

TITLE: 25/00407/TPO

Committee: Planning Committee

Date: 2 July 2025

Author: Trees Officer

Report No: AA31

Contact Officer: Kevin Drane, Trees Officer
kevin.drane@eastcamb.s.gov.uk
01353 616332
Room No 011 The Grange Ely

Site Address: Land North And West Of Broughton Hall 46 Lode Road Lode

**Proposal: T1 Horse Chestnut - Fell and treat stump with eco plugs
T2 Horse Chestnut - Fell and treat stump with eco plugs
Due to claimed tree related soil shrinkage**

Applicant: Property Risk Inspection

Parish: Lode

Ward: Bottisham

Ward Councillor/s: Charlotte Cane
John Trapp

Date Received: 9 April 2025

Expiry Date: 4 June 2025

1.0 RECOMMENDATION

- 1.1 These trees are protected by Tree Preservation Order E/06/83 and located within the conservation area. Members are recommended to REFUSE the application for the following reason(s):
- The trees offer significant public amenity to the area as indicated by the consultation responses received from members of the public.
 - There are means available that would stabilise the adjacent property allowing the trees to be retained.
 - The combined monetary value of the tree's amenity would be £315,917 Which demonstrate how high their value to the landscape and community is. They are between 110-170 years of age with a potential life expectancy of 300+ years.

- Although the applicant has been able to establish the link between the movement of the building and the trees the trees are of such significance to the local amenity that their retention should be given greater consideration and it is the officers opinion that there is significant risk that the removal of these trees may be a short term solution due to the proximity of other trees of similar water demand that could be identified for removal as they grow should movement of the property continue or re-occur after the initial tree removals have taken place as their area of influence is sufficient to reach the property at their current size.

- 1.2 The application is being heard by committee because it was called in by Councillor Trapp for the following Reason:
- a. That Lode Parish Council object to the loss of the trees as it would have a detrimental effect on the village environment in numerous ways.
 - b. These Horse Chestnuts are particularly significant given their size and age and therefore their carbon capture potential, the shade they provide and the habitats they hold.
 - c. The trees were in situ decades before the house affected was built. We are concerned that the felling of such important trees will create a precedent for such action in the future.
- 1.3 Members are advised that refusal of this application is likely to result in a significant costs claim to ECDC for any repairs to the property relating to damage that occurs after the application determination which could be in the region of £90,000 to £130,000 dependent on the extent of works required such as underpinning, drain repairs, re-decoration etc.

2.0 SUMMARY OF APPLICATION

- 2.1 *The application in front of members is for the removal of two mature Horse Chestnut trees that are protected by Tree Preservation Order E/06/83 that was confirmed 22/09/1983 as the trees have been linked to subsidence of the adjacent property 30 Lode Road via the report submitted with the application summarised as follows.*
- a. Damage to front left-hand corner and in the form of diagonal and vertical tapering cracks with a maximum crack width of 2-3mm. The damage denotes a downward movement to the left-hand side of the property towards the Horse Chestnut trees. The level of damage is slight and is classified as category 2 in accordance with BRE Digest 251.
 - b. The level monitoring that we have completed has shown clear seasonal movement consistent with root induced clay shrinkage.
 - c. The trial pit to the front LH corner of the property showed the foundations to be a concrete strip foundation to a depth of 700mm bearing on to a gravelly clay subsoil. There are roots to the underside of the foundations and to a depth of 1800mm. These have been identified as being from a Horse Chestnut tree.
 - d. Defects with the drainage system, does not appear to be having an influence on the sub-soil, probe results show that the soil has a good bearing capacity and is not weakened by leaking drainage system.
 - e. Pruning or significant 'pollarding' of the tree's would not provide a reliable or sustainable remedy to the subsidence in this case.

- f. The Insurers understand the requirement to offer replacement planting in the event consent to fell is granted.

2.2 It should be noted that the trees are located on land outside the control of the applicant as such they will not be able to ensure that replacement planting is undertaken or maintained sufficiently to allow its establishment.

2.3 The full planning application, plans and documents submitted by the Applicant can be viewed online via East Cambridgeshire District Council's Public Access online service, via the following link [Simple Search](#).

3.0 PLANNING HISTORY

3.1 **21/01676/TPO** Approval was granted in December 2021 to reduce the crowns of these two trees back towards the boundary line by up to 2.5m.

4.0 THE SITE AND ITS ENVIRONMENT

The site lies outside the defined settlement boundary for the village of Lode in an area designated by the Council as countryside adjacent to the Green Belt and within the Lode Conservation Area (CA).

5.0 RESPONSES FROM CONSULTEES

5.1 Responses were received from the following consultees [LIST] and these are summarised below. The full responses are available on the Council's web site.

Parish - 14 May 2025

Lode Parish Council strongly objects to the decision that these trees be removed and asks that this decision be reconsidered. Lode has recently seen a substantive loss of significant trees which has had a detrimental effect on the village environment in numerous ways. These Horse Chestnuts are particularly significant given their size and age and therefore their carbon capture potential, the shade they provide and the habitats they hold.

The trees were in situ decades before the house affected was built. We are concerned that the felling of such important trees will create a precedent for such action in the future.

We would ask that ECDC considers issuing these trees and other similar sized trees in the village with specific TPOs.

5.3 Neighbours – six neighbouring properties and the Parish council were notified and the responses received are summarised below. A full copy of the responses are available on the Council's website.

- Value the appearance of these old trees, not only from my property but also from the centre of Lode.
- Prune them instead of felling them, replace them with less thirsty trees.

- These trees are a significant part of the local landscape and should not be completely cut down. However some CAREFUL cutting back of branches overhanging the adjacent property might be acceptable.
- The trees pre-date the adjacent dwelling itself, the foundations of the dwelling not designed to take tree growth into account.
- The trees are of significant visual and environmental amenity and must be retained.
- Lode Parish Council strongly objects to these trees being removed. These Horse Chestnuts are particularly significant given their size and age and therefore their carbon capture potential, the shade they provide and the habitats they hold. The trees were in situ decades before the house affected was built.
- We are concerned that the felling of such important trees will create a precedent for such action in the future.

6.0 **THE RELEVANT LEGISLATION**

The Town and Country Planning (Tree Preservation)(England) Regulations 2012 regulation 17 Where an application is made to the authority for consent under an order in accordance with regulation 16 the authority may—

- (a) grant consent under the order, either unconditionally or subject to any such condition as is specified in paragraph (2); or
- (b) refuse consent under the order.

Regulation 19 Where the authority—

- (a) refuse an application for consent under an order or grant consent subject to conditions;
 - (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under an order, or grant such an application subject to conditions; or
 - (c) fail to determine any such application as is referred to in sub-paragraphs (a) and (b) within the period of 8 weeks beginning with the day after the date on which the application was received by the authority,
- the applicant may by notice appeal to the Secretary of State. allows the decision to be appealed.

Regulation 24 (1) If, on a claim under this regulation, a person establishes that loss or damage has been caused or incurred in consequence of—

- (a) the refusal of any consent required under these Regulations;
- (b) the grant of any such consent subject to conditions; or
- (c) the refusal of any consent, agreement or approval required under such a condition,

that person shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

(2) No claim, other than a claim made under paragraph (3), may be made under this regulation—

- (a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or

(b) if the amount in respect of which the claim would otherwise have been made is less than £500.

(3) Where the authority refuse consent under these Regulations for the felling in the course of forestry operations of any part of a woodland area—

(a) they shall not be required to pay compensation to any person other than the owner of the land;

(b) they shall not be required to pay compensation if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is subject to an appeal to the Secretary of State, the date of the final determination of the appeal; and

(c) such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.

(4) In any case other than those mentioned in paragraphs (2) or (3), no compensation shall be payable to a person—

(a) for loss of development value or other diminution in the value of the land;

(b) for loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;

(c) for loss or damage reasonably foreseeable by that person and attributable to that person's failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or

(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under these Regulations or the grant of any such consent subject to conditions.

6.0 PLANNING MATERIAL CONSIDERATIONS AND COMMENTS

6.1.1 The impact of the loss of these trees would have a significant effect on the visual amenity of the area. The applicant in their submitted reports has not made reference to the effect of the removal of the two trees on the remaining member of the group this tree will be exposed to wind stresses that it has not developed a root or branch structure to tolerate, if the remaining tree is not also significantly crown reduced there is a high and real risk that there will be significant branch and limb loss and potential root plate failure of the tree resulting in its total loss and risk of harm to any within reach of the tree this could result in damage to the nearby overhead services. This will result in additional costs to the tree owner and further impacts on the amenity of the area.

6.1.2 There are engineering solutions available such as piling that would provide long-term stabilisation of the property, but this is an option that is significantly more costly than the removal of the trees. Piling would also make the property resistant to the impacts of climate change and the ongoing soil drying issues linked to this.

- 6.1.3 The tree reports recommendations for the stumps to be treated with ECO plugs is also concerning and shows a lack of understanding of tree biology. ECO plugs contain Glyphosate which is a broad-spectrum systemic herbicide which is translocated to growth points, which with the proximity of the tree trees them being the same species means that there will be root grafts between the three trees enabling the chemical to move into the retained tree and kill it or significantly impact its health and vitality.
- 6.1.4 If the application is refused then ECDC will need to coordinate and expedite repairs and stabilisation of the dwelling (30 Lode Road) as a matter of urgency so as to reduce costs to ECDC and the impacts on the resident's reasonable enjoyment of their property.

6.2 Human Rights Act

The development has been assessed against the provisions of the Human Rights Act 1998, and in particular Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property). Under the Act, it is unlawful for a public authority, such as East Cambridgeshire District Council, to act in a manner that is incompatible with the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance. The Council is also permitted to control the use of property in accordance with the general interest and the recommendation set out below is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Equalities and Diversities

In considering this planning application due regard has been had to the public sector equality duty (PSED) under Section 149 of the Equality Act 2010, which means that the Council must have due regard to the need (in discharging its functions) to put an end to unlawful behaviour that is banned by the Equality Act, including discrimination, harassment and victimisation and to advance equality of opportunity and foster good relations between people who have a protected characteristic and those who do not. Account has been taken of the PSED and it is considered that the recommendation set out below would not undermine the objectives of the duty.

7.0 APPENDICES

- 7.1 The following conditions are recommended if the committee approve the application.
1. That the felled Horse Chestnut tree(s) T1 and T2 shall be replaced by two Hornbeam tree(s), 2m high, planted with suitable stakes and ties in the same location as tree(s) T1 and T2 unless agreed in writing with the Trees Officer.

- To safeguard and enhance the character of the area, to provide ecological, environmental and bio-diversity benefits and to enhance the setting within the immediate locality.
- 2. That all replacement trees shall be planted within the first planting season (November to March inclusive) after the felling of the original tree(s).
- To comply with good arboricultural practice and/or forest management.
- 3. That if any replacement tree should die during the first 5 years from planting it shall be replaced with another, unless otherwise agreed in writing with the Council.
- To safeguard and enhance the character of the area, to provide ecological, environmental and bio-diversity benefits and to enhance the setting within the immediate locality.
- 4. Provide notification of planting condition completion to the trees officer by post or email treesteam@eastcambs.gov.uk (supporting photographs preferred).
- To confirm the applicant's fulfilment of their legal obligation for the completion of the replacement planting as conditioned.
- 5. That ALL the work consented to in this notice is completed within 24 months of the date of this notice. If the work is not completed by that time then any part of this consent that has not been carried out shall be considered void and a new application must be made to the Council.
- In line with the Town and Country Planning (Tree Preservation) (England) Regulations 2012 and Part 6 of the Localism Act 2011 amended section 210 of the Town and Country Planning Act 1990.

PLANS

The following plans are a selection of those submitted as part of the application and are provided to illustrate the proposed development. They may not be to scale. The full suite of plans can be found on the Council's website.



