

**MAIN CASE**

Proposal: Confirmation of Tree Preservation Order E/01/15

Location: Land at Berry Fen, Dam Bank Drove, Haddenham, Cambs.

Applicant: N/A

Agent: N/A

Reference No: TPO/E/01/15

Case Officer: Cathy White, Senior Trees Officer

Parish: Haddenham

Ward: Haddenham

Ward Councillors: Councillor Steve Cheetham  
Councillor Mark Hugo  
Councillor Stuart Smith

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**[Q61]**

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**1.0 THE ISSUE**

1.1 To confirm a Tree Preservation Order (TPO) for 7 Oak trees on land at Berry Fen, Dam Bank Drove, Haddenham. This matter is being referred to Committee to consider the objections received to the serving of the TPO, and the requirement to confirm the TPO within six months to ensure the tree is protected for public amenity.

**2.0 RECOMMENDATIONS**

2.1 It is recommended that this TPO be confirmed, without modifications, for the following reasons:

- The 7 Oak trees contribute to the visual amenity of the local landscape of this open countryside south of Haddenham village, in Berry Fen.
- The loss of the Oak trees would have a detrimental impact on the local landscape and biodiversity of this area, already recognised for its valuable habitats supporting a wide range of plants and important wildlife.

- The TPO will ensure the trees are protected and considered in any future planning applications for development on the adjacent land, requiring access off Dam Bank Drove.

### 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 because the Council received a planning application to develop an area of land at Berry Fen, Dam Bank Drove, Haddenham, including the proposal to remove 3 Oak trees on the southern boundary to create a new access to permit the development of the wind farm.
- 4.2 A request was received from a member of the public by the Council's Senior Trees Officer to consider placing a TPO on the Oak trees because of their significance from a landscape, rarity and ecological point of view.
- 4.3 The Oak trees on the southern boundary of the site were not protected at this time and could have been removed before the application had been determined.
- 4.4 To support the recognition of the amenity value of the seven Oak trees in the local landscape and to give an opportunity for discussion on the feasibility of creating the new access in the existing gap between the trees on the southern boundary, a TPO was therefore made on 28<sup>th</sup> April 2015, under Section 201 of the Town & Country Planning Act 1990, and after the statutory consultation period requires confirmation within six months.
- 4.5 The planning application 14/00728/ESF was subsequently withdrawn by the applicants on 26<sup>th</sup> June 2015, after the TPO was served. However the TPO is now in place and will need to be confirmed within the statutory 6 months period to remain valid.
- 4.6 Support for the confirmation of the TPO, even though the planning application 14/00728/ESF has been subsequently withdrawn, has been received from the Haddenham Ward District Councillors. Copies of the emails of support received are in Appendix 3 of this report.
- 4.7 The TPO reinforces the trees' amenity value, with their positive visual contribution, within the wider local landscape of Dam Bank Drove and is supported by the Council's Local Plan Policies ENV1 and ENV7 of the East Cambridgeshire Local Plan April 2015.

- 4.8 The seven Oak trees are relatively young, in reasonable health and visible to the public from Dam Bank Drove and surrounding open countryside. The TPO Oak trees contribute to the rich diversity of flora and fauna in the vegetation belts along the network of public paths and droves in the local landscape, and Oak is relatively uncommon within the usual types of tree species found in this part of the district.
- 4.9 Objections to the serving of the TPO on the seven Oak trees were received in writing and by email from the land owners of Berry Fen Field, the REG Windpower and Cambridgeshire County Council Rights of Way & Access Team during the statutory consultation period. Not all of the objections relate directly to the subsequently withdrawn planning application 14/00728/ESF. Copies of the objections received are in Appendix 1 of this report.
- 4.10 In summary the objections made were:
- The TPO has been served at the behest of a member of the public and is a ploy to block the planning application 14/00728/ESF for the installation of wind turbines.
  - The TPO will infringe their rights as landowners to widen or make a new access to their own farm land in future, as agricultural machinery is getting wider, taller and longer, which may require removal of trees on or adjacent to their land.
  - The TPO trees are close to the carriageway and Cambridgeshire County Council policy now states they do not allow trees to be planted within 5m of the highway. These trees were already in place but if in future they become hazardous to the passing public or begin to cause damage to the highway structure then County Highways would look to remove them.
  - These trees were included in the Arboricultural Impact Assessment submitted with the planning application for Berry Fen Wind Farm and six of the TPO Oak trees were described as of low quality and one Oak tree (T7) was considered of moderate quality/value.
  - There are many other trees in the wider landscape of greater amenity value and it is therefore hard to see how the Council can argue the removal of three of the Oak trees for the proposed development, assessed to be of low quality, would have a significant negative impact on the local environment and its enjoyment by the public.
  - Such low quality trees, whilst contributing to biodiversity, do not do so significantly. There is a commitment to replacing the trees to be removed as mitigation and also further planting to enhance the hedge providing a habitat corridor.
  - The seven Oak trees do not meet the Green Infrastructure definition of Natural England guidance.

4.11 The Council's responses to the objections made are in Appendix 2 of this report.

## 5.0 **CONCLUSIONS**

5.1 Whilst determining if trees are of sufficient amenity value or not is to some extent subjective, the Senior Trees Officer remains of the opinion that these Oak trees are visually important. Although the planning application 14/00728/ESF was subsequently withdrawn and there is no longer the threat of removal of some of the seven Oak trees on the southern boundary of the Berry Fen field for the proposal to develop the new wind farm here, the Oak trees do make a positive contribution to the character of the area.

5.2 A TPO would be an appropriate measure to safeguard the trees. The TPO will not prevent consideration of the site for development in any future planning applications, or for the management of the Oak trees in the future, if and when tree work is required.

## 6.0 **APPENDICES**

Appendices 1 & 3 – Letter and emails of support for the TPO

Appendix 2 – Council's letters of response to TPO objections.

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<b><u>Background Documents</u></b>	<b><u>Location(s)</u></b>	<b><u>Contact Officer(s)</u></b>
TPO E/01/15 Town & Country Planning Act 1990 Town & Country Planning (Tree Preservation)(England) Regulations 2012 DETR Tree Preservation Orders – A Guide to the Law and Good Practice East Cambridgeshire Local Plan April 2015 Planning Application 14/00728/ESF, Senior Trees Officer's comments of 16/03/15, withdrawal notice of planning application 26/06/15 Letter & emails of objections and support for	Cathy White, Senior Trees Officer Room No. 001 The Grange Ely	Cathy White Senior Trees Officer 01353 665555 cathy.white@eastcambs.gov.uk

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the TPO (See Appendices  
1 & 3)  
Council's letters of  
response to TPO  
objections (See Appendix  
2)