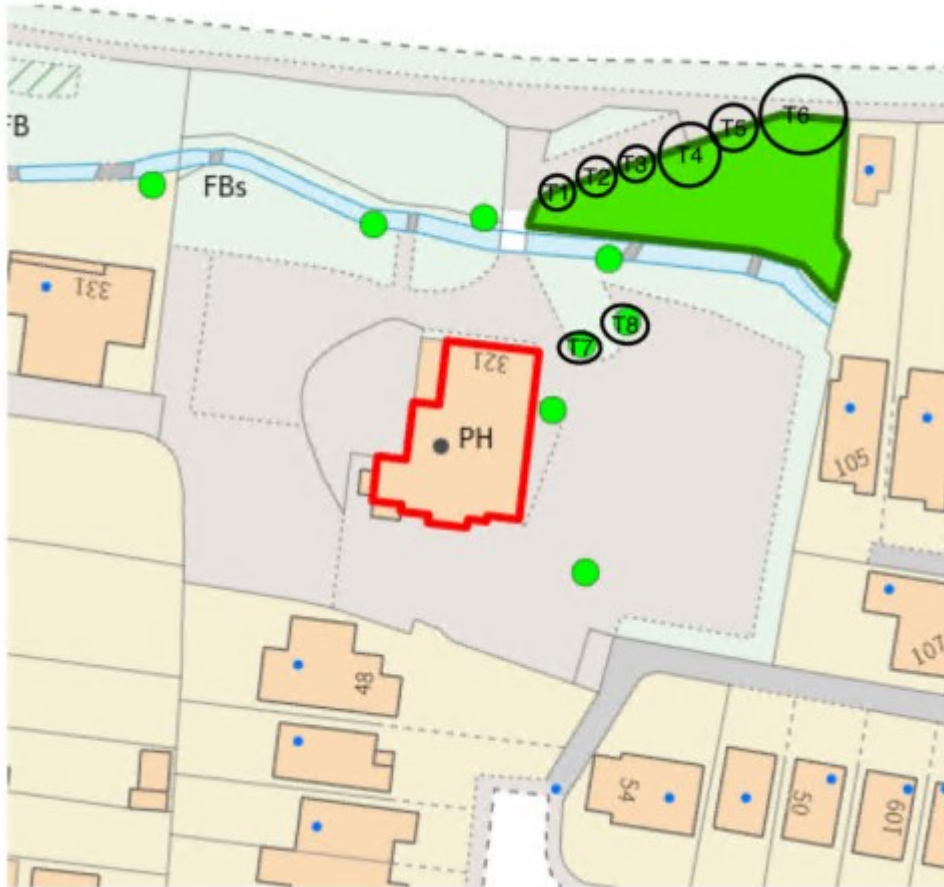


<b>Reference:</b>	23/01785/TPO
<b>Application Type:</b>	Tree(s) subject to TPO
<b>Ward:</b>	Eastwood Park
<b>Proposal:</b>	Fell to ground level one common ash (T4) and replace T4 with a Betula Pendula tree. Prune all trees along the exit road that are interfering with the overhead cables and to improve vehicular access to the site (mixed species group - T1, T2, T3, T5 and T6 covered by TPO 5/90 G1) (retrospective) and undertake remedial works to remove poor pruning cuts in higher crown to suitable growth or target prune to main stem/parent branch if necessary (T1, T2, T3, T5 and T6 covered by TPO 5/90 G1)) (Works to Trees subject to a Tree Preservation Order).
<b>Address:</b>	The Bellhouse Public House, 321 Rayleigh Road, Eastwood
<b>Applicant:</b>	D Hampshire
<b>Agent:</b>	Mr Wayne Elwell of About Trees Ltd
<b>Consultation Expiry:</b>	14th December 2023
<b>Expiry Date:</b>	1 <sup>st</sup> March 2024
<b>Case Officer:</b>	Gabriella Fairley
<b>Plan Nos:</b>	<b>Site plan, proposed re-planting site</b>
<b>Supporting documents:</b>	<b>Email from agent dated 01/02/24 and 02/02/24</b>
<b>Recommendation:</b>	<b>GRANT CONSENT FOR WORKS TO PRESERVED TREE(S) subject to conditions</b>



## 1 Site and Surroundings

- 1.1 The proposed works relate to eight (8no.) individual trees, including a mixed species group, a common Ash tree and two Horse Chestnut trees. All of the trees subject to this application are covered by TPO reference 5/1990. Trees T1, T2, T3, T5 and T6 covered by G1 (mixed species) are to the north of the site, adjacent to Rayleigh Road. T4 is a common ash tree to the north of the site. Trees T7 and T8 (Horse Chestnut trees) are set back from the highway to the north of the site, within the car park. All trees subject to this application are visible from Rayleigh Road. The site is on the south side of Rayleigh Road, and the area is mixed in character, with a mix of residential, retail and restaurants.
- 1.2 The Bellhouse Public House is a Grade II Listed building, and the site lies within Flood Zone 3.

## 2 The Proposal

- 2.1 This application seeks consent for the following works to the preserved trees:
- T1 (*Fraxinus Excelsior* - Common Ash) - remove the lowest 2 branches over exit road to allow for better access (retrospective) and remedial works to remove poor pruning cuts in higher crown to suitable growth or target prune to main stem/parent branch if necessary.
  - T2 (*Quercus Robur* - Pendunculate Oak) - remove the lowest branch over exit road to allow for better access (retrospective) and remedial works to remove poor pruning cuts in higher crown to suitable growth or target prune to main stem/parent branch

if necessary.

- T3 (Ulmus Spp. – Elm) - remove the lowest 2 branches over exit road to allow for better access (retrospective) and remedial works to remove poor pruning cuts in higher crown to suitable growth or target prune to main stem/parent branch if necessary.
- T4 (Fraxinus Excelsior - Common Ash) - Fell to ground level and replace with a Betula pendula tree in northern part of the site. Heavy Standard minimum 12-14cm girth, to be planted in the vicinity of the tree to be felled. Planted to BS3998 (2010), stacked accordingly with a layer of mulch around the planting zone.
- T5 (Fraxinus Excelsior - Common Ash) – remove secondary leader over Rayleigh Road (retrospective) and remedial works to remove poor pruning cuts in higher crown to suitable growth or target prune to main stem/parent branch if necessary.
- T6 (Fraxinus Excelsior - Common Ash) – remove deadwood and two branches over Rayleigh Road from main stem to 6-7m above ground level (retrospective) and remedial works to remove poor pruning cuts in higher crown to suitable growth or target prune to main stem/parent branch if necessary. T7 and T8 (Horse Chestnut trees) - remove major deadwood from crowns.

2.2 This application has been revised since its submission. Whilst the originally submitted application was pending, tree works were undertaken at the site that had neither been given consent nor carried out to the standard and quality required by British Standards. They are reflected in the comments from the Council’s Tree Officer at 4.2 below. The management company for the Bellhouse explains that works were undertaken at a local level without their knowledge or permission and due to the loss of connections as a result of the cables being entangled with overgrown branches. An accredited tree contractor has since come on board and the application for proposed tree works has been revised and redescribed to incorporate remedial works identified by the Council’s Tree Officer. As part of this the applicant has incorporated proposed planting of a replacement tree for Tree T4 (a heavy standard tree minimum 12-14cm girth) in the northern part of the site.

2.3 The applicant has stated that the reason for the proposed works is to allow for improved vehicular and pedestrian access and reduced conflict between vehicles and the trees along the exit road and Rayleigh Road and as the trees are currently interfering with the overhead cables.

### 3 Relevant Planning History

3.1 The site has a long planning history. Details of the most relevant planning history for this application are shown on Table 1 below.

Table 1: Relevant planning history

Referenced number	Description	Outcome [Date]
15/00341/TPO	Reduce crown to three horse chestnut trees by 50% and reduce one ash tree (Application for works to trees covered by a tree preservation order)	Approved (27.04.2015)
16/01871/TPO	Remove epicormic and basal growth to height of the bole to four Horse Chestnuts Trees (T1-T4) and one Ash Tree (T5) (Application for works to trees covered by a tree preservation order)	Approved (06.12.2016)
20/00957/TPO	Raise crown to between 4 to 5 metres of	Approved

	mixed Group of Ash, Elm and Hawthorn trees (Work to trees covered by a Tree Preservation Order)	(03.08.2020)
21/01467/TPO	Reduce by 2 to 2.5 meters to shape and rebalance and remove deadwood to one Ash Tree (T6) (Work to trees covered by a Tree Preservation Order)	Approved (03.09.2021).

## 4 Representation Summary

### Public Consultation

4.1 Sixty-six (66) neighbouring properties were consulted, and a site notice was displayed. Three letters of representation have been received from two interested parties and the following comments have been summarised:

- Removing the tree will reduce the quality of life of neighbouring properties.
- The trees provide substantial protection to neighbouring properties against the noise and light pollution from Rayleigh Road.
- Eastwood was a historic forest and cutting down trees to expand pub seating capacity is unreasonable to justify the removal of the tree.
- In relation to T4, the common view is that more than 50% of the tree crown has to be affected to warrant felling and would welcome a second opinion before felling a tree.
- The felling of the tree is only for commercial and aesthetic reasons.
- Constant crown raising is damaging other trees. A tree care plan would be welcomed before works are done.

(Officer comments: The above comments have been taken into account in the assessment of this application. However, in the circumstances of this particular case, were not found to justify the refusal of this application.)

### Tree Officer

4.2 The works to all the trees apart from T4, T7 and T8 have been carried out. Trees: T1 (ash), T5(ash), T6(ash), T2 and T3 have been poorly pruned. This is poor Arboricultural practice and does not conform to BS 3998:2010 *Tree Work Recommendations*. The work as specified on the application to above would have been acceptable if carried out correctly. The poor standard of work can be corrected to an extent by employing a qualified tree surgeon to prune the stubs to branch collars and branches to appropriate pruning points.

The works to T7 and T8 do not require consent, as removal of dead wood is exempt from the need for a formal application.

With reference to T4, the ash which is subject to application to fell. The crown of this tree is thinner than would be expected of an ash which has full vitality. There are large gaps between the buds on some of the outer branches and twigs, there is also dead wood in the crown. It would appear the tree is deteriorating. T4 is within a group of ash and its removal would have little effect on visual amenity. As the tree appears to be in declining health and it is within a group of trees there is no objection to its removal. T4 could be replaced elsewhere on the site with an alternative species. A sufficient size for planting stock would be 12-14 cms girth minimum heavy standard.

## **Highways**

4.3 No objection.

## **5 Planning Policy Summary**

5.1 The National Planning Policy Framework (NPPF) (2023)

5.2 Planning Practice Guidance (PPG) (2023)

5.3 National Design Guide (NDG) (2021)

5.4 Core Strategy (2007): Policies KP2 (Development Principles) and CP4 (Environment and Urban Renaissance)

5.5 Development Management Document (2015): Policies DM1 (Design Quality), DM3 (Efficient and Effective Use of Land), DM5 (Historic Environment)

5.6 Southend-on-Sea Design and Townscape Guide (2009)

## **6 Planning Considerations**

When determining this TPO application the authority should consider the following:

- The likely impact of the proposal on the amenity of the trees and whether or not the proposal is justified having regard for the reasons for the application and any supporting information supplied with the application;
- whether any loss or damage is likely to arise if consent is refused or granted subject to conditions;
- whether any requirements apply in regard to protected species;
- whether there are any other material considerations, including development plan policies;
- whether the works would be detrimental to the setting of the listed building.

## **7 Appraisal**

7.1 The Council seeks to protect preserved trees which make a positive contribution to local character and amenity. Applications for pruning and felling of preserved trees therefore need to be justified.

7.2 In determining this application, the Council has a statutory duty under section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

7.3 The trees are an important part of the setting of the Listed Building and make a positive contribution to the character of the area.

7.4 The reason given for the works is to allow for improved vehicular and pedestrian access to reduce conflict with vehicles and because the trees are currently interfering

with the overhead cables.

- 7.5 T1, T2, T3, T5 and T6 (part of G1 mixed species group) and T4 (common ash) are to the frontage of the site, adjacent to Rayleigh Road. T7 and T8 (Horse Chestnut) are to the north of the public house building, set back from the boundary within the car park. T1, T2, T3, T4, T5 and T6 are visible from Rayleigh Road., T7 and T8 are currently screened by the other trees to the front of the site subject to this application.
- 7.6 Surgery works have been carried out to all of the trees apart from T7 and T8 and to a poor standard. T4 remains in situ. This application for consent to undertake works is now in the hands of a different tree contractor and has been modified in its scope to include proposed remedial works to address the poor-quality works undertaken at a local level without consent being in place. T4 is to the front of the site, adjacent to Rayleigh Road and is therefore visible within the streetscene. The crown of this tree is thinner than would be expected of an ash which has full vitality. There are large gaps between the buds on some of the outer branches and twigs, there is also dead wood in the crown, and it would appear the tree is deteriorating. Tree T4's current condition is not identified as being the result of poor-quality tree surgery. The Council's Tree Officer has raised no objection to the proposed removal of this tree, subject to replacement tree planting to mitigate the loss of the Ash tree. The proposed remedial works to trees 1,2,3,5 and 6 are considered to be acceptable. The detail of these works and the provision of the replacement tree can be secured by condition. The works to T7 and T8 do not require consent, as removal of deadwood is exempt from the need for consent.
- 7.7 It is considered that, subject to the stated conditions the proposed remedial works and removal/ replacement for tree T4 would not materially harm the character and appearance of the setting of the Listed Building, the site or the streetscene more widely. The Council's Tree Officer plus the Council's Conservation Officer raised no objection to the revised proposal.
- 7.8 It is considered reasonable to require the tree works to be carried out in accordance with British Standard BS3998:2010 which covers the recommendations for tree work. The imposition of this condition is unlikely to result in any loss or damage.
- 7.9 There is no known evidence of protected species or nesting birds on the trees affected by the works. However, the condition requiring the works to be carried out in accordance with British Standard BS3998:2010 which covers the protection of wildlife and its habitat.
- 7.10 It is therefore considered that subject to the stated conditions, implementation of the remedial works and planting of a replacement tree, the proposed works to the trees are acceptable and compliant with the relevant policies in this regard.

### **Equality and Diversity Issues**

- 7.11 The Equality Act 2010 (as amended) imposes important duties on public authorities in the exercise of their functions and specifically introduced a Public Sector Equality Duty. Under this duty, public organisations are required to have due regard for the need to eliminate unlawful discrimination, harassment and victimisation, and must advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. Officers have in considering this application and preparing this report had careful regard to the requirements of the Equalities Act 2010 (as amended). They have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

## **8 Conclusion**

- 8.1 Having taken all material planning considerations into account, it is considered that, subject to the stated conditions, the proposed works reasonably maintain the setting of the Listed Building and are proportionate on the basis of the justification that has been put forward within the application. The proposal is therefore acceptable and compliant with local and national policy.

## **9 Recommendation**

**GRANT CONSENT FOR WORKS TO TREE(S) subject to the following conditions:**

- 01 **The works covered by this consent shall begin no later than two years from the date of this consent.**

**Reason:** To enable the circumstances to be reviewed at the expiration of the period if the consent has not been implemented, in accordance with National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained in the Southend-on-Sea Design and Townscape Guide (2009).

- 02 **The works to the trees covered by Tree Preservation Order 5/1990 shall be restricted as per the submitted description to the following:**

- **T1 (Fraxinus Excelsior - Common Ash) - remove the lowest 2 branches over exit road to allow for better access (retrospective) and remedial works to remove poor pruning cuts in higher crown to suitable growth or target prune to main stem/parent branch if necessary.**
- **T2 (Quercus Robur - Pendunculate Oak) - remove the lowest branch over exit road to allow for better access (retrospective) and remedial works to remove poor pruning cuts in higher crown to suitable growth or target prune to main stem/parent branch if necessary.**
- **T3 (Ulmus Spp. – Elm) - remove the lowest 2 branches over exit road to allow for better access (retrospective) and remedial works to remove poor pruning cuts in higher crown to suitable growth or target prune to main stem/parent branch if necessary.**
- **T4 (Fraxinus Excelsior - Common Ash) - Fell to ground level and replace with a Betula Pendula tree in northern part of the site.**
- **T5 (Fraxinus Excelsior - Common Ash) – remove secondary leader over Rayleigh Road (retrospective) and remedial works to remove poor pruning cuts in higher crown to suitable growth or target prune to main stem/parent branch if necessary.**
- **T6 (Fraxinus Excelsior - Common Ash) – remove deadwood and two branches over Rayleigh Road from main stem to 6-7m above ground level (retrospective) and remedial works to remove poor pruning cuts in higher crown to suitable growth or target prune to main stem/parent branch if necessary.**

**Reason:** In the interests of visual amenity, to protect the setting of the Listed Building and to protect the trees and any wildlife, in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM5 of the Development Management Document (2015) and the advice contained in the Southend-on-Sea Design and Townscape

**Guide (2009).**

- 03 The works hereby approved, including the new tree planting, shall be carried out in accordance with British Standard BS 3998 (2010) by a suitably qualified person.**

**Reason: In the interests of visual amenity and to protect the trees and any wildlife, in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1 and DM3 of the Development Management Document (2015) and the advice contained in the Southend-on-Sea Design and Townscape Guide (2009).**

- 04 The proposed remedial works and replacement tree planting hereby approved shall be carried out in line with the specification included within the emails from the agent dated 01/02/24 and 02/02/24 and proposed re-planting site plan. The replacement tree must be a Silver Birch (Betula Pendula) heavy standard minimum 12-14 cm girth. The replacement tree and remedial works must be planted and maintained in accordance with the specification contained within the emails from the agent dated 01/02/24 and 02/02/24. The remedial works must be carried out within 4 weeks of the date of this consent. The replacement tree must be planted within the first planting season following the date of this consent.**

**Reason: In the interests of visual amenity, to protect the setting of the Listed Building and to protect the trees and any wildlife, in accordance with the National Planning Policy Framework (2023), Policies KP2 and CP4 of the Core Strategy (2007), Policies DM1, DM3 and DM5 of the Development Management Document (2015) and the advice contained in the Southend-on-Sea Design and Townscape Guide (2009).**

#### **Informatives**

- 1. Failure to undertake the remedial works for trees T1, T2, T3, T5 and T6 and tree T4 replacement planting all outlined in the description of proposed works and those works to be completed in full accordance with the required timeframe set out in condition 02 above is likely to result in the Council taking legal action to address the harm caused by the unauthorised and poor quality works to the trees in situ .,**
- 2. The applicant is advised that the removal of deadwood to trees T7 and T8 is exempt from the requirement for planning permission.**