



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

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
12 AUGUST 2019**

Tree Preservation Order	TPO 6/19
Location	29 Chapel Road, Burnham-on-Crouch, Essex
Proposal	Confirmation of TPO 6/19
Owner	Mr Dean Lawrence
Confirmation by	24.12.2019
Case Officer	Annie Keen
Parish	BURNHAM SOUTH
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) 6/19 without any modifications.

2. SITE MAP

Please see overleaf.

Tree Preservation Order		Details	
TPO 6/19 - T1 Silver Birch 29 Chapel Road, Burnham-on-Crouch			
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3. SUMMARY

3.1 Proposal/brief overview, including any relevant background information

- 3.1.1 In May 2019, 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 Silver Birch tree growing in the rear garden of 29 Chapel Road, Burnham-on-Crouch. 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 June 2019.
- 3.1.2 Four objections have been received relating to the serving of TPO 6/19 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.

3.2 The Site

- 3.2.1 The Silver Birch tree is located within the rear garden of 29 Chapel Road, Burnham-on-Crouch. It is located on the north eastern boundary. The site is within the settlement boundary and conservation area of Burnham-on-Crouch.
- 3.2.2 The site is located east of Chapel Road and south of Witney Road. The tree is positioned close to the north eastern boundary within the rear garden of the site. To the south east of the tree there is a car park, the tree is highly visible from this car park and Witney Road with views of the tree from Chapel Road.
- 3.2.3 The location of the tree to the north east 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.

3.3 Ownership

- 3.3.1 The tree is within the property of 29 Chapel Road, which is known to be owned by Mr Dean Lawrence.

4. MAIN RELEVANT POLICIES

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

4.1 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)

4.2 Government Guidelines:

- 4.2.1 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.
- 4.2.2 If Members decide to Confirm TPO 6/19, 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.
- 4.2.3 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 Silver Birch tree is located along the north east boundary of 29 Chapel Road. It is a large tree which is situated to the rear of the dwelling but within an open location to the north east of the site and is therefore highly visible from the public realm within Witney Road and the car park to the east of Chapel Road, with glimpses of the tree from Chapel Road. The T1 Silver Birch 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 south of the Silver Birch tree, within neighbouring gardens along Chapel Road, however, the T1 Silver Birch tree is the largest and most prominent tree, in particular from views from the south of Witney Road and the car park to the rear of the site. The Silver Birch tree is therefore 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, the justification for the works were not considered sufficient in mitigating the harm caused by the loss of the tree. Therefore, the Silver Birch tree was assessed using the Tree Evaluation Method for Preservation Orders (TEMPO) and the tree scored 16 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 outgrowing the locality and the possibility of the tree falling. However, it is considered that insufficient evidence has been provided to show that the Silver Birch tree is unstable. Furthermore, there has been no evidence provided that demonstrates removing the tree is the only solution and it appears no other management regimes for the tree have been explored. It is therefore considered 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 LPA the ability to assess those works.

6. **SITE HISTORY**

- **05/01337/TCA** – T1 Silver Birch – Reduce height of Silver Birch tree and re-shape crown – Allowed To Proceed

7. **CONSULTATIONS AND REPRESENTATIONS RECEIVED**

7.1 **Representations received from Interested Parties**

Four letters of objection have been received in relation to the serving of the TPO 6/19. The contents have been set out in the table below:

Objection Comment	Officer Response
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.
The tree bends in the wind and if it fell, it would damage properties and could cause injury.	Comments noted. There is no evidence to suggest it is likely to fall.
Birches near by have been killed Other Silver by Honey Fungus.	Comments noted. There is no evidence to suggest the tree is diseased.
The tree blocks the sun from the garden.	This is not considered to justify the removal of the tree. Please see section 8.2
Do not feel the tree is worthy of a TPO	

8. **CONCLUSION**

- 8.1 The silver birch tree subject of the TPO makes a significant contribution to the character and appearance of the Burnham-on-Crouch conservation area due to its position and its mature and attractive nature.
- 8.2 There has been insufficient justification provided to suggest that the tree is unstable and will fall resulting in damage to properties and people. 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 a significant role in shaping the character and appearance of the Burnham-on-Crouch Conservation Area.

Site Photos

View from Chapel Road looking east towards the dwelling to the west of the tree.



APPENDIX 1

View from the car park to the east of Chapel Road looking north, towards Witney Road.



APPENDIX 1

View from Witney Road looking to the south.

