

REPORT SUMMARY

22 August 2019

REFERENCE NO – 18/505160/TPO		
APPLICATION PROPOSAL – TPO application to 1x Cedar - Monolith snow damage Cedar at 6m		
ADDRESS - Land To The Rear Of 90 Alkham Road Maidstone Kent ME14 5PE		
RECOMMENDATION - Permit		
SUMMARY OF REASONS FOR RECOMMENDATION - The proposed works are considered necessary for reasons of public safety. Loss of wildlife habitat can be mitigated by retention of cordwood and the planting of a replacement tree.		
REASON FOR REFERRAL TO COMMITTEE - This is a Maidstone Borough Council application for works to a protected tree that has received local resident and County Councillor interest. Objections have been received suggesting that the application attempts to mislead, that it is not transparent that it is a Maidstone Borough Council application and that the tree is a public asset of significant value.		
WARD East Ward	PARISH/TOWN COUNCIL Unparished/Boxley Parish boundary	APPLICANT: Andrew Williams Maidstone Borough Council AGENT Qualitree Services
DECISION DUE DATE Overdue	PUBLICITY EXPIRY DATE 7 November 2018	OFFICER SITE VISIT DATE 17 October 2018
RELEVANT PLANNING HISTORY None		

MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 The tree subject to this application is located on Maidstone Borough Council owned land situated between Alkham Road and Lombardy Drive on the Vinters Park Estate, through which a footpath runs north-south, linking Bargrove Road with Valley Park School.

2.0 PROPOSAL

- 2.01 To monolith one snow-damaged Cedar at a height of 6 metres

3.0 POLICY AND OTHER CONSIDERATIONS

- 3.01 Government Policy:
National Planning Policy Framework (2012)

Ministry of Housing, Communities & Local Government, Planning Practice Guidance, Tree Preservation Orders and trees in conservation areas, March 2014

- 3.02 Local Policy:
Maidstone Borough Local Plan October 2017 - Policy DM 3

Maidstone Landscape Character Assessment (March 2012 amended 19 July 2013) and Supplement (2012- Saved Sections of the Landscape Character Assessment and Landscape Guidelines 2000)

3.03 Compensation:

In some circumstances, a refusal of consent to carry out works to trees subject to a Tree Preservation Order can result in a claim for compensation for loss or damage arising within 12 months of the date of refusal. Whilst the application does not indicate that any loss or damage is anticipated if the application is refused a risk of further crown breakage is considered to be reasonably foreseeable if the application is refused. However, as Maidstone Borough Council is the applicant, a compensation claim would not arise as a direct result of refusal.

4.0 LOCAL REPRESENTATIONS

4.01 **Local Residents:** Two representations received from local residents raising the following (summarised) issues:

- insufficient detail as to the extent of the works proposed and the reason for them
- no report from the Council's tree officer giving information regarding the state of the tree.
- This tree is of significant historic importance and any work to it needs very careful consideration.
- The Cedar tree has been subject to snow damage but has been poorly maintained after the event and debris still remains around the tree trunk as this has not been professionally addressed by the Maidstone Borough Council contractors.
- Although disfigured, the tree is a magnificent example of a cedar tree which is rarely seen in this neighbourhood. This tree once formed a collection of trees to a historical house which no longer exists and whose grounds have now been largely developed into residential estates. It is important to protect the historical context in which these residential developments have occurred.
- The tree trunk and significant elements of the branch canopy still remain in very good condition. Specialist tree surgery and preservation is required at the locations where damage has occurred as this work has not been performed by the Maidstone Borough Council
- The tree provides a valuable habitat to a wide variety of insects and wildlife that cannot be replicated. This tree adds significantly to the environment and the well being of residents. There is no ecological reason for the destruction of this valuable community resource
- The trees and wildlife were present long before the residential developments and the buyer purchased the property knowing this and also the tree protection order applying to this community asset.
- The application form is not clear - Andrew Williams, the Parks & Open Spaces Manager at Maidstone Borough Council is the applicant, yet the address used on the Planning Application is a private residential address not that of the Council. This appears to be a fundamental error as it does not provide transparency expected of Public Servants.
- The application should be in the name of the Council and the Formal Council address should be used. This statement being confusing or incorrect is another reason why this Planning Application should not succeed.
- The Applicant's Agent is not an independent Arboricultural Consultant and there maybe conflict of interest and therefore should not participate in any works that arise from this planning application.

- Any works or services should be commissioned directly by the Council or are the custodian of the tree, it being a public asset.

5.0 CONSULTATIONS

5.01 No responses received

6.0 APPRAISAL

Main Issues

- 6.01 The key issues for consideration relate to:
- The condition of the tree
 - That this is an application for works by Maidstone Borough Council
 - Loss of wildlife habitat

Appraisal of the tree

- 6.02 Contribution to public visual amenity:
Good – clearly visible to the public, but significantly reduced by recent failure.

Condition:

Poor – obvious decline/ health and/or structural integrity significantly impaired

Useful life expectancy:

Short – safe useful life expectancy of less than 10 years

- 6.03 The tree is a very large, mature Cedar that suffered catastrophic failure of the upper crown as a result of snow loading in February 2018. Large limbs snapped out of the tree and were in a dangerous condition requiring an emergency response to make safe. Arboricultural contractors attended site to make the tree safe. Such emergency situations do not require a TPO consent. During these emergency works an assessment of the tree was undertaken to understand why it failed and the options for retaining and making safe for the future. This revealed pockets brown rot in the main trunk at the point the limbs snapped out. Some long lower branches remain. These branches are considered to be overextended and vulnerable to increased failure risk due to snow/rain/ice loading since the loss of shelter previously afforded by the upper crown, together with the confirmation of decay presence being the reason for the previous failure. The failed parts of the tree were cleared from the path but remain in the vicinity of the tree.
- 6.04 The proposal is not to fell the tree entirely, but to ‘monolith’, removing the remaining side limbs to leave a tall stump 6 metres high.
- 6.05 The current structural condition of the tree is poor and considered a potential failure risk. Cedar is particularly prone to shedding large limbs; the loss of the upper crown and the presence of decay elevates the risk significantly. Given the location of the tree immediately above a footpath regularly used by dog walkers and children going to and from school, some works to reduce the risk are considered necessary. The proposal to monolith the tree, leaving the main stem as wildlife habitat is considered an appropriate management option. The only other viable alternative would be to retain the remaining limbs but to shorten them significantly, but it is considered that the result would have little visual amenity value.

Application issues

- 6.06 The tree is owned by MBC and managed by the Parks team. Where this is the case, the Council treats it in exactly the same way as any other TPO application, except that a site notice is also put up to publicise the application. The application is not dealt with by the Parks team. It is dealt with by Officers qualified in arboriculture within the Planning team, by Officers that take no part in the management of Council-owned trees other than in a regulatory capacity.
- 6.07 The application has been submitted by an agent (a tree surgery company) on behalf of the Parks team and clearly declares that the applicant is a member of staff and that the application is submitted on behalf of MBC. It is noted that that agent has given the applicant details as Andrew Williams of Maidstone Borough Council, but with the address as 90 Alkham Road as the address of the applicant, which is clearly a mistake. The site address is given as 'Land To Rear of 90 Alkham Road In The Vinters Estate', not at the property address itself. This is a common way of identifying a location on applications where they are on larger pieces of land and not within private gardens.
- 6.08 Given that the only potentially misleading part of the application is that the applicant's address is mistakenly given as 90 Alkham Road, in all other respects it has been made clear on the form that the applicant is MBC and that the declaration of interest has been correctly completed, it is not considered that there has been any intention to mislead.
- 6.09 It has been suggested that the agent has a conflict of interest as there is potential financial gain from the granting of this planning application and undertaking any resultant work. It is common practice for tree surgery contractors to submit applications on behalf of their clients. In fact, most applications for tree works that are submitted by agents come from the same contractors that the person intends to use for the works. The fact that the agent in this case is a MBC appointed contractor has no bearing on the decision that the Council must make or the way in which the application is considered. The only effect that using an agent has in the way applications are dealt with is that correspondence is sent to them and not the applicant.

Wildlife Habitat

- 6.10 The works will result in some loss of wildlife habitat, but this is mitigated by the retention of the main stem. It is also recommended that large diameter cordwood from the tree is retained and stacked in the same area and not removed from the site. Furthermore, it is proposed that a replacement tree of the same species is planted nearby and this can be secured by condition.

7.0 CONCLUSION

- 7.01 Taking public safety considerations and the structural condition of the tree into account, works to the tree are considered to be necessary and the proposal an appropriate management option.
- 7.02 The loss of the tree as wildlife habitat is mitigated by the retention of the main stem as a monolith and can be further enhanced by the retention of cordwood on site. A replacement tree can be secured by condition.

8.0 RECOMMENDATION

PERMIT subject to the following conditions:

- (1) One [1] replacement *Cedrus libani* (Cedar of Lebanon) tree shall be planted on or near the land on which the tree stood during the planting season (October to February) in which the tree work hereby permitted is substantially completed or, if the work is undertaken outside of this period, the season immediately following, except where an alternative proposal has been submitted to and approved in writing by the local planning authority one month prior to the end of the relevant planting season. The replacement tree shall be of not less than Nursery Standard size (8-10cm girth, 2.75-3m height) or equivalent, conforming to the specification of the current edition of BS 3936, planted in accordance with the current edition of BS 4428 and maintained until securely rooted and able to thrive with minimal intervention;

Reason: To safeguard the amenity and nature conservation value of the tree that has been substantially removed and to maintain and enhance the character and appearance of the local area

- (2) Any tree planted in accordance with the conditions attached to this permission, or in replacement for such a tree, which within a period of five years from the date of the planting is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, shall, in the same location, be replaced during the next planting season (October to February) by another tree of the same species and size as that originally planted, except where an alternative proposal has been submitted to and approved in writing by the local planning authority prior to that planting season;

Reason: To safeguard the amenity and nature conservation value of the tree/s that has/have been removed and to maintain and enhance the character and appearance of the local area

INFORMATIVES

(1) All cut timber/wood between 15cm and 60cm in diameter, together with any senescent and rotting wood, should be retained and stacked safely on site for the colonisation of saproxylic organisms, except where an alternative proposal has been submitted to and approved in writing by the local planning authority.

(2) Works to trees could result in disturbance to wild animals, plants and important wildlife sites protected by law. Therefore, the works hereby permitted should be carried out in a manner and at such times to avoid disturbance. Further advice can be sought from Natural England and/or Kent Wildlife Trust.