



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
10 MARCH 2021**

Application Number	TPO 15/20
Location	Land to the West of Thistley Close, Goldhanger
Proposal	Confirmation of TPO 15/20
Owner	Mr & Mrs Peirce, Three Thistles, Thistley Close, Goldhanger, CM9 8AU
Confirmation by	17.03.2021
Case Officer	Sophie Mardon
Parish	TOLLESHUNT D'ARCY 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

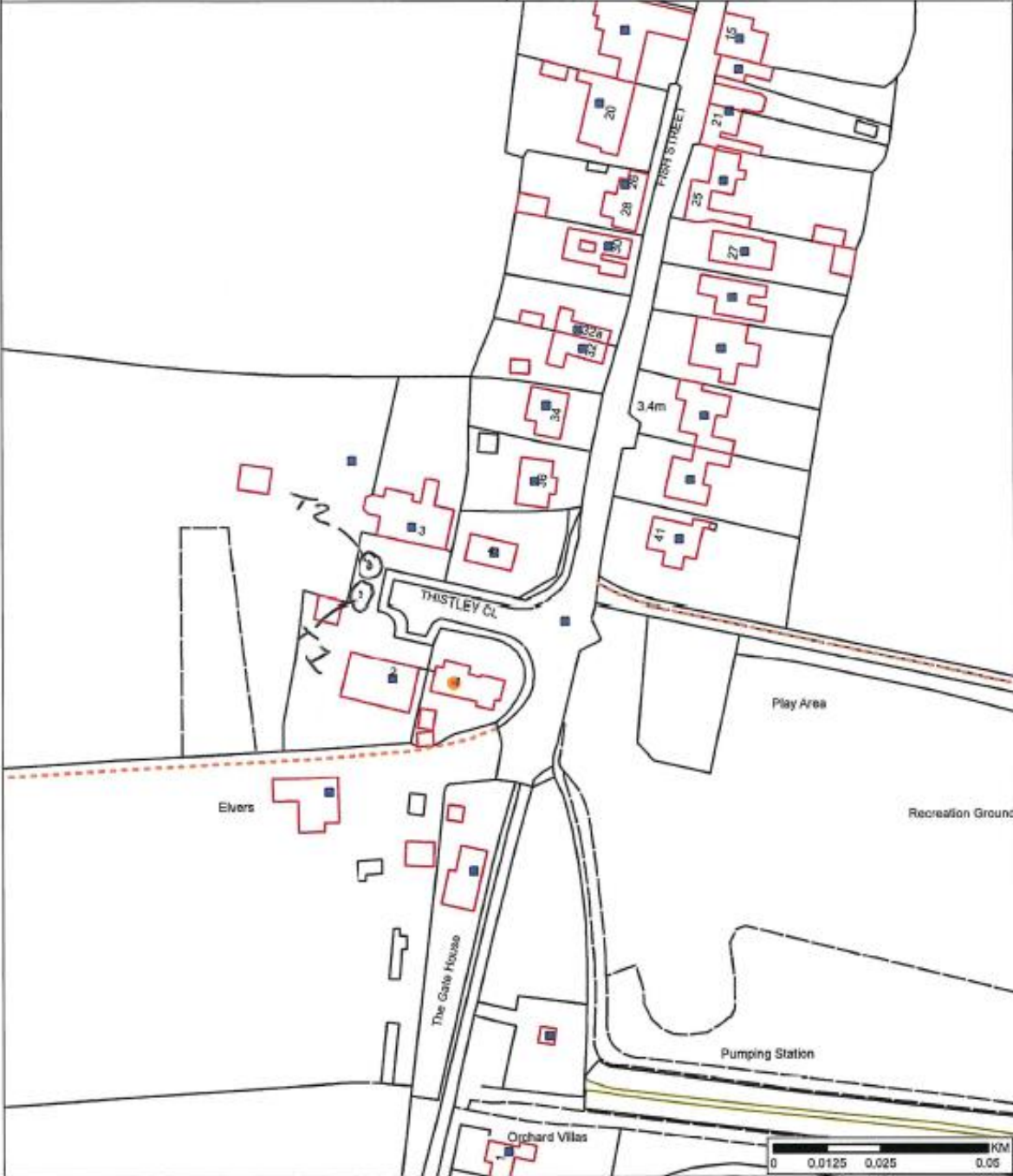

1. RECOMMENDATION

CONFIRM Tree Preservation Order (TPO) 15/20 with the following modifications.

1. Amendment to the Schedule to remove T2 (Pine tree) from the order at **APPENDIX 1.**
2. Amendment to the location plan to remove T2 (Pine tree) from the order, at **APPENDIX 2.**

2. SITE MAP

Please see overleaf.

Tree Preservation Order	Details
<p>Land to the West of Thistley Close, Goldhanger</p> <p>TPO 15/20</p>	<p>T1 - OAK</p> <p>T2 - PINE</p>
	
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3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 In September 2020, the Council received an enquiry from a Parish Clerk who had received information from a member of public that a tree located between 3-4 Thistley Close was going to be felled imminently and wanted to confirm if any of the trees were subject to a Tree Preservation Order (TPO). The Council's Tree Consultant identified two trees on the site (T1 Oak and T2 Pine). Due to the prominent location and the size of the trees, it was considered by the Council that the removal of either of these trees would 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 trees 14 out of 25 and concluded that both the Oak tree and Pine tree were worthy of a TPO. Therefore, a TPO was served on 17 September 2020. The Order was served as an emergency TPO due to the perceived threat to the trees, which provides the Council with a period of assessment to be undertaken, including confirming the accuracy of the plans, the species of the trees and a wider consideration of the amenity of the trees from the public vista. Following consultation from the Tree Consultant, the Council considered that on the basis of the above, only the Oak tree (T1) is worthy of protection and therefore has decided to modify the TPO to remove T2 (Pine) from the Order.

3.1.2 One letter of objection has been received from the owner relating to the serving of TPO 15/20 at Land to the West of Thistley Close, Goldhanger.

3.1.3 The objection to the Oak Tree (T1) 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 T1 Oak and T2 Pine are located to the west of a cul-de-sac known as Thistley Close. Due to their size and location, it is considered that the trees play a significant role within the streetscene.

3.3 Ownership

3.3.1 The trees are located to the west of Thistley Close within the land ownership of Mr & Mrs Peirce of Three Thistles, Thistley Close, Goldhanger.

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 15/20, 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.
- 4.2.3 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 T1 Oak and T2 Pine are located to the west of a cul-de-sac known as Thistley Close. The T1 Oak tree, due to its size and location, is highly visible within its setting and along the wider streetscene and it is considered to hold significant amenity value, adding to the character and appearance of the surrounding area. Following a secondary site visit from the Council's Tree Consultant, the Officer has confirmed that the T2 Pine tree has not been annotated correctly on the location plan, as it sits further to the west behind a large Leylandii tree. The Pine tree is not visible within the immediate street scene and is a young tree which holds minimal amenity. Therefore, it would not be expedient to serve a TPO on the Pine tree, and the proposed Order has been modified to reflect this.
- 5.2 Planning Practice Guidance (PPG) 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 either the Oak or Pine tree has been brought to the Council's attention. The trees are not located within a Conservation Area and therefore did not have any form of statutory protection prior to the serving of the TPO. Therefore, either tree could have been removed without the permission of Maldon District Council (MDC), which would damage the amenity value that the trees offer within the surrounding landscape.
- 5.3 In the interest of protecting this prominent landscape feature and the amenity value of these trees within the locality, the Oak tree and Pine tree were assessed using the 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 Oak 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 to the tree as mentioned in section 5.2. The Oak tree scored an overall total 14 out of 25 which means that tree would definitely merit a TPO. As noted in section 5.1 of the report, a secondary site visit by the Council's Tree consultant has confirmed that the Pine Tree (T2) offers minimal amenity due to its size and location. Therefore, it would not be expedient to serve a TPO on the Pine tree, and the proposed Order has been modified to reflect this.

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 one of the trees, it is considered by the Council that this goes beyond a precautionary threat, as the threat to one of the trees 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 Oak 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 trees.

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 15/20 and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
A neighbour was under the misapprehension that the trees were going to be taken down. There was no intention to ever fell the tree. The only intention is to manage the trees in a careful and considerate manner.	Comments noted. Whilst the intent may have been misconceived originally, the Oak tree scored satisfactorily for its worthiness of a TPO due to its amenity value (Score of 14 in amenity assessment) and is still worthy of protection.

8 CONCLUSION

8.1 The Oak tree, the subject of the TPO, provides significant amenity value to the character and appearance of the surrounding area due to its size and location. Given that the Oak tree has a TEMPO score of 14, 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

Views of trees looking west into Thistley Drive cul de sac

