

## AGENDA ITEM NO: 8/3(a)

<b>Parish:</b>	South Creake	
<b>Purpose of report:</b>	TO CONSIDER WHETHER TREE PRESERVATION ORDER 2/TPO/00574 SHOULD BE CONFIRMED, MODIFIED OR NOT CONFIRMED IN THE LIGHT OF OBJECTIONS	
<b>Location:</b>	The Old Rectory Waterden Lane Waterden South Creake Norfolk NR22 6AT	
<b>Case No:</b>	2/TPO/00574	
<b>Grid Ref:</b>	588492 335740	<b>Date of service of Order: 12 June 2018</b>

### RECOMMENDATION - CONFIRM ORDER WITHOUT MODIFICATION

#### THE SITE

The area of trees (A1) surround the Old Rectory in Waterden, many of the trees are mature specimens that can be clearly seen along Waterden Lane.

#### LDF CORE STRATEGY POLICIES

**C12** - Environmental Assets

#### REASONS FOR MAKING THE TREE PRESERVATION ORDER

Following the receipt of an informal enquiry to development The Old Rectory, it was felt that the threat to these trees, both now and into the future, required the TPO to be served to preserve the amenity of the immediate area and the wider landscape.

#### OUTLINE OF OBJECTIONS AND REPRESENTATIONS

One letter of objection was received from Holkham Coke Estates Limited, a summary of their comments are outlined below:

1. The notice received makes reference to article 4 1999 regulations and not article 5 of the 2012 regulations, we believe that this makes the TPO invalid and request that this notice is re-issued.
2. The schedule list received should list the number of trees included and the various species in the schedule which it does not. We believe there are trees which should be excluded including dying and dangerous trees as well as those that are not of any amenity value.

3. It is stated that the order has been placed due to the threat to the trees both now and into the future. We believe that this has been stated on the grounds that they were involved in an informal enquiry. No formal application has been submitted and we feel that the TPO has been served because of the potential application. Please note, has this been the case the owners would have sought professional advice regarding the trees.
4. The notice received states that, to make an objection, we should state what particular trees, groups of trees or woodlands, this cannot be done as the order related to an area, we also believe that the Tree Officer did not visit the site but placed the area around the plan from the informal enquiry and secondly because none of the trees were identified. If the trees had been identified the Tree Officer would have seen the condition of the trees.

The objector also raises some points from the Government website:

5. What does Amenity mean in practice? Amenity is not defined by law, local authorities need to exercise judgement when deciding to serve a TPO, TPOs should be used to protect trees where their removal would have significant negative impact on the environment and their protection would have a degree of public benefit. Could the borough provide proof of this?
6. Is a site visit needed? Before making a TPO a LPA officer should visit the site of the trees in question and consider whether a TPO is justified. Further site visits may be appropriate following emergency situations.
7. What evidence should be collected on a site visit? Where a TPO may be justified, the LA Officer should gather sufficient information to enable an accurate TPO to be drawn up; the officer should record the number and species of the individual trees and groups. A general description of genera should be sufficient for areas of trees or woodlands. It is, however, important to gather enough information to be able to map their boundaries. We do not believe that this has been carried out.

## **RESPONSE TO OBJECTIONS AND REPRESENTATIONS**

1. The TPO itself has been served under the correct regulations; the notice the objectors refer to lays out the procedure for objecting to the serving of a TPO and in no way invalidates this TPO. The template letters for the notice have been updated to reflect this.
2. This TPO has been served as an Area Order and 'Tree Preservation Orders – A Guide to the Law and Good Practice' states in 3.17: Using the area classification (the 'Area Order') is an alternative way of specifying scattered individual trees. All the trees within the defined area on the maps are protected if their description in the 1st schedule of the TPO is all encompassing eg 'the trees of whatever species within the area marked A1 on the map'. The 1st schedule for this TPO states; 'various species within the area listing'.
3. Following a site visit between 2 senior council officers and a planning agent, the removal of trees and redeveloping the Old Rectory was discussed; this was brought to the attention of the tree officer and are sufficient grounds for a TPO to be served.
4. Please see point 2 above and appendix 1.

Planning Committee  
05 November 2018

5. Please see appendix 1.
6. Please see appendix 1.

## **CONCLUSIONS**

In conclusion, these trees contribute greatly to the character and appearance of the street scene and the wider landscape, both now, and more importantly into the future. In the absence of a TPO, the applicant could legitimately fell the trees without seeking consent. Whilst we recognise that the Holkham Estate has indicated that this is not the intention, the removal of the trees did form part of the pre-application discussion. As a result, there are reasonable grounds to consider that the trees are under possible threat and that the service of a notice is warranted. It is considered that the reasons put forward by the objectors are of insufficient weight to overcome the harm to the character and appearance of the locale that would occur should these trees be removed. It is therefore recommended that the order is confirmed.

## **RECOMMENDATION: CONFIRM ORDER WITHOUT MODIFICATION**

### **Background Papers**

TPO file reference: 2/TPO/00574

Appendix 1: Copy of scoring assessment

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