



PL.13 12/13
Planning Committee
Date: 6th February 2013

Subject: Objection to Tree Preservation Order Caistor No2 2012

Report by:

Director of Regeneration and Planning

Contact Officer:

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Purpose / Summary:

This report relates to an objection received against the making of a new Tree Preservation Order protecting one large tree on the front boundary of a garden.

RECOMMENDATION(S): That Members, notwithstanding the objections made by the owner, approve the confirmation of the Tree Preservation Order Caistor No2 2012.

IMPLICATIONS

Legal: None

Financial : None

Staffing : None

Equality and Diversity including Human Rights : The process for making and confirming Tree Preservation Orders is set out in primary legislation and government guidance. Therefore, if all decisions are made in accordance with those statutory requirements and guidance and are taken after having full regard to all the facts, no identified breach to the Human Rights Act 1998 should arise as a result of this report

Risk Assessment : None

Climate Related Risks and Opportunities : None

Title and Location of any Background Papers used in the preparation of this report:
Guidance book - Tree Preservation Orders: A guide to the Law and Good Practice, Chapter 3. Available in the planning department, and also available on the government website at <https://www.gov.uk/government/publications/tree-preservation-procedures-guidance>

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No

1 Introduction

- 1.1 A tree application (a section 211 notice of works) was received in August 2012 for works to various trees at a property in Castle Hill, in the Caistor conservation area.
- 1.2 Work to the other trees was considered appropriate so the council had no objection to their work being done. The proposed work to remove the sycamore on the front boundary was considered to be inappropriate due to its impact to the character and amenity value of the area, therefore an amenity assessment was carried out to see if the tree met the criteria for a Tree Preservation Order (TPO) to be placed on it.
- 1.3 The tree met the criteria, and the Tree Preservation Order Caistor No2 2012 was made on 03 September 2012 to prevent the tree being removed without good reason.
- 1.4 An objection letter was received from the tree owner on 15 October 2012 regarding fears the tree or part of it might fall on the bungalow in windy weather, and that the owner would like to replace the car port with a garage but the tree roots would prevent it.

2 Discussion

- 2.1 Under the protected tree legislation a council can deal with the application in a conservation area in one of three ways. They may;
 - a) agree with the work and let it go ahead,
 - b) disagree with the work and make a TPO, or
 - c) disagree with the work but the tree does not meet the criteria for a TPO, then the council can not prevent the work or specify an extent.Option b) was considered appropriate in this case due to the sycamore's prominence and amenity value.
- 2.2 Caistor Town Council raised concerns that the removal of the tree would change the street scene, and that the tree should be retained if possible.
- 2.3 The tree adds feature and amenity value along this street in the historic core of the town. Trees in this area are a key component of the area's character, along with the church and church yard, nearby listed buildings and narrow lanes. The approach to the town is described in the Caistor Conservation Area Appraisal document as being distinctive, and describes views towards the church tower amongst the trees forming a landmark feature. The document goes on to describe the individual and groups of trees as an essential natural landscape feature along various roads, including Castle Hill, and describes how the trees along Castle Hill soften the 20th century development within the conservation area. This sycamore tree is also on a length of Castle Hill which is shown on the Caistor Townscape Analysis Map of the Conservation Area Appraisal document as an area of "important trees".

- 2.4 In response to the objection points raised;
- a) Tree health and safety is the responsibility of the tree owner regardless of whether the tree is protected or not. A tree should sway in the wind as a natural response to reduce the force of the wind on the trees structure and help to dissipate the wind energy. A crown thin would remove a percentage of the branches and leaf cover to allow wind to pass through the tree more easily and with less force on its structure. An arboriculturist can inspect a tree and its growing environment for any possible weak points or features that have potential for failure, and recommend any appropriate work to resolve any problems identified. Photographs are provided in the slideshow.
 - b) The removal of the tree does not necessarily mean a garage could then be built, because planning permission would also be required due to it being in the front garden and within the conservation area. The importance of the tree would then be considered in the planning process. Traditional strip foundations would involve excavations which would sever many important roots close to the tree potentially causing it to become unstable and greatly reducing its ability to take up essential water and nutrients. This type of excavation work is not advisable while the tree remains, but there are various alternative methods of constructing foundations or supporting a garage that have been designed for use in close proximity to trees to avoid root damage or removing trees. Providing suitable tree protection measures are implemented there is potential for constructing a new garage in such close proximity to this tree, subject to planning permission.
- 2.5 The TPO does not place any responsibility for the tree on to the council. The protection just means that if the owner decides she wants to do any work to the tree she will first have to make an application to the council for permission. If the works are considered appropriate then the work is likely to be given consent.
- 2.6 Confirming the TPO will not prevent any necessary tree work from being carried out. A TPO is not to prevent necessary work from being done, but to allow regulation of any tree work to prevent unnecessary or damaging work from taking place that would have a detrimental impact on the amenity value, health and long term retention of the tree.
- 2.7 LPA's have the power to make a TPO if it appears expedient in the interests of amenity value. A TPO should be used to protect selected trees if their removal would have a significant impact on the local environment and its enjoyment by the public.

3 Conclusion

- 3.1 The sycamore is a feature tree adding to the character of the area. Confirming the TPO is the only way to ensure this tree is not removed without good reason, or inappropriately pruned affecting its shape, health and long term retention. If the TPO is not confirmed, the tree could be removed and a replacement tree could not be stipulated.