



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

to
**NORTH WESTERN AREA PLANNING COMMITTEE
8 JANUARY 2018**

Application Number	TPO 11/17
Location	Tollesbury Surgery, 25 High Street, Tollesbury
Proposal	Confirmation of TPO 11/17
Applicant	Drs O D Abazie and C U Ogaziechi
Agent	-
Target Decision Date	28.02.2018
Case Officer	Devan Lawson
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) 11/17 without any modifications.

2. SITE MAP

Please see overleaf.

Tree Preservation Order

**TPO 11/17 25 High Street
Tollesbury**

Details



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Scale:	1:1,250
Organisation:	Maldon District Council
Department:	Community and Leisure Serv
Comments:	J L G

3. SUMMARY

3.1 In July 2017, 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 the Sycamore Tree growing in the car park of Tollesbury Surgery, 25 High Street Tollesbury. The proposed removal of the tree was considered to 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 and it concluded that the tree was worthy of a TPO. Therefore, a TPO was served on 30 August 2017.

3.2 An objection has been received relating to the serving of TPO 11/17 and it has not been resolved, the question of whether or not to confirm the TPO has been brought before members to consider.

3.3 The Site

3.3.1 The Sycamore tree is located centrally within the car park of Tollesbury Surgery, 25 High Street, Tollesbury within the settlement boundary and conservation area of Tollesbury.

3.3.2 The site is located at the junction of the High Street and Elysian Gardens within the centre of Tollesbury. The use of the site and its central location means that the site plays a significant role in defining the character and appearance of the Conservation Area. The open site frontage and low walls means that the content of the site is prominent within the streetscene.

3.3.3 There is another tree located within the application site, on the boundary shared with Elysian Gardens. However, this tree does not substantially restrict views of this large, mature and impressive tree.

3.4 Ownership

3.4.1 The tree is within the property of Tollesbury Surgery, 25 High Street, Tollesbury which is known to be owned by Drs O D Abazie and C U Ogaziechi.

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 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 11/17, 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 Sycamore tree is located in the car park of Tollesbury Surgery, 25 High Street, Tollesbury; it is of a significant height and has retained an attractive shape. Due to the height of the tree and its location within the car park views are available from within the public realm. The tree is highly visible from both the High Street and Elysian Gardens. Given that the tree is fairly isolated in its occurrence, with just one other tree within close proximity on the site, and that it is of a significant size, the tree is considered to have a significant amenity value. Please see **APPENDIX 1** for the site photos.
- 5.2 It is noted that the tree does restrict the parking within the car park to some extent and that the applicant has health and safety concerns regarding the state of the car park surface as a result of the tree. However, there has been no evidence provided that demonstrates that removing the tree is the only solution. Therefore, it is considered that as no other maintenance options for the car park appear to have been explored, nor have any other management regimes for the tree, the works are not justified and the concerns raised in relation to the impact of the retention of the tree do not outweigh the significant contribution the tree makes to the amenity of the area.
- 5.3 The proposed felling of the tree 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, the justifications for the works were not considered sufficient in mitigating the harm caused by the loss of the tree. Therefore, the Sycamore tree was assessed using the TEMPO and the tree scored 15 out of 25 which means that the TPO is considered to be defensible. It is noted that a score of 16 would have meant the tree would fall within the category of definitely meriting a TPO.
- 5.4 Within the objection to the TPO (summarised below) it was stated that the works are proposed for safety reasons as the roots are creating potholes and there are falling leaves which create trip and slip hazards. The objection also states that older patients find it hard to navigate their vehicles due to the presence of the tree. However, no

evidence has been provided to suggest that there are no other mitigation options and therefore the removal of the tree is considered to be excessive. If an application for works to a protected tree is received by the Council this is information that would be taken into consideration and assessed at that time. It is relevant to note that the serving of a TPO does not prevent an application being made for reasonable works to the tree but does give the Local Planning Authority the ability to assess those works.

6. ANY RELEVANT SITE HISTORY

- **TCA/MAL/17/00725** - T1 Sycamore – Remove. PO served 30.08.2017.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Interested Parties (*summarised*)

7.1.1 Letters were received **objecting** to the serving of the TPO from the land owner, Mr D Young, of 83 East Street, Tollesbury:

Objection Comment	Officer Response
The TCA application was refused due to the amenity value of the tree. However, the tree on the edge of the car park would keep the amenity value of the area.	The tree on the western boundary of the car park does not restrict the views of the Sycamore tree from the High Street. Furthermore, due to the large size, maturity and attractiveness of the notification tree it is not considered that the tree on the western boundary would be sufficient in mitigating against its loss. Please also see section. 3.3.1.
The tree is causing health and safety issues as the roots are creating potholes in the car park and are a tripping hazard. In the winter leaves create a slipping hazard.	No evidence showing that the existing pot holes have been caused by the tree or that the tree is causing structural damage has been provided. This evidence could be submitted as part of TPO application.
New housing is increasing the number of patients at the surgery and so more spaces are required. The tree also prevents disabled people parking closer to the surgery. The removal of the tree would provide more parking.	No evidence has been provided to show a growing demand for car parking on site. The need for parking spaces or inability for drivers to navigate a carpark is not considered to result in a sufficient reason for the removal a tree which has significant amenity value. Please refer to section 5.4.
Older residents find it hard to navigate vehicles due to the trees siting.	Please refer to comment above and section 5.4.
The tree may be damaging the property at the cost of Doctors and the NHS funds.	No evidence has been submitted to demonstrate the damage being caused to the building.

8. CONCLUSION

- 8.1 The Sycamore Tree subject of the TPO offers a significant contribution to the character and appearance of the Tollesbury Conservation Area due to its prominent position and its large, mature and attractive nature.
- 8.2 There has been no evidence provided to suggest that the tree is causing damage to the Tollesbury Surgery car park or the building itself. Furthermore, there has been no evidence provided which suggests that other management regimes have been explored to prevent the need of removing the tree. Therefore, given that the tree has a TEMPO score of 15, it is considered that the TPO should be confirmed to prevent the loss of such a striking and impressive tree which plays a significant role in shaping the character and appearance of the Tollesbury Conservation Area.