

**TPO/E/04/21**

84 Centre Drive  
Newmarket

Confirmation of Tree Preservation Order E/04/21



**East Cambridgeshire  
District Council**

Town and Country Planning Act 1990  
Town and Country Planning  
(Tree Preservation) (England)  
Regulations 2012

**TREE PRESERVATION  
ORDER**

No. E/04/21

84 Centre Drive  
Newmarket  
Suffolk  
CB8 8AW

**T1 - Walnut**

**PLANNING SERVICE**

The Grange, Nutholt Lane, Ely, Cambs CB7 4EE  
R. Saunt, Planning Manager

The tree locations are indicative and  
may not reflect the exact locations



Date: 24/09/2020

Scale: 1:543

© Crown copyright.  
All rights reserved 100023279 (2021)



---

**MAIN CASE**

Proposal: Confirmation of Tree Preservation Order E/04/21  
Location: rear garden of 84 Centre Drive Newmarket CB8 8AW.  
Applicant: N/A  
Agent: N/A  
Reference No: TPO/E/04/21  
Case Officer: Kevin Drane, Trees Officer  
Parish: Cheveley

Ward: Woodditton  
Ward Councillors: Councillor Amy Starkey  
Councillor Alan Sharp

**[W88]**

---

1.0 **THE ISSUE**

1.1 To confirm a Tree Preservation Order (TPO) for one tree in the rear garden of 84 Centre Drive Newmarket Suffolk CB8 8AW. This matter is being referred to Committee due to objections received in the 28 days consultation period, which ended on 13<sup>th</sup> August 2021, and for the requirement to confirm the TPO within six months to ensure the trees are protected for public amenity.

2.0 **RECOMMENDATIONS**

2.1 It is recommended that:

The TPO is confirmed, for the following reasons: The tree is a prominent specimen, visible from the public realm, in good health and it offers a significant visual contribution to the amenity of the local landscape in this part of Newmarket.

3.0 **COSTS**

If a TPO is made and confirmed, then subsequent applications made for tree works would carry with them an opportunity to claim compensation if, as a result of the Council's decision, the applicant suffers any loss or damage within 12 months of that decision being made.

#### 4.0 **BACKGROUND**

- 4.1 The Order was made following a receipt of a planning consultation request relating to application 21/00799/OUT (new residential dwelling to the rear of 84 Centre Drive) and the tree officers site visit arising from this.
- 4.2 The TPO was served under Section 201 of the Town & Country Planning Act 1990, on 13<sup>th</sup> July 2021 because:
- The tree was assessed to have significant amenity value, as it makes a significant visual contribution to the local landscape in this part of Newmarket.
- 4.3 An objection to the serving of the TPO was received in writing from the tree owner during the statutory consultation period. The letters of objection are in Appendix 1. The details of the objection were:
- The tree is in a poor state and has been for many years. It has been neglected is poorly shaped and covered in ivy.
  - The tree has been in this poor condition for many years and no one has previously shown any concern for it.
  - The TPO may be invalid as it requires the tree to be visible from a public place. As the tree is approximately 50m back from the road only the top third of the tree is visible from the road.
  - The application states the tree is of “significant public amenity”, but fails to state exactly what this ‘significant amenity’ is.
  - Attempt by neighbours to block our planning application and one of the reasons for refusing outline planning.
- 4.4 Support for the protection of the TPO tree was received during the consultation for the planning application. The documents are in Appendix 2.
- 4.5 Given the comments received, including the objections, and also the public interest in serving of the TPO, it was considered appropriate for the Planning Committee Members to consider all the comments received and reach a democratic decision on the future protection of the single TPO tree.

#### 5.0 **CONCLUSIONS**

- 5.1 As part of the process for making the new TPO the tree was assessed relating to its current condition and no issues were noted relating to the foreseeable failure of the tree and there was no visible indication that the tree is in poor health. The presence of Ivy on its stem is of little concern and could be removed or severed as further protection of the tree’s stability. The tree has a natural shape that has been unaltered by pruning with no defects visible.
- 5.2 There is no evidence of the tree being in poor condition beyond the presence of ivy on its trunk and extending into the crown which can be simply solved.

- 5.3 Whilst determining if the tree is of sufficient amenity value or not is to some extent subjective, this tree is visible from the public highway with only the lower trunk obscured (less than half the total height of the tree). The Trees Officer remains of the opinion that the tree makes a visual contribution to the local landscape, the amenity and character of the area.
- 5.4 Amenity is a subjective term open to individual interpretation. The Act does not define 'amenity' nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. A public amenity can be described as a feature which benefits and enhances an area contributing to the areas overall character for the public at large. In this case the tree is large and is visible from the public highway as well as many neighbouring gardens as illustrated in the comments received regarding the tree in relation to the planning application and is considered to benefit the area in relation to its contribution to the landscape and therefore is considered a significant public amenity.
- 5.5 Planning application 21/00799/OUT was refused on 3 grounds:
- Cramped and contrived form of back land development which was at odds with the prevailing pattern of development in the vicinity, appearing cramped and overly dense, resulting in overdevelopment of the site.
  - Insufficient biodiversity information submitted to show how a net gain could be achieved.
  - No arboricultural information submitted to demonstrate that the proposal would not be harmful to trees on the site, including the mature Walnut tree, the subject of this TPO.

The one ground in relation to the tree, was due to a lack of information being submitted with the application. The presence of a TPO does not stop development as planning approval can override a TPO, what it does do is ensure that quality trees are suitably considered as part of any future development and ensure their protection should any development be permitted in proximity to a TPO tree that does not require its removal. However, it should be noted that the application was not refused solely on that basis as set out above.

- 5.6 Any potential future owner of the property would be informed of the presence of the TPO as part of a land search and it is also a legal duty to inform the purchaser of the presence of a TPO. This allows any potential purchaser the option to decline the purchase of the property or request a professional assessment of the tree prior to finalising the purchase.
- 5.7 If the Planning Committee decide not to confirm the TPO, the TPO will lapse and the owner can then remove the tree or prune it if they wished to, without any permission required from the Council.

## 6.0 **APPENDICES**

Appendix 1 - Letters of objection to the TPO from the tree owner.

Appendix 2 - Emails supporting the value of the TPO tree, received in response to the consultation relating to planning application 21/00799/OUT.

Appendix 3 – Documents:

- ECDC TPO Assessment Sheet
- Copy of the TPO/E/04/21 document and Formal Notice documents

---

### **Background Documents**

### **Location(s)**

### **Contact Officer(s)**

Town & Country Planning Act 1990  
Town & Country Planning (Tree  
Preservation) (England) Regulations  
2012  
National Planning Policy Guidance from  
6<sup>th</sup> March 2014  
<http://planningguidance.planningportal.gov.uk/blog/guidance/tree-preservation-orders/how-are-offences-against-a-tree-preservation-order-enforced-including-tree-replacement/>

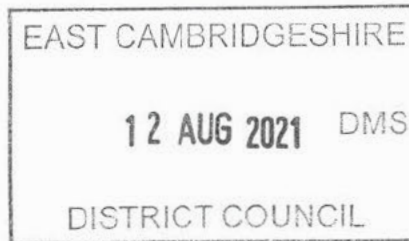
Kevin Drane,  
Trees Officer  
Room No. 002  
The Grange  
Ely

Kevin Drane  
Trees Officer  
01353 665555  
kevin.drane@eastcambs.gov.uk

East Cambridgeshire District Local Plan  
2015

[REDACTED]  
4 Gravel End Lane  
Coveney  
CB62DN

9<sup>th</sup> August 2021



Dear Sir,

**RE: TPO/E/04/21 Walnut Tree - 84 CENTRE DRIVE, NEWMARKET**

We are the new owners of No84. We write to strongly object to the recent TPO that has recently been applied to the walnut tree in our back garden. We object on the following grounds:

1. The TPO was only placed after our Outline planning application (21/00799/OUT) was submitted. The TPO, although not yet confirmed and still going through the 6 month consultation period has been one of the reasons given for refusing outline planning.
2. The tree is in a poor state and has been for many years. It has been neglected, is poorly shaped and covered in ivy. Please see enclosed photo#1
3. Considering the tree has been in this state for many years and no-one has shown any concern for it, we believe this is clearly an attempt by neighbours to block our planning application rather than showing any concern for the tree.
4. The application may be invalid as it requires the tree to be viewable from a public place. As the tree is approx 50m back from the road only the top third of the tree is viewable from the road. Please see enclosed photos #2 & #3 taken from the road.
5. The application states the tree is of "significant public amenity" but fails to state exactly what this 'significant amenity' is. As mentioned, it is not fully viewable from a public place and is in a poor state. There has been no historical interest from anyone about the state of the tree.

We offered to discuss alternative planting, to compensate for the loss of the tree, with the planning department (email from our architect Steven Norfield 03/8/21) but they showed no interest.

We are in the process of obtaining an arboreal report and have engaged a planning solicitor who will be in touch shortly. Please ensure we are included in any further discussion regarding our tree.

Yours sincerely,

[REDACTED]

[REDACTED]

#1 Walnut Tree

AGENDA ITEM NO 5 Appendix 1

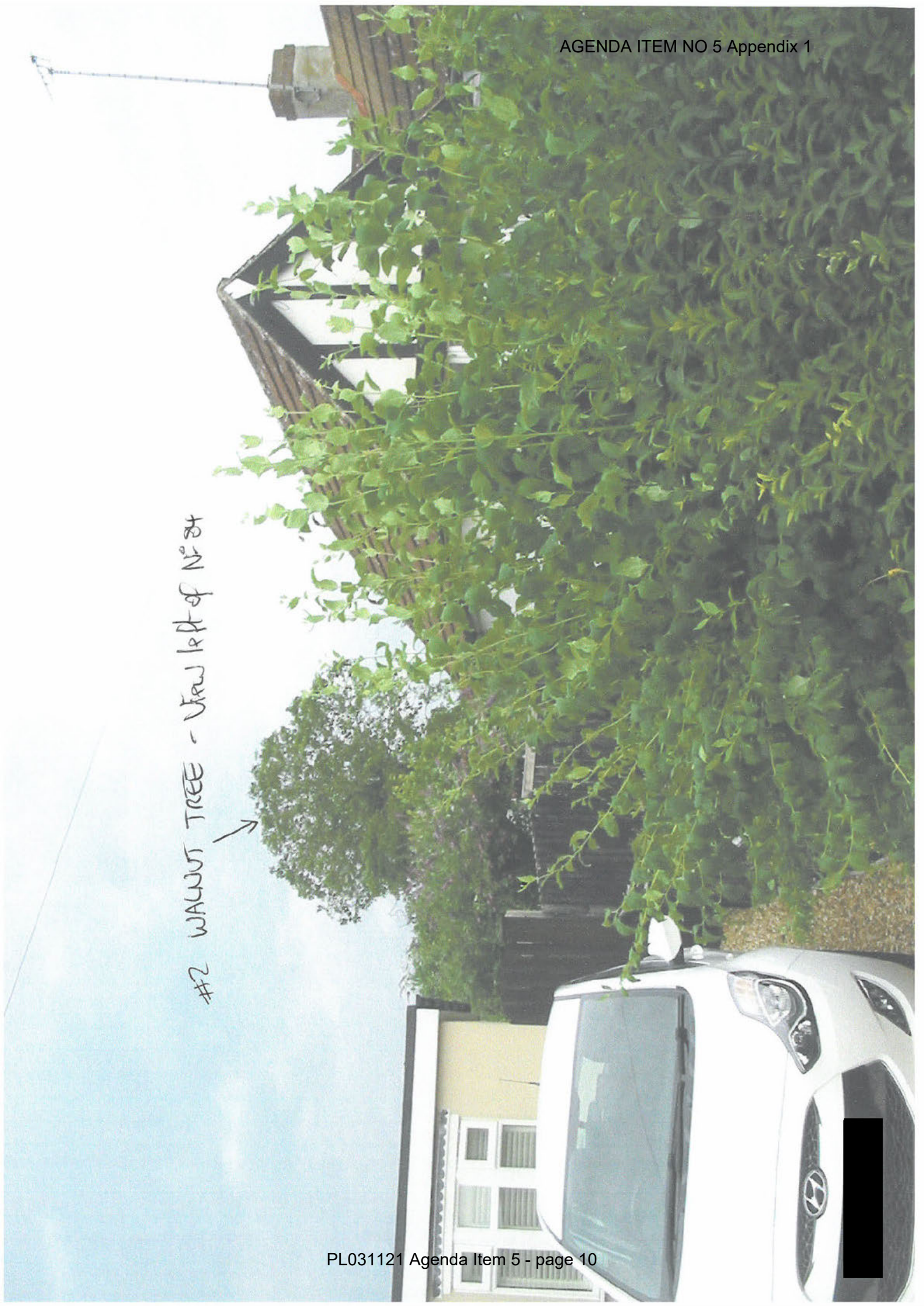




#3 Walnut Tree - View right of N.R.84



#2 WALNUT TREE - View left of N° 84



[REDACTED]  
**To:** [Kevin Drane](#)  
**Subject:** [EXTERNAL] TPO/E/04/21 84 CENTRE DRIVE, NEWMARKET  
**Date:** 04 September 2021 08:51:52

---

**Caution:** External email. Do not click links or open attachments unless you recognise the sender and know the content is safe. The original sender of this email is [REDACTED]

---

Dear Kevin,

Thank you for your letter 27<sup>th</sup> Aug. We do not wish to withdraw our objection. We note your comments particularly item4 regarding visibility. You mention the tree '**...does not have to be visible from a public place...**' Please see the extract from the pdf on the Government website on 'Tree Preservation Orders: A Guide to the law and good practice' Specifically Page 10, Chapter 3.2: Amenity

**...“The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath...”**

And Chapter 3.3(1) Visibility:

**(1) visibility: the extent to which the trees or woodlands can be seen by the general public will inform the LPA's assessment of whether its impact on the local environment is significant. If they cannot be seen or are just barely visible from a public place, a TPO might only be justified in exceptional circumstances;**

The pdf can be found at

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/14956/tposguide.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/14956/tposguide.pdf)

As our tree is only partly visible (top 1/3) from a public place it does, therefore, have bearing on the TPO. I would like to know what '**exceptional circumstances**' prevailed in making your decision. Visually the tree is very poor and I question the assertion it has '**...significant public amenity...**' and must question how you arrived at these conclusions.

As per the guidance I would therefore like to see a copy of your method for assessing the 'amenity value' of the tree and how you used the method to calculate our tree's amenity value. I am still awaiting the arboreal report and will forward you a copy once I have it.

I am still willing to discuss alternative planting options to compensate for the removal of the Walnut tree if the TPO is removed. I am happy to purchase several new walnut trees from Barchams' to fit into our planting plan and I'm more than happy to meet you to discuss a way forward.

Kind Regards,

[REDACTED]  
Sent from [Mail](#) for Windows

**Tree excerpts from Comments relating to planning application 21/00799/OUT**

**2 The Shrubberies, Newmarket, Suffolk CB8 8JD**

Loss of a very mature walnut tree in the garden of the existing bungalow.

**4 The Shrubberies, Newmarket, Suffolk CB8 8JD**

Also the garden includes many mature shrubs and trees including a very large and very much alive walnut tree.

**82 Centre Drive, Newmarket, Suffolk CB8 8AW**

It would also require the removal of at least 1 significant tree.

**TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO**

SURVEY DATA SHEET & DECISION GUIDE

<b>Postal Address/Location</b>		<b>84 Centre Drive Newmarket Suffolk CB8 8AW</b>	
<b>Date:</b>	<b>8<sup>th</sup> July 2021</b>	<b>Surveyor:</b>	<b>Kevin Drane</b>

<b>DESCRIPTION OF TREE(S) – Please continue on separate sheet if needed</b>		
Category	Description (incl. species)	Situation
Tree	Walnut tree – large mature specimen in garden location	Located in rear garden as per plan

**REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS**

**Part 1: Amenity assessment**

**a) Condition & suitability for TPO**

- 5) Good Highly suitable
- 3) Fair/satisfactory Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead/dying/dangerous\* Unsuitable

\* Relates to existing context and is intended to apply to severe irremediable defects only

**Score & Notes 3 Ivy shrouded but could be removed or cut and killed**

**b) Retention span (in years) & suitability for TPO**

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10\* Unsuitable

\*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

**Score & Notes 4 can live to 150 yrs currently 60-80 yrs approx**

**c) Relative public visibility & suitability for TPO**

Consider realistic potential for future visibility with changed land use

- |   |                     |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees  | Highly suitable     |
| 4) Large trees, or medium trees clearly visible to the public       | Suitable            |
| 3) Medium trees, or large trees with limited view only              | Suitable            |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable     |
| 1) Trees not visible to the public, regardless of size              | Probably unsuitable |

**Score & Notes 3**  
**Large tree views limited to crown only from road**

**d) Other factors**

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of formal arboricultural features, or veteran trees
- 4) Tree groups, or principal members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
- 1) Trees with poor form or which are generally unsuitable for their location

**Score & Notes 1 the trees form is typical for species**

**Part 2: Expediency assessment**

*Trees must have accrued 10 or more points to qualify*

- 5) Immediate threat to tree inc. S.211 Notice
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

**Score & Notes 5 current planning app indicates the trees removal though no assessment or mention of tree provided**

**Part 3: Decision guide**

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-11 Does not merit TPO
- 12-15 TPO defensible just
- 16+ Definitely merits TPO

**Add Scores for  
Total: 16**

**Decision: serve TPO as score is sufficient**

Dated: 13th July 2021

TPO/E/04/21

=====  
**TOWN AND COUNTRY PLANNING ACT 1990**  
=====

**TREE**

**PRESERVATION**

**ORDER**

Relating to: - 84 Centre Drive Newmarket Suffolk CB8 8AW

=====  
Printed and Published by:  
East Cambridgeshire District Council The Grange Nutholt Lane Ely Cambs CB7 4EE  
=====

ORDER.TPO

**TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND)  
REGULATIONS 2012**

**TREE PRESERVATION ORDER**

---

**Town and Country Planning Act 1990  
The Tree Preservation Order at 84 Centre Drive Newmarket Suffolk CB8 8AW ,  
TPO/E/04/21 2021**

The East Cambridgeshire District Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

**Citation**

1. This Order may be cited as the Tree Preservation Order at 84 Centre Drive Newmarket Suffolk CB8 8AW , TPO/E/04/21 2021

**Interpretation**

2. (1) In this Order “the authority” means the East Cambridgeshire District Council
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

**Effect**

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to exceptions in regulation 14, no person shall-
  - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
  - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.


**Application to trees to be planted pursuant to a condition**

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.



Dated this 13th day of July 2021

Signed on behalf of the East Cambridgeshire District Council



.....  
Authorised by the Council to sign in that behalf]

**CONFIRMATION OF ORDER**

This Order was confirmed by East Cambridgeshire District Council without modification on the     day of

**OR**

This Order was confirmed by East Cambridgeshire District Council, subject to the modifications indicated by                                     , on the     day of

.....  
Authorised by the Council to sign in that behalf

**DECISION NOT TO CONFIRM ORDER**

A decision not to confirm this Order was taken by East Cambridgeshire District Council on the     day of

.....  
Authorised by the Council to sign in that behalf

**VARIATION OF ORDER**

This Order was varied by the East Cambridgeshire District Council on the     day of under the reference number

.....  
Authorised by the Council to sign in that behalf

**REVOCATION OF ORDER**

This Order was revoked by the East Cambridgeshire District Council on the     day of under the reference number

.....  
Authorised by the Council to sign in that behalf

**SCHEDULE  
SPECIFICATION OF TREES**

**Trees specified individually**  
(encircled in black on the map)

Reference on map	Description	Situation
<b>T1</b>	<b>Walnut Tree</b>	<b>Located in rear garden as per plan</b>

**Trees specified by reference to an area**  
(within a dotted black line on the map)

Reference on map	Description	Situation
	<b>NONE</b>	

**Groups of trees**  
(within a broken black line on the map)

Reference on map	Description (including number of trees in the group)	Situation
	<b>NONE</b>	

**Woodlands**  
(within a continuous black line on the map)

Reference on map	Description	Situation
	<b>NONE</b>	



**East Cambridgeshire  
District Council**

Town and Country Planning Act 1990  
Town and Country Planning  
(Tree Preservation) (England)  
Regulations 2012

**TREE PRESERVATION  
ORDER**

No. E/04/21

84 Centre Drive  
Newmarket  
Suffolk  
CB8 8AW

**T1 - Walnut**

**PLANNING SERVICE**

The Grange, Nutholt Lane, Ely, Cambs CB7 4EE  
R. Saunt, Planning Manager

The tree locations are indicative and  
may not reflect the exact locations



Date: 24/09/2020

Scale: 1:543

© Crown copyright.  
All rights reserved 100023279 (2021)



