

TITLE: TPO/E/07/25

Committee: Planning Committee

Date: 1 April 2026

Author: Kevin Drane Trees Officer

Report No: AA185

Contact Officer: Kevin Drane Trees Officer
Kevin.drane@eastcambs.gov.uk
01353 616332
Room No 011 The Grange Ely

Site Address: Highfield House 15 Sutton Park Sutton Ely Cambridgeshire CB6 2RP

Proposal: To confirm Tree Preservation Order (TPO) E/07/25 for one Chanticleer Pear and one Cedar

Parish: Sutton

Ward: Ely

Ward Councillors: Lorna Dupre
Mark Inskip

Date TPO Made: 27/11/2025

1.0 RECOMMENDATION

- 1.1 Members are recommended to APPROVE the confirmation of the tree preservation order for the following reason(s) The trees are prominent features, visible from the public realm, in good health, offering significant visual contributions to the amenity of the local landscape in this part of Sutton.
- 1.2 This order is being heard by the committee because it triggers the Council's Constitution in respect of an objection to the TPO being received from the tree owner 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.

3.0 THE SITE AND ITS ENVIRONMENT

- 3.1 The Order was made following receipt of a section 211 notification for the trees 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 27 November 2025 because:
The trees assessed were considered to be of high public amenity value in this part of Sutton, 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 was received in writing from the property owner. The entire statement of objection is attached in full in Appendix 1.
- 4.2 The main objections were as follows:
- T1 Chanticleer Pear
- The tree is unsuitable due to health and safety risk from heavy autumnal leaf fall onto the footpath and associated slip hazard, falling branches due to poor condition, leans towards the house, restricting daylight and outlook and it being a fire risk.
 - Present and future nuisance, outgrowing context and negating potential of other trees.
 - The fruit is toxic to humans and pets with it smelling strongly of rotting fish.
 - The trees' visibility is limited.
 - The tree has poor form and is unsuitable for the location, being 10ft (3m) from the property, restricting the outlook view and daylight into rooms (see Right to Light Act 1959)
 - The tree restricts the effective enjoyment of the home.
 - Risk of damage to property due to overhang and blocked gutters.
 - The crown restricts the effectiveness of street lighting.
 - The tree conflicts with planning policies, causing demonstrable harm to the occupiers.
- T2 Cedar
- Wholly unsuitable for the location being too close to the property and non native.
 - Health and safety risk due to surface roots being a trip hazard and they restrict mower use.
 - It is a nuisance tree due to its proximity to the house, restricting daylight via shading, and blocking the outlook from the living room.
 - Its future possible size is an additional risk to the property.
 - Risk of damage to mains water and drainage utilities as well as risk of subsidence due to species and soil conditions.
 - The tree has a poor form.
 - Being nonnative and potentially growing large, it will prevent native species from growing.
 - Its needle mulch repels pollinators and beneficial insects.

- The tree conflicts with planning policies, causing demonstrable harm to the occupiers.
- There is a risk the tree will be toppled in high winds due to its shallow rooting and soil conditions.
- The TPO on this tree causes mental anguish and inflicts ongoing costs and responsibility to the owner

5.0 **RESPONSES TO POINTS RAISED BY CONSULTEES**

T1 Chanticleer Pear

- Autumnal leaf fall is a seasonal maintenance issue that is minor in nature. The tree appears healthy, with only the expected amount of minor deadwood in its crown. The tree has grown with a form typical for the species and no significant defects. Consent has already been given for pruning works to reduce the trees' perceived impact on the property and daylight. The property faces north, which is the greatest cause of reduced light and shade. Live trees contain water, which makes them naturally fire-resistant; only sustained high temperatures could cause them to burn, such as sustained exposure to fire.
- The tree is a relatively small-scale tree suited to this location due to its ornamental qualities and low water demand. Suitable pruning will maintain separation from the dwelling. There are no other trees in proximity to this tree, just some shrubs growing in proximity to the base.
- Barcham trees state, "This Callery pear has been known to produce very small fruits on occasion; however, this should not cause concern as it is not a regular or indeed impactful occurrence." The Horticultural trade association gives the fruit of the ornamental Pear the lowest risk of toxicity, stating that the fruit should not be eaten by humans or pets, which is the same for crab Apple. The Van Den Berk UK nursery states, "The plant is generally safe, although ingestion of large quantities of fruit or leaves might cause mild discomfort." This is mirrored by other nurseries. I can find no reference to the fruit of this tree smelling badly.
- The tree is highly visible as can be seen in the site photographs.
- The RHS states, "The Rights of Light Act 1959 states that if a property has received daylight for the last 20 years (the minimum prescribed period), they may be entitled to continue to receive that light. This means that if your neighbour builds a large fence which restrict the daylight your property receives (for example by blocking daylight reaching a window), you may be able to apply to the courts for your daylight to be restored, or for any injunction to prevent a proposed fence being built. In theory the same case can be made for large trees blocking light but trees are rarely implicated because they grow slowly and it is difficult to be precise about when the loss of light occurred. Trees restricting light that fall within the terms of the High Hedges Act might be contested on these grounds rather than the Right to Light Act. In all other cases, there is no inherent 'right to light' in relation to trees or hedges. The High Hedges Act applies only to evergreen or semi-evergreen species, not to deciduous trees.
- The trees' location is offset from the windows by approximately 2.5m to the east, so they would only obscure views at an acute angle.
- The potential risk of property damage due to contact between the canopy any the building can be mitigated via the approved tree work. Clearing gutters is normal home maintenance.

- The nearest streetlight is set forward of the tree's location beyond the extent of the crown spread, making it unlikely that the tree is responsible for any perceived lighting issue. The street lights in this area are approximately 60m apart, and if inadequate, this is the responsibility of Cambridgeshire County Council.
- This species of tree would still be regarded as the right tree in the right place and is commonly located in similar positions on planning applications.
- The quoted policy is a Cambridgeshire County Council one and relates to land owned by them and their own development project linked to highways, schools, corporate and community buildings, their Farmland and nature reserves. This is not an ECDC policy. It is the tree officer's opinion that there is no demonstrable harm to the occupiers from this tree.

T2 Cedar

- This tree is located adjacent to the front boundary with sufficient separation from the dwelling that it has ample space to grow without impacting the property. This tree, being non-native, isn't relevant to this garden location; this isn't a nature reserve and the road is dominated by other mature non-native trees.
- The extent of root exposure can be lessened via adding soil if desired; the trip hazard posed is minimal due to its location on private land without public access. There are alternative methods for controlling grass other than mowing, such as strimming, mulching with woodchip or ornamental gravel. The desire to cut grass is not a justification for removing a tree.
- The property faces north, which is the greatest cause of reduced light and shade. The previously approved tree pruning would increase visibility by creating clearance under the tree's canopy.
- This tree won't reach its mature size for around another hundred years, but this would be based on the tree not being pruned, which could limit the tree's eventual size.
- Trees will coexist in proximity to services without incident, though they will make the most of any failures, particularly water leaks and damaged pipes. The risk of tree-related damage to utilities depends heavily on the quality of installation. At this stage, no information or evidence has been provided linking the tree to any damage or impact on utilities in the area.
- The trees' form can be corrected via pruning, as already approved.
- The tree is located in a garden; the only potentially native plants affected by it are the grass species in the lawn and any weeds.
- The repellent capacity of the needle mulch is limited to the area under the tree's canopy where this could build up.
- The quoted policy is a Cambridgeshire County Council one and relates to land owned by them and their own development project linked to highways, schools, corporate and community buildings, their Farmland and nature reserves. This is not an ECDC policy. It is the tree officer's opinion that there is no demonstrable harm to the occupiers from this tree.
- This species of tree does not have shallower roots than any other, with the roots from most trees being in the top 500mm of soil. This is also not a species of tree known for root plate failure in strong winds. The risk of this tree failing in the quoted 100mph winds is no greater than that of any other tree and will be less than that of some.

- The presence of any tree at a property will always result in some additional costs, but trees generally only require minimal attention every 5 years or so, depending upon their condition and species. This tree is unlikely to require work that often, as it is still relatively young.

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 and T2 make a significant visual contributions 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 and road, as well as neighbouring gardens, and is considered to benefit the area through its contribution to the street scene and locality; it is therefore 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 trees without any permission required from the Council. If the committee confirms the TPO, it ensures that suitable arboricultural evidence is provided before a decision to remove the trees can be made and that suitable replacement planting is undertaken.

Human Rights Act

- 6.4 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

- 6.5 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

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

Appendix 2 Photographs of the trees and their situation.

Appendix 3 Documents:

ECDC TPO Assessment Sheet & user guide

Copy of the TPO/E/02/25 document and plan

8.0 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/>