

Tree Preservation Order 2014 Number 578 (512 Kedleston Road, Derby)

SUMMARY

- 1.1 This report summarises and comments on objections to a Tree Preservation Order (TPO) on a cedar tree at 512 Kedleston Road, Derby and recommends confirmation of the TPO without modification.

RECOMMENDATION

- 2.1 To approve confirmation, without modification, of Tree Preservation Order 2014 Number 578 (512 Kedleston Road, Derby)

REASONS FOR RECOMMENDATION

- 3.1 In order to confirm Tree Preservation Order 2014 Number 578 (512 Kedleston Road, Derby) so as to control works to the significant cedar tree on site, avoiding a loss of amenity value to the immediate and wider area.

SUPPORTING INFORMATION

- 4.1 On 21st February 2014, Derby City Council, in exercise of the powers conferred by sections 198, 201 and 203 of the Town and Country Planning Act 1990, made the above Tree Preservation Order (TPO) on a cedar tree at 512 Kedleston Road, Derby as shown on the plan attached as Appendix 2.
- 4.2 The reason why the TPO was made is cited as: "The tree indicated in this Order is proposed for protection in the interests of visual public amenity. The tree is situated in a prominent position and can be appreciated from the immediate vicinity as well as from further afield. The tree contributes materially to the amenities of the locality by playing an important part in providing a sense of scale and maturity."
- 4.3 Two letters, attached as Appendix 3, objecting to the TPO were received, one from the owner Mr Whitehall at 512 Kedleston Road, the other from Mr Hubner at 514 Kedleston Road. There is also a letter, again attached as Appendix 3, from Mr Hubner to Mr Whitehall on 6 February expressing concern about the safety of the tree.

- 4.4 The objections from Mr Whitehall and Mr Hubner are summarised below followed by the Director's response.
- 4.5 **Objection point one – Mr Whitehall and Mr Hubner:** Both expressed concern that the making of the Tree Preservation Order (TPO) "fails to address the principal concern, namely the stability of the tree in high wind. The tree is totally exposed, and heavy winds assail it after passing unhindered over a large expanse of open fields opposite. During the storms of this January the tree was a very scary vision and large branches, both living and dead, had to be removed from the road afterwards." Also, "the pavement on Quarn Drive is lower than the ground at the base of the trunk and this absence of solid ground on the windward side of the tree could exacerbate the tree falling, which from a distance appears to lean towards the house, particularly the top of the tree. This lean is further exacerbated by branches on the house / Quarn Drive side being longer, adding to the effect of the tree being pulled that way."
- 4.6 **Director's response to point one:** Trees are living organisms that naturally lose branches and best practice dictates they are inspected by a qualified tree professional on a regular basis for reasons of safety. This responsibility rests with the owner. No guarantee can be given as to the absolute safety or otherwise of any individual tree, as even apparently sound trees can fail. Overall risk though to human safety is extremely low. Figures quoted in the National Tree Safety Group document on 'Common sense risk management of trees', published by The Forestry Commission in July 2011, show that the annual risk of death from trees is 1 in 10,000,000 or less if high wind incidents are excluded. No evidence from a qualified tree professional has been presented to us to suggest that the tree is in a dangerous condition and should be removed, or that other works to the tree are required.
- 4.7 **Objection point two – Mr Whitehall:** A land search when they bought the property in 2010 uncovered a proposed 'Visibility Splay Improvement' for improving the junction of Quarn Drive with Kedleston Road. This improvement, which would benefit road safety at this junction, could be compromised by the confirmation of the TPO.
- 4.8 **Director's response to point two:** There is a long standing proposal for a 'Visibility Splay Improvement' at this junction. The Highways Officer has indicated though that the 'Visibility Splay Improvement' could be implemented without affecting the tree, but that the scheme is unlikely to go ahead unless funding became available.
- 4.9 **Objection point three – Mr Hubner:** The tree is a non-native species, which is not considered valuable to wildlife.
- 4.10 **Director's response to point three:** In the context of making a TPO, the fact that a tree is a non-native species, which may not be as valuable to wildlife as native species such as oak, is not relevant. A TPO is made because the tree is publicly visible; it offers significant amenity to the street scene and wider area; there is a threat to the tree.
- 4.11 **Objection point four – Mr Hubner:** The tree is more suited to parks and the gardens of large estates, rather than modest sized gardens in residential areas.

- 4.12 **Director’s response to point four:** While it is accepted that cedar trees are normally seen in parks and the gardens of large estates, we do have a number of cedar trees in Derby located in modest sized gardens in residential areas. These trees, with the correct management, have continued to make a safe contribution to their locality.
- 4.13 **Objection point five – Mr Hubner:** It is a species that is particularly susceptible to honey fungus, the most destructive fungal disease in UK gardens to which no chemical treatment is available. It may also be prone to aphid attack.
- 4.14 **Director’s response to point five:** Although cedar trees are susceptible to honey fungus and cedar aphid, there was no evidence of either being present when our Arboricultural Officer inspected the tree. If we were presented with evidence that the tree did have honey fungus, which attacks and kills the roots, then a Works to trees application to fell the tree would be favourably received. Likewise, if we were presented with evidence that the tree did have cedar aphid, which causes defoliation of the needles, then a Works to trees application to carry out appropriate works to the tree based on the level of defoliation would be favourably received.
- 4.15 **Objection point six – Mr Hubner:** Disagrees with the reasons stated in our grounds for making the Order as he believes that the full visual impact of the tree can only be appreciated from the land opposite, which belongs to the Kedleston Estate. This land is not occupied and therefore there are few people who can appreciate it from this position. Our decision to protect the tree, therefore, is based on nothing more than the fact that we believe the tree ‘looks nice’. Accepts that the tree provides a limited positive visual impact, but feels that this is outweighed by the risk to human life and property.
- 4.16 **Director’s response to point six:** Accept that the land opposite is not occupied and therefore there are few people who can appreciate it from this position. The tree though does still contribute to the public amenity of the area, providing a sense of scale and maturity and can still be appreciated from the immediate vicinity. No evidence has been presented to us from a qualified tree professional to suggest that the tree is in a dangerous condition and should be removed, or that other works to the tree are required.
- 4.17 None of these objections are considered reasons not to confirm the Order protecting the tree.

OTHER OPTIONS CONSIDERED

- 5.1 The only other option considered is not to confirm the order, which would mean that the significant tree on site would be left without any level of statutory protection, which could lead to its removal or damage.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Service Director(s) Other(s)	
---	--

For more information contact: Background papers: List of appendices:	Graham Toon 01332 642117 e-mail graham.toon@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Location Plan Appendix 3 – Letter/s of objection Appendix 4 – Photographs
---	---

IMPLICATIONS

Financial and Value for Money

1. None arising from this report

Legal

- 2 The Local Planning Authority must, before deciding whether to confirm the Tree Preservation Order, consider any duly made objections.
- 2.1 The Local Planning Authority may modify the Tree Preservation Order when confirming it.

Personnel

3. None arising from this report

Equalities Impact

4. None arising from this report

Health and Safety

5. None arising from this report

Environmental Sustainability

6. Trees, such as the cedar tree discussed in this report, are an important part of urban areas, because they:
 - provide a wealth of benefits relating to biodiversity. In our urban areas, whether located on streets, or in parks, gardens or schools, trees are unique in their ability to support a variety of wildlife
 - clean the air, reduce temperatures, and counteract our polluting lifestyles by absorbing and storing carbon dioxide through a process known as photosynthesis. During this process, which enables them to grow, carbon dioxide is converted into stored carbon. This is why trees are sometimes referred to as 'carbon sinks'
 - provide oxygen for people, and catch dust and pollutants on their leaves. By filtering out polluted air, they help reduce the incidence of asthma, skin

cancer and stress-related illness

- provide natural winter insulation and summer shade, which could help reduce the annual heating and cooling expenditure of homeowners.

Asset Management

7. None arising from this report

Risk Management

8. None arising from this report

Corporate objectives and priorities for change

9. This decision would assist in taking forward the Corporate Priority of achieving 'An inspiring place to live'.