

# GLOUCESTER CITY COUNCIL – TREE PRESERVATION ORDER

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| Committee:        | Planning   |
| Date:             | 3 November 2020  |
| Address/Location: | 15 Barnwood Avenue Gloucester GL4 3DA  |
| Application No:   | 20/00730/TPO   |
| Ward:             | Barnwood   |
| Expiry Date:      | 24.09.2020   |
| Applicant:        | Mr George Wilson   |
| Proposal:         | Cedar (T1) - Fell because the tree has outgrown its constrained location, overhangs two houses, and two drives, and sheds healthy branches which are large enough to pose a significant safety threat to persons underneath. As demonstrated this is not a suitable site for a replacement tree. Inspection report enclosed. |
| Report by:        | Justin Hobbs   |
| Appendices:       | 1 – Tree location plan<br>2-- Application form to fell the tree<br>3 – BJ Unwin Tree Inspection Report<br>4 – Letter from applicant in support of the application<br>5 – Four photographs of fallen branches.  |

## Executive Summary:

This report details an application to fell a protected cedar tree at 15 Barnwood Avenue, Gloucester.

## Recommendation:

**It is recommended the application to fell the tree is refused.**

## Reasons for Recommendation:

The tree is of significant amenity value in the vicinity, the reasons for the application to fell, and the supporting documentation provided, do not justify the removal of the tree, there are alternative options to removal (pruning) which would alleviate the applicants concerns and enable the tree to be retained.

## 1.0 INTRODUCTION

- 1.1** The mature cedar tree subject to this application is protected by a TPO made 11 May 2000 and confirmed 8 November 2000. Refer to appendix 1 for tree location plan.
- 1.2** The tree is located on the shared front driveway of No 15 & 15A Barnwood Avenue with the house of No 13 immediately to the North. The tree is approximately 20m high with a canopy spread of approximately 8m – 9m all round. The canopy is elevated, with the first major branches beginning at approximately 7m. In summary it is a large, mature tree, clearly visible in the vicinity.
- 1.3** An application to fell the tree was received on 29 July 2020. Refer to appendix 2 for the

application. A health and safety inspection report of the tree by BJ Unwin, arboricultural consultant, was submitted with the application. Refer to appendix 3 for the inspection report.

- 1.4 Your tree officer inspected the tree in light of the application on 29 September 2020. I subsequently informed the applicant the matter would be put before planning committee with a recommendation to refuse the application. The applicant emailed (19 October 2020) a letter supporting the application. Refer to appendix 4 for the letter.

## 2.0 RELEVANT PLANNING HISTORY

| Application Number | Proposal  | Decision | Decision Date |
|--------------------|---|----------|---------------|
| 17/01335/TPO       | Works as discussed with tree officer on 1 December 2017 - T1 (Cedar) - reduce lowest limb over hanging No 13 by up to 25% back to suitable growth point, reduce lowest limb facing No 15 by up to 25% back to suitable growth point. T2 (Beech) - reduce lowest branch on north east side back to fence line. Reduce next large limbs above by 20 - 25 % in line with canopy shape. | TPDECS   | 21.12.2017    |
| 20/00730/TPO       | Cedar (T1) - Fell because the tree has outgrown its constrained location, overhangs two houses, and two drives, and sheds healthy branches which are large enough to pose a significant safety threat to persons underneath. As demonstrated this is not a suitable site for a replacement tree. Inspection report enclosed.  |          |               |

## 3.0 DISCUSSION

- 3.1 The reasons for the application, as stated on the application form are:

*Fell because the tree has outgrown its constrained location, overhangs two houses, and two drives, and sheds healthy branches which are large enough to pose a significant safety threat to persons underneath. As demonstrated this is not a suitable site for a replacement tree. Inspection report enclosed.*

- 3.2 The BJ Unwin report states the following:

*4.6.1 The cedar is a large tree providing local amenity value. However, it has outgrown its constrained location, overhangs two houses, and two drives, and sheds branches which are large enough to pose a significant safety threat to persons underneath.*

*4.6.2 Although the tree is growing in a small elevated island surrounded by asphalt, there is limited evidence of a significant windthrow risk.*

*4.6.3 Previous removal of dead wood is not sufficient to remove the threat of future branch failure, because the architecture of the tree includes numerous long, end-heavy, limbs and branches.*

*4.6.4 As well as any objective threat, the tree poses a significant over-bearing impact*

*on three properties underneath.*

**3.3** The applicant's letter of support for the application accepts the tree is in good condition, with no signs of disease. However, the applicant states healthy branches have been lost in the past 4 years and the pruning of branches will reduce but not eradicate the risk of harm. The applicant has submitted photographs of fallen branches (refer to appendix 5 for the photographs). The applicant refers to a fatality in Kew Gardens in 2012 when a branch fell from a healthy cedar tree which was regularly inspected and maintained. If the application to fell is refused, the applicant requested the city council acknowledge liability for any injury or damaged caused by the tree in the future.

#### **4.0 OFFICER OPINION**

**4.1** The reasons application to fell this tree are twofold; it poses a significant safety threat, and it has outgrown its constrained location, I will discuss each in turn.

**4.1** **Tree Safety:** I inspected the tree on 29 September 2020. Inspection was from ground level and I could find no significant signs of defects, disease, or pathogens that would lead me to conclude that the tree, or large parts of it are unhealthy or dangerous. It is clear some branches up to a diameter of 75mm have been lost within the last 3 months. At the time of inspection, I could see a small number of detached branches caught in the canopy. In my opinion, given the spate of unprecedented winter storms and the summer storm at the end of August, it is unsurprising that the tree has lost some branches. However, despite these unprecedented storms, the tree has overwhelmingly kept its shape, and has not lost major limbs, and this, in my opinion, helps indicate a healthy and overall structurally sound tree.

**4.2** Trees are living organisms and self-supporting dynamic structures. Their physiological and structural condition can change rapidly in response to a wide range of biotic/abiotic factors, such as severe weather events. In recognition of this, and to try and prevent any reasonably foreseeable harm or damage occurring, it is recommended that owners of large trees, have them regularly inspected by a suitably competent arboricultural specialist or consultant for health. This will help identify any problems with the tree and recommend any remedial works to help ensure the tree is as safe as can be reasonably expected. This will also help tree owners be in a defensible position in cases of liability if damage or harm is caused as they will have fulfilled their 'duty of care' by having the tree inspected and recommended works undertaken to avoid reasonably foreseeable harm or damage.

**4.3** The owners of this tree have had the tree inspected by an arboricultural consultant on at least 2 occasions in the last 4 years. This resulted in an application for remedial works (17/01335/TPO), which was granted consent. The latest inspection can be found in appendix 3. This report states the trees does "*shed branches which are large enough to pose a significant safety threat to person underneath*". This could be true of many large tree species. However, the report does not recommend the removal of the tree to remove this threat. The report does recommend works that will significantly reduce the risk of branch breakage. If an application was submitted to undertake these works, it would be granted consent. Furthermore, TPO legislation allows for the removal of deadwood and branches and for any urgent/emergency works without the need for a formal, time consuming application (a so called '5 day notice').

**4.4** To summarise, from a tree safety aspect, no tree can ever be 100% safe, particularly during severe weather events, to reduce the risk of harm and damage, and liability, it is recommended large trees such as this are regularly inspected, and recommended works undertaken. This has happened, and remedial works have been recommended, not the entire removal of the tree

**4.5 Tree location:** The tree is of significant amenity value, all parties agree on this. With regard to the location and whether it has outgrown its location, I do not believe the tree has outgrown its present location. This is an ambiguous, subjective area. However, this part of Barnwood Avenue is characterised by large late 19<sup>th</sup> Century/Early 20<sup>th</sup> Century detached properties with large gardens and mature trees, I would therefore contend the tree is in keeping with the characteristic of the area. Furthermore, although growing in a shared drive area, it does not block access, and although the canopy is high, it does not interfere with or touch houses. The tree is fully mature and has been for a number of years, the current owners would have been aware of the size of the tree and its location when they purchased the property.

## **5.0 CONCLUSION**

**5.1** Committee are recommended to refuse the application to fell.

**5.2** If committee refuse the application to fell, the applicant can appeal the decision to the Planning Inspectorate within 28 days of the decision.

**Person to Contact:** Justin Hobbs (396897)

Planning Application: | 20/00730/TPO

Address: | 15 Barnwood Avenue  
| Gloucester GL4 3DA

Committee Date: |