



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

**to
NORTH WESTERN AREA PLANNING COMMITTEE
08 FEBRUARY 2023**

Application Number	TPO 08/22
Location	Mill House, Maldon Road, Langford, CM9 4SS
Proposal	Confirmation of TPO 08/22
Owners	Richard Andrew Perry – Mill House Maldon Road Langford CM9 4SS
Confirmation by	24.04.2023
Case Officer	Jade Elles
Parish	LANGFORD
Reason for Referral to the Committee	Decision for confirmation of a Tree Preservation Order under the Council's Scheme of Delegation

1. RECOMMENDATION

CONFIRM Tree Preservation Order (TPO) 08/22 without any modifications

2. SITE MAP

Please see below.

Tree Preservation Order

**Mill House, Maldon Road, Langford,
CM9 4SS TPO 08/22**

Details

T1 – Weeping Willow
G1 – 7 Black Alder Trees



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Scale:	1:75	Department	
Organisation:	0	TPO 08/22	
Department:	Comments:	Mal	24/10/2022
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3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

3.1.1 In September 2022, the Council received notification under section 211 of the Town and Country Planning Act 1990, to undertake works to a tree within a Conservation Area. It was proposed to fell a Weeping Willow Tree and 7 Black Alder Trees located on the boundary of the site to the rear. In addition it was also proposed to replace the trees with 1 Weeping Willow and 7 Black Alder Trees. Due to the replacement trees not being enforceable under the terms of section 211 of the Town and Country Planning Act 1990 and the trees having amenity value the Council's Tree Consultant objected to the works for this reason. The Council agrees with the Tree Consultant's comments and that the removal of the 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 18 out of 25 and concluded that the Weeping Willow tree and the 7 Black Alder trees were worthy of a Tree Preservation Order (TPO). Therefore, a TPO was served on 24 October 2022.

3.1.2 One letter of objection has been received relating to the serving of TPO 08/22 which is located on the rear boundary of Mill House.

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 Weeping Willow tree and 7 Black Alder trees are located on the rear boundary of Mill House, to the north of the site and can be seen within the neighbouring church and highway. Due to their location, it is considered the trees have amenity value.

3.2.2 The trees are within the property of Mill House, Maldon Road, Langford, which is known to be owned by Mr Richard Andrew Perry.

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 08/22, 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 Weeping Willow and G1 7 Black Alder trees are located along the northern rear boundary of Mill House in Maldon Road, Langford. Due to their location, they are visible within the public realm and along the wider streetscene and are considered to have 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 Weeping Willow tree and the 7 Black Alder trees, the applicant claims that the trees are leaning 30-90 degrees to the north and additionally the Black Alder trees are spindly and in poor condition mainly caused by swamping from a collection of Leylandii trees which has caused them to grow towards the sunlight. However, no suitable Arboricultural evidence or further supporting information has been provided to demonstrate that the Black Alder trees are in poor condition. The applicant has stated he would replace these trees, but the Council cannot enforce the trees to be replaced unless they are protected. Therefore, the proposed works under the Section 211 notification were not considered to be suitably justified.

5.3 In the interest of protecting this prominent landscape feature and the amenity value of these trees within the locality, the Weeping Willow tree and the 7 Black Alder trees 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 trees scored satisfactory for the suitability of a TPO for their amenity due to their size and location which are visible within the public realm. The expediency assessment reflected the immediate threat of the trees as mentioned in section 5.2. The trees scored an overall total 18 out of 25 which means that the trees 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 Weeping Willow and Black Alder trees,

it is considered by the Council that this goes beyond a precautionary threat as the threat to the trees was immediate.

- 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 such works to ensure that they were suitable, justified and did not harm the health of the trees or the amenity value they offer 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 trees has been provided under this application, a subsequent Section 211 application could be submitted with such justification and without a TPO in place, the LPA would be unable to secure the replacement of such an important landscape feature.

6. ANY RELEVANT SITE HISTORY

22/00396/TCA – T1-T17 Leylandii Cypress - Fell and replace them to the rear boundary with 17 trees comprising of 5 Oak trees, 10 Sycamore trees and 2 Willow trees – Allowed to Proceed

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Interested Parties

- 7.1.1 1 letter from Sharon Hosegood Associates was received on behalf of the owner, **objecting** to the serving of the TPO 08/22 and the reasons for objection are summarised in the table below:

Objection Comment	Officer Response
The Weeping Willow is in early maturity and leans very heavy north due to the suppression caused by the nearby Alder trees. It also has a highly asymmetric crown and a slight bulge at the root plate indicating that it has moved due to weight and may be structurally compromised. As the tree matures it will become heavier placing a strain on the roof plate and there is an increased risk of the tree falling onto the neighbouring property and breaking the fence. It is highly inappropriate to protect a tree in this condition with a TPO.	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.
The Alder trees – one is topped and leans heavily and the remaining Alders are tall, spindly trees which lean and are swamped with ivy.	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.

8. CONCLUSION

- 8.1 The Weeping Willow tree and Black Alder trees, the subject of the TPO make a contribution to the amenity value and is visible within the streetscene. Given that the tree has a TEMPO score of 18, 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.

