



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

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

Application Number	TPO 3/19
Location	Land to the north and east of The Boathouse, Bridgemarsh Lane, Althorne
Proposal	Confirmation of TPO 3/19
Owner	Samantha Lonergan, Georgina McHugh (H Bass and Sons), Mr Lee Batt, Mrs Batt, Mr Michael Bass.
Confirmation by	01.10.2019
Case Officer	Hayleigh Parker-Haines
Parish	ALTHORNE PARISH COUNCIL
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) 3/19 without any modifications.

2. SITE MAP

Please see overleaf.

Tree Preservation Order

3/19

Land to north and east of The Boathouse, Bridgemarsh Lane, Althorne

Details

W1- Mixed species.
including oak, ash & field
maple.



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Maldon District Council 100018588 2014



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Scale: 1:5,000

Organisation: Not Set

Department: Not Set

Comments: HPH

Date: 27/03/2019

MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 In March 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 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 woodland 19 out of 25 and concluded that the woodland was worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 1st April 2019.
- 3.1.2 One letter of objection has been received relating to the serving of TPO 3/19 on Land to the north and east of The Boathouse, Bridgemarsh Lane, Althorne.
- 3.1.3 The 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 eastern side of Bridgemarsh Lane, to the North and east of The Boathouse. The woodland is a feature that can be seen from Bridgemarsh Lane and public vantage points within the surrounding area; it is therefore considered to be an important landscape feature. This is a mixed species woodland which includes oak, Ash and Field Maple.
- 3.2.2 The woodland comprises of young trees which are considered to have a significant retention span which would provide significant amenity value to the character and appearance of the site and surrounding area in the future. Therefore, it is considered that this woodland plays a significant role in underscoring the value of the visual amenity of the surrounding area.

3.3 Ownership

- 3.3.1 The Woodland is owned and managed by a number of different people. The known owners at the time of writing this report are Georgina McHugh (H Bass and Sons), Samantha Lonergan, Mr Michael Bass, Mr Lee Batt and Mrs Batt. It should be noted that the woodland was planted using a grant from the Forestry Commission in 2002.

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 3/19, 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 was confirmed.

5 MAIN CONSIDERATIONS

5.1 The woodland is to the eastern side of Bridgemarsh Lane, to the north and east of The Boathouse. It is a feature of the landscape of the area and is considered to have future high amenity value as once the trees have reached maturity, they will be highly visible and prominent from the public realm.

5.2 Planning Practice Guidance states (Paragraph 10 reference ID: 36-010-21040306) *'It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.'* The sale of a parcel of the woodland was brought to the Council 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, which would damage the amenity value that the woodland offers within the surrounding landscape.

5.3 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) which is designed as a guide to decision making and stands as a record that a systematic assessment has been undertaken. The TEMPO considers all of the relevant factors in the TPO decision making chain including amenity assessment, expediency assessment and decision guide. Within the assessment the woodland scored highly for the suitability of a TPO for the amenity of the woodland as there are medium trees with limited visibility to the public with tree groups or principle members of groups important for their cohesion. The expediency assessment reflected the perceived threat of the tree as mentioned in section 5.2. The woodland scored an overall total 19 out of 25 which means that the woodland would definitely merit a TPO.

- 5.4 It is worth noting that the guidance provided to sit alongside the TEMPO assessment acknowledged that the reason for serving the TPO can be quite minor (precautionary only). It is considered that the sale of the land is a greater threat than this.
- 5.5 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 One letter was received **objecting** to the serving of the TPO 3/19 and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
<p>1. The woodland is not under threat, H Bass and Sons have managed the woodland for the last 17 years according to the Forestry Commission Woodland Grant Scheme</p> <p>2. The woodland does not have significant amenity value; Maldon District Council could not provide any evidence of ‘amenity’ of this woodland during the preparation of the LDP (2014-2029) and the government inspector at the time forced MDC to remove the woodland as ‘Green Space and Amenity’ from the LDP</p> <p>3. The woodland is surrounded by private land and there is no public access. Legal advice is that TPO’s should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an order they should be able to show that protection</p>	<p>1. It was brought to the Local Authority’s attention that the Woodland was up for sale, this was considered to be a perceived threat.</p> <p>2 and 3. The woodland is a visible landscape feature within the surrounding area and therefore have amenity value. Furthermore, the trees are young, with good management the trees will provide significant amenity value in the future. Furthermore, the serving of a Tree Preservation Order on this woodland is not classifying the woodland as green space or amenity space, it is being put in place in order to protect a woodland which is deemed to be of significant amenity value. Works can still be carried out to trees within the woodland if a tree preservation order is served, works would need to be granted by the Local Planning Authority. In this instance the Local Development Plan is not a</p>

Objection Comment	Officer Response
<p>would bring a reasonable degree of public benefit in the present or future. As there is no public access, how has the Council determined that the woodland has significant amenity value</p> <p>4. The Town and Country Planning Act 1990 states that Tree Preservation Orders do not have effect in respect of anything done by or on behalf of the forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 and therefore the TPO has no effect in respect to anything done on this woodland until 2032.</p> <p>5. A Guide to tree preservation procedures (2012) point 13 states that permission is required for all works to a tree subject of a TPO unless the works are the cutting down of trees in accordance with one of the Forestry Commissions grant schemes, or where the Commission has granted a felling licence.</p>	<p>material consideration as the serving of a Tree Preservation Order is carried out under legislation – The Town and Country Planning Act 1990 and The Town and Country Planning (Tree Preservation)(England) Regulations 2012.</p> <p>4 and 5. Although, the trees are planted using a grant from the Forestry Commission, this does not prevent the Local Planning Authority from serving a Tree Preservation on the woodland, just that any works agreed with the Forestry Commission would override the Tree Preservation Order. However, the Forestry Commission do consult with the Local Planning Authority when felling licenses are requested for their feedback. Furthermore, the serving of a Tree Preservation Order does not prevent works/felling of the trees, an application is required to ensure that the proposed works are appropriate and represent good tree management. I have confirmed with the Forestry Commission that currently there is not a plan or felling licence in place in relation to the Woodland.</p>

8 CONCLUSION

- 8.1 The woodland subject of the TPO makes a contribution to the character and appearance of the surrounding area and has the potential to provide significant amenity value to the character and appearance of the surrounding area due to the size and density of the woodland. Given that the woodland has a TEMPO score of 19, 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.