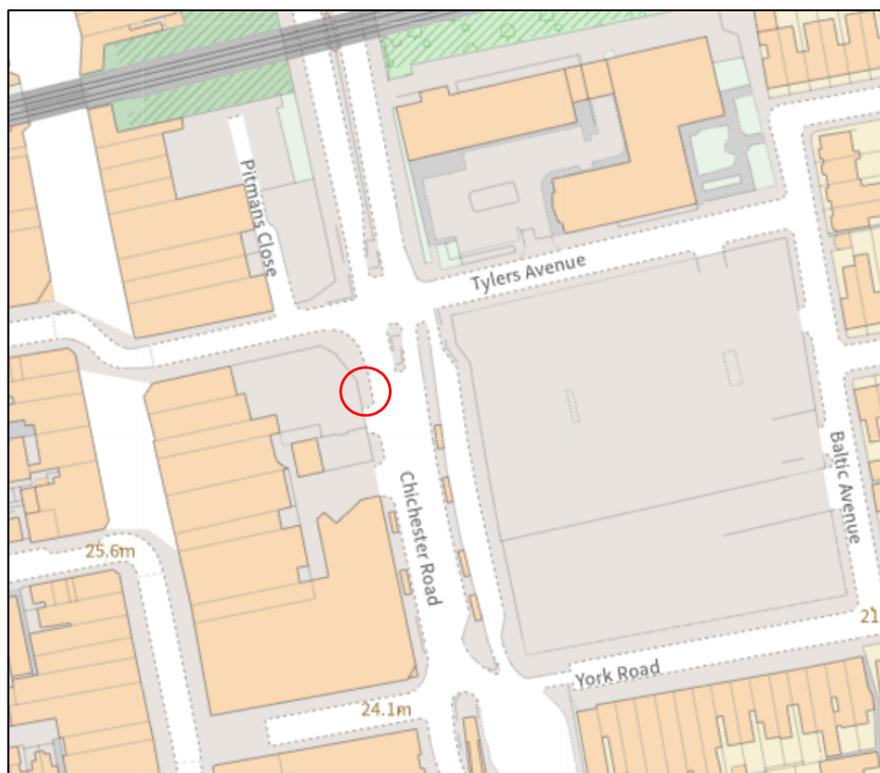


<b>Reference:</b>	24/00185/NTPOR	
<b>Application Type:</b>	Application for Tree Preservation Order	
<b>Ward:</b>	Milton	
<b>Proposal:</b>	Request for one London Plane Tree outside 7 Tylers Avenue in Chichester Road to be protected by a Tree Preservation Order	
<b>Address:</b>	Footpath Adjacent 7 Tylers Avenue On Chichester Road, Southend-on-Sea, Essex	
<b>Applicant:</b>	Mr Tim Fransen	
<b>Agent:</b>	N/a	
<b>Consultation Expiry:</b>	21 <sup>st</sup> February 2024	
<b>Expiry Date:</b>	27 <sup>th</sup> March 2024	
<b>Case Officer:</b>	Oliver Hart	
<b>Plan Nos:</b>	N/a	
<b>Supporting Documents:</b>	Application Form; Site Photo/Location Plan	
<b>Recommendation:</b>	<b>REFUSE TO MAKE A TREE PRESERVATION ORDER</b>	



## 1. The Proposal

- 1.1. The application relates to 1 no. London Plane tree on a footpath along Chichester Road and adjacent to 7 Tylers Avenue.
- 1.2. The tree is publicly visible from the surrounding streets and generally makes a positive contribution to the streetscene.

## 2. The Proposal

- 2.1. The request is to make a Tree Preservation Order (TPO) to preserve the tree.

## 3. Relevant Planning History

### *7 Tylers Avenue*

- 3.1. 23/00264/OUTM - Erect 14 storey building comprising of 58 self-contained flats (Class C3) and commercial units at ground floor level (Class E) with ancillary bike and bin store on vacant land (Outline Application) - Refused.

**[Officer Comment]** Whilst this application was refused on separate design and character grounds, it was confirmed that the tree in question would have been incompatible with the development and would have been required to be removed.

## 4. Representation Summary

### **Internal Consultation**

#### *Parks Arboricultural Officer*

The Council's Arboricultural Officer has completed a TEMPO (Tree Evaluation Method for Preservation Orders) for the tree which concludes that the tree should not be made subject of a TPO, as explained further in the body of this report.

#### *Highways Officer*

Chichester Road / Tylers Avenue has a high volume of vehicular and pedestrian movements given its proximity to the Travel Centre, Tylers Avenue car park and the City Centre and is an important strategic link to the City's highway network. Due to known issues relating to accessibility restrictions at this location for pedestrians due to the size and location of the existing street tree the Highways Service had requested that the Parks Service remove the tree due to significant safety concerns for all highway users.

Local ward members, previous portfolio holders for Highways & Environment, Senior Management in highways and parks were consulted 2021 and agreed the removal of the tree.

Highways officers have looked at several alternative design changes to the public highway to enable the retention of the tree. However, these are not possible due to the detrimental impact on local highway network for all highway users within the local area. With no viable alternative options identified.

An independent Safety Audit Review of the existing area has been undertaken. The Audit identified a number of concerns relating to pedestrian movement as a result of the existing street tree. Below are photos that auditors took whilst undertaking the audit.



The Executive Director Environment & Place, Director of Highways, Head of Highways and Coastal & Head of Environment & Waste are reluctantly supportive to remove the existing street tree.

## **5. Procedural Matters**

- 5.1. This application has been called into Development Control Committee by Cllr Cowdrey.

## **6. Planning Policy Summary**

- 6.1. The National Planning Policy Framework (NPPF) (2023)
- 6.2. Planning Practice Guidance (PPG) (2023)
- 6.3. Core Strategy (2007): Policies KP2 (Development Principles) and CP4 (Environment and Urban Renaissance).
- 6.4. Development Management Document (2015): Policies DM1 (Design Quality)
- 6.5. The Southend-on-Sea Design and Townscape Guide (2009)

## **7. Appraisal**

- 7.1. The Council's planning policies seek to protect trees under threat which make a positive contribution to the townscape and/or heritage of an area and contribute positively to the green grid of the city.
- 7.2. The merits or otherwise of making this tree subject of a TPO have been considered following TEMPO assessment guidance.
- 7.3. As background, TEMPO (Tree Evaluation Method for Preservation Orders) is an advisory tool to guide assessors when considering the merits or otherwise of making a TPO to provide statutory protection for a tree. TEMPO is not legislation. It is designed as a guide to decision making in which a scoring method informs an overall conclusion on whether to make a TPO or not.
- 7.4. The TEMPO assessment undertaken here identifies that the subject tree scores zero "dead, dying, dangerous" under the amenity section of the TEMPO guidance. It also scores a zero "unsuitable" for retention and suitability for a TPO. Subsequent parts of the TEMPO checklist thereafter become not applicable. The Parks TEMPO assessment

had regard to the hazard this tree's context causes for users of the public footway due to increase in size of the trunk which is now restricting the footway width for pedestrians as outlined by the Highways service. Highways have confirmed that the tree, due to its position, trunk size and context, presents safety concerns for all highway users. Pedestrians are caused to move into the highway, in particular people with disabilities, mobility impairments or day to day mobility requirements such as people pushing pushchairs. Part 3 of the TEMPO guidance headed "Decision Guide" states that any one "0" score (here there are two zeros) means that the tree should not be made subject of a TPO.

- 7.5. The conclusion derived following the guidance set out within the TEMPO assessment tool is therefore that a TPO should not be made in the particular circumstances of this case. Aware that queries have been made about whether mitigation could potentially avoid removal of the tree, this Committee is advised that the Highways service investigated separately whether design changes to the public highway may enable the contextual issues with the tree's impacts on highway safety to be overcome. As confirmed within the Highway's consultation response at section 4 above, that Highways exercise did not identify any viable solutions and Highways have identified that removal of the tree is the only feasible option in the circumstances.
- 7.6. Taking all of the above considerations into account, making this tree subject to a Tree Preservation Order is neither advised when scored using the guidance in the TEMPO assessment tool nor is statutory protection considered to be a reasonable or expedient action in the specific circumstances of this case given the identified safety concerns for all highway users .

### **Equality and Diversity**

- 7.7. 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).
- 7.8. The tree's removal would allow the footway to be made properly accessible for all people especially those with disabilities, mobility impairments or day to day mobility requirements such as people pushing pushchairs. Officers have concluded that the decision recommended will not conflict with the Council's statutory duties under this legislation.

### **8. Recommendation**

**REFUSE TO MAKE A TREE PRESERVATION ORDER**