AGENDA ITEM 7

TITLE: TPO/E/02/25

Committee: Planning Committee

Date: 5th November 2025

Author: Kevin Drane Trees Officer

Report No: AA82

Contact Officer: Kevin Drane Trees Officer
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Room No 011 The Grange Ely

Site Address: Paradise Recreation Ground Deacons Lane Ely Cambridgeshire

Proposal: To confirm Tree Preservation Order (TPO) E/02/25 for one Tree of Heaven

Parish: Ely

Ward: Ely
Ward Councillor/s: Kathrin Holtzmann
Mary Wade

Date TPO Made: 27/05/2025

1.0 RECOMMENDATION

1.1 Members are recommended to APPROVE the confirmation of the tree preservation order for the following reason(s The tree is a prominent feature, visible from the public realm, in good health, it offers a significant visual contribution to the amenity of the local landscape in this part of Ely that there is currently insufficient evidence to link it to the subsidence case.

1.2 The application is being heard by committee because it triggers the Councils Constitution in respect of an objection to the TPO being received from a member of the public within the statutory consultation period.

2.0 Costs

2.1 If a TPO is made and confirmed and a subsequent application for works to the tree are refused then the tree owner would have an opportunity to claim compensation if, as a result of the Council's decision, the tree owner suffers any significant loss or damage as a result of the tree within 12 months of that decision being made costing more than £500 to repair. This tree is owned by ECDC.

3.0 THE SITE AND ITS ENVIRONMENT

3.1 The Order was made following receipt of a section 211 notification for the tree to be removed and the resulting visit to site by the trees officer.

3.2 The TPO was served under Section 201 of the Town & Country Planning Act 1990, on 16 September 2024 because:
The tree assessed was considered to be of high public amenity value in this part of Littleport, contributing to the biodiversity and green infrastructure of the local area and as such worthy of retention.

4.0 RESPONSES FROM CONSULTEES

4.1 One objection to the serving of the TPO were received in writing from a neighbouring property owner. The statement of objection is attached in full in Appendix 1.

4.2 The objections were as follows:

- The tree is a non-native species included in schedule 9 of the Wildlife and Countryside act.
- They spread underground.
- They can cause skin irritation to humans and pets.
- They are poor for biodiversity due to their release of growth inhibiting compounds into the soil which prevents germination of other plants.
- The suckers damage pavements, drainage systems and building foundations.

5.0 RESPONCES TO POINTS RAISED BY CONSULTEES

- Regarding tree being non-native and a schedule 9 plant, the tree was growing on site prior to august 2019 when it was added to the list as such schedule 9 states “If a listed plant is already growing on your land, Defra does not consider it to be intentionally kept or cultivated and you’re not committing an offence. This includes plants in private gardens, parks and estates open to the public.” As such there is no breach of the schedule 9 restrictions.
- The spread of trees via the production of sucker growth is a common means of vegetive propagation and can be managed as it is on this site. This tree along with all others has the potential to damage areas of hard surfacing, drains and via water extraction of water buildings but there is no damage to the adjacent path or road, no reported issues with drains and no link to property damage has been confirmed.
- The irritation caused to people and pets is linked to them coming into contact with the tree sap which with a tree of this size would only occur via wounding of the main trunk. There have been no reported cases of any person or pet being affected by this tree or the others that are located on Paradise field.
- The use of allelopathy is not uncommon other trees and shrubs also employ this to aid their survival such as Elder, Sycamore, Walnut, Horse Chestnut and Ash. The reduced germination of other trees and shrubs in this location could be viewed as beneficial reducing maintenance costs.

6 OTHER MATERIAL MATTERS

6.1 Whilst determining if the tree was of sufficient amenity value or not is to some extent subjective, this tree is clearly visible from the public footpath, roads and neighbouring properties. The Trees Officer remains of the opinion that tree T1 make a significant visual contribution to the local landscape, the amenity and character of the area.

6.2 Amenity is a subjective term open to some individual interpretation. Public amenity can be described as a feature which benefits and enhances an area contributing to the areas overall character for the public at large. In this case the tree is mature and visible from the public footpath, road as well as neighbouring gardens and is considered to benefit the area in relation to its contribution to the street scene and locality and therefore is considered a significant public amenity.

6.3 If the Planning Committee decide not to confirm the TPO, the TPO will lapse, and the owner can then remove the tree without any permission required from the Council. If the committee confirm the TPO it ensures that suitable evidence is provided before a decision to remove the tree can be made and ensure suitable replacement planting is undertaken.

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.

6.0 APPENDICES

Appendix 1 Statement of objection to the TPO from the consultee/neighbour.

Appendix 2 Photographs of tree and its situation.

Appendix 3 Documents:

ECDC TPO Assessment Sheet & user guide
Copy of the TPO/E/02/25 document and plan

7.0 Background Documents

Town & Country Planning Act 1990
Town & Country Planning (Tree Preservation) (England) Regulations 2012
National Guidance -Tree Preservation Orders and trees in conservation areas from 6th March 2014 http://planningguidance.planningportal.gov.uk/blog/guidance/tree-preservation-orders/how-are-offences-against-a-tree-preservation-order-enforced-including-tree-replacement/

Appendix1

[redacted] New Barns Road,
Ely,
Cambridgeshire,
CB7 4PN
Tel: 01353 663206
Mobile: 07786 412 912

East Cambridgeshire District Council,
The Grange,
Nutholt Lane,
Ely,
Cambridgeshire,
CB7 4EE

17th June 2025.

For the attention of Mr Kevin Drane

Your Ref: Ely/TPO/E/02/25

My Ref: EastCambs01.docx

Dear Sir,

I wish to object to this preservation Order on the basis of your being informed that this 'Tree of Heaven' species has caused a subsidence problem on my house. This has been notified to you by Sedgwick International acting on behalf of my house insurance firm Ageas. This species of tree is well known to be very invasive. Their Arboricultural specialist has recommended the FELLING of this Tree and treatment of the STUMP with eco plugs (broadleaved).

I understand from Sedgwick you have requested that my house be monitored over a long period and as a result a Deep Datum has been installed in my garden and some twelve monitoring points have been attached to my house wall for this purpose.
It seems significant that a Preservation Order has only just been iniated just as you demanded that further investigation is to take place.

I feel that this Preservation Order should not have been made at this time and therefore OBJECT since Sedgwick International acting on behalf of Ageas and myself have recommended felling the of this tree.

I have lived in this house since 1964 and I do not believe that the Council planted this tree and that it grew from either seeding or a sucker.

Yours faithfully,

[redacted]

Appendix 2

Appendix 3

TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Postal Address/Location		Paradise Recreation Ground Deacons Lane Ely Cambridgeshire	
Date:	15/5/25	Surveyor:	Kevin Drane

DESCRIPTION OF TREE(S) – Please continue on separate sheet if needed		
Category	Description (incl. species)	Situation
T1	Tree of Heaven early mature tree with twin stems from 3m but with good union and no included bark. Good vitality evident via size of leaves and extent of new growth	Located at edge of green area as per location plan

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

5) Good Highly suitable
3) Fair/satisfactory Suitable
1) Poor Unlikely to be suitable
0) Dead/dying/dangerous* Unsuitable

Score & Notes
T1 = 5 good condition, no indication of poor health of disease.

** Relates to existing context and is intended to apply to severe irremediable defects only*

b) Retention span (in years) & suitability for TPO

5) 100+ Highly suitable
4) 40-100 Very suitable
2) 20-40 Suitable
1) 10-20 Just suitable
0) <10* Unsuitable

Score & Notes
T1 = 2 reduced due to location and proximity to footpath and boundary fencing not health or condition.

**Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

5) Very large trees with some visibility, or prominent large trees	Highly suitable
4) Large trees, or medium trees clearly visible to the public	Suitable
3) Medium trees, or large trees with limited view only	Suitable
2) Young, small, or medium/large trees visible only with difficulty	Barely suitable
1) Trees not visible to the public, regardless of size	Probably unsuitable

Score & Notes
T1 = 4 medium sized tree part of a line of trees clearly visible to the public from the park, footpath and road.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

5) Principal components of formal arboricultural features, or veteran trees
4) Tree groups, or principal members of groups important for their cohesion
3) Trees with identifiable historic, commemorative or habitat importance
2) Trees of particularly good form, especially if rare or unusual
1) Trees with none of the above additional redeeming features (inc. those of indifferent form)
-1) Trees with poor form or which are generally unsuitable for their location

Score & Notes
T1 = 1 though it is part of an avenue of trees and its loss would result in a definite and defined hole in the currently continuous crown formation.

Part 2: Expediency assessment

Trees must have accrued 10 or more points to qualify

5) Immediate threat to tree inc. S.211 Notice
3) Foreseeable threat to tree
2) Perceived threat to tree
1) Precautionary only

Score & Notes
T1 = 5 A section 211 notification has been received claiming a link between the tree and subsidence of a property on the other side of the road and two footpaths without any substantive supporting evidence.

Part 3: Decision guide

Any 0	Do not apply TPO
1-6	TPO indefensible
7-11	Does not merit TPO
12-15	TPO defensible just
16+	Definitely merits TPO

Add Scores for Total:	Decision:
15	Serve a TPO due to lack of supporting evidence and impact upon the remaining trees to either side of it as well as the tree public amenity value.

Part 1: Amenity Assessment

a) Condition

This is expressed by five terms, which are defined as follows:
GOOD Trees that are generally free of defects, showing good health and likely to reach normal longevity and size for species, or they may already have done so
FAIR Trees which have defects that are likely to adversely affect their prospects; their health is satisfactory, though intervention is likely to be required. It is not expected that such trees will reach their full age and size potential or, if they have already done so, their condition is likely to decline shortly, or may already have done so. However, they can be retained for the time being without disproportionate expenditure of resources or foreseeable risk of collapse
POOR Trees in obvious decline, or with significant structural defects requiring major intervention to allow their retention, though with the outcome of this uncertain. Health and/or structural integrity are significantly impaired, and are likely to deteriorate. Life expectancy is curtailed and retention is difficult
DEAD Tree with no indication of life
DYING Trees showing very little signs of life or remaining vitality, or with severe,
DANGEROUS irremediable structural defects, including advanced decay and insecure roothold.
For trees in good or fair condition that have poor form deduct one point.

A note on the pro forma emphasizes that 'dangerous' should only be selected in relation to the tree's existing context: a future danger arising, for example, as a result of development, would not apply. Thus, a tree can be in a state of collapse but not be dangerous due to the absence of targets at risk.

b) Retention span

It has long been established good practice that trees incapable of retention for more than ten years are not worthy of a TPO (hence the zero score for this category); this also ties in with the R category criteria set out in Table 1 of BS5837:2005

TEMPO considers 'retention span', which is a more practical assessment based on the tree's current age, health and context as found on inspection.

It is important to note that this assessment should be made based on the assumption that the tree or trees concerned will be maintained in accordance with good practice, and will not, for example, be subjected to construction damage or inappropriate pruning. This is because if the subject tree is 'successful' under TEMPO, it will shortly enjoy TPO protection (assuming that it doesn't already).

c) Relative public visibility

The first thing to note in this section is the prompt, which reminds the surveyor to consider the 'realistic potential for future visibility with changed land use'. This is designed to address the commonplace circumstance where trees that are currently difficult to see are located on sites for future development, with this likely to result in enhanced visibility. The common situation of backland development is one such example.

The categories each contain two considerations: size of tree and degree of visibility. TEMPO is supposed to function as a guide and not as a substitute for the surveyor's judgement. In general, it is important to note that, when choosing the appropriate category, the assessment in each case should be based on the minimum criterion.

Whilst the scores are obviously weighted towards greater visibility, we take the view that it is reasonable to give some credit to trees that are not visible (and/or whose visibility is not expected to change: it is accepted that, in exceptional circumstances, such trees may justify TPO protection.

Sub-total 1

The prompt under 'other factors' states, trees only qualify for consideration within that section providing that they have accrued at least seven points. Additionally, they must not have collected any zero scores.
The scores from the first three sections should be added together, before proceeding to section d, or to part 3 as appropriate (i.e. depending on the accrued score). Under the latter scenario, there are two possible outcomes:
Any 0 equating to do not apply TPO - 1-6 equating to TPO indefensible

d) Other factors

Only one score should be applied per tree (or group):

● 'Principle components of arboricultural features, or veteran trees' – The latter is hopefully self-explanatory (if not, refer to Read 20006). The former is designed to refer to trees within parklands, avenues, collections, and formal screens, and may equally apply to individuals and groups
● 'Members of groups of trees that are important for their cohesion' – This should also be self-explanatory, though it is stressed that 'cohesion' may equally refer either to visual or to aerodynamic contribution. Included within this definition are informal screens. In all relevant cases, trees may be assessed either as individuals or as groups
● 'Trees with significant historical or commemorative importance' – The term 'significant' has been added to weed out trivia, but we would stress that significance may apply to even one person's perspective. For example, the author knows of one tree placed under a TPO for little other reason than it was planted to commemorate the life of the tree planter's dead child. Thus whilst it is likely that this category will be used infrequently, its inclusion is nevertheless important. Once again, individual or group assessment may apply
● 'Trees of particularly good form, especially if rare or unusual' – 'Good form' is designed to identify trees that are fine examples of their kind and should not be used unless this description can be justified. However, trees which do not merit this description should not, by implication, be assumed to have poor form (see below). The wording of the second part of this has been kept deliberately vague: 'rare or unusual' may apply equally to the form of the tree or to its species. This recognises that certain trees may merit protection precisely because they have 'poor' form, where this gives the tree an interesting and perhaps unique character. Clearly, rare species merit additional points, hence the inclusion of this criterion. As with the other categories in this section, either individual or group assessment may apply. With groups, however, it should be the case either that the group has a good overall form, or that the principle individuals are good examples of their species
Where none of the above apply, the tree still scores one point, in order to avoid a zero-score disqualification (under part 3).

Sub-total 2

The threshold for this is nine points, arrived at via a minimum qualification calculated simply from the seven-point threshold under sections a-c, plus at least two extra points under section d. Thus trees that only just scrape through to qualify for the 'other factor' score, need to genuinely improve in this section in order to rate an expediency assessment. This recognises two important functions of TPOs:

● TPOs can serve as a useful control on overall tree losses by securing and protecting replacement planting
● Where trees of minimal (though, it must be stressed, adequate) amenity are under threat, typically on development sites, it may be appropriate to protect them allowing the widest range of options for negotiated tree retention

Part 2: Expediency assessment

This section is designed to award points based on three levels of identified threat to the trees concerned. Examples and notes for each category are:

● 'Immediate threat to tree' – for example, Tree Officer receives Conservation Area notification to fell
● 'Foreseeable threat to tree' – for example, planning department receives application for outline planning consent on the site where the tree stands
● 'Perceived threat to tree' – for example, survey identifies tree standing on a potential infill plot
However, central government advice is clear that, even where there is no expedient reason to make a TPO, this is still an option. Accordingly, and in order to avoid a disqualifying zero score, 'precautionary only' still scores one point. This latter category might apply, rarely for example, to a garden tree under good management.

As a final note on this point, it should be stressed that the method is not prescriptive except in relation to zero scores: TEMPO merely recommends a course of action. Thus a tree scoring, say, 16, and so 'definitely meriting' a TPO, might not be included for protection for reasons unconnected with its attributes.

Part 3: Decision Guide

This section is based on the accumulated scores derived in Parts 1 & 2, and identifies four outcomes, as follows:

● Any 0 Do not apply TPO Where a tree has attracted a zero score, there is a clearly identifiable reason not to protect it, and indeed to seek to do so is simply bad practice
● 1-6 TPO indefensible This covers trees that have failed to score enough points in sections 1a-c to qualify for an 'other factors' score under 1d. Such trees have little to offer their locality and should not be protected
● 7-11 Does not merit TPO This covers trees which have qualified for a 1d score, though they may not have qualified for Part 2. However, even if they have made it to Part 2, they have failed to pick up significant additional points. This would apply, for example, to a borderline tree in amenity terms that also lacked the protection imperative of a clear threat to its retention
● 12-15 Possibly merits TPO This applies to trees that have qualified under all sections, but have failed to do so convincingly. For these trees, the issue of applying a TPO is likely to devolve to other considerations, such as public pressure, resources and 'gut feeling'
● 16+ Definitely merits TPO Trees scoring 16 or more are those that have passed both the amenity and expediency assessments, where the application of a TPO is fully justified based on the field assessment exercise

Dated: 27th May 2025 TPO/E/02/25

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TOWN AND COUNTRY PLANNING ACT 1990

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TREE

PRESERVATION

ORDER

Relating to: - Paradise Recreation Ground Deacons Lane Ely Cambridgeshire

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Printed and Published by:
East Cambridgeshire District Council The Grange Nutholt Lane Ely Cambs CB7 4EE

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ORDER.TPO

TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND) REGULATIONS 2012

TREE PRESERVATION ORDER

Town and Country Planning Act 1990
The Tree Preservation Order at Paradise Recreation Ground Deacons Lane Ely Cambridgeshire , TPO/E/02/25 2024

The East Cambridgeshire District Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

1. This Order may be cited as the Tree Preservation Order at Paradise Recreation Ground Deacons Lane Ely Cambridgeshire , TPO/E/02/25 2024

Interpretation

2. (1) In this Order "the authority" means the East Cambridgeshire District Council

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to exceptions in regulation 14, no person shall-

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 27th day of May 2025

Signed on behalf of the East Cambridgeshire District Council

.....
Authorised by the Council to sign in that behalf

CONFIRMATION OF ORDER

This Order was confirmed by East Cambridgeshire District Council without modification on the day of

OR

This Order was confirmed by East Cambridgeshire District Council, subject to the modifications indicated by , on the day of

.....
Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by East Cambridgeshire District Council on the day of

.....
Authorised by the Council to sign in that behalf

VARIATION OF ORDER

This Order was varied by the East Cambridgeshire District Council on the day of under the reference number

.....
Authorised by the Council to sign in that behalf

REVOCATION OF ORDER

This Order was revoked by the East Cambridgeshire District Council on the day of under the reference number

.....
Authorised by the Council to sign in that behalf

SCHEDULE
SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

Reference on map	Description	Situation
T1	**T1 Tree of Heaven**	**Located at edge of green area as per location plan**

Trees specified by reference to an area
(within a dotted black line on the map)

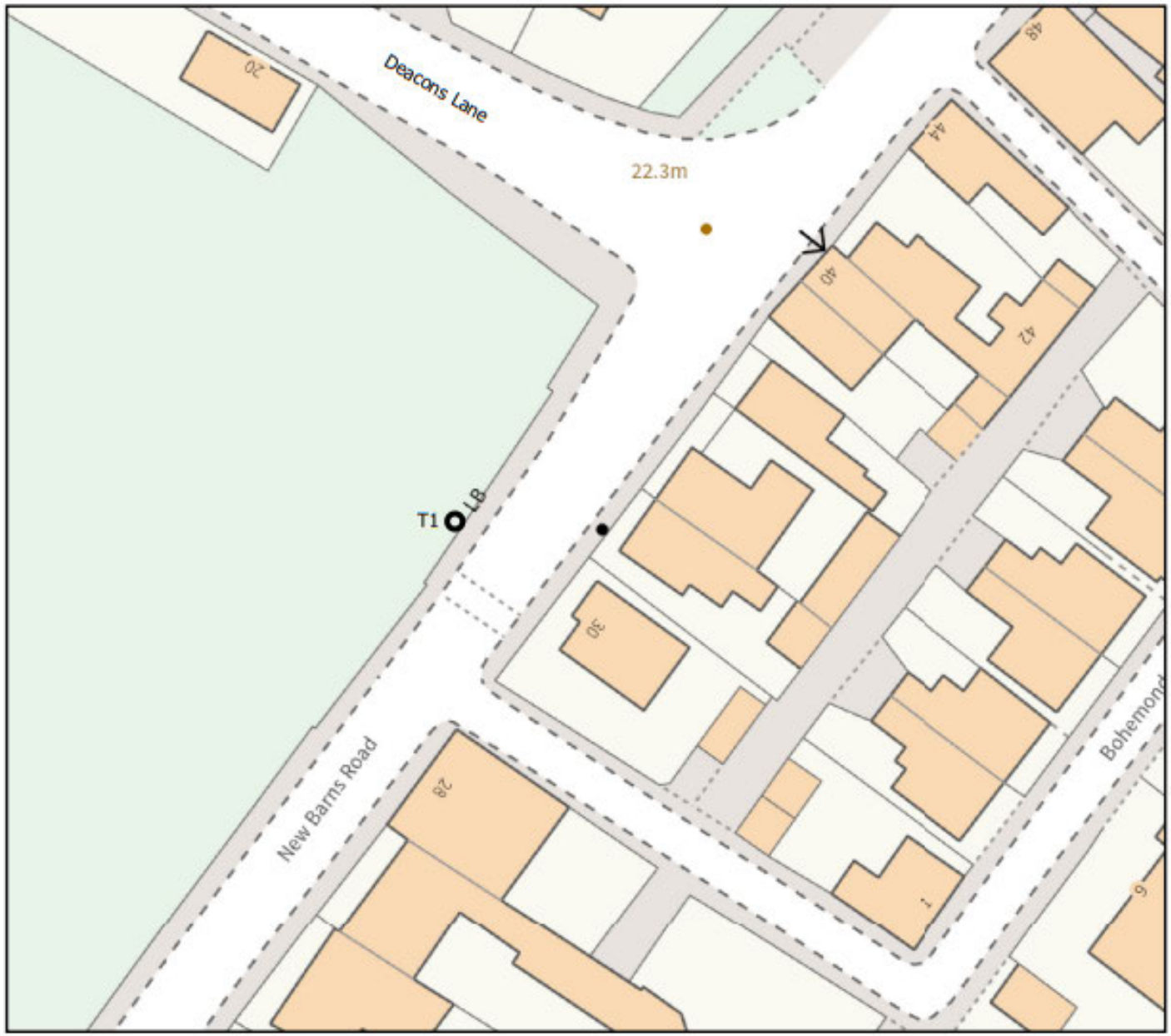
Reference on map	Description	Situation
	NONE	

Groups of trees
(within a broken black line on the map)

Reference on map	Description (including number of trees in the group)	Situation
	NONE	

Woodlands
(within a continuous black line on the map)

Reference on map	Description	Situation
	NONE	



East Cambridgeshire District Council

Town and Country Planning Act 1990
Town and Country Planning
(Tree Preservation) (England)
Regulations 2012

TREE PRESERVATION
ORDER
No. E/02/25

Paradise Recreation Ground
Deacons Lane
Ely
Cambridgeshire

T1 - Tree of Heaven

PLANNING SERVICE

The Grange, Nutholt Lane, Ely, Cambs CB7 4EE
D.Morren Planning Manager

The tree locations are indicative and may not reflect the exact locations

Date: 22/05/2025
Scale: 1:472.195497