

**TITLE: TPO/E/03/25**

Committee: Planning Committee

Date: 03/12/2025

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Report No: AA111

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**Site Address:** 50 Main Street, Prickwillow, Ely, Cambridgeshire CB7 4UN

**Proposal: To confirm Tree Preservation Order (TPO) E/03/25**

**Parish: Ely**

**Ward: Ely North**

Ward Councillor/s: Chika Akinwale  
Alison Whelan

**Date Made: 12/06/2025**

## **1.0 RECOMMENDATION**

- 1.1 Members are recommended to APPROVE the confirmation of the tree preservation order for the following reasons. The woodland is a prominent feature, in good health, it offers a significant visual contribution to the amenity of the local landscape in this part of Prickwillow. It also provides a significant ecological benefit and habitat provision rare to this part of Cambridgeshire.
- 1.2 The Committee is determining the confirmation because it triggers the Council's Constitution in respect of objections to the TPO being received from a member of the public and their agent within the statutory consultation period.

## **2.0 COSTS**

- 2.1 If a TPO is made and confirmed and there are subsequent applications for works to trees in the woodland that are refused then the tree owner or neighbours could have an opportunity to claim compensation if, as a result of the Council's decision, the tree owner or any neighbours suffer any significant loss or damage as a result of the refusal of works within 12 months of that decision being made, if costing more than £500 to repair.

### **3.0 THE SITE AND ITS ENVIRONMENT**

- 3.1 The order was made following receipt of a request from the woodland owners to assess the woodland for its suitability for protection by TPO, to protect their legacy for the future.
- 3.2 The TPO was served under Section 201 of the Town & Country Planning Act 1990, on 16 September 2024 because:  
The woodland assessed is considered to be of significant amenity value in this part of Prickwillow, contributing to the biodiversity and green infrastructure of the local area and as such worthy of retention.
- 3.3 Area of the woodland to be protected is 11,677.242m<sup>2</sup>, 2.886ac or 1.168ha.

### **4.0 RESPONSES FROM CONSULTEES**

- 4.1 One objection to the serving of this TPO was received in writing from a neighbouring property owner. The statements of objection are attached in full in Appendix 1. There was one neighbour comment received in support of the TPO attached in full in Appendix 2. No comments at all were received from the Parish council.
- 4.2 The objections from the neighbour were as follows:
1. We feel that the benefits to the local community were overstated as there is no public right of access or real visibility from the village road.
  2. The major issue is the lack of maintenance and planning, which now results in constant issues for us in terms of light obstruction, overhanging branches, excessive shaded areas and hazards such as nettles etc. The preservation order is likely to exacerbate these issues, and the woodland is likely to only increase as a nuisance for us which we will not be able to address without risk of penalty from the Council. A buffer area would avoid the unnecessary issues that we experience. The indicated area should be cleared and exempt from the TPO to ensure we do not continue to endure overhanging branches on trees we would not, under the TPO, be able to maintain, meaning the issue will get consistently worse for us.
  3. There are trees pressing against the fence overhanging the garden by 10ft, this is a nuisance and unpleasant outlook and is likely to become a health and safety issue. The overhanging branches are persistent and unnecessary issue for us; it overshadows our Laurel hedge. The trees are already overhanging our daughter's trampoline, and we are concerned that left as is they could cause a health and safety risk, especially if we cannot maintain those trees ourselves. We have had to erect a fence to stop the constant branches and stinging nettles coming through and eventually over the boundary. The TPO will prevent us being able to do anything about the issue. This will eventually render it impossible for us to use the rear of our garden.
  4. We respect your right to want to plant trees for the environment, but this should not result in this being problematic for those affected by it. The TPO will prevent us or anyone else being able to do anything to address the issues being caused.

4.3 The supporting comments were as follows:

1. Views of the woodland from publicly accessible points are limited to gaps between properties some of which are large, over the roofs of the bungalows nearby and from the carpark for the drainage museum. The limited visibility is reflected in the TPO assessment which still demonstrates that the woodland is suitable for long-term protection by TPO.
2. The presence of a TPO does not stop reasonable maintenance of the woodland. The claimed light obstruction, over hanging branches and shading are considered minor in nature with pruning options available that could reduce the claimed issue. The presence of a TPO does not remove the tree owner's legal duty of care regarding maintaining the trees in as safe a condition as is reasonably practicable. Subject to approval of a tree work application, neighbouring landowners can submit applications to undertake works to the TPO trees though they could only undertake works in line with the vertical boundary without permission from the tree owner and this would be the case even without the TPO. Submitting tree work applications is free. Not confirming the TPO would not result in an obligation for trees to be removed for the indicated buffer zone and there is no legal requirement for this area to be cleared.
3. Works to trees impacting with the fence to alleviate the issue including tree removals if required would be approved should an application be submitted. The reasonable reduction of overhanging branches would also be acceptable if it were not detrimental to the tree's health or their structural stability. Maintenance works to prevent branches growing through the fence and overhanging the boundary could be granted ongoing consent to prevent the need to submit multiple tree work applications.
4. The presence of a TPO does not stop reasonable maintenance of the woodland but an application would be required for most works. The removal of deadwood is exempt and there are processes in place to allow emergency works to be undertaken expediently. Neighbouring landowners can also submit applications to undertake works to the TPO trees as per point 2.

## **5.0 PLANNING MATERIAL CONSIDERATIONS AND COMMENTS**

- 5.1 Whilst determining if the tree was of sufficient amenity value or not is to some extent subjective, this woodland is visible from the public footpath, road, and neighbouring properties. The Trees Officer remains of the opinion that the woodland makes a significant visual contribution to the local landscape, the amenity, biodiversity and character of the area.
- 5.2 Amenity is a subjective term open to some individual interpretation. 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 woodland is mature and visible from the public footpath and road as well as neighbouring gardens and is considered to benefit the area in relation to its contribution to the street scene and locality and is considered of sufficient public amenity to warrant long-term protection.

- 5.3 If the Planning Committee decides not to confirm the TPO, the TPO will lapse, and the owner or future owners could then remove the woodland without any permission required from the Council. If the Committee confirms the TPO it ensures that suitable evidence is provided before a decision to remove trees can be made and ensures suitable replacement planting is undertaken if appropriate.
- 5.4 **Human Rights Act**  
The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property). Under the Act, it is unlawful for a public authority, such as East Cambridgeshire District Council, to act in a manner that is incompatible with the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance. The Council is also permitted to control the use of property in accordance with the general interest and the recommendation set out below is considered to be a proportionate response to the submitted application based on the considerations set out in this report.
- 5.5 **Equalities and Diversities**  
In considering this planning application, due regard has been had to the public sector equality duty (PSED) under Section 149 of the Equality Act 2010, which means that the Council must have due regard to the need (in discharging its functions) to put an end to unlawful behaviour that is banned by the Equality Act, including discrimination, harassment and victimisation and to advance equality of opportunity and foster good relations between people who have a protected characteristic and those who do not. Account has been taken of the PSED and it is considered that the recommendation set out below would not undermine the objectives of the duty.

## **6.0 APPENDICES**

Appendix 1 Statement of objection to the TPO from neighbour at 42 Main Street.

Appendix 2 Statement of support for the TPO from neighbour at 54 Main Street.

Appendix 3 Aerial view of woodland

Appendix 4 Documents:

ECDC TPO Assessment Sheet & user guide

Copy of the TPO/E/02/25 document and plan

## **7.0 Background Documents**

Town & Country Planning Act 1990

Town & Country Planning (Tree Preservation) (England) Regulations 2012

National Guidance -Tree Preservation Orders and trees in conservation areas 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/](#)