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**MAIN CASE**

Proposal: Confirmation of Tree Preservation Order E/01/20  
Location: rear garden of 10 Abbey Close Burwell.  
Applicant: N/A  
Agent: N/A  
Reference No: TPO/E/01/20  
Case Officer: Kevin Drane, Trees Officer  
Parish: Burwell

Ward: Burwell  
Ward Councillors: Councillor David Brown  
Councillor Lavinia Edwards

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**[V124]**

1.0 **THE ISSUE**

1.1 To confirm a Tree Preservation Order (TPO) for one tree in the rear garden of 10 Abbey Close, Burwell. This matter is being referred to Committee due to objections received in the 28 days consultation period, which ended on 5<sup>th</sup> January 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, highly visible, in good health and its significant visual contribution to the amenity of the local landscape in this part of Burwell.

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 after a request by the tree owner who nominated the trees for preservation because she believed it was a good specimen and that if it was removed it would take away from the character of the area.
- 4.2 The TPO was served under Section 201 of the Town & Country Planning Act 1990, on 19<sup>th</sup> August 2019 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 Burwell.
- 4.3 An objection to the serving of the TPO was received in writing from a neighbour during the statutory consultation period. The letters of objection are in Appendix 1. The details of the objection were:
- Objection to the TPO being confirmed. The TPO is being sought so that the tree owner can rely on it in order not to maintain the tree to a healthy and appropriate size for its surroundings.
  - The tree requires overhanging branches pruning so that fallen leaves would not present a health and safety risk to members of the public. It is understood that the TPO does not prevent pruning but neither does it compel it.
  - Does not agree with tree officer's opinion that the tree provides a significant amenity asset to the surrounding area.
  - Should the tree fall due to weather conditions it could cause considerable damage to persons and six surrounding properties.
  - The presence of a TPO would place unnecessary restrictions on any future owner.
  - The tree roots are already causing damage to the public area and footpaths
  - The tree is causing unseen problems for adjacent properties both below ground and above.
- 4.4 Support for the TPO was received during the consultation period. The documents are in Appendix 2.
- 4.5 Given the comments received, including the objections, and also the public request for the 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 The presence of a TPO does not alter the tree owner's duty of care as it does not stop pruning of trees or even their removal if required, especially in relation to public safety. What the TPO does do is give the Local Planning Authority the ability to refuse or alter the specification of any pruning if it is not deemed appropriate or justified. It also gives the Local Planning Authority the ability to require replacement planting if it is deemed necessary to remove a tree.
- 5.2 The pruning of overhanging branches is unlikely to significantly effect leaves falling on public areas due to winds being able to blow leaves a considerable distance combined with there being two other significantly sized Silver Birch trees in close proximity.
- 5.3 Whilst determining if the tree is of sufficient amenity value or not is to some extent subjective, the Trees Officer remains of the opinion that the tree makes a visual contribution to the local landscape and character of the area.
- 5.4 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.
- 5.5 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.
- 5.6 The Tree Officer noted when assessing the tree that there was some lifting of the tarmac path which is likely to have been caused by tree roots, but it was felt that this could be simply fixed by the duty holder (Cambridgeshire County Council as an adopted highway). The paved area is very unlevel but due to the age of the development and the pattern of movement it was the officer's opinion that the tree is not the primary cause of the movement.
- 5.7 The claim raised by the objector in relation to unseen problems is hard to disagree with, as any possible issues are quite often unseen. But the soil conditions in this part of Burwell do not lend themselves to subsidence and there are no reports of this in the vicinity. Blocked drains are another possibility but no reports of this have been received.
- 5.8 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.

Appendix 1 - Letters of objection to the TPO from neighbour at 9 Priory Close.

Appendix 2 - Emails supporting the TPO, received from the tree owner.

Appendix 3 – Documents:

- Copy of the TPO/E/01/20 document and Formal Notice documents
- ECDC TPO Assessment Sheet

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**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/](http://planningguidance.planningportal.gov.uk/blog/guidance/tree-preservation-orders/how-are-offences-against-a-tree-preservation-order-enforced-including-tree-replacement/)

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