

# Item no.

Report to: **District Council of Easington**

Date: **8 September 2005**

Report of: **Head of Planning and Building Control Services**

Subject: **Proposed Tree Preservation Order at 13 The Village, Castle Eden.**

Ward: **Hutton Henry**

## **1. Purpose of the report**

The purpose of this report is to enable Members to consider whether or not to confirm a Tree Preservation Order in respect to land at 13 The Village, Castle Eden.

## **2. Consultation**

In preparing this report the views of the Council's Countryside Officer have been sought. The views of appropriate Parish Councils, landowners and surrounding landowners have also been sought in accordance with statutory procedures.

The Countryside Officer responded with the following comments:

The trees should be protected by a TPO as soon as possible. The applicant considers the trees to be dangerous but offers no additional information to back up this claim and it appears that they consider them dangerous simply due to the trees height. The trees are Sycamores and contribute significantly to the amenity around Castle Eden village and it is vital that an emergency TPO is placed on them.

Castle Eden Parish Council responded to say that they have no objection to the removal of the trees but that they are concerned about the state of trees in the village and the loss of mature trees following the storms in January.

Castle Eden Society viewed the trees in question and decided that they had not sustained any storm damage, this gave the impression that they are healthy and not an imminent danger to people or property. They may well be a nuisance but that is not a valid reason to have them removed, indeed it is a valid reason to have a TPO placed on them. Castle Eden is losing too many trees at present and few if any are being replaced, it is therefore essential that the felling of healthy trees is resisted.

## **3. Background**

The relevant legislation in relation to T.P.O's is principally contained in Sections 198, 200 and 203 of the Town and Country Planning Act 1990.

A period of six weeks notice must be given to a local authority when works are proposed to trees within conservation areas. During this period the authority must

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decide whether the works are appropriate, if not a T.P.O should be made in order to protect the tree(s).

The legislation permits the Council, as Local Planning Authority, to make T.P.O's to preserve trees or woodlands in their area if it is considered expedient to do so in the interests of the amenity of the area. The effect of a T.P.O makes it an offence for any person to cut down, top, lop, uproot or wilfully damage any tree subject to an Order.

Government advice in relation to the making of T.P.O's generally advises that they should be used to protect trees or woodlands if their removal would have a significant Impact on the local environment and its enjoyment by the public. The subject tree(s) should normally be visible from a public space, such as a road or footpath. It is also reasonable to have regard to the future benefit which trees may bring, when allowed to mature.

It is also relevant to assess whether or not it is expedient to make an Order. For example, even if a tree(s) was deemed worthy of an Order on amenity value, if they were under good arboricultural management then it would not normally be expedient to make an Order. Conversely if the Council considered the subject trees were under risk, possibly from development pressure, then it would be expedient to pursue an Order.

## **4. Position Statement and Option Appraisal**

On 28<sup>th</sup> January 2005 a letter was received which notified the Council of a proposal to remove three sycamore trees on the basis that they constituted a danger to people and property nearby.

After carrying out consultations and assessing the proposal from the B1281 highway it was determined that the trees did not pose a threat to nearby properties and that requests for removal simply on a perception of danger due to height should not be agreed unless appropriate technical information is supplied.

On 2<sup>nd</sup> March 2005 the Head of Planning and Building Control Services acting under delegated authority, issued a TPO on a temporary basis known as the District of Easington (13 The Village, Castle Eden) Tree Preservation Order 2005, which covered three Sycamore trees at the rear of this dwellinghouse.

This Order remained in place for 6 months, that is to say, until 2<sup>nd</sup> September 2005. During this period representations from interested parties have been invited to assist the Council in making a decision as to whether or not the Order should be confirmed and in the relevant period one letter of support has been received but no objections thereto.

## **5. Implications**

### **5.1 Financial**

There are no direct financial implications for the Council arising from a decision on whether to confirm the Tree Preservation Order. Financial implications may result if the decision is challenged in the High Court.

### **5.2 Legal**

The proposals have been duly considered in the context of planning legislation, government advice and the Human Rights Act.

### **5.3 Policy**

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Policies in the District of Easington Local Plan (Policy 11, Tree Preservation Orders and Policy 22, preservation and enhancement of Conservation Areas) have been taken into account when preparing this report. The confirmation of this particular Tree Preservation Order is considered to be in accord with these policies.

## 5.4 Risk

A risk assessment has been carried out. It is considered that the potential for risk arises from a challenge to the decision, with a risk of associated costs. This risk is thought to be minimal. Challenges can only be made where it is considered that the Order is not within the powers of the Town and Country Planning Act 1990; or the requirements of the 1990 Act or Town and Country Planning (Trees) Regulations 1999 have not been met.

## 5.5 Communications

The appropriate Parish Council's, land owners and adjoining land owners will be notified of the Council's decision by issuing a decision notice.

## 5.6 Corporate

5.6.1 Corporate planning priorities - no implications.

5.6.2 Equality and diversity - no implications.

5.6.3 E-Government - no implications.

5.6.4 Procurement - no implications.

## 6. Conclusion

In conclusion it is considered that the subject trees provide significant visual amenity within the surrounding area. This is of particular importance within a Conservation Area. Furthermore, this amenity value tends to increase over time as trees become more mature.

It is considered expedient to make this Order having regard to the amenity value of the trees, and having regard to the threat of felling which the trees are under.

## 7. Recommendations

It is recommended that Members resolve to confirm the District of Easington (13 The Village, Castle Eden) Tree Preservation Order 2005.

## 8. Background Papers

The following background papers have been used in the compilation of this report.

District of Easington Local Plan  
Town and Country Planning (Trees) Regulations 1999  
Tree Preservation Orders – A Guide to the Law and Good Practice (DETR, 2000)  
Individual letters of notification, plans and consultation responses