



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
13 JANUARY 2021**

Application Number	TPO 10/20
Location	The Pines, Franklin Road, North Fambridge
Proposal	Confirmation of TPO 10/20
Owner	Samantha Jane Flaherty of The Pines, Franklin Road, North Fambridge, CM9 6NF
Confirmation by	23.01.2021
Case Officer	Sophie Mardon
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) 10/20 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 July 2020, the Council received an enquiry from a customer who wanted to fell the Leylandii tree. Due to the prominent location and the size of the tree, it was considered by the Council that the removal of the tree would 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. The TEMPO assessment scored the tree 15 out of 25 and concluded that the Leylandii tree was worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 23 July 2020.

3.1.2 One letter of objection has been received relating to the serving of TPO 10/20 at The Pines, Franklin Road, North Fambridge.

3.1.3 The objection remains 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 Leylandii is located in the front garden of The Pines, Franklin Road, North Fambridge, along the northern and eastern boundaries of the application site. Due to its location to the front of the dwelling, the size of the tree and the lack of many other substantial trees in the immediate area it is considered that the tree plays a significant role within the street scene.

3.3 Ownership

3.3.1 The tree is within the property of The Pines, Franklin Road, which is known to be owned by Samantha Jane Flaherty.

4 Main Relevant Policies

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

4.1 Corporate Plan 2019-2023:

1. Strategic Themes: The Environment - protected and improved environment for residents and visitors. Partnership working to protect our countryside and coastline.

4.2 Relevant Planning Guidance / Documents:

- Planning Practice Guidance (PPG)

4.3 Government Guidelines:

- 4.3.1 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.
- 4.3.2 If Members decide to Confirm TPO 10/20, 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 T1 Leylandii is located along the northern and eastern boundary, within the front garden of The Pines, Franklin Road. Due to its size and location, it is highly visible within its setting and along the wider streetscene and is considered to hold significant amenity value, adding to the character and appearance of the surrounding area.
- 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.'* An enquiry regarding the felling of the Leylandii tree has been brought to the Councils attention. The tree 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, the Leylandii tree could have been removed without the permission of Maldon District Council, which would damage the amenity value that the tree offers within the surrounding landscape.
- 5.3 In the interest of protecting this prominent landscape feature and the amenity value of this tree within the locality, the Leylandii 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 Leylandii tree scored satisfactory for the suitability of a TPO for its amenity due to its prominent size and location which is clearly visible within the

public realm. The expediency assessment reflected the immediate threat of the tree as mentioned in section 5.2. The Leylandii tree scored an overall total 15 out of 25 which means that the Leylandii tree 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). However, as the enquiry was to fell the Leylandii, it is considered by the Council that this goes beyond a precautionary threat as the threat to the tree was immediate.
- 5.5 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 Leylandii tree offers to the surrounding area. It would also allow for the Council to seek an appropriate replacement if it was agreed that it was appropriate to fell the tree.

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 10/20 and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
The tree is an eyesore, in poor condition and does not have significant amenity value.	Comments noted, the tree does not appear to be in poor condition. See photographs.
The tree blocks light and obscured views for traffic and cars pulling out of drives.	No evidence has been submitted to support this claim.
There is a telephone power line running through the tree which looks to be damaged by the growth and movement of the tree	No evidence has been submitted to support this claim.
As a neighbour, my lawn is covered in debris and my lawn is dying as a result.	This is not considered to be sufficient justification for the removal of the tree.
Health hazard from pigeon droppings over lawn, drive and cars.	This is not considered to be sufficient justification for the removal of the tree.

Objection Comment	Officer Response
The tree should be removed with no requirement for a replacement.	Comments noted.

8 CONCLUSION

8.1 The Leylandii tree subject of the TPO makes a contribution to the character and appearance of the surrounding area and provides significant amenity value to the character and appearance of the surrounding area due to its size and location. Given that the Leylandii tree has a TEMPO score of 15, 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 tree.

Site Photos

View of tree looking west



View of tree looking East

