



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

**to
CENTRAL AREA PLANNING COMMITTEE
19 FEBRUARY 2020**

Application Number	TPO 13/19
Location	The Limes Guest House, Market Hill, Maldon
Proposal	Confirmation of TPO 13/19
Owners	Mr Mann
Confirmation by	13.06.2020
Case Officer	Hayleigh Parker-Haines
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) 13/19 without any modifications.

2. SITE MAP

Please see overleaf.

Tree Preservation Order		Details
TPO 13/19 The Limes Guest House, Market Hill		T1 - Sycamore
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3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 In October 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 Sycamore Tree growing in the car park of The Limes, 21 Market Hill on the boundary with Hill House Park. The proposed removal of the tree was considered to materially impact on the amenity of the area. Therefore, a TEMPO assessment, which is a professionally and nationally accepted system of scoring the amenity value of a tree, was carried out and it concluded that the tree was worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 13 December 2019.

3.1.2 One letter of objection has been received relating to the serving of TPO 13/19; in relation to the Sycamore tree being retained is preventing the rebuild of the boundary wall of the site and that this is preventing some neighbouring properties from using parts of their garden and Health and Safety grounds that if the tree should fall, due to the close proximity with neighbouring properties this could cause damage and/or injury. 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 Sycamore tree is located to the north of The Limes Guest House and to the south of Hill Park House, on the boundary between the two sites. The Sycamore tree is a prominent feature that can be seen from both Market Hill and Cromwell Lane and is partially visible from Cromwell Hill. The Sycamore tree is therefore considered to be an important landscape feature, which significantly contributes towards the amenity of the streetscene and Conservation Area.

3.3 Ownership

3.3.1 The Sycamore is owned and managed by Mr Mann.

4. MAIN RELEVANT POLICIES

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

4.1 Relevant Planning Guidance / Documents:

- National Planning Policy Guidance (NPPG)

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 13/19, 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 Sycamore tree is located to the north of The Limes Guest House and to the south of Hill Park House, on the boundary between the two sites. 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 Market Hill and Cromwell Lane and is partially visible from Cromwell Hill. The Sycamore tree due to its height, position and health is considered to be an attractive feature of the area.
- 5.2 It is noted that the tree is in close proximity with the boundary/retaining wall which is listed as it pre-dates 1948. Planning Permission and Listed Building consent (19/00024/FUL and 19/00025/LBC) have been granted (subject to suitable tree protection methods being in place) to allow part of this wall to be re-built as it has collapsed. As part of the Section 211 notice an arboricultural report was provided which stated that if the drain and kerb edging as part of the proposed works granted under (19/00024/FUL and 19/00025/LBC) were installed then it would not be feasible to retain the tree without detrimentally impacting on it. However, the report does not justify why the Sycamore tree must be removed and provided no arboricultural reason for the felling of this significant tree.
- 5.3 In the interest of protecting this prominent landscape feature and the amenity value of the tree within the locality, the tree 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. The Sycamore tree scored an overall total 15 out of 25 which means that the serving of a TPO on this tree was defensible, a score of 16 would equate to the tree definitely meriting a TPO under the TEMPO assessment guidance.
- 5.4 It should be noted that the TPO would not prevent works to the tree 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 tree or the amenity value the tree offers to the surrounding area. Furthermore, TPO's can serve as a useful control by securing and protecting replacement planting, this is not an option under a Section 211 notification. It is considered relevant to note that whilst no suitable arboricultural justification to justify the removal of this tree has been provided to date, this is not to say that in the near future this would not be able to be provided, subsequently without the TPO, the LPA would be unable to secure the replacement of this important landscape feature.

6. ANY RELEVANT SITE HISTORY

- **19/00024/FUL** - Re-build a part collapsed boundary/retaining wall with a reinforced concrete retaining wall cladded with brickwork, with piers and brick on edge coping – Approved – 8th March 2019
- **19/00025/LBC** - Re-build a part collapsed boundary wall with a reinforced concrete retaining wall cladded with brickwork, with piers and brick on edge coping – Grant Listed Building Consent – 8th March 2019
- **19/00593/FUL** - Re-build a part collapsed boundary/retaining wall with a reinforced concrete retaining wall cladded with brickwork, with piers and brick on edge coping, and associated works. Remove Sycamore tree and replace within The Limes Guest House site. – Refused – 29th July 2019
- **19/01116/TCA** - T1 Triple Stemmed Sycamore - Fell and grind stump to enable replanting – TPO Served (13/19) served on 13th December 2019

7. CONSULTATION AND REPRESENTATIONS RECEIVED

7.1 Representations received from Interested Parties

- 7.1.1 One letter was received **objecting** to the serving of the TPO 13/19 and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
The tree is preventing the rebuilding of a 200 year old wall, which has already been granted planning permission	The rebuilding of part of this wall was granted planning permission based on the relevant protection measures being put in place to protect the tree – no arboricultural justification has been provided to justify the removal of the tree or the preventative measures explored.
Health and safety concerns as the tree is leaning towards neighbouring properties at Hill House Mews, the tree and wall is currently only held up by shoring put in place as a temporary measure, if the TPO is served this would prevent a long term safe solution	The serving of a TPO would not and does not prevent works from being undertaken to the tree and in some cases can include the removal of the tree, the serving of a TPO enables the Local Planning Authority to assess the proposed works and secure replacement planting where required.
Until the wall is replaced there is an area of neighbouring gardens that is not usable.	Comments noted
The environmental conditions are no reason whatsoever why this tree cannot be taken down and replaced with a replacement tree or trees in a more suitable location allowing the wall to be replaced	As stated in section 5.4 of this report. Should sufficient arboricultural justification be provided whereby the Local Planning Authority are satisfied that sufficient justification/evidence has been supplied to justify the removal of the tree, without the TPO, there is no legislative requirement or obligation to ensure that the tree is replaced, whilst this

Objection Comment	Officer Response
	could be verbally agreed, there is no way of ensuring this trees replacement unless a TPO is served.

8. **CONCLUSION**

- 8.1** The tree the subject of the TPO makes a significant contribution to the character and appearance of the surrounding area due to the size and prominent location of the tree. Given that the tree has a TEMPO score of 15, it is considered that the TPO should be confirmed to prevent the loss of this tree without securing appropriate replanting; which could harm the amenity value of the Conservation Area.