



**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

**To
NORTH WESTERN AREA PLANNING COMMITTEE
15 MAY 2017**

Tree Preservation Order	TPO 11/16
Location	83 East Street Tollesbury
Proposal	Confirmation of TPO 11/16
Owner	Mr D Young
Agent	-
Confirmation by	14 September 2016
Case Officer	Hannah Bowles, Planning Officer (01621 875822)
Parish	TOLLESBURY
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) 11/16 without any modifications.

2. SITE MAP

Please see overleaf.

3. SUMMARY

3.1 In October 2016, the Council received a conservation area notification proposing to remove 5m from the top of the Silver Birch (*Betula pendula*) growing in the rear garden of 83 East Street Tollesbury. The proposed works were considered to be excessive and the amenity value offered by the tree would have been lost. Therefore, a TEMPO assessment, which is a professionally and nationally accepted system of scoring, was carried out and it concluded that the tree was worthy of a TPO. Therefore, a Tree Preservation Order was served.

3.2 An objection has been received relating to the serving of TPO 11/16 and it has not been resolved, therefore the question of whether or not to confirm the TPO has been brought before members to decide.

3.3 The Site

3.3.1 The Silver Birch is located within the rear garden of 83 East Street Tollesbury. 83 East Street is located within the settlement boundary and conservation area of Tollesbury.

3.4 Ownership

3.4.1 The tree is owned by Mr Daniel Young, 83 East Street Tollesbury Essex CM9 8QE.

4. MAIN RELEVANT POLICIES

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

4.1 Corporate Plan 2015-2019:

- Corporate Goals: 2. Protecting and shaping the District – 2.b. Protection and enhancement of the District's distinctive character, natural environment and heritage assets.

4.2 Relevant Planning Guidance / Documents:

- National Planning Policy Guidance (NPPG)

4.3 Government Guidelines:

4.3.1 Government guidelines advise that: The 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 11/16, 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 affected tree is located in the rear garden of 83 East Street Tollesbury; it is around 10m tall and has retained a good shape. Due to the height of the tree, views are available from within the public realm. The tree is visible in glimpse view from East Street between the dwelling at no. 83 and the butchers at 85 East Street. The tree can also be viewed from New Road across the rear gardens of five properties, whilst the tree is amongst other vegetation and trees, due to the height it stands out and makes a positive contribution to the conservation area. Therefore, the amenity value of the tree is considered to be significant. Please see APPENDIX 1 for the site photos.

5.2 The 5m reduction proposed within the conservation area notification was considered excessive and unnecessary and the trees amenity value would have been lost to the detriment of the conservation area. Further to this no justification for the works were provided within the conservation area notification. Therefore, the Silver Birch tree was assessed using the Tree Evaluation Method for Preservation Orders (TEMPO) the tree scored 16 = Definitely merits TPO.

5.3 Within the objection to the TPO (summarised below) it was stated that the works are proposed for safety reasons as the tree has lost large branches in high winds. However, no evidence to suggest the works are necessary for the safety of the tree has been provided; if a TPO application is received by the Council this is information that would be taken into consideration and assessed at that time.

6. SITE HISTORY

6.1 16/01211/TCA - T1 - Silver Birch - remove 5m from the top of the tree - TPO Served - 02.12.2016

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 **Representations received from Interested Parties** (*summarised*)

7.1.1 **Objections** to the serving of the TPO have been received from the land owner of 83 East Street Tollesbury, Mr D Young.

Objection Comment	Officer Response
<p>The tree has lost very large branches, particularly in high winds, one narrowly missing the neighbour's greenhouse.</p> <p>The reason for 'taming' the tree is merely for safety reasons.</p> <p>It is believed that it is only a matter of time before more serious damage is</p>	<p>No evidence regarding the condition of the tree has been submitted to the Council in order to assess why the tree may be losing substantial branches. This evidence could be submitted as part of TPO application.</p>

<p>caused by the tree.</p> <p>The tree does not appear to be of significant amenity value to the area as you can barely see it unless you are in the garden or a neighbour's garden.</p>	<p>The amenity value of the tree is discussed within section 5 of this report.</p>
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Site Photos

View from East Street:



View from New Road:



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Our Vision: Working in Partnership to make the Maldon District a better place to live, work and enjoy