



**REPORT of
ASSISTANT DIRECTOR - PLANNING AND IMPLEMENTATION**

to
**NORTH WESTERN AREA PLANNING COMMITTEE
14 JANUARY 2025**

Application Number	TPO 18/24
Location	Rear of 26 Maldon Road, Great Totham, CM9 8PR
Proposal	Confirmation of TPO 18/24
Applicant	J. English
Target Decision Date	17 March 2025
Case Officer	J. Kirkaldy
Parish	GREAT TOTHAM
Reason for Referral to the Committee / Council	Decision on confirmation of a Tree Preservation Order as per the Council's Scheme of Delegation.

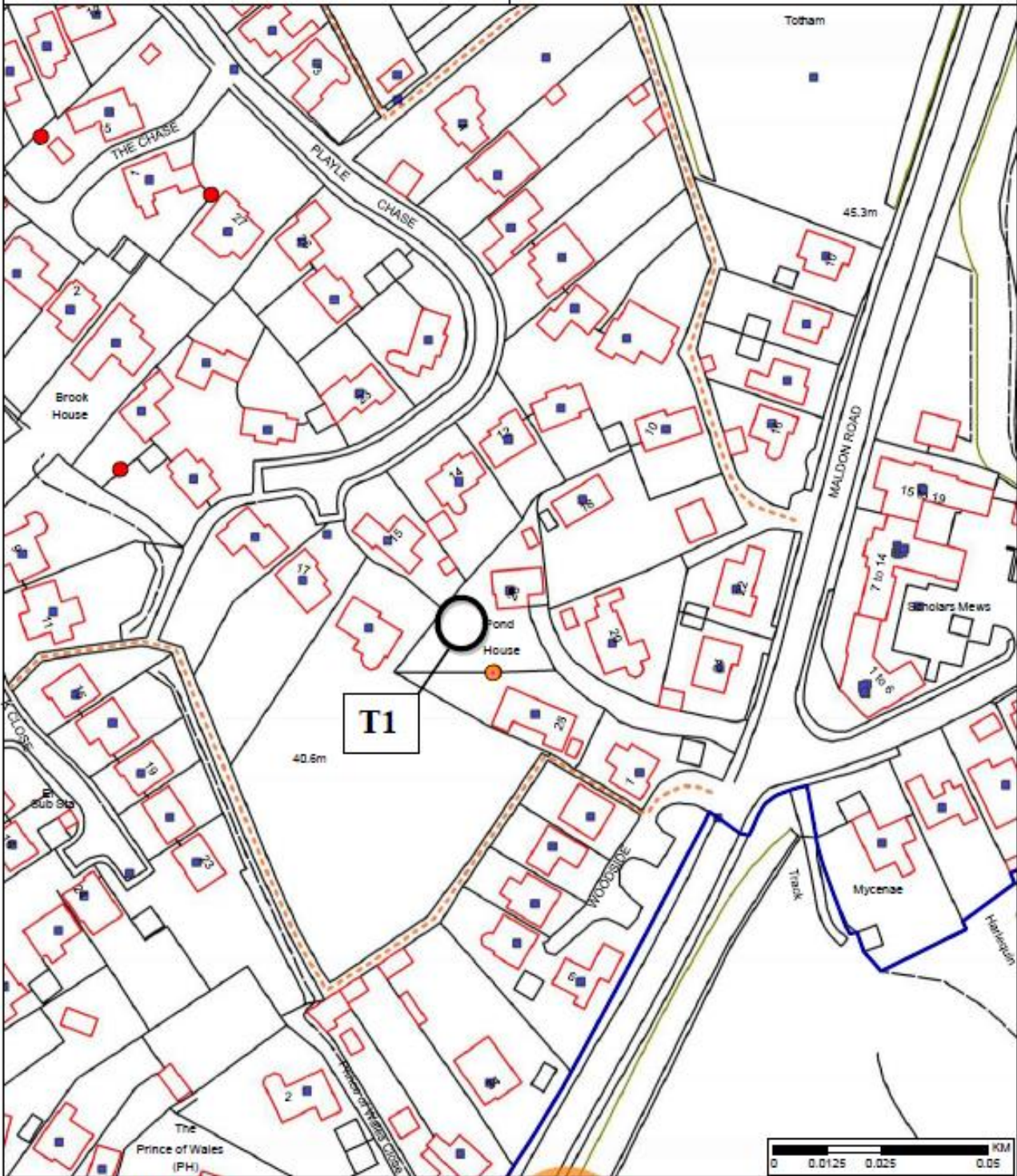
1. **RECOMMENDATION**


CONFIRM Tree Preservation Order (TPO) 18/24 without any modifications.

2. **SITE MAP**

Please see below.

Tree Preservation Order	Details
Land Rear of 26 Maldon Road Great Totham – TPO 18/24	<div style="border: 1px solid black; padding: 5px; display: inline-block;">T1 - Oak</div>



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	Organisation: Maldon District Council
	Department: Department
	Comments: TPO 18/24
	Date: 17/09/2024
	MSA Number: 100018588

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 In September 2024, the Council received a request from the owner of 26 Maldon Road, Great Totham requesting a Tree Preservation Order (TPO) for an oak tree in their rear garden. The neighbouring property had given them notice to cut the oak tree back to the fence line and they were concerned that the *'works to the tree would be extreme, potentially kill the tree or leave it unbalanced and liable to fall and cause damage'*.
- 3.1.2 A Tree Evaluation Method for Preservation Orders (TEMPO) assessment, which is nationally accepted system of scoring the amenity value of a tree, was carried out by the Council's Arboricultural Consultant. The TEMPO assessment scored the tree 17 out of 25 and concluded that the tree definitely merited a TPO. Therefore, a TPO was served as a provisional order on 17 September 2024, which must be confirmed within six months to become permanent and thus continue the trees protection.
- 3.1.3 One letter of objection has been received from a neighbouring property relating to the serving of the TPO 18/24 located at the land to rear of 26 Maldon Road, Great Totham.
- 3.1.4 The objection remains unresolved; therefore, the question of whether or not to confirm the TPO has been brought before members to determine.
- 3.1.5 For the purposes of the report going forwards, the tree (Oak - species a Quercus robur) subject to this report will be referred to as T1.

3.2 The Site

- 3.2.1 T1 (as identified in the TPO) is located in the rear garden of no 26 Maldon Road, Great Totham, on the north western boundary of the site.
- 3.2.2 T1 is visible from the public realm of Playle Chase and therefore provides high visual amenity.
- 3.2.3 Although the basal condition of the tree could not be assessed due to its location, an assessment of its canopy shows it to be in good condition with an expected lifespan in excess of 100 years.

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).

Other Relevant Guidance:

- Wildlife & Countryside Act 1981 (as amended)
- The Conservation of Habitats and Species Regulations 2017

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 18/24, 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 T1 is situated in the rear garden of 26 Maldon Road, Great Totham. The T1 tree is visible from the public realm of Playle Chase and therefore provides high visual amenity.
- 5.2 An assessment of the tree canopy shows it to be in good condition, free of ill health and major defects. In its location it is expected that the tree can continue to thrive for 100+ years.
- 5.3 NPPG 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.*'
- 5.4 The proposed works to the tree was brought to the Council's attention by the owner of the tree. T1 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 tree could have been removed or had works carried out, without the permission of Maldon District Council, which would damage the amenity value that the tree offers to the surrounding area.
- 5.5 In the interest of protecting this prominent landscape feature and the amenity value of the tree within the locality, the T1 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 T1 scored 'good' for the suitability of a TPO for amenity due to its size and location which is visible within the public realm of Playle Chase. The assessment of the canopy showed the tree to be in good condition. The expediency assessment reflected the foreseeable threat to

the tree, as the neighbours would like to prune the canopy heavily to the fence line which would be detrimental to the tree's health and longevity. T1 scored an overall total 17 out of 25 which means that the tree definitely merits a TPO.

- 5.6 It is worth noting that the guidance provided alongside the TEMPO assessment acknowledged that the reason for serving the TPO can be quite minor (precautionary only).
- 5.7 It should be noted that the TPO would not prevent future 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.

6. ANY RELEVANT SITE HISTORY

No relevant site history.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Interested Parties

- 7.1.1 1 letter has been received **objecting** to the TPO 18/24 and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
No inspection by a qualified person to understand the overall condition of the specimen and its potential for longer term safety has been made.	The Council's Arboricultural Consultant undertook a site visit.
Tree represents significant encumbrance to health and safety to premises and occupants. It's adjacent a brick wall, its growth pattern and proximity to dwellings (less than 5 metres).	Noted.
There is another tree adjacent that grows alongside the tree in question and is starved of light, nutrients, water significantly impacting health of tree and long term life span.	Noted.
Its overall size in conjunction with volume of other trees is far from creating value to domestic setting.	Noted.
Tree is heavily encapsulated with ivy.	Noted.
Canopy of tree, without maintenance is serving to close off natural light to my dwelling and neighbouring properties.	Noted.
Tree canopy covers a large proportion of garden. Health and safety risk. Branches have fallen off into adjacent garden.	Noted.
Tree already adjacent to a large TPO area, sits outside of it so need for a	Noted.

Objection Comment	Officer Response
TPO is null and void.	
A significant reduction in excess of 50% or entire removal and replacement with a more suitable species would be beneficial to all	Noted.

8. CONCLUSION

- 8.1 The oak tree (T1), subject of the TPO, makes a contribution to the character and appearance of the surrounding area due to its size and location. Given that the TEMPO assessment scored 17 for the tree it definitely merits serving a TPO, 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.

Photo of Oak tree (T1) taken from adjacent to 15 Playle Chase

