



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

to
**NORTH WESTERN AREA PLANNING COMMITTEE
10 JUNE 2019**

Application Number	TPO 2/19
Location	North Fambridge Hall Wood, North Fambridge
Proposal	Confirmation of TPO 2/19
Owner	Mr D Townshend, Mr J and P Friedlein, Mr S and Mrs A Rampling, Mr P Boyce, Mr M Worthington and Fambridge Farm Company Ltd
Confirmation by	01.08.2019
Case Officer	Hayleigh Parker-Haines
Parish	NORTH FAMBRIDGE
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) 2/19 without any modifications.

2. SITE MAP

Please see overleaf.



3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 In January 2019, the Council received information that part of the above woodland was up for sale. The sale of this land was considered to put the woodland at risk and therefore, a 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 woodland 20 out of 25 and concluded that the woodland was worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 4th February 2019.
- 3.1.2 Four letters of objection have been received relating to the serving of TPO 2/19 on North Fambridge Hall Wood, North Fambridge.
- 3.1.3 These objections remain unresolved; therefore the question of whether or not to confirm the TPO has been brought before members to determine.

3.2 The Site

- 3.2.1 The Woodland is located to the southern side of Lower Burnham Road and to the west of Fambridge Road. The woodland is a prominent feature than can be seen from both of the main roads and the surrounding area; it is therefore considered to be an important landscape feature. This is a mixed species woodland which includes oak, field maple, Hawthorn and Elm.
- 3.2.2 Due to the maturity of the trees and the prominent location on the corner of two main roads, it is considered that this woodland plays a significant role within the surrounding area.

3.3 Ownership

- 3.3.1 North Fambridge Hall wood is owned and managed by a number of different people. The known owners at the time of writing this report are Mr D Townshend, Mr J and P Friedlein, Mr S and Mrs A Rampling, Mr P Boyce, Mr M Worthington and Fambridge Farm Company Ltd.

4. MAIN RELEVANT POLICIES

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

4.1 Corporate Plan 2019-2023:

- Corporate Goals: The Environment - protected and improved environment for residents and visitors. Partnership working to protect our countryside and coastline.

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 2/19, 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 woodland is located to the west of Fambridge Road and to the south of Lower Burnham Road. It is a prominent feature of the landscape of the area and is considered to have high amenity value as it is highly visible from the public realm, from both Fambridge Road and Lower Burnham Road and the surrounding area and is made up from large, mature and attractive mixed species trees.
- 5.2 The sale of a parcel of the woodland was brought to the Council’s attention. The woodland 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 of the trees within this woodland could have been removed without the permission of Maldon District Council (MDC), which could damage the amenity value the woodland offers to the surrounding area. In the interest of protecting this prominent landscape feature and the amenity value of the woodland within the locality the woodland was assessed using the Tree Evaluation Method for Preservation Orders (TEMPO) and the woodland scored 20 out of 25 which means that the woodland would definitely merit a TPO.
- 5.3 It should be noted that the TPO would not prevent works to the trees from being carried out, however, it would control any works to ensure that they were suitable, justified and did not harm the health of the trees within or the amenity value the woodland as a whole offers to the surrounding area.

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 Four letters were received **objecting** to the serving of the TPO 2/19 and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
<ol style="list-style-type: none">1. The woodland has been untouched for many years and I see no reason why this should not continue to be the case in the future. I therefore, find it difficult to understand the rationale for imposing the TPO at this point in time.2. The wood has little or no amenity value, being bounded on one side by a busy road, without a footpath.3. Visibility is screened by roadside scrub which precludes any view into the woodland.4. There is no public right of way through the woodland as the land is in private ownership.5. The TPO is not expedient as there are no re-development pressures on the woodland, any concerns regarding change of ownership should only be used as a valid argument in the context of there being 'significant amenity value', which is clearly not the case as mentioned above6. As part of the consideration, an inspection of the land in question is required. I was not informed or given any notice that an officer of the Council would be entering the woodland. This is disconcerting as I was not informed and on Health and Safety grounds by entering privately owned land, unannounced where shooting takes place from time to time. This also raised questions regarding insurance whilst on the	<ol style="list-style-type: none">1. The sale of part of the woodland was brought to the Council's attention, whereby it was considered that the woodland was perceived to be at threat.2, 3 and 4. The woodland is highly visible from two main roads and is a prominent feature of the surrounding area. Although, there is no access to the woodland for members of the public it is still visible due to the woodland consisting of predominately large/medium sized trees and therefore is considered to be of significant amenity value to the character and appearance of the surrounding area.5. Expediency is only one part of the tree evaluation method for preservation orders. This is one out of five assessment criteria. The woodland scored 2 in this section and the overall score was 20, even if this was given a score of 1 the woodland would still definitely merit a TPO.6. The woodland was assessed without the need to gain access to the land, there are views from both main roads and from other surrounding properties.7. If the TPO is served on the woodland, this would not prevent works from being undertaken to any of the trees.8. When serving a TPO on woodlands, it is best practice to follow the natural growth line and therefore this would remain included in the order.9. This relates to a felling license and if the owners want to fell over 5 cubic

Objection Comment	Officer Response
<p>land.</p> <p>7. We need to maintain the tree line to prevent any encroachment onto our field.</p> <p>8. Part of the woodland included in the order is not exclusively part of Hallwood and needs to be removed from the order</p> <p>9. The woodland is protected by The Forestry Act 1967 already</p> <p>10. The TPO brings a level of control away from the Forestry Commission and the LPA do not possess the technical expertise to objectively consider a proposal for woodland management</p> <p>11. The woodland has a high degree of Ash species which are likely to be subject of Ash decline – it is important that this is addressed at the right stage, to prevent the possibility of risk to users</p> <p>12. Any evaluation under TEMPO should have taken into account the need for management which will include tree felling.</p> <p>13. The woodland is protected under the NPPF – TPO is an unnecessary addition.</p> <p>14. The evaluation under TEMPO cannot have identified a threat level to this woodland</p>	<p>metres a year. This does not protect the trees from ad-hoc felling or damage by direct and in-direct actions.</p> <p>10. This is not the case. Even if the woodland is subject of a TPO, a felling license granted by the forestry commission would override the TPO status. The council seek the relevant expertise for woodland management via external consultants and government bodies such as the Forestry Commission.</p> <p>11 and 12. If the TPO is served, it does not prevent works from being undertaken on the trees, even the felling of trees if it is considered necessary.</p> <p>13. The National Planning Policy Framework does not prevent owners from felling trees or other works. The Town and Country Planning (Tree Preservation) (England) Regulations 2012 was brought in specifically to protect trees and woodlands. If the NPPF were sufficient there would be no need for this legislation.</p> <p>14. The TEMPO identified a perceived threat to the woodland due to part of the woodland being up for sale.</p>

8. CONCLUSION

- 8.1 The woodland subject of the TPO makes a significant contribution to the character and appearance of the surrounding area due to the size and density of the woodland and the prominent location adjacent to Lower Burnham Road. Given that the woodland has a TEMPO score of 20, it is considered that the TPO should be confirmed to prevent inappropriate works being carried out which could harm the amenity value and overall health of the woodland.

9. APPENDIX 1 – SITE PHOTOS

Views from Lower Burnham Road





View from Fambridge Road



Views from Wider Area

