

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

TREE PRESERVATION ORDER - 34 CHURCH STREET, MESSINGHAM

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To decide whether to confirm a tree preservation order with or without modification in connection to 34 Church Street, Messingham.
- 1.2 The key points in this report are as follows.
 - 1.2.1 A Tree Preservation Order was recently made relating to a number of trees at 34 Church Street, Messingham.
 - 1.2.2 The council has received objections to the order that need considering.
 - 1.2.3 A decision is needed to confirm the order or otherwise in light of these objections.

2. BACKGROUND

- 2.1 A Tree Preservation Order (TPO) order was made on 1 February 2011 in connection with trees located at 34 Church Street, Messingham. The TPO in question applies to four trees in total comprising one beech and three lime trees. These trees are part of a group of five trees that form a linear boundary feature with a conjoined canopy. The trees are in early maturity and contribute significantly to the landscape character and amenity value of this part of Messingham.
- 2.2 Two objections to the TPO were received, one from the owners of the land, the other from a neighbour.
- 2.3 The owners of the land state the following in their objection.
 - 2.3.1 Two trees (T1 and T2 on the order) need pruning and they feel the order would prevent this. They wish to remove trees T3 and T4 on the order and replace them with 2 smaller ornamental trees; a flowering thorn and a winter flowering cherry.
 - 2.3.2 They complain of the sticky residue from aphids.
 - 2.3.3 A neighbour has told them she is fearful because the trees are taller than her bungalow and that she fears falling branches.

- 2.3.4 The owners also feel that not many people would benefit from the amenity value in the trees as the road is quiet, and that in addition all the neighbours wish to see the trees removed.
- 2.3.5 They feel that the trees do not have adequate space in which to mature fully and they state that they have kept them in good management.
- 2.3.6 They intend to landscape the whole garden, and the trees are not in their plans.
- 2.4 The neighbour states the following in his/her objection.
 - 2.4.1 Concern over the safety of the trees, as they need to be kept in check.
 - 2.4.2 The trees require heavy pruning, as they are larger than the objector's bungalow.
 - 2.4.3 Concern about the potential subsidence in the future.
 - 2.4.4 The trees are viewed as a nuisance.
- 2.5 In response to the above concerns, the council's Tree Officer has sought to resolve the issues and negotiate a withdrawal of the objections, but without success.

3. OPTIONS FOR CONSIDERATION

- 3.1 The following options are available for consideration.
 - 3.1.1 **Option 1** – Confirm the TPO
 - 3.1.2 **Option 2** – Remove the TPO based upon the objections received.

4. ANALYSIS OF OPTIONS

- 4.1 Option 1 is suggested as the best option as it is considered that the concerns raised by the two correspondents to the confirmation of the TPO cannot be substantiated.
- 4.2 The purpose of a TPO is to protect trees of significant amenity value that contribute to the area in terms of pride of place and associated environmental benefits. The trees are of this class and the owner of the land agrees with this in part because they wish to retain at least two of the trees although in a reduced (pruned) form. Whilst it is true that the street is relatively quiet it is not practical to assess amenity value purely upon the basis of how many people may encounter the trees. They are clearly a significant feature of the street scene and contribute significantly to the character of the area. They are worthy of protection for this reason however whilst quiet, the road is well known in

Messingham because it gives access to the Church and the associated burial ground, the trees within which link visually with the trees on site.

- 4.3 The presence of a TPO will not prevent appropriate pruning. Rather it vests control over the form of that work with the Local Planning Authority.
- 4.4 The replacement with smaller trees within the landscape does not fulfil the agenda of maintaining amenity value on the street scene. The trees are prominent features of the street screen and are visually associated with other trees of similar form. The removal of two of the trees and replacement with small decorative specimens would erode the group value of the trees to the detriment of the existing street scene.
- 4.5 From a visual inspection of the trees, there is no evidence of immediate danger. The perception that the trees are potentially dangerous because they happen to be taller than one of the correspondent's dwelling is just that, a perception which has no substantive basis in fact. Using the Quantified Tree Risk Assessment System the tree pose a 1:72,000 risk of failure. The Health and Safety Executive recognise 1:10,000 is an acceptable 'Risk of Harm.'
- 4.6 Nor is there any evidence that the trees are currently causing damage to property. If in the future this does occur then there are suitable remedies available via the tree preservation order procedure.
- 4.7 Works of the type proposed by the neighbour appear to have been undertaken to the trees on that property frontage. These works appear to have caused substantial damage to those trees and have resulted in the loss on the street scene of what appear to have once been significant visual and amenity assets.
- 4.8 Whilst Planning Policy is not necessarily a critical consideration in the making of TPO's the council has clearly stated objectives concerning trees in its local plan provision. These include the following.
 - **LC7 Landscape Protection:** 'Wherever possible, woodlands, grasslands, heath-lands and other habitats of landscape importance together with valuable existing landscape features, such as hedgerows, trees, copses, ponds, watercourses, dykes, historical sites, estate features, enclosure landscapes, and other built heritage features will be protected and enhanced.'
 - **LC12 Protection of trees, woodland and hedgerows:** 'Particular regard will be given to the protection of these features within the setting of settlements, the protection of ancient woodlands and historic hedgerows and the amenity value of trees within built up areas. Tree preservation orders will be made where trees that contribute to local amenity or local landscape character are at risk.'

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 There are no financial, staffing, property or IT related implications arising from the matters covered by this report.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

6.1 Environmental - The potential loss of an historical part of the greenery of Messingham to the detriment of visual amenity could arise if the TPO were removed.

6.2 There are no other implications that arise from the matters covered by this report.

7. OUTCOMES OF CONSULTATION

7.1 The recommendation contained in this report arises from consultation arising from the making of a TPO in connection with 34 Church Street, Messingham. The outcomes are set out above for consideration by members of the Committee.

8. RECOMMENDATIONS

8.1 That the Planning Committee approves the confirmation of the Tree Preservation Order relating to 34 Church Street, Messingham.

DIRECTOR OF INFRASTRUCTURE SERVICES

Church Square House
P O Box 42
Scunthorpe
DN15 6XQ

Author: Flora Harding

Date: 18 May 2011

Background Papers used in the preparation of this report:

- The Quantified Tree Risk Assessment System.
- Photos showing the location and visual importance of the trees.
- Objection letters.