



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

---

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

<b>Tree Preservation Order</b>	<b>TPO 8/18</b>
<b>Location</b>	Tollesbury Surgery, 25 High Street, Tollesbury
<b>Proposal</b>	Confirmation of TPO 8/18
<b>Owner</b>	Drs O D Abazie & C U Ogaziechi
<b>Confirmation by</b>	15.01.2019
<b>Case Officer</b>	Emma Worby
<b>Parish</b>	<b>TOLLESBURY</b>
<b>Reason for Referral to the Committee / Council</b>	Decision on confirmation of a Tree Preservation Order as per the Council's scheme of delegation

**1. RECOMMENDATION**

**CONFIRM Tree Preservation Order (TPO) 8/18** without any modifications.

**2. SITE MAP**

Please see overleaf.

Tree Preservation Order		Details
<b>TPO 8/18</b> <b>Tollesbury Surgery, 25 High Street, Tollesbury</b>		<b>T1 - SYCAMORE</b>
<b>Copyright</b> <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>		<b>Scale:</b> 1:750 <b>Organisation:</b> Maldon District Council <b>Department:</b> Department <b>Comments:</b> EW <b>Date:</b> 15/08/2018 <b>MSA Number:</b> 100018588
 <b>MALDON DISTRICT COUNCIL</b> <a href="http://www.maldon.gov.uk">www.maldon.gov.uk</a>		

### **3. SUMMARY**

3.1 In July 2018, the Council received a notification under the terms of section 211 of the Town and Country Planning Act 1990, to undertake works to a tree within a Conservation Area. The notification proposed to fell the Sycamore Tree growing in the car park of Tollesbury Surgery, 25 High Street Tollesbury. The proposed removal of the tree was considered to materially impact on the amenity of the area. Therefore, a Tree Evaluation Method for Preservation Orders (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 15 August 2018.

3.2 An objection has been received relating to the serving of TPO 8/18 and it has not been resolved, 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 Sycamore tree is located within the car park of Tollesbury Surgery, 25 High Street, Tollesbury, adjacent to the western boundary and the road Elysian Gardens. The site is within the settlement boundary and conservation area of Tollesbury.

3.3.2 The site is located at the junction of the High Street and Elysian Gardens within the centre of Tollesbury. The use of the site and its central location means that the site plays a significant role in defining the character and appearance of the Conservation Area. The open site frontage and low walls means that the content of the site is prominent within the streetscene.

3.3.3 There is another sycamore tree located within the application site which had a TPO (11/17) confirmed in January 2018. The tree which is subject to TPO 8/18 is similar in size, stature and location to this tree and therefore it is considered that both have equal amenity value and both should be protected by a tree preservation order.

#### **3.4 Ownership**

3.4.1 The tree is within the property of Tollesbury Surgery, 25 High Street, Tollesbury which is known to be owned by Drs O D Abazie & C U Ogaziechi.

### **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 Local Planning Authority (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 8/18, 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 Sycamore tree is located in the car park of Tollesbury Surgery, 25 High Street, Tollesbury; it is of a significant height and has retained an attractive shape. Due to the height of the tree and its location within the car park views are available from within the public realm. The tree is highly visible from both the High Street and Elysian Gardens. Given that the tree is fairly isolated in its occurrence, with just one other tree within close proximity on the site, and that it is of a significant size, the tree is considered to have a significant amenity value. Please see **APPENDIX 1** for the site photos.
- 5.2 It is noted that the tree is in close proximity to the boundary brick wall which is being pushed slightly to the west by the tree and its roots. However, there is no evidence provided that the roots are significantly bringing up the path around the tree within the car park or on the adjacent pathway, which would be a danger to pedestrians. The area directly adjacent to the wall has lifted slightly. However, as there is not room to park a vehicle in this area and it does not provide access to the car park, it is considered unlikely that pedestrians would be walking in this area.
- 5.3 Furthermore, no evidence has been provided that demonstrates that the removal of the tree is the only solution to repairing the wall. Therefore, it is considered that as no other maintenance options for the wall appear to have been explored, nor have any other management regimes for the tree, the works are not justified or proportionate and the concerns raised in relation to the impact of the retention of the tree do not outweigh the significant contribution the tree makes to the amenity of the area.
- 5.4 The proposed felling of the tree within the conservation area notification was considered excessive and unnecessary and the trees amenity value would have been lost to the detriment of the conservation area. Further to this, the justifications for the works were not considered sufficient in mitigating the harm caused by the loss of the tree. Therefore, the Sycamore tree was assessed using the TEMPO method and the tree scored 15 out of 25 which means that the TPO is considered to be defensible.

- 5.5 With the objection to the TPO (summarised below) it was stated that as the other tree in the centre of the car park already has a TPO and provides amenity value, this should be taken into consideration. However, as this tree has a position closer to the road than the other tree, it is considered that its amenity value is greater and that the two trees should be considered on an individual basis.
- 5.6 As no evidence has been provided to suggest that there are no other mitigation options and therefore the removal of the tree is considered to be excessive. If an application for works to a protected tree is received by the Council this is information that would be taken into consideration and assessed at that time. It is relevant to note that the serving of a TPO does not prevent an application being made for reasonable works to the tree but does give the LPA the ability to assess those works.

## 6. **ANY RELEVANT SITE HISTORY**

- **15/01153/TCA** – Fell two conifer trees as they are excessively tall and causing damage to the surgery car park and neighbouring property. Allow to proceed.
- **17/00725/TCA** – T1 – Remove. TPO served 30.08.2017.
- **18/00842/TCA** – T1 sycamore – fell. TPO served 15.08.2018.

## 7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

### 7.1 **Representations received from Interested Parties**

- 7.1.1 One letter of objection has been received in relation to the serving of the TPO 8/18, the contents have been set out in the table below:

<b>Objection Comment</b>	<b>Officer Response</b>
<ul style="list-style-type: none"> <li>• The tree is knocking the brick wall down that surrounds the car park and is a hazard for pedestrians on the public side of the wall and patients using the car park.</li> <li>• Two builders have surveyed the wall and said they cannot re-build the wall until the tree has been removed.</li> <li>• The roots are bringing up the path that pedestrians use around the premises and the wall is leaning dangerously.</li> <li>• As we already have a tree preservation order on the tree in the middle of the car park, providing amenity value to the area, could this be taken into consideration when you make</li> </ul>	<p>Comments noted and discussed above in section 5 of this report.</p>

Objection Comment	Officer Response
<p>your decision?</p> <ul style="list-style-type: none"> <li>• I really hope you do not put the tree preservation order onto this tree as it needs to be removed.</li> <li>• We would replace the tree with a native hedge.</li> </ul>	

## 8. **CONCLUSION**

- 8.1 The Sycamore Tree subject of the TPO makes a significant contribution to the character and appearance of the Tollesbury Conservation Area 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 Tollesbury Surgery car park or the adjacent wall. Furthermore, there has been no evidence provided which suggests that other management regimes have been explored to prevent the need of removing the tree. Therefore, given that the tree has a TEMPO score of 15, it is considered that the TPO should be confirmed to prevent the loss of a significant tree which plays as significant role in shaping the character and appearance of the Tollesbury Conservation Area.