



<b>Planning Committee Date</b>	1 <sup>st</sup> November 2023
<b>Report to</b>	Cambridge City Council Planning Committee
<b>Lead Officer</b>	Joanna Davies
<b>Reference</b>	23/0159/TTPO
<b>Site</b>	18 Howes Place
<b>Ward / Parish</b>	Castle
<b>Proposal</b>	TG1 Lime and Beech Group. Remove (fell) closest 5x Lime stems to near ground level and remove regrowth as it emerges.
<b>Presenting Officer</b>	Joanna Davies
<b>Reason Reported to Committee</b>	Objections to the proposed removals have been received from residents.
<b>Recommendation</b>	Grant consent subject to replacement planting conditions

## 1.0 Executive Summary

- 1.1 A tree work application has been received to fell 5 lime stems from a group of pleached limes that contribute to the double avenue that borders Howes Place. The reason given is clay shrinkage subsidence damage to 18 Howes Place, Cambridge, CB3 0LD.
- 1.2 Objections to the trees' removals have been received from residents of Howes Place.
- 1.3 Evidence has been submitted with the application supporting the claim that the subject trees are contributing to damage to the adjacent house.
- 1.4 Members may refuse consent or grant consent subject to conditions/informatives.

## 2.0 Site Description and Context

Conservation Area		Tree Preservation Order	X
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\*X indicates relevance

- 2.1 Howes Place is a private no-through road off Huntingdon Road and adjacent to NIAB. Tree Preservation Order (TPO) 10/1991 protects individual trees and six groups of pleached limes within NIAB and along Howes Place. Along Howes Place the TPOd trees form four groups that collectively form an avenue that is in locations double.
- 2.2 The 5 subject trees are located to the front of 18 Howes Place where there is a double row of pleached trees, G5 and G6 on the TPO. It is the row closest to the house that contains the 5 subject stems. It is proposed to retain G5 with a continuation of existing management.

## 3.0 Relevant Site History

- 3.1 In 2020 similar applications were received for the removal of stems from with G6 to the front or 2 Howes Place and 3 Howes Place. The application references are 20/1065/TTPO and 20/1276/TPO. In both applications permission was granted for the removal of trees from TPO reference G6

## 4.0 Legislation and Policy

- 4.1 Town and Country Planning Act 1990 Part VIII Chapter I and Town and Country Planning (Tree Preservation) (England) Regulations 2012. Tree Preservation Order number 10/1991. Tree Preservation Order number 04/2005. National Planning Policy Framework (NPPF). Planning Practice Guidance (PPG)

## 5.0 Consultations

- 5.1 The application was published on public access in addition to standard councillor and resident consultation. A site notice was issued for display.

## 6.0 Third Party Representations

- 6.1 Comments have been received from residents within Howes Place. These can be viewed in full via Public Access using the reference 23/0159/TTPO. Objections are consolidated and summarised in the below table and a response provided.

Comment	Officer Response
The application should be rejected because the trees are protected	A TPO is served to prevent unjustified and harmful works to trees of value. It is not intended to prevent tree works regardless of justification.
The groupings of mature pleached lime trees form a critical and integral part of the formal landscaping of Howes Place.	Agreed. The three subject trees make a significant contribution to the appearance and character of Howes Place
Policy 62 of the Cambridge Local Plan 2018 states that "The Council will actively seek the retention of local heritage assets, including buildings, structures, features and gardens of local interest	<p>The Council is obliged to consider the merits of any tree work application in accordance with The Town and Country Planning Act 1990 and the 2012 Regulations (The Act)</p> <p>When assessing the impact of any tree work application consideration should be given to all relevant policies but local plan policies do not outweigh the responsibilities placed on councils under The Act. The council must therefore determine whether or not sufficient justification has been submitted to permit consent for works that will result in the loss of trees of value.</p>
Underpinning would remedy the subsidence problem, but at a cost to the householders and their insurance company. Surely the protection of the trees should be prioritised over these costs.	There may be options available that would allow the retention of the trees and officers would welcome the use of underpinning or root barriers by the tree owners and/or applicant to avoid the need for removals.
The previous removal of previous lime trees has had a significant negative impact on the local environment in	As with previous applications the proposal needs to be assessed on the justification presented for works and not historic tree removal.

Howes Place and further removal must be refused.	
Have other investigations taken place to explain the subsidence	The applicant has submitted evidence supporting the claim that damage is related to moisture uptake from nearby trees and on balance the evidence shows a causal link between the trees, the underlying geology, and the damage to the building, negating the need for investigation of alternative causes.

## 7.0 Member Representations

7.1 No formal representation has been received from a member.

## 8.0 Assessment

### 8.1 Planning Considerations

Amenity - Do the trees still make a significant contribution to the character and appearance of the area?

Condition/Nuisance – Are the works proposed excepted from the requirement to apply for permission in accordance with 14 and 15 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Justification for Tree Works - Are there sound practical or arboricultural reasons to carry out tree works?

- i. What is the justification
- ii. Is there a financial consideration
- iii. Is there a health and safety consideration
- iv. Does the nuisance out way the benefit of retention

### 8.2 Officer Assessment

Amenity – The pleached limes that surround NIAB and line Howes Place make a significant heritage and amenity contribution to the character and appearance of Howes Place. Howes Place is however a private, no-through road and the trees are necessarily managed to control their size. The wider contribution the trees make to the surrounding area is therefore more limited.

Condition/Nuisance - Section 14.-(1)(a)(ii) of The Town and Country Planning (Tree Preservation)(England) Regulations 2012 states that nothing shall prevent the cutting down, topping, lopping or uprooting of a tree in compliance with any obligation imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance. The courts have held that nuisance must be actionable in law, where it is causing, or there is an immediate risk of it causing actual damage. However when deciding what

is necessary to prevent or abate a nuisance consideration should be given to steps other than tree work.

Justification for Works – It is alleged that the trees are responsible for root induced clay shrinkage subsidence damage to 18 Howes Place.

Damage in the form of cracking is evident throughout the property internally and externally. The timing of the damage, the presence of shrinkable clay beneath the foundations and the proximity of vegetation where there is damage indicates the shrinkage to be root induced. Foundations are bearing on a clay subsoil with a high potential for volumetric change relating to changes in soil moisture. Conditions necessary for clay shrinkage subsidence to occur related to moisture abstraction by vegetation have been confirmed by site investigations and the testing of soil and root samples. Roots from lime trees were recovered from samples in TH2, at the front of the house. The subject trees are located to the front of the property. Level monitoring has recorded a pattern of seasonal soil drying below the property foundations. Following initial reporting of damage trees including ash and false acacia were removed. Movement to the front of the property has continued since these trees were removed.

### **8.3 Observations and Implications**

The tree team is satisfied that the evidence provided supports the claim that trees are a causal factor in damage to the subject property and that the work proposed will remove the trees' influence on soil moisture beneath the subject property's foundations allowing the property to stabilise and superstructure repairs to be carried out. Officers are also of the opinion that the risk of heave associated with the trees' removal is minimal.

Alternatives to tree work may be possible but information in this regard has not been provided. Alternative solutions are expected to be more costly and could have financial implications for Cambridge City Council if permission for tree removal is not granted. The trees are, however, located in third party property and, notwithstanding any permission granted by the council, permission from the property owner will be required before their trees may be lawfully removed. If it is determined by committee that sufficient evidence has been presented to support the application to fell the trees and permission from the council is subsequently granted, the tree owner is not legally obliged to carry out the work or permit its completion and could consider alternatives to minimising the influence of their trees on the property.

### **9.0 Recommendation**

Grant consent subject to replacement planting conditions.

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Background Papers:

The following list contains links to the documents on the Council's website.

- 23/0159/TTPO

Appendix A TPO Plan

Appendix B Tree location and photos