



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

to
**CENTRAL AREA PLANNING COMMITTEE
20 FEBRUARY 2019**

Tree Preservation Order	TPO12/18
Location	Unity, Tenterfield Road, Maldon
Proposal	Confirmation of TPO 12/18
Owner	Mr. Mark Powell
Confirmation by	24.04.2019
Case Officer	Louise Staplehurst
Parish	MALDON NORTH
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) 12/18 without any modifications.

2. SITE MAP

Please see overleaf.

Tree Preservation Order		Details	
TPO 12/18 T1 - Judas			
<p>Army</p> <p>Cadet</p> <p>Centre</p>		<p>Copper</p> <p>Beech</p>	
<p>16 to</p> <p>22</p>		<p>10</p>	
<p>63</p>		<p>53</p> <p>41</p>	
<p>www.maldon.gov.uk</p>		<p>Scale: 1:400</p> <p>Organisation: Maldon District Council</p> <p>Department: Department</p> <p>Comments: Unity, Tenterfield Road</p> <p>Date: 29/01/2019</p> <p>MSA Number: 100018588</p>	

3. SUMMARY

3.1 In September 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 Judas tree growing in the front garden of Unity, Tenterfield Road, Maldon. 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. The TEMPO assessment scored the tree 16 out of 25 and concluded that the tree was worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 24 October 2018.

3.2 Two objections have been received relating to the serving of TPO 12/18 and they have not been resolved, and 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 Judas tree is located within the front garden of Unity, Tenterfield Road, Maldon, adjacent to Tenterfield Road. The site is within the settlement boundary and conservation area of Maldon.

3.3.2 The site is located north of Tenterfield Road. The tree is positioned within an open location within the front garden on the site and therefore it is highly visible from within Tenterfield Road and from the footpath to the west, Chequers Lane.

3.3.3 The location of the tree to the front of the site, and its mature, unique and attractive nature, means that the tree plays a significant role within the streetscene.

3.4 Ownership

3.4.1 The tree is within the property of Unity, Tenterfield Road, which is known to be owned by Mr Mark Powell.

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 12/18, 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 is confirmed.

5. MAIN CONSIDERATIONS

- 5.1 The T1 Judas is located to the front of Unity, Tenterfield Road. It is a relatively large tree which is situated within an open location to the front of the site and is therefore highly visible from the public realm within Tenterfield Road, and from the footpath to the west, Chequers Lane. The T1 Judas tree is therefore considered to hold significant amenity value, adding to the character and appearance of the surrounding area, which is a conservation area.
- 5.2 Given that the tree is prominent in terms of its location to the front of the site, it is considered to hold significant amenity value. It is a notable amenity feature, in particular when it is in flower. Furthermore, the Judas tree is considered to be a mature specimen and it is considered to be reasonably rare to find a tree of this age and size in the urban environment, especially in Maldon. Please see **APPENDIX 1** for the site photos.
- 5.3 The Tree Preservation Order was served in response to a request being made to fell the tree. The proposed felling of the tree was considered excessive and unnecessary and the tree's 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 Judas tree was assessed using the TEMPO and the tree scored 16 out of 25 which means that the tree definitely merits a TPO.
- 5.4 Within the objections to the TPO (summarised below) it was stated that the tree should be removed in order to make room for a parking space in the front garden on the site. However this is not considered to be a justified reason to remove a tree that offers amenity within the streetscene.
- 5.5 It is noted that the tree is located in close proximity to the tiled pathway and to the dwelling. However, there has been no evidence provided that demonstrates that removing the tree is the only solution. It appears that no other management regimes for the tree have been explored and therefore the works are not justified and the concerns raised in relation to the impact of the retention of the tree do not outweigh

the contribution the tree makes to the amenity of the area. 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.

- 5.6 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. **SITE HISTORY**

- **TCA/MAL/10/00959** - T1 Judas - Reduce crown by up to 1/3, T2 Wild Cherry - Remove, T3 Crabapple - Reduce crown by up to 1/3. – Allow to proceed
- **HOUSE/MAL/11/01070 & CON/MAL/11/01072** - Demolish existing lean-to W.C and store and replace with new single storey garden room – Approved and Grant
- **TCA/MAL/14/00879** - T1 Malus spp. - Fell and remove. T2 Malus spp. - Prune as follows: Remove all dead dying and diseased branches/stems. Remove all crossing stems. Remove all upward growing stems. Remove epicormic growth. Thin crown up to 20% volume. Reduce crown by up to 1 metre in all aspects to achieve circle in sky classic fruit tree appearance. All cuts to be made to vegetative or fruit buds at 40 degree angle upwards to bud side. T3 Fraxinus excelsior - Reduce crown by up to 2 metres in all aspects, crown lift to 3 metres. – Allow to proceed
- **TCA/MAL/18/01107** – T1 Judas – Remove – TPO 12/18 Served
- **WTPO/MAL/18/01409**– TPO 12/19 T1 Judas – Remove – Refused

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 **Representations received from Interested Parties**

- 7.1.1 Two letters of objection have been received in relation to the serving of the TPO 12/18. The contents have been set out in the table below:

Objection Comment	Officer Response
<ul style="list-style-type: none"> • The front tiled path is breaking up due to the tree. • Concerned what damage the roots are doing to the house and the neighbouring house. • It is too close to the house considering its base is hollow. • Could be significant damage if the tree falls. • Removing the tree would enable parking in the front garden, which would reduce the number of cars along Tenterfield Road. 	<ul style="list-style-type: none"> • No evidence has been submitted to suggest that other methods of retaining the tree and protecting the path have been tried. • No evidence has been provided of damage to properties from the roots. • No evidence to suggest that the base being hollow is impacting on the house. • No evidence to suggest the tree is likely to fall. • This is not considered to be a justified reason to remove a tree that offers amenity in the streetscene.

8. **CONCLUSION**

- 8.1** The Judas tree subject of the TPO makes a significant contribution to the character and appearance of the Maldon Conservation Area due to its prominent position and its mature, unique and attractive nature.
- 8.2** There has been no evidence provided to suggest that the tree is causing damage to the front path. 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 16 out of 25, 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 Maldon Conservation Area.

Site Photos

View from Tenterfield Road looking east



View from Tenterfield Road looking west towards Chequers Lane

