations involved with the current planning submission.
 - A detailed tree survey has been undertaken of the trees on the site and detailed information, provided with regards the site's proposed access, all of which have informed and guided the design
 - Whilst it is recognised there is an initial loss of trees proposed as part of the proposed development, there is extensive planting anticipated as part of the scheme submitted that would securing sustainable long-term tree cover on the site
 - The Council is serving the TPO to cover Area A1 along Station Road, irrespective of the fact that it is clear that trees will have to be lost to facilitate the access proposed.
 - It would be more appropriate and a constructive approach to wait until the planning application is approved and then serve a Tree Preservation Order on those trees that are to be retained and protected as part of the approved development.
7. Officers have considered the objections to the order carefully along with the information which is available including that which was submitted as part of the current planning application.
8. The Tree Preservation Order has not been made to prevent legitimate development of the site but to protect the site assets and to ensure the trees, pine lines and tree belts are properly considered as a material matter in any proposal for development. The Tree Preservation Order has

been specifically made to stop precipitous removal of trees that might otherwise be retained particularly in light of the submitted development layout which included the removal of many of the trees.

9. The tree survey information submitted with the planning application is noted and Officers agree that the trees at the entrance to the site within the tree belts may not individually be of high merit and may need to be removed to allow the entrance to the site to be formed. If planning permission is granted, the removal of these trees will form part of the consent, however the protection of all other trees within this tree belt will be secured. The tree belt as a whole will be retained and protected as a result of the Tree Preservation Order. This tree belt is important as it will reduce the impact of any future development when viewed from Station Road. Without the Tree Preservation Order the tree belt could be removed without any consent or permission being sought.
10. Proposals for tree management for the rest of the site which were included in the initial site layout were not consistent with the findings of the tree survey. The proposals threatened the retention of many category B trees such as the pine line that crosses the site. The pine trees in the pine line may exhibit characteristics such as an asymmetric crown or contorted trunks, however these are the characteristics that are considered to be special or iconic to the Brecks.
11. The existing trees on the site are considered to be a site asset which will only increase in importance and amenity value as the site is developed. Any trees that are retained will make an instant contribution to the character of the village extension. The retention of the existing environment and natural greenspace including trees provides instant structural landscaping that can be immediately enjoyed by the new residents of the proposed houses. It would be counter productive to allow the removal of significant trees on the site where, with good planning, they can be retained. In addition existing trees including the Brecks pine lines make a significant contribution to biodiversity. New trees would require time (up to 15 years) before they make an equivalent contribution to the green infrastructure.
12. The Tree Preservation Order has been served prior to any planning application being given consent to ensure that the decision of the committee was not prejudiced. In addition it is essential the tree protection forms part of any planning consent such that trees are retained in a healthy condition into the future.

Finance/Budget/Resource Implications:

13. Works to or removal of a tree or trees covered by a TPO will require the formal consent of the local planning authority before any work can be carried out. Currently all such applications are submitted to the local planning authority and do not attract a fee. The Council's Planning Services and Arboricultural Officers will deal with subsequent applications arising as a result of the TPO without any additional fee income. There may also be appeals should TPO consent be refused.
14. Should an application for works to a preserved tree (or for its removal) be refused, the local planning authority may in certain circumstances, be liable to pay compensation to the affected property owner, should the trees cause damage to a property. Such claims are, however, rare and, in this instance, considered unlikely given that the condition and location of the trees can be considered fully when deciding where to locate new dwellings and other facilities associated with any development.

Environmental Impact and Sustainability

15. Removal of any trees, which are considered to be worthy of protection in the public interest, would detract from the visual amenity of the local environment and in this case would effect the amenity of the future development.

Policy Compliance/Power

16. The local planning authority has powers under the Town & Country Planning Act 1990 and the Town & Country Planning (Trees) Regulations to make a TPO if it appears expedient in the interests of amenity to do so.
17. The making of a TPO in this instance, is in line with the powers and policies of the Council.

Performance Management Implications

18. The applications determined under the TPO provisions and any subsequent appeals are not currently the subject of any national or local performance indicators.

Legal Implications

19. This provisional TPO is served on the owner and occupier of the land affected by the TPO, and also on owners and occupiers of adjoining land, who had a period within which to make objections or

representations to the Order. The statutory consultation period expired on 4 July 2016.

Human Rights Act and Diversity Implications

20. These matters have been assessed in relation to and are considered to comply with the requirements of the Human Rights Act 1998. In relation to Article 6, interested parties have been advised of the making of this provisional Tree Preservation Order and their views have been considered within this report. Any interference with Rights under Article 8 and Article 1 of the First Protocol are necessary in the public interest.

Crosscutting Implications

21. None

Risk Assessment

22. As set out above, the Council may, in certain circumstances, be required to pay compensation to owners of properties damaged by preserved trees, if the Council has refused consent to carry out works to the affected tree and such works may have prevented the damage. These claims, however, are rare.

Council Priorities

23. The Council is keen to safeguard the built and natural environment.

Recommendation:

- 24. It is recommended that the report be noted and Members CONFIRM the Tree Preservation Order without modification.**

Documents Attached:

Working Paper 1 – TPO plan showing location
Working Paper 2 – TPO schedule
Working PAPER 3 – Plans showing potential entrance to the development site and impact on the treebelt
Working Paper 4 – TEMPO Amenity assessment report

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