



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

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

Tree Preservation Order	TPO 11/18
Location	14 Fambridge Road, Maldon
Proposal	Confirmation of TPO 11/18
Owner	Simon Baker
Confirmation by	15.04.2019
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) 11/18 without any modifications.

2. **SITE MAP**

Please see overleaf.



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 Ash tree growing in the rear garden of 14 Fambridge 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 14 out of 25 and concluded that the tree was worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 15 October 2018.

3.2 One objection has been received relating to the serving of TPO 11/18 and it has 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 Ash tree is located within the rear garden of 14 Fambridge Road, Maldon. It is located on the south west boundary, north of the footpath. The site is within the settlement boundary and conservation area of Maldon.

3.3.2 The site is located west of Fambridge Road, east of Spital Road and north of Mount Pleasant. The tree is positioned within the rear garden of the site. The tree is close to the south west boundary of the site. There is a car park to the west of the tree and therefore the tree is highly visible from Spital Road, Mount Pleasant and the footpath to the south, The Chase.

3.3.3 The location of the tree to the west of the site, and the lack of many other trees of a similarly large size in the immediate area means that the tree plays a significant role within the streetscene.

3.4 Ownership

3.4.1 The tree is within the property of 14 Fambridge Road, which is known to be owned by Simon and Lorraine Baker.

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 11/18, 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 Ash tree is located along the south west boundary of 14 Fambridge Road. It is a large tree which is situated within an open location to the west of the site and is therefore highly visible from the public realm within Spital Road, Mount Pleasant and the footpath to the south, The Chase. The T1 Ash 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 There are other trees to the north and east of the Ash tree, within the garden of 14 Fambridge Road. However the T1 Ash tree is the largest and most prominent tree, in particular from views from the west of the site. It is located within a relatively open location and therefore the Ash tree is considered to hold significant amenity value, adding to the character and appearance of the surrounding conservation area. 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, justification for the works was not considered sufficient in mitigating the harm caused by the loss of the tree. Therefore, the Ash tree was assessed using the Tree Evaluation Method for Preservation (TEMPO) and the tree scored 14 out of 25 which means that a TPO is defensible.
- 5.4 Within the objections to the TPO (summarised below) it was stated that the tree should be removed due to it causing subsidence to the property to the south. However it is considered that insufficient evidence has been provided to show that the Ash tree has caused the damage to the property. Furthermore, there has been no evidence provided that demonstrates 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.

- 5.5 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 Local Planning Authority the ability to assess those works.

6. SITE HISTORY

- **TCA/MAL/99/00021** – Tree removals and pruning operations as remedial works in relation to subsidence – Allow
- **WTPO/MAL/99/00547** – Proposed work to Yew Tree-Crown reduction of up to 25% (TPO 20/91) – Refused
- **TCA/MAL/99/00040** – Proposed works to trees – Allow
- **TCA/MAL/03/00079** – 30% crown reduction of Lime Tree, 25% crown reduction of Pear Tree, Reduce to previous pruning points - 3 Horse Chestnut Trees, 30% crown thin Ash Tree, 35% height reduction and crown thin 2 Bay Trees, 30% height reduction of Holly Tree, Fell and remove Plum Tree and Reduce height of Conifer Tree to clear lamppost – Allow
- **WTPO/MAL/06/01268** – Thin crown by 15%, lift to 4 metres and reduce length of co-dominant stem by 2 to 3 metres of Chestnut (T1), Carry out crown lift by removing three branches from lower part of stem and thinning by 20% of Yew (T2). – Approved
- **TCA/MAL/06/01273** – Fell one Prunus (T3), Pollard one Lime (T4), Reduce height of two Bay trees (T5 and T6) by 50%, Reduce Ash (T7) to original pruning points, Reduce Prunus (T8) height by 50%, Pollard one Weeping Ash (T9), Pollard three Chestnuts (T10, T11, and T12), Crown lift to 3 metres of Acer Platanoides. – Allow
- **TCA/MAL/15/00648** – T1 Lime – Re-pollard – Allow
- **TCA/MAL/16/00869** – T1 Ash - Prune to clear adjacent property by approx 1.5m. G1 Mixed species (group to left, adjacent to No.16) - Prune crowns to clear adjacent properties by approx 1.5m. G2 Mixed species (to front) - Prune to clear footpath to 2.5m and highway by 5.2m. T2 Sycamore - Fell & poison. T3 Plum (to left hand side) - Fell & poison – Allow
- **WTPO/MAL/16/00977** – T2 Horse Chestnut – Prune Crown and reduce overhang by 1.5m – Approved
- **TCA/MAL/18/00772** – T1 Spruce - Fell. T2 Ash - Reduce crown back to previous pruning points - 7 metres. T3 Ash - Reduce crown back to previous pruning points- 7 metres. T4 Horse Chestnut - Remove re-growth back to pruning points - 5 metres. T5 Horse Chestnut - Remove re-growth back to pruning points - 1 metre. T6 Mixed Species - Reduce by 5 metres and trim branches overhanging footpath by 1.5 metres. - Withdrawn
- **TCA/MAL/18/01057** – T2 Ash – Fell due to causing subsidence to neighbouring property. – TPO Served 11/18

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 11/18. The contents have been set out in the table below:

Objection Comment	Officer Response
The tree is causing subsidence to the neighbor to the south.	Insufficient evidence has been provided to show the tree has caused the damage.
The tree has outgrown its location and is too large for a residential area	Comments noted. There is no evidence to suggest it has outgrown its location.
If it fell, it would damage at least three properties.	Comments noted. There is no evidence to suggest it is likely to fall.
The tree is not well maintained and causes damage to the guttering and garden by falling leaves and branches.	This is not considered to justify the removal of the tree.
Issues with bird excrement.	This is not considered to justify the removal of the tree.
CCTV is being triggered unnecessarily by the tree.	This is not considered to justify the removal of the tree.
The tree shields the sun from the garden.	This is not considered to justify the removal of the tree.
Impact on the footpath to the south, including leaves being a slip hazard, roots pushing up the path and the crown shielding the streetlights.	This is not considered to justify the removal of the tree.

8. CONCLUSION

- 8.1 The Ash 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 and attractive nature.
- 8.2 There has been insufficient justification provided to suggest that the tree is causing damage to the neighbouring dwelling to the south. 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 14 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 Spital Road looking east towards the car park to the west of the tree.



View from Mount Pleasant looking east, towards 1 Mount Pleasant

