

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – TUESDAY, 6 JUNE 2017

Title of report	TO CONSIDER THE MAKING OF A TREE PRESERVATION ORDER ON LAND AT 23A ASHBY ROAD DONISTHORPE
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Purpose of report	To consider the objection lodged by Mr and Mrs S Hallam to the Tree Preservation Order made on 3 rd March 2017 to protect two apple trees (“the Order”).
Council priorities	Homes and Communities Green Footprints
<p>Implications:</p> <p>Financial/Staff</p> <p>Link to relevant CAT</p> <p>Risk Management</p> <p>Equalities Impact Screening</p> <p>Human Rights</p> <p>Transformational Government</p>	<p>None</p> <p>None</p> <p>None</p> <p>Equality Impact Assessment already undertaken, issues identified actioned</p> <p>Under the Human Rights Act 1998, Article 8, there is a right to respect for private and family life, the home and correspondence. Article 1 of the First Protocol of the European Convention on Human Rights ensures the peaceful enjoyment of possessions. The making of the Order potentially impacts upon these two rights. Individuals should not be deprived of these rights and nor should these rights be intererered with except in the public interest, which is considered to be the case here.</p> <p>None</p>

Comments of Deputy Chief Executive	The report is satisfactory
Comments of Deputy Section 151 Officer	The report is satisfactory
Comments of Monitoring Officer	The report is satisfactory
Consultees	People with a legal interest in the land affected by the Order have been consulted and members of the public were consulted by the placing of site notices close to the site.
Background papers	None
Recommendations	THAT THE TPO BE CONFIRMED

1.0 INTRODUCTION AND BACKGROUND

- 1.1** The Order was made in respect of planning application 16/00678/FUL to build three detached dwellings and garages on an orchard site.

The proposed layout would necessitate the removal of all existing orchard trees. The site consists of seventeen pear and apple trees over 40 years in age, with two apples being said to be in excess of 80 years.

In support of the planning application above, the applicant submitted an ecological report compiled by wildlife consultants which only included a brief arboricultural appraisal.

A specific arboricultural report in accordance with BS5837:2012 Trees in relation to the development has not been provided with the planning application.

A fruit tree may be protected by a Order provided that the local planning authority believes it to be in the interests of amenity and it is expedient to do so.

2.0 OBJECTIONS AND OFFICER COMMENTS

2.1 Summary of Representations Received

The following summary of representations is provided. Members will note that full copies of correspondence received are available on the planning file.

One objection to the confirmation of the Order has been received from the ownerof the site and applicant for planning application 16/00678/FUL who states that the said trees provide little or no fruit, and little or no amenity benefit as there are no public highways or rights of way nearby. The owners consider that confirming the Order is a move to prevent planning consent being granted.

2.2 Officer Comments

Trees are a material consideration in any planning application and paragraph 118 of the National Planning Policy Framework (2012) highlights the importance of aged or veteran trees. A tree preservation order cannot be used as a tool to prevent development. If the benefits of development outweigh the value of the trees, the trees can be removed.

Tree surveys on development sites should assess arboricultural, landscape and cultural qualities and categorize each tree or tree group accordingly.

In light of the objection received to the planning application, the Council's Tree Officer carried out a site inspection and assessed that the two apple trees are in fair condition, with a likely life expectancy of 20-40 years. Although they have limited public visibility, they do merit retention and could be incorporated into the gardens of an appropriate building layout to provide a desirable amenity contributing to a pleasant and attractive place to live. Confirmation of the Order is also deemed expedient under the circumstances.

Aged trees make a significant contribution to biodiversity, the landscape character and the distinctiveness of the National Forest. Orchard trees in excess of 60 years are important due to their inherent biodiversity and characteristics, including decay, dead wood and cavities which are a feature of veteran trees, in addition to their aesthetic value.

With suitable protection and management, the two aged apple trees could continue to reflect the National Forest setting and make a positive contribution to the physical creation of the forest by enhancing both the landscape and biodiversity.