



**REPORT of  
DIRECTOR OF SERVICE DELIVERY**

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to  
**NORTH WESTERN AREA PLANNING COMMITTEE  
2 FEBRUARY 2022**

<b>Application Number</b>	<b>TPO 4/21</b>
<b>Location</b>	Front boundary between 37 and 39 Fish Street, Goldhanger, CM9 8AT
<b>Proposal</b>	Confirmation of TPO 4/21
<b>Owner's</b>	Mr & Mrs Button – 37 Fish Street, Goldhanger, CM9 8AT Mr Moore – Oak Cottage, Mill Lane, Pebmarsh, CM9 2NW
<b>Confirmation by</b>	14.03.2022
<b>Case Officer</b>	Sophie Mardon
<b>Parish</b>	<b>GOLDHANGER PARISH COUNCIL</b>
<b>Reason for Referral to the Committee / Council</b>	Decision on confirmation of a Tree Preservation Order as per the Council's scheme of delegation.

**1. RECOMMENDATION**

**CONFIRM Tree Preservation Order (TPO) 4/21** without any modifications

**2. SITE MAP**

Please see below.

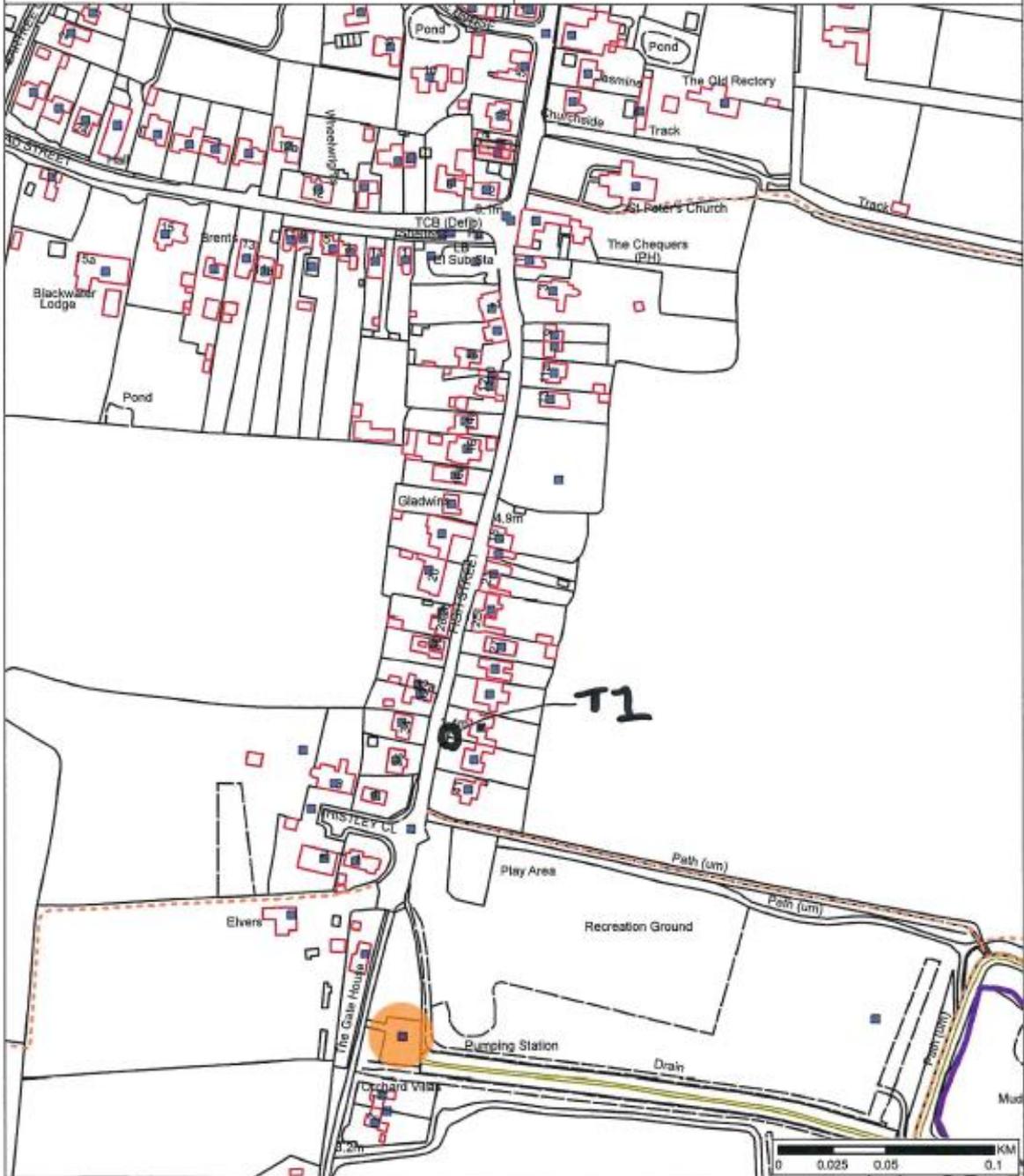
# Tree Preservation Order

Details

Front boundary between 37 & 39 Fish Street

**T1 - SYCAMORE**

T1 - Sycamore



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Scale: 1:2,500

Organisation: Maldon District Council

Department: Department

Comments: T1 - Sycamore

Date: 14/09/2021

MSA Number: 100018588

## **SUMMARY**

### **3.1 Proposal / brief overview, including any relevant background information**

- 3.1.1 In August 2021, 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 a Sycamore Tree located on the shared front boundary of Nos. 37 and 39 Fish Street, Goldhanger. Due to the prominent location and the size of the tree, and lack of any Arboricultural justification for its removal, it was considered by the Council that the unjustified removal of the tree 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 tree 15 out of 25 and concluded that the Sycamore tree was worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 14 September 2021.
- 3.1.2 One letter of objection has been received relating to the serving of TPO 4/21 located on the front boundary of Nos. 37 and 39 Fish Street, Goldhanger.
- 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 Sycamore tree is located in the front garden setting, along the shared southern and northern boundary of Nos. 37 and 39 Fish Street, fronting the highway. 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 has a significant role within the street scene.
- 3.3 The tree is within the property of No. 37 Fish Street, Goldhanger, which is known to be owned by Mr & Mrs Button and No. 39 Fish Street, which is known to be owned by Mr Moore.

## **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 Theme: 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 4/21, 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 Sycamore is located along the northern and southern front/ side boundary of Nos 37 and 39 Fish Street, Goldhanger. 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, which is within a Conservation 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.'* As part of the Section 211 notice regarding the felling of the Sycamore tree, the applicant claims that the Sycamore tree has started to crack the resin bonded driveway, pulling up the blocks where it is causing movement and is starting to cause significant damage which could also impact onto the road as the roots go under the road and both driveways. The applicant also stated that repairs to the driveway cannot be undertaken while the tree is still in situ, however, no suitable Arboricultural evidence or further supporting information has been provided to demonstrate that the tree is the cause of the damage, or that no other repair solutions are available to prevent the loss of this significant tree. Therefore, the proposed works under the Section 211 notification were not considered to be suitably evidenced or justified and could be considered to be excessive.

5.3 In the interest of protecting this prominent landscape feature and the amenity value of this tree within the locality, the Sycamore tree was 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 Sycamore 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 Sycamore tree scored an overall total 15 out of 25 which means that the Sycamore 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 Sycamore, 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 such works to ensure that they were suitable, justified and did not harm the health of the tree or the amenity value it offers to the surrounding area. Furthermore, TPOs can serve as a useful control by securing and protecting replacement planting which is not an option under a Section 211 notification. It is considered relevant to note that whilst no suitable arboricultural justification to remove the tree has been provided under this application, a subsequent Section 11 application could be submitted with such justification and without a TPO in place, the Local Planning Authority (LPA) would be unable to secure the replacement of such an important landscape feature.

## 6. ANY RELEVANT SITE HISTORY

**05/01206/TCA** – Fell two Cypress trees to the front garden as they have grown too large and are reducing light to this and the neighbouring property – Allowed to Proceed – 28.11.2005

**14/00795/TCA** - T1 Silver Birch - Removal of tree – Allowed to Proceed – 11.09.2014

**18/00037/TCA** - T1 Blossom - Fell. Replace hedge with Laurels. – Allowed to Proceed – 21.02.2018

**21/00829/TCA** - T1 Sycamore – Fell – TPO Served – 14.09.2021

## 7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

### 7.1 Representations received from Interested Parties

- 7.1.1 1 letter from one owner was received **objecting** to the serving of the TPO 4/21 and the reasons for objection are summarised in the table below:

Objection Comment	Officer Response
The tree is a Sycamore and has been in place for many years given its size without a TPO being connected to it.	Comments noted, due to the nature of the works under the S211 notice it was considered expedient to serve a TPO on the tree to prevent unnecessary and unjustified works. Further addressed in section 5 of the report.
Over the last 3 years the tree has started to lean and is cracking our driveway which is causing significant damage to our property. Branches have fallen in heavy winds that have caused damage to vehicles	Comments noted, no Arboricultural justification or evidence has been submitted to implicate the tree.
The tree is also a possible cause of drainage problems affecting the drain outside No. 39 due to the roots obstruction the underground drains.	Comments noted, no Arboricultural justification or evidence has been submitted to implicate the tree.
Concerns over the harm it could do it people living in Fish Street/ visiting the area of the tree continues to out the ground leaning towards the street and one day collapsing	Comments noted, the applicant has not demonstrated that no other repair solutions are available which could mitigate the impact of the tree.

## 8. CONCLUSION

- 8.1 The Sycamore 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.

