

AGENDA ITEM NO: 9/3(a)

Parish:	Downham Market	
Purpose of report:	To consider objections to the Tree Preservation Order (TPO) 2/TPO/00685, 2 Crow Hall Farm Cottage, Nightingale Lane, Downham Market, and determine if the order be confirmed, making it permanent, confirmed with modifications, or not confirmed.	
Location:	Within the existing garden of: 2 Crow Hall Farm Cottage, Nightingale Lane, Downham Market, PE38 9FD	
TPO number:	2/TPO/00685	
Grid Ref:	561629	
	302477	

RECOMMENDATION - That the committee confirms Tree Preservation Order 2/TPO/00685 without modification.

Introduction

Tree Preservation Order 2/TPO/00685 was made on Thursday 9th May 2024, and is provisional for the first 6 months following its making. This provisional period allows the Council to consider any representations and objections received as part of our consultation before a decision is reached as to its future permanency. Under the Council's scheme of delegation, where objections are received, its confirmation is deferred to the Planning Committee

Description

The protected trees are Pine, Birch Sycamore, and Hornbeam. These mature and semi mature trees are all situated within the existing garden of 2 Crow Hall Farm Cottage, adjacent to public footpath Downham Market RB20, and just to the north of the BroadOaks development site. The trees are clearly seen in public views from two public footpaths, Downham Market RB20, and footpath Downham Market RB 19, along Nightingale Lane itself and the from the rear of gardens along Ryston Lane. The trees will also be clearly seen from new dwellings built to the south of the site in the Broad Oaks development.

Reason for the Tree Preservation Order

In March 2024 a full planning application was received for the construction of one dwelling in the garden to the east of 2 Crow Hall Farm Cottage. Although the applicant stated on the planning application form that there were trees on this land that could influence the development, they did not provide any supporting information about the trees for the application.

When looking at the information presented for the planning application, it was difficult to see how the development could be carried out without significant loss and harm to trees on the site.

The applicant did not demonstrate satisfactorily that the proposed dwelling would not have a significant detrimental impact on the existing trees.

The planning application has not yet been determined. The applicant has still to provide Arboricultural information in support of their proposal.

Because of the potential threat to the trees, a Tree Preservation Order was made on Thursday 9th May 2024.

Outline of Objection

A site visit was carried out on Wednesday 15th May in response to an enquiry about the TPO, in which the owner appeared to have no objection in principle to the Order.

However, an objection to the Tree Preservation Order in the form of an e-mail sent by the owner and was received on Thursday 6th June.

The outline of the objection is that the tree owner feels it is unreasonable for him to have to apply to the council to have permission, to carry out work to trees in his own private garden.

To resolve the objection, two site meetings have been carried out, where discussions included the process for making a tree works application and works that are likely to be approved to the trees if an application is made.

The objection seems to be with the legislation itself and not in relation to the justification for making the order to protect the trees.

Response to Objection

Permission is needed to carry out all work on trees protected by a Tree Preservation Order, as outlined in Part VIII of the Town and Country Planning Act 1990 as amended and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

This process is effectively the same for all trees across the UK protected by TPO's and in Conservation Areas. Requiring landowners to apply to the Council for permission to carry out work on protected trees is a reasonable and necessary measure.

This regulation has been in law since 1947 and balances the rights of the landowner with broader public amenity interests. In the last 12 months alone, here in Kings Lynn & West Norfolk we received and determined 108 applications from tree owners to carry out works to trees protected by a Tree Preservation Order and 237 for Trees protected by standing in a Conservation Area. These are typical numbers for this Planning Authority.

The process of making an application is not unduly onerous and does not prevent trees being managed.

Not all landowners have the necessary expertise to assess the condition of a tree or the impact or suitability of tree work on its longevity. TPO applications allow for expert Arboricultural input to ensure any work carried out is necessary, appropriate and conducted in a way that protects the tree's health. Without this oversight, well-intentioned but misinformed work could cause unnecessary damage to trees and result in their premature loss.

Conclusions

The making and confirming of this Tree Preservation Order will not be unduly onerous to the tree owner and will not prevent the trees being reasonably managed.

RECOMMENDATION

That the committee endorses the officer recommendation to confirm Tree Preservation Order 2/TPO/00685 without modification.

BACKGROUND PAPERS

SUPPORTING INFORMATION

1. Tree Evaluation Method for Preservation Orders - TEMPO