

**PROPOSAL:** Provisional Tree Preservation Order Ref: 1\_11 – Trees at Firdale Close, Peakirk.  
**REFERRED BY:** Head of Planning, Transportation & Engineering.  
**REASON:** Objections have been raised to the provisional TPO.  
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## **1 SUMMARY/OUTLINE OF THE MAIN ISSUES**

Officers have served a provisional Tree Preservation Order (TPO) 1\_11 – Trees at Firdale Close, Peakirk following a request from a member of the public and as such, following the public consultation period, objections have been raised.

- **Are the trees worthy of inclusion into a TPO in terms of public visual amenity value?**
- **Are the proposals reasonable and justified having regard to the letters of support raised?**

An objection has been raised in respect of the Tree Preservation Order and Committee are asked to determine the application accordingly in accordance with para 2.6.2.1 of the Council's Constitution.

The Head of Planning Services recommends that the TPO is CONFIRMED.

## **2 DESCRIPTION OF SITE AND SURROUNDINGS**

The trees (2 Maple, 3 Cherries, 3 Birch a Deodar and a Monkey Puzzle) are located on a small piece of open space adjacent to the B1443 Peakirk-Newborough Rd and the entrance to Firdale Close, Peakirk. The trees are all to the front of 1 Firdale Close. The front half of the site is unregistered land and the rear half under the ownership of 1 Firdale Close.

The trees are easily seen from the B1443 and it has been assessed that the trees are worthy of protection.

## **3 CONSULTATIONS/REPRESENTATIONS**

### **INTERNAL**

None

### **EXTERNAL**

None

### **NEIGHBOURS**

2 letters of objection giving the following reasons:

- Branches too close to telephone wires affecting sound quality.
- Branches overhanging the pavement.
- Order would prohibit any future tree works.
- Ownership of some of the trees is unknown so maintenance may be an ongoing issue

### **COUNCILLORS**

None

## PARISH COUNCIL

None

### **4 REASONING**

#### **a) Introduction**

A Tree Preservation Order (TPO) is a legal order made by local planning authorities to preserve important trees, groups of trees or woodlands that have a public amenity.

A request for a TPO was submitted by a member of the public due to the potential for trees to be inappropriately pruned or removed. Following a site assessment carried out as per "Tree Preservation Orders : A Guide to the Law and Good Practice", it was deemed that 10 trees were worthy of protection, partly due to this request and partly due to the fact that there is no legal owner of the front half of the site. A TPO would therefore allow PCC control over any proposed future tree works.

Under Section 201 of the Town & Country Planning Act, a TPO was served on the 25<sup>th</sup> Jan 2011.

People affected by the order have a right to object or make comments on any of the trees or woodlands covered before the Local Planning Authority (LPA) decide whether the order should be made permanent (Confirmed).

Under the DETR booklet, the following advice is provided to LPA s regarding objections:-

***If objections or representations are duly made, the LPA cannot confirm the TPO unless they have first considered them. To consider objections and representations properly it may be necessary for the LPA to carry out a further site visit, which would in any case be appropriate if the LPA had not yet assessed fully the amenity value of the trees or woodlands concerned. Any objection or representation made on technical grounds (for example, that a tree is diseased or dangerous) should be considered by an arboriculturist, preferably with experience of the TPO system.***

***Discussion between the LPA and any person who makes an objection is encouraged. Discussion can lead to a greater mutual understanding of each side's point of view. This in turn can help clarify the main issues which will have to be considered by the LPA before they decide whether to confirm the TPO. Alternatively, discussions can lead to the withdrawal of objections.***

An initial objection was raised by Mrs Delves on 2<sup>nd</sup> February 2011 on the basis that the TPO was instigated by a local Parish Councillor, one of the trees was planted without permission, impact on the land, responsibility for the land or the trees, the TPO would prevent works to them and that there are concerns surrounding telecoms cables. A response was sent to Mrs Delves on the 8<sup>th</sup> Feb 2011 addressing each of the concerns and requesting that her objection is withdrawn. Mrs Delves responded on the 21<sup>st</sup> Feb 2011 stating that she was unable to withdraw her objection essentially repeating her initial objections.

A letter of objection was also received from Mrs Puk who owns 2 of the trees on 3<sup>rd</sup> February 2011, the detail is as per Mrs Delves' objection added to which she planted the 2 trees and also objects on this basis. The Case Officer spoke with Mrs Puk on 30<sup>th</sup> March via telephone to discuss withdrawing her objections but she also stated that her objection still stands.

In response to the objections, the Case Officer makes the following points:

- A Land Registry search was carried out at the time of serving the TPO; the search shows that the front half of the open space is indeed unregistered.
- Status of land ownership and responsibility does not change following the serving of a TPO other than there is a legal stamp on the land.
- The serving a Tree Preservation Order does not prohibit works to a tree, only that works are appropriate and necessary. In this instance, works to prevent damage to telecoms wires and to clear the lamp post would be deemed appropriate; these works are actually an exemption in the

TPO Legislation in that the works are required to “*abate a nuisance*”. Interpretation of this exemption would allow branches to be pruned back to prevent any damage.

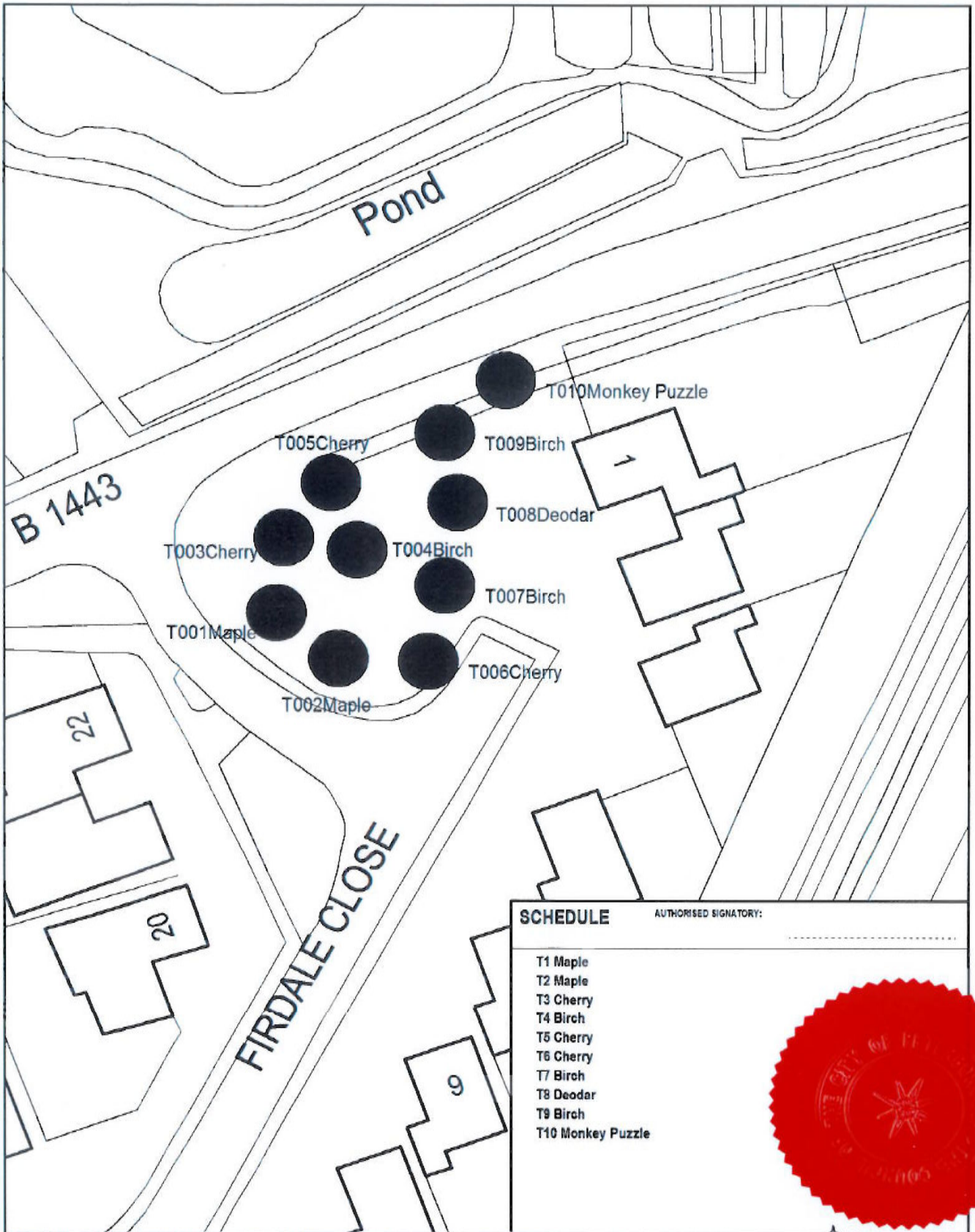
## **5 CONCLUSIONS**

It is the opinion of the Case Officer that the TPO be Confirmed for the following reasons:-

- There is the potential for the loss of the trees or inappropriate pruning that could shorten the life of the trees.
- The trees offer public visual amenity value and it is considered that the loss of the trees and or inappropriate pruning would be of detriment to the greater public and the landscape in this location.
- It is the opinion of the Case Officer that trees could provide 20 yrs + visual amenity value based on their current condition.

## **6 RECOMMENDATION**

The Head of Planning Services, Transport & Engineering recommends that this provisional TPO is CONFIRMED



**TREE PRESERVATION ORDER** 1\_2011  
**Firdale Close**

**Scale** 1:500 **Date** 11/1/2011 **Department** Planning Services **Name** JW **PCC GIS**

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