



**REPORT of
DIRECTOR OF STRATEGY, PERFORMANCE AND GOVERNANCE**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
1 OCTOBER 2018**


Tree Preservation Order	TPO 5/18
Location	Jubilee Recreation Ground, School Road, Great Totham
Proposal	Confirmation of TPO 5/18
Owner	Great Totham Parish Council
Confirmation by	05.12.2018
Case Officer	Emma Worby
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Decision on confirmation of a Tree Preservation Order as per the Council's scheme of delegation

1. RECOMMENDATION

CONFIRM Tree Preservation Order (TPO) 5/18 without any modifications.

2. SITE MAP

Please see overleaf.

Tree Preservation Order		Details
TPO 5/18 Jubilee Recreational Ground Great Totham		T1 - Oak
 MALDON DISTRICT COUNCIL <small>For reference purposes only. No further copies may be made. This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Maldon District Council 100018588 2014</small>	Scale: 1:1,250	
	Organisation: Maldon District Council	
	Department: Department	
	Comments: EW	
	Date: 04/06/2018	
MSA Number: 100018588		
www.maldon.gov.uk		

3. SUMMARY

- 3.1 In May 2018, the Council was informed that there were concerns that an Oak tree located in the southern most corner of Jubilee Recreation Ground adjacent to School Road might be subject to unauthorised cutting or other damage. Therefore, a TEMPO assessment, which is a professionally and nationally accepted system of scoring the amenity value of a tree, was carried out and it concluded that the tree was worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 5 June 2018.
- 3.2 A letter of representation has been received relating to the serving of TPO 5/18 and its contents have not been resolved. Therefore, the question of whether or not to confirm the TPO has been brought before members to decide.

3.3 The Site

- 3.3.1 The Oak tree is located at the southernmost point of Jubilee Recreation Ground adjacent to the residential property No.3 School Road. Jubilee Recreation Ground is a publically accessible park and playing field which is located between Maldon Road, Hall Road and School Road and contains a play area and a football pitch. The site is located within the settlement boundary of Great Totham.

3.4 Ownership

- 3.4.1 Jubilee Recreation Ground is owned and managed by Great Totham Parish Council.

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 Corporate Plan 2015 - 2019:

- Corporate Goals: 2. Protecting and shaping the District – 2.b. Protection and enhancement of the District's distinctive character, natural environment and heritage assets.

4.2 Relevant Planning Guidance / Documents:

- National Planning Policy Guidance (NPPG)

4.3 Government Guidelines:

- 4.3.1 Government guidelines advise that: The LPA is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.
- 4.3.2 If Members decide to Confirm TPO 5/18, the owners have the right to make an application to the High Court to challenge the validity of the TPO. There are specific grounds on which this application must be made:
1. that the TPO is not within the powers of the Act, or
 2. that the requirements of the Act or Regulations have not been complied with in relation to the TPO.

- 4.3.3 There are costs involved in this procedure which can be awarded. An application must be made within six weeks of the date the TPO was confirmed.

5. MAIN CONSIDERATIONS

- 5.1 The affected Oak tree is located within Jubilee Recreation Ground adjacent to School Road in Great Totham. It is of a significant height and has retained an attractive shape. Due to the height of the tree and its location within the park, views are available from within the public realm from both within the recreation ground and from School Road. Due to its positioning and its substantial size, the tree is considered to have a high amenity value. Although there are a number of trees within the Recreation Ground, the oak tree subject to the TPO is one of the largest on School Road and has a significant impact on the streetscene. Please see **APPENDIX 1** for the site photos.
- 5.2 The owners of the tree, Great Totham Parish Council, have requested a tree preservation order due to concerns that the tree may be subject to unauthorised cutting which could affect the amenity value of the tree within the locality. The tree is not located within a Conservation Area and therefore did not have any form of statutory protection prior to the serving of the TPO. Therefore, any branches overhanging neighbouring properties could have been removed without permission from the owner which may have caused damage to the tree and its overall amenity value. On recommendation from Great Totham Parish Council, the Oak tree was assessed using the Tree Evaluation Method for Preservation Orders (TEMPO) and the tree scored 13 out of 25 which means that the TPO is considered to be defensible.
- 5.3 Within the letter of representation regarding the TPO (summarised below) it is stated that the Parish Council were requested to cut back the tree from the residents of a neighbouring property as they were in danger of causing damage to the outer wall and growing through the power cables above. No evidence has been supplied of this damage, however its proximity to both the neighbouring dwelling and the overhead cables can be seen in the site photos. It is noted that the TPO would not prevent works to the tree being carried out, however it would control any works to ensure that they were suitable, justified and did not harm the amenity value or the health of the tree.

6. ANY RELEVANT SITE HISTORY

- 6.1 No relevant site history.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Interested Parties

- 7.1.1 One letter of representation has been received in relation to the serving of the TPO 5/18, the contents have been set out in the table below:

Comments	Officer Response
<ul style="list-style-type: none">• The tree was cut back recently by the Parish Council as it was inches from the neighbouring property and in danger of causing damage to the outer wall.• The tree was also growing through the power cables and the power company cut some of the branches away.• The tree needs to be managed properly so as not to damage power cables or property before the preservation order is confirmed.• If a preservation order is applied to the tree, some responsibility needs to be taken by the District Council to prevent any incursions into power cables or adjacent property.	<p>Comments noted and discussed in section 5.3 of the report above.</p> <p>It is noted that it is not within the jurisdiction of the District Council to manage trees with preservation orders.</p>

8. CONCLUSION

- 8.1 The Oak Tree subject of the TPO makes a significant contribution to the character and appearance of School Road and the Jubilee Recreation Ground in Great Totham due to its prominent position and its large, mature and attractive nature.
- 8.2 There has been no evidence provided to suggest that the tree is causing damage to the neighbouring property or overhead power cables. Therefore, given that the tree has a TEMPO score of 13, it is considered that the TPO should be confirmed to prevent inappropriate works being carried out which could harm the amenity value and the overall health of the tree.