

**MAIN CASE**

Proposal: Confirmation of Tree Preservation Order E/12/23

Location: Land Adjacent To 104 Broad Street, Ely, Cambridgeshire. CB7 4BE

Applicant: N/A

Agent: Mr Greg Coss of Claims Consortium Group

Reference No: TPO/E/12/23

Case Officer: Kevin Drane, Trees Officer

Parish: Ely

Ward: Ely East  
Ward Councillors: Councillor Kathrin Holtzmann  
Councillor Mary Wade

Report No. Z8

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**1.0 THE ISSUE**

1.1 To confirm a Tree Preservation Order (TPO) for one Himalayan Birch tree to the side of 104 Broad Street Ely Cambridgeshire CB7 4BE. This matter is being referred to Committee due to objections received within the 28 days consultation period, which ended on 5 February 2024, and for the requirement to confirm the TPO within six months to ensure the tree is protected for public amenity.

**2.0 RECOMMENDATIONS**

2.1 It is recommended that:

The TPO is confirmed, for the following reasons: 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 where there are a limited amount of trees visible to those using Broad Street.

**3.0 COSTS**

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.

#### 4.0 **BACKGROUND**

4.1 The Order was made following receipt of a section 211 notification for the trees removal and the subsequent tree officers visit to site.

4.2 The TPO was served under Section 201 of the Town & Country Planning Act 1990, on 13<sup>th</sup> September 2022 because:

The tree was assessed to is considered to be of significant public amenity in this part of Ely, contributing to the biodiversity and green infrastructure of the local area and worthy of retention.

4.3 An objection to the serving of the TPO was received in writing from the owner of the neighbouring property during the statutory consultation period. The letter of objection is in Appendix 1. The details of the objection were:

1. The tree in question is causing structural damage to the property of which notification was provided in November from the insurance company, following months of investigations. This can be found detailed in planning application 23/01293/TRE. As of the 5<sup>th</sup> December, there had been no objections or concerns to the tree's removal.
2. If the TPO remains in place and the tree works needed to stabilise 104 Broad Street and to prevent future instability are refused then the property remains at constant risk of structural instability, greatly impacting on the house price, should I wish to sell. I have been advised by my insurance company that East Cambridgeshire District Council will be liable for any future damage to my property should the tree cause further structural damage.
3. Property owner refutes the claim that the Himalayan Birch tree is a 'significant public amenity'. In the Government document 'Tree Preservation Orders: A Guide to the Law and Good Practice' it says the following:
  - a. (2) individual impact: the mere fact that a tree is publicly visible will not itself be sufficient to warrant a TPO. The LPA should also assess the tree's particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value as a screen or contribution to the character or appearance of a conservation area.
  - b. (3) wider impact: the significance of the trees in their local surroundings should also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.
4. If the tree was removed, a lovely view of a magnolia tree and the trees of Cherry Hill would still be visible. As a Himalayan Birch Tree, it is a non-native tree, not rare, and has no wildlife living within it. I would have no objection to it being replaced with a native species that is smaller, and not going to impact on the structural integrity of my house.

5. It is clear from looking at it that it is in an unsuitable location. It is far too large a tree to have been planted so close to a building. In addition to the damage that this tree is doing to my property, it has also raised the path at the side of the green space, making it unsafe to walk on.
  6. It took a while for the County Council to accept responsibility for the tree. When it did, it then carried out the works required to trim the branches that were overhanging my property. At that point in time when they assumed responsibility for that tree, they did not seem to think it of significant public amenity to put a TPO on it. They just had the work done. I do not understand what has happened in the subsequent years to make it justifiable as a 'significant public amenity'.
- 4.4 Written support for the long-term protection of the tree was received from the Parish Council and a neighbouring property as per Appendix 2 and two supporting phone calls from neighbouring properties but these were not followed up in writing so are given limited weight. Three Objections to the trees removal were received and one email supporting removal from properties in the vicinity of the tree as part of the section 211 notification consultation as per Appendix 3.
- 4.5 As part of the section 211 process the agent making the notification was contacted requestion additional information as per appendix 4. Only one reply was received which provided a limited amount of additional information but did not answer the trees officer's questions. Since serving the TPO no additional information has been received from the agent or the property owner to further support the need for the trees removal.
- 4.6 Given the comments received, including the single objection to the serving of the TPO, it was considered appropriate for the Planning Committee Members to consider all the matter and reach a democratic decision on the future protection of the TPO Oak tree.
- 5.0 **CONCLUSIONS**
- 5.1 As part of the process for making the new TPO the tree was assessed relating to its current condition and no issues were noted relating to the foreseeable failure of the tree and there was no visible indication that the trees are in significantly poor health as per the TEMPO assessment in appendix 6.
1. As per the email in appendix 4 sent to the agent on 29 November 2023 there are significant concerns relating to the evidence provided especially in relation to the level monitoring information and appearance and form of cracking.
  2. Should additional evidence be provided to answer the tree officers concerns that confirms that the tree is responsible for the properties movement then the tree could be removed. The liability of ECDC for additional costs would be dependent upon the an assessment of the information provided to support the trees removal which is currently inconclusive.

3. The gov.uk website states that 'Amenity' is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. The trees amenity value was assessed using the TEMPO assessment method which is a recognised assessment methodology used by most planning authorities in the England where it scored 19 out of a possible 25 placing it in the highest category for TPO suitability.
4. The possibility that the removal of this tree could provide greater visibility of a privately owned meadow located behind properties and its trees is of no consequence to the decision to remove an existing significantly sized tree that is currently visible to passing pedestrians and passing motorists when the argued view could only be seen by pedestrians who stop to make a conscious effort to look. Himalayan Birch is a non-native tree, but it is also one of the tree deemed suitable for planting as a replacement tree in subsidence cases as it is in the low water demand category generally resulting in less impact on shrinkable soils. The presence of animals in a tree is not the soul assessment for a tree biodiversity value there are other organisms that are just as significant such as mosses, algae, lichens and even bacteria, there are some of these inhabiting this tree as well as the peeling bark being used as a nesting material.
5. The link between the tree and the property are yet to be sufficiently linked and it would be a simple matter to lift and relay the paved path or replace it with a flexible surfacing it is not acceptable to remove a tree due to a lifted paving slab or two, this approach would result in the loss of thousands of trees nationally. The level monitoring info and tree officer explanation is attached as appendix 5.
6. The County Councils notification to prune the tree to clear the building was a reasonable proposal and inline with good tree maintenance and very different to the removal of the tree. if the County Council had notified of its intention to remove the tree due to its proximity to the building of lifted paving a discussion with their agent would have occurred and if no alternative was acceptable a TPO would have been served.

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

5.3 Amenity is a subjective term open to individual interpretation. A 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 highway as well as neighbouring gardens and is considered to benefit the area in relation to their contribution to the landscape and therefore considered a significant public amenity.

5.4 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.

Appendix 1 - Letter of objection to the TPO from the neighbouring property owner.

Appendix 2 - Emails of support from Ely City Council and neighbours

Appendix 3 – Section 211 tree removal objections and support

Appendix 4 – Emails too and from agent from section 211 notification

Appendix 5 – Level monitoring info and tree officer comments

Appendix 6 – Documents:

- ECDC TPO Assessment Sheet & user guide
- Copy of the TPO/E/12/23 document and plan

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**Background Documents**

**Location(s)**

**Contact Officer(s)**

Town & Country Planning Act 1990  
Town & Country Planning (Tree  
Preservation) (England) Regulations  
2012  
National Planning Policy Guidance from  
6<sup>th</sup> March 2014  
[http://planningguidance.planningportal.gov.uk  
/blog/guidance/tree-preservation-orders/how-  
are-offences-against-a-tree-preservation-  
order-enforced-including-tree-replacement/](http://planningguidance.planningportal.gov.uk/blog/guidance/tree-preservation-orders/how-are-offences-against-a-tree-preservation-order-enforced-including-tree-replacement/)

Kevin Drane,  
Trees Officer  
Room No. 002  
The Grange  
Ely

Kevin Drane  
Trees Officer  
01353 665555  
kevin.drane@eastcambs.gov.uk

East Cambridgeshire District Local Plan  
2015

Natural Environment – Supplementary  
Planning Document (SPD) Adopted 24  
September 2020.

## Appendix 1

[REDACTED]  
104 Broad Street  
Ely  
CB7 4BE  
[REDACTED]  
[REDACTED]

Ref: Ely/TPO/E/12/23

2nd February 2024

Dear East Cambridgeshire District Council,

I am writing to object to the Tree Preservation Order No. TPO/E/12/23 at Land Adjacent 104 Broad Street Ely Cambridgeshire CB7 4BE.

My reasons for objection are as follows:

1. The tree in question is **causing structural damage to my property** which you were notified about in November from my insurance company, following months of investigations. This can be found detailed in planning application 23/01293/TRE. In the letter from Kevin Drane about the planning application dated 28th November 2023, East Cambridgeshire District Council had 6 weeks to determine this matter. As of the 5th December, there had been no objections or concerns to the tree's removal. It was then on the 20th December (less than 6 weeks after the planning application had been received) that I was informed that a TPO had been issued.
2. If the TPO remains in place and the tree works needed to stabilise my house now and to prevent future instability are refused then my property remains at constant risk of structural stability, greatly impacting on the house price, should I wish to sell. I have been advised by my insurance company that East Cambridgeshire District Council will be liable for any future damage to my property should the tree cause further structural damage.
3. I **refute** the claim that the Himalayan birch tree is a '**significant public amenity**'. In the Government document 'Tree Preservation Orders: A Guide to the Law and Good Practice' it says the following:
  - a. (2) **individual impact**: the mere fact that a tree is publicly visible will not itself be sufficient to warrant a TPO. The LPA should also assess the tree's particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value as a screen or contribution to the character or appearance of a conservation area.
  - b. (3) **wider impact**: the significance of the trees in their local surroundings should also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.


In response to the section about **individual impact**, if the tree was removed, a lovely view of a magnolia tree and the trees of Cherry Hill would still be visible. As a Himalayan Birch Tree, it is a **non-native tree, not rare**, and has **no wildlife** living within it. I would have no objection to it being replaced with a native species that is smaller, and not going to impact on the structural integrity of my house.

In response to the section about **wider impact**, it is clear from looking at it that it is in an **unsuitable location**. It is far too large a tree to have been planted so close to a building. In addition to the damage that this tree is doing to my property, it has also raised the path at the side of the green space, making it unsafe to walk on. I alerted Kevin Drane of this back in August 2020.

It is also interesting to note that when I contacted Kevin Drane about this tree back in August 2020 because it was impacting the footpath and its branches were overhanging my roof, that it took a while for the County Council to accept responsibility for the tree. When it did, it then carried out the works required to trim the branches that were overhanging my property. At that point in time when they assumed responsibility for that tree, they did not seem to think it of significant public amenity to put a TPO on it. They just had the work done. I do not understand what has happened in the subsequent years to make it justifiable as a 'significant public amenity'.

In short, please acknowledge this as my objection to Tree Preservation Order No. TPO/E/12/23.

Yours sincerely,

  
Owner of 104 Broad Street

Ref: Trees/Con Area/E 23/01293/TRE

COMMENT

on

Tree Works Notice at Land Adjacent to 104 Broad Street, Ely

The Himalayan Birch next to 104 Broad Street is a fine mature specimen tree - possibly the only one of its kind in Ely's public spaces. It would be a mistake to fell this tree which graces the entrance to the cul-de-sac between 96 and 104 Broad Street, along with its partner birch on the other corner. They both have high visibility and great amenity value. Certainly both birches have grown very tall and some tree management may well be appropriate. Both trees could be reduced by perhaps up to a third or a half by a properly qualified tree surgeon.

Being in a conservation area these trees must be subject to TPOs, so consent to end their lives by felling should **not** be granted without incontrovertible evidence that they are the cause of whatever the insurance companies are considering. As the trees have been there in mature form since long before any insurance claim, it is hardly credible that they are to blame. We know that birch tree roots can be extensive but they are also shallow and rarely affect foundations. We know too that most of the recent spate of structural damage claims to property are the result of that prolonged summer drought we had, which caused an unusual degree of ground shrinkage. Insurance companies like to hedge their bets by calling for tree removal whether or not it is necessary. The necessity of this case should subject to persistent questioning and unequivocal evidence that it is the tree that is causing or exacerbating the problem. It is more probable that the tree actually helps to stabilise the ground since trees play an important part in modulating ground-water.

These two mature birches form a landmark for this small close and greatly enhance the outlook for the group of houses here. And they are the **ONLY** two trees along the whole length of Broad Street - unless you count a Cabbage Palm near the other end. Broad Street suffers from seriously heavy traffic running close beside residential housing. These trees not only help to screen several houses from the main road but also have enormous value in combating very high levels of traffic pollution by particulates and abating the constant traffic noise. This is in addition to all the other established benefits of urban trees in improving air quality, modulating air temperature and water run-off, carbon capture, pollinator ecology, human wellbeing, mental health and so on.

There is an economic case too. Government research on urban trees reported in the national press, finds:

A large individual tree, with a canopy diameter of 30 metres, provides hundreds of pounds of benefits a year, the report found. It also estimated separately the average replacement cost of a tree at £2,500, although the largest trees can be valued at more than £100,000. In total, the report valued **non**-woodland trees at £429bn. The researchers said their work could be used by local authorities to justify the costs of protecting and planting trees at a time when budgets are hard-pressed. [<https://www.theguardian.com/environment/2022/dec/02/a-uk-tree-provides-hundreds-of-pounds-of-benefits-a-year-report-finds?>]

The protection of this tree (and its partner) would be far better than re-planting. Even if there was a condition to plant replacement trees, it would be decades before saplings could grow to have all the amenity and environmental benefits that the existing trees provide. Surgery for these two birches may be in order, but felling should not be. The decision should not be made on the narrow basis of an insurance company assessment, but in the broader interests of the urban landscape.



## Appendix 3

### 98 Broad Street

To: [P. Services](#)  
Subject: [EXTERNAL] FAO: Kevin Drane, Tree Officer re:Trees/Con Area/E 23/01293/TRE  
Date: 18 December 2023 11:36:46  
Attachments: [BirchTreeFellingComment.pdf](#)

Caution: External email. Do not click links or open attachments unless you recognise the sender and know the content is safe. The original sender of this email is R. Dixon <[radial@dixit.org.uk](mailto:radial@dixit.org.uk)>

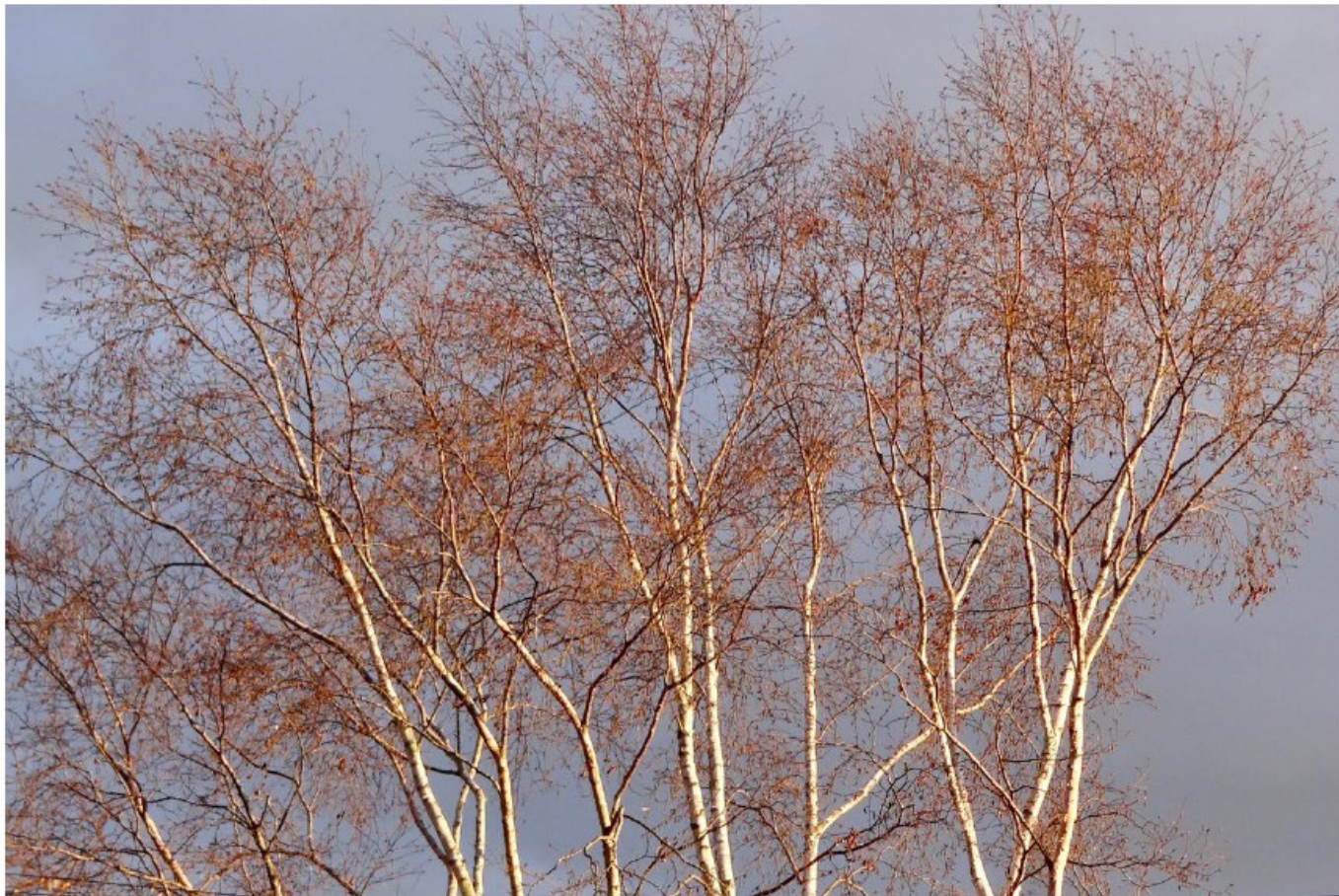
Thank you for your letter of 28th November, Ref. Trees/Con Area/E 23/01293/TRE asking for comment on T1 Himalayan Birch.

I understand that this claim relates to 104 Broad Street, but am aware that 94/96 Broad Street is also in the process of having a structural claim assessed that is due to call for the removal of the other birch tree at the entrance to this cul-de sac. These two trees form a pair that should be considered together, not separately, so my comment refers to and applies to both trees.

Please find my response attached, with a photo of the Himalayan Birch taken last month.

Rose Dixon.

98 Broad St,  
Ely, Cambs.



From: [PLServices](#)  
To: [PLServices](#)  
Subject: FW: [EXTERNAL] Tree Conservation Area works Notice  
Date: 14 December 2023 14:23:32

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[REDACTED]  
Sent: Thursday, December 14, 2023 12:50 PM  
To: PLServices <[plservices@eastcambs.gov.uk](mailto:plservices@eastcambs.gov.uk)>  
Subject: [EXTERNAL] Tree Conservation Area works Notice

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Dear Kevin Drane,

I am writing to express my concern and strong opposition regarding the proposed felling of an unspecified number of trees -1 or 2?  
- situated on Broad Street. As a resident of this neighbourhood, I deeply value the presence of these trees and wish to voice my objection to their removal.

These trees have been a vital part of our street for countless years, providing not only aesthetic value but also environmental benefits. They offer shade, improve air quality, and contribute to the overall well-being of our community. Their removal without a valid reason would significantly impact the character and ambiance of our neighbourhood.

I kindly request that the council reconsiders this decision and explores alternative solutions that would allow these trees to remain. If there are any concerns or issues regarding these trees that necessitate their removal, I would greatly appreciate being informed and included in discussions about potential solutions or alternatives.

I believe that as a community, we should prioritise the preservation of our natural environment and work together to find solutions that accommodate both the needs of the community and the preservation of our green spaces.

Thank you for your attention to this matter. I hope for a favourable reconsideration of the decision to fell these trees.

Sincerely,

[REDACTED]  
(of 100 Broad Street)

[REDACTED]  
Sent: Wednesday, December 6, 2023 11:01 AM

To: PLServices <[plservices@eastcambs.gov.uk](mailto:plservices@eastcambs.gov.uk)>

Subject: [EXTERNAL] Tree Works Notice

[REDACTED]  
Kevin Drane,  
Trees officer,  
East Cambridgeshire District Council.

Dear Kevin,

Re: Ely Conservation Area Tree Works Notice at land adjacent to 104 Broad Street, Ely, CB7 4BE

Thank you for your letter of 28th November 2023 regarding the above Notice.

I believe that there is a good case to severely lop the Himalayan Birch in question. Large heavy branches are now growing out over the roof of 104 Broad Street and also over into Broad Street. In high winds, I have noticed that there is always a threat of heavy falling branches onto passing traffic in Broad Street. The same threat applies to the roof of 104 Broad Street.

However, I don't feel that it is necessary to completely fell the tree to ground level. The tree is in good health and could simply be approximately halved in height with removal of all of the overhanging large branches. A much smaller mostly vertical looking tree would make for a more attractive option in an area of Broad Street devoid of green spaces.

Yours sincerely,

[REDACTED]  
1, Victoria Street,  
Ely,  
CB7 4BL

## Supporting removal

[REDACTED]  
**To:** [PL Services](#)  
**Subject:** [EXTERNAL] E 23/01293/TRE  
**Date:** 19 December 2023 16:25:16

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[REDACTED]

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Dear Mr Drane,  
I support the application.  
Whilst I am a lover of trees, a silver birch is a totally unsuitable planting close to a building. This has unfortunately been demonstrated by the subsidence that it has caused. Obviously a more suitable species will be selected for replanting, presumably this will also be planted further from the building.  
Yours Sincerely,  
[REDACTED]  
94, Broad Street.

## **Appendix 4**

Section 211 communication sent by Tree officer 28 November 2023

ECDC tree work notification ref: 104 Broad Street Ely [REDACTED]



Kevin Drane

T [REDACTED]


↩ Reply

↩ Reply All

→ Forward



Tue 28/11/2023 11:22

 This message was sent with High importance.

Dear Greg

As part of the information provided in support of the proposed works you have included level monitoring information but there is no plan showing the location of the 7 points monitored, please can you provide this as soon as possible as without it the information is of no value. the monitoring point plan can be sent directing to my via email and it will then be added to the notification information. Please can you also confirm if the tree owner Cambridgeshire County Council Highways have been made aware of your intention to remove their tree.

Regards

Kevin Drane  
Trees Officer (Planning)  
East Cambridgeshire District Council  
The Grange  
Nutholt Lane  
Ely  
Cambridgeshire  
CB7 4EE  
Telephone: 01353 616332  
Email: [kevin.drane@eastcambs.gov.uk](mailto:kevin.drane@eastcambs.gov.uk)  
[Pay, report, apply online 24 hours a day](#)

Reply received from agent 29 November 2023

[EXTERNAL] RE: ECDC tree work notification ref: 104 Broad Street Ely KH22294795



To [Redacted]

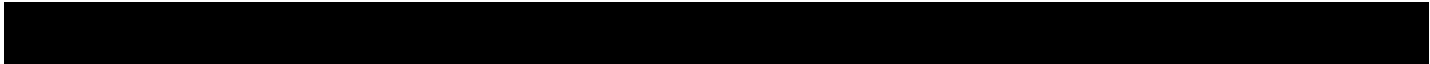
Kevin Drane

Reply Reply All Forward ...

Wed 29/11/2023 12:43

You replied to this message on 29/11/2023 14:30.

Attachments: Level Report 7 Point (point 7 as datum) 13112023.pdf (640 KB), Monitoring\_Report\_04.10.2023.pdf (1016 KB)



Dear Kevin,

Apologies for that oversight.

I have included the previous broader monitoring report which has the site plan attached which is correct for the Point 7 as Datum readings.

We would normally only engage with the Owner of the Tree once the local authority has made their decision, if there is a TPO Or Conservation Area involved.

Many Thanks

**Greg Coss**

Senior Mitigation Manager & Complaints Coordinator



T: 0330 124 1395

E: [subsidence@claimsconsortiumgroup.co.uk](mailto:subsidence@claimsconsortiumgroup.co.uk) – Team email



[CLAIMSCONSORTIUMGROUP.CO.UK](http://CLAIMSCONSORTIUMGROUP.CO.UK)

Claims Consortium Group, Blackdown House, Culmhead Business Centre, Culmhead, Taunton, Somerset TA3 7DY.

**MISSION:** To deliver an unrivalled customer experience by combining exceptional services with innovative technologies.



Please consider the environmental impact of needlessly printing this email.

## Tree officer reply sent 29 November 2023

RE: ECDC tree work notification ref: 104 Broad Street Ely KH22294795



Kevin Drane

To: [REDACTED]



Wed 29/11/2023 14:30

[REDACTED]

Thanks for sending the information so quickly.

In regards to the level monitoring information most of the readings show an increase in levels apart from points 5 and 6 where point 5 dips below the datum point in July which could be tree related and a larger dip in October which is unlikely to be tree related and point 6 only dips below the datum once in November which is highly unlikely to be tree related. The cracking on the buildings front which relates to points 5 and 6 doesn't match the typical tree related diagonal cracking. The report mentions that the lack of soil level movement up or down between April and July indicates tree related seasonal influence as this is the time of year when rainfall is limited and tree growth is at its most active a tree's influence would cause the soil to shrink, whereas the main time when soil shrinkage is shown on the level monitoring information is in October to November when trees are entering their dormant period which should indicate that there is another cause for the properties movement other than the low water demanding Silver Birch tree.

The report also states that the drains had not been assessed at the time the report was made has this now been undertaken especially in light of the level monitoring results.

In light of the concerns above please can you seek additional confirmation as to the actual likelihood that this tree is the reason for the properties movement as this is a tree of very high public amenity value and its loss would be detrimental to the locality. The evidence provided does not currently appear to support the removal of this tree.

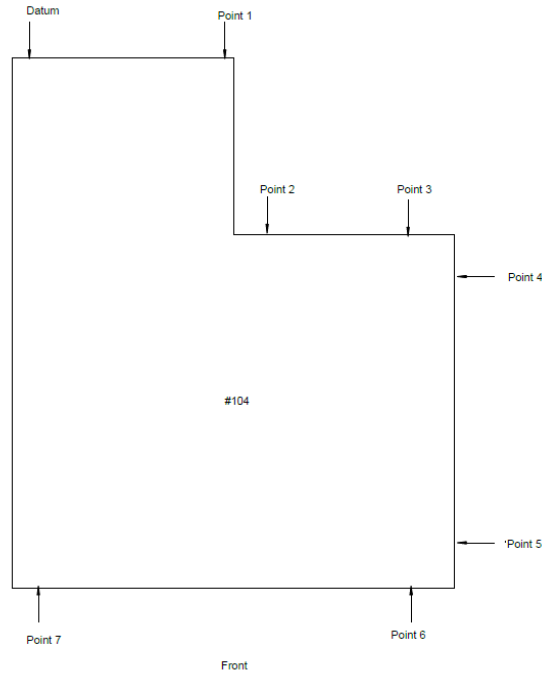
Regards

Kevin Drane  
Trees Officer (Planning)  
East Cambridgeshire District Council  
The Grange  
Nutholt Lane  
Ely  
Cambridgeshire  
CB7 4EE  
Telephone: 01353 616332  
Email: [kevin.drane@eastcambs.gov.uk](mailto:kevin.drane@eastcambs.gov.uk)  
[Pay, report, apply online 24 hours a day](#)

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**From:** [REDACTED]  
**Sent:** Wednesday, November 29, 2023 12:43 PM  
**To:** Kevin Drane <[Kevin.Drane@eastcambs.gov.uk](mailto:Kevin.Drane@eastcambs.gov.uk)>  
**Subject:** [EXTERNAL] RE: ECDC tree work notification ref: 104 Broad Street Ely KH22294795

# Appendix 5



Lyndales Farm, Southend Road, Woodham Mortimer, Maldon, Essex, CM9 6TQ

Tel: 0844 3358907

Fax: 0844 3358906

Email: [enquiries@fastrackgroup.co.uk](mailto:enquiries@fastrackgroup.co.uk)

Web: [www.fastrackgroup.co.uk](http://www.fastrackgroup.co.uk)

Appendix No: 5 (1/2)

FSI Ref: 25821

## LEVEL MONITORING

Property Address:	104 Broad Street, Ely, Cambridgeshire, CB7 4BE															
Client Claim Ref:	KH22294795													Install date:	17-Jan-23	

Survey No:	1		2		3		4		5		6		7		8		9		10		11		12	
Date	17-Jan-23		02-Mar-23		14-Apr-23		30-May-23		07-Jul-23		22-Aug-23		04-Oct-23											
Point ID:	Levels (mm)	Change (mm)	Levels (mm)	Change (mm)	Levels (mm)	Change (mm)	Levels (mm)	Change (mm)	Levels (mm)	Change (mm)	Levels (mm)	Change (mm)	Levels (mm)	Change (mm)	Levels (mm)	Change (mm)	Levels (mm)	Change (mm)	Levels (mm)	Change (mm)	Levels (mm)	Change (mm)	Levels (mm)	Change (mm)
Datum	1000.0	0.0	1000.0	0.0	1000.0	0.0	1000.0	0.0	1000.0	0.0	1000.0	0.0	1000.0	0.0										
Point 1	951.8	0.3	952.1	0.9	952.7	1.2	953.0	1.2	953.0	1.2	953.0	1.2	952.1	0.3										
Point 2	895.4	-0.1	895.3	1.6	897.0	1.6	897.0	1.6	897.0	1.6	896.5	1.1	896.0	0.6										
Point 3	887.0	0.0	887.0	1.3	888.3	1.3	888.3	1.3	888.2	1.2	887.3	0.3	886.5	-0.5										
Point 4	936.0	0.0	936.0	2.8	938.8	2.8	938.8	2.0	938.0	2.0	936.3	0.3	936.0	0.0										
Point 5	857.0	-2.0	855.0	-1.0	856.0	-1.0	856.0	-1.0	856.0	-1.0	855.2	-1.8	854.0	-3.0										
Point 6	705.5	-1.2	704.3	1.0	706.5	1.0	706.5	1.0	706.0	0.5	704.2	-1.3	704.9	-0.6										
Point 7	865.0	-3.0	862.0	-1.0	864.0	-1.0	864.0	-1.0	864.3	-0.7	863.2	-1.8	862.5	-2.5										



### LEVEL MONITORING

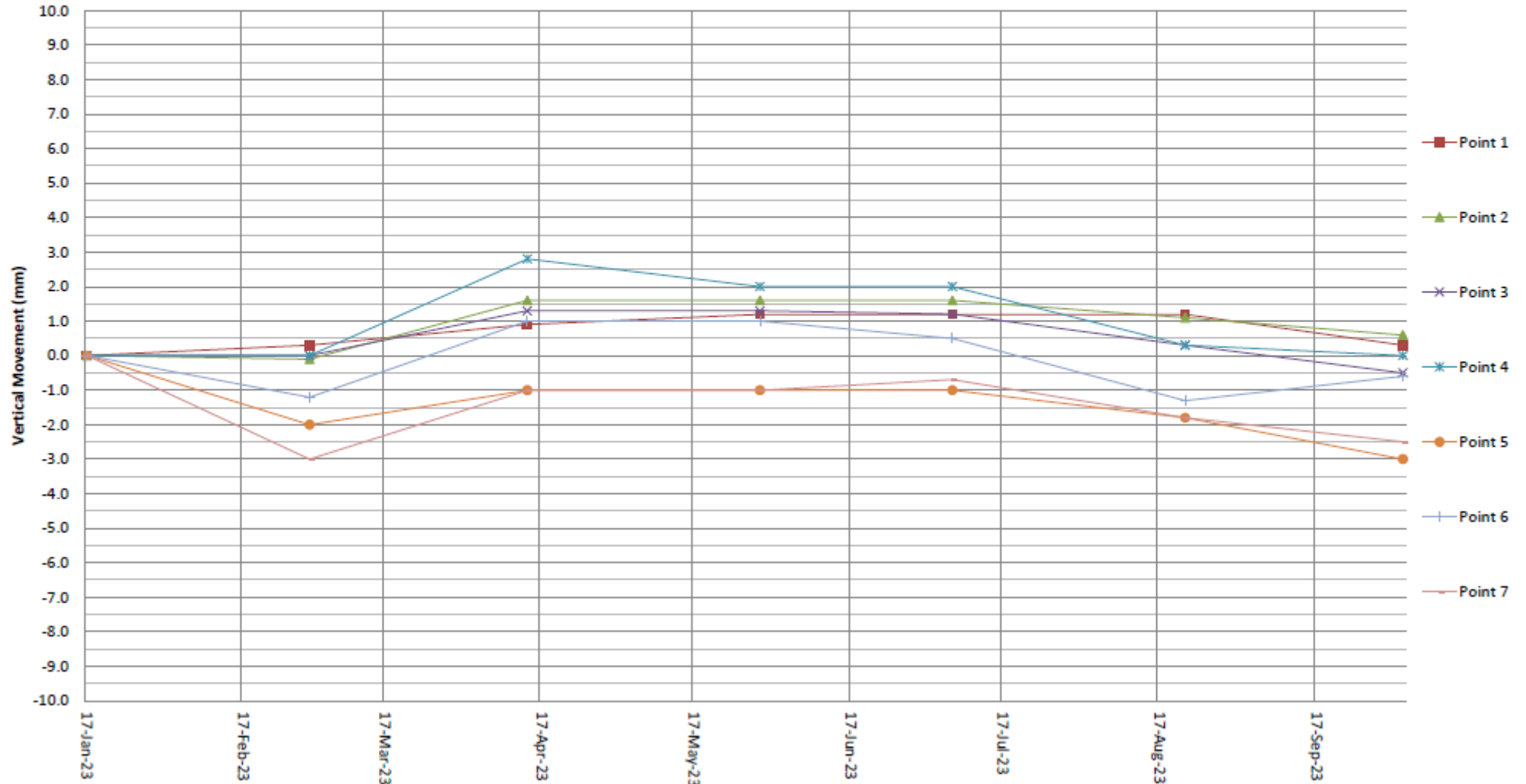
Property Address: 104 Broad Street, Ely, Cambridgeshire, CB7 4BE

Client Claim Ref: KH22294795

Install date:

17-Jan-23

Level Monitoring



### **Tree officer explanation**

Two test holes were dug on the northeastern side of the property (same side as the Birch tree) unsurprisingly they both contained roots from a Birch tree. NHBC guidelines and Dr P.G Biddle (foremost expert on trees and buildings) both state that Birch (Betula) are low water demanding trees. the presence of a tree and its roots does not mean the tree is at fault which is why level monitoring is undertaken to see if the soils downward movement coincides with the tree's growth period. Cracks on the structure are also assessed as when soil shrinks it creates a void that the building slumps into this generally results in the development of diagonal crack formation. A trees growing season begins in late March which continues until September to October, the trees demand for water will have a greater effect on the soil at times of limited rainfall (June to September). When a tree is affecting a property, it is going to be most evident in spring and summer and likely to be on the sides closest to the tree.

In the level monitoring information, most of the readings show a decrease in level between 17 February and 17 March apart from points 1, 2 and 4 which stay the same or increase, point 4 is one of the closest to the tree. There is then increase in levels between April and June. The levels begin to dip again from July to the last reading after September. The points with the largest movements are points 5 and 7, point five is closest to the tree on the corner of the property adjacent to Broad Street and point 7 is on the furthest corner adjacent to Broad Street where the property joins its neighbour. Points 1, 2 and 4 show an increase during the summer months above their starting level finishing the monitoring period at the same level or higher than they started it.

The cracking on the buildings front which relates to points 5 and 6 doesn't match the typical tree related diagonal cracking. The report mentions that the lack of soil level movement up or down between April and July indicates tree related seasonal influence, as this is the time of year when rainfall is limited and tree growth is at its most active a trees influence would cause the soil to shrink, whereas the main time when soil shrinkage is shown on the level monitoring information is in September to October when trees are entering their dormant period which should indicate that there is another cause for the properties movement other than the low water demanding Silver Birch tree.

The report also states that the drains had not been assessed at the time the report was made and no information has been provided as to if this has been undertaken especially in light of the level monitoring results.

**Appendix 6**

**TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO**

SURVEY DATA SHEET & DECISION GUIDE

<b>Postal Address/Location</b>		<b>Land Adjacent To 104 Broad Street Ely Cambridgeshire CB7 4BE</b>	
<b>Date:</b>	<b>8/12/23</b>	<b>Surveyor:</b>	<b>Kevin Drane</b>

<b>DESCRIPTION OF TREE(S) – Please continue on separate sheet if needed</b>		
<b>Category</b>	<b>Description (incl. species)</b>	<b>Situation</b>
T1	Himalayan Birch on Cambs County Council land in good health no sign of disease or decay, low water demanding species	Located approx. 3m from property on island of grass

**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 5 no defects identified in report or by trees officer**

*\* 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 4 species the only restriction on maximum age range, tree is likely around 40-50 years old currently**

*\*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 4 medium sized tree but highly visible**

**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 1 as previously been pruned to clear building which has reduced the quality of its form**

**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 5 section 211 received via subsidence claim but info missing and not received relating to the claim with time running out for determination.**

**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:  
19**

**Decision: suitable for TPO but need s consideration due to subsidence claim though new app and supporting info could still allow trees removal**

**TEMPO**  
**Tree Evaluation Method for Preservation Orders A systematised assessment tool for TPO suitability**  
GUIDANCE NOTE FOR USERS

**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 principal 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: 20th December 2023**

**TPO/E/12/23**

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**TOWN AND COUNTRY PLANNING ACT 1990**

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**TREE**

**PRESERVATION**

**ORDER**

Relating to: - 104 Broad Street Ely Cambridgeshire CB7 4BE

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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**

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**Town and Country Planning Act 1990  
The Tree Preservation Order at 104 Broad Street Ely Cambridgeshire CB7 4BE ,  
TPO/E/12/23 2022**

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 104 Broad Street Ely Cambridgeshire CB7 4BE , TPO/E/12/23 2022

**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.



**SCHEDULE  
SPECIFICATION OF TREES**

**Trees specified individually**  
(encircled in black on the map)

Reference on map	Description	Situation
T1	Himalayan Birch on Cambs County Council land in good health no sign of disease or decay, low water demanding species	Located approx. 3m from property on island of grass

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

Reference on map	Description	Situation
	<b>NONE</b>	

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

Reference on map	Description (including number of trees in the group)	Situation
	<b>NONE</b>	

**Woodlands**  
(within a continuous black line on the map)

Reference on map	Description	Situation
	<b>NONE</b>	

Dated this 20th day of December 2023

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



**East Cambridgeshire  
District Council**

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

**TREE PRESERVATION  
ORDER  
No. E/12/23**

Land Adjacent To 104 Broad  
Street  
Ely  
Cambridgeshire

**T1 Himalayan Birch**

**PLANNING SERVICE**

The Grange, Nuthall Lane, Ely, Cambs CB7 4EE  
S. Ellis. Planning Manager

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

Date: 18/12/2023  
Scale: 1:101.075041



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