

REPORT SUMMARY

APPLICATION PROPOSAL		Ref No 15/504879/TPO	
TPO application to fell 1 Group of Conifer trees.			
ADDRESS 8 Albert Reed Gardens Tovil Kent ME15 6JY			
RECOMMENDATION PERMIT subject to conditions			
SUMMARY OF REASONS FOR RECOMMENDATION It is not considered that the detrimental impact of the removal of these trees on public amenity will be so significant as to warrant a refusal. The objection to the proposal by the parish council is based on private rather than public impact. In its current form as a hedge, the trees would not be able to be protected by a new TPO. It is therefore not considered that a refusal is appropriate.			
REASON FOR REFERRAL TO COMMITTEE Parish Council request			
WARD South Ward	PARISH/TOWN COUNCIL Tovil	APPLICANT Brown Construction	
RELEVANT PLANNING HISTORY (including relevant history on adjoining site):			
App No	Proposal	Decision	Date
TA/0088/02	2, 4, 6, 8 and 10 Albert Reed Gardens – Application for consent to reduce height by 4.5m and to trim back sides by 2m of 47 Lelandii trees.	Permitted	28/11/2002
TA/0203/11	6 Albert Reed Gardens – Fell 12 Leyland Cypress	Permitted	13/01/2012
TA/0044/08	4 Albert Reed Gardens – Fell 14 Leyland Cypress	Permitted	24/06/2008

MAIN REPORT

1.0 DESCRIPTION OF SITE

1.01 The application site is an end of terrace property. The trees are growing on the rear boundary of the property, on rising ground.

2.0 PROPOSAL

2.01 The proposal is to remove all of the conifers in the applicant's ownership

3.0 PLANNING CONSTRAINTS

3.01 Tree Preservation Order No.3 of 2011

4.0 POLICY AND OTHER CONSIDERATIONS

4.01 Government Policy:
National Planning Policy Framework (2012)

DCLG, Planning Practice Guidance, Tree Preservation Orders and trees in conservation areas, March 2014

4.02 Local Policy:
Maidstone Borough Local Plan, Emerging Policies, January 2014- Policy DM 10

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

4.03 Compensation:
A refusal of consent to carry out works to trees subject to a Tree Preservation Order can potentially result in a claim for compensation for loss or damage arising within 12 months of the date of refusal. The application suggests that the trees are dangerous, which implies that loss or damage is anticipated if the application is refused. However, no evidence has been submitted to support this, or indicate that any loss or damage is reasonably foreseeable. I consider that the likelihood of a compensation claim arising is therefore very low. Not applicable if approved.

5.0 LOCAL REPRESENTATIONS

5.01 Parish Council
“Tovil Parish Council agreed to recommend refusal of this application on the grounds of privacy issues to neighbouring houses, and preference being to pollard the trees. TPC would like the application to be heard by the MBC Planning Committee”

6.0 APPRAISAL

6.01 The trees are mature Leyland Cypress. They form the end part of a long hedge that runs behind the properties on the north side of Albert Reed Gardens, the entirety of which is subject to the TPO. The next two properties to the east, numbers 6 and 4 have previously applied to remove the hedge behind their gardens. Consent was granted in both cases, so this application is to remove the end of the remaining hedge.

6.02 The condition of the trees is typical of mature Leyland Cypress trees that have subsequently been managed as a hedge. The trees appear to have been allowed to reach considerable size before being reduced in height. This results in a hedge that is quite wide, with significant deadwood present in the centre. With Leyland Cypress, it is not possible to reduce the width of the hedge severely, as it will not produce new growth from bare stems.

6.03 This application follows unauthorised partial felling of the trees on this site. When reports of works taking place were received, the landscape officer visited the site and the owner was advised to cease works. This application is to fell the remainder of the trees.

6.04 The applicant states that the trees are unsafe and dead. They claim that the trees that have already been felled had partially failed. No evidence has been provided to

support this, and observations on site did not reveal any indication of root plate failure. It is entirely possible that the end trees had suffered damage. They would have been more exposed following the removal of the adjacent trees.

- 6.05 The Council must consider the proposal put forward and is unable to grant consent for pollarding as suggested by the parish council. The application to fell must be either permitted or refused.
- 6.06 The trees have been managed as a hedge in recent years. Current TPO guidance does not allow Tree Preservation Orders to be made in respect of hedges. At the time the TPO was made, this may not have been the case, and the trees were probably unmanaged and as such, were considered to be a line of trees rather than a hedge. In the context of this, the Council must consider whether it is reasonable to refuse an application for works to what is now effectively a hedge.
- 6.07 The Council must also consider the impact of the proposal on amenity. This refers to public benefit and cannot take account of the impact on private amenity or benefit to individuals. The parish council objection is on the grounds of privacy issues, which is considered a private, not public amenity issue. Furthermore, it is not considered reasonable for a neighbour to rely on screening by trees growing on another person's land.
- 6.08 The removal of the trees will impact on public amenity to some extent. As individuals, and in just considering the trees subject to this application, the trees are non-native, poor quality and do not make a significant positive contribution to amenity. However, they do have some added value, as a component of the longer line of trees. As the end trees of the hedge, their removal will not leave a gap within the longer hedgerow, but it will appear shorter.

Conclusion

- 6.09 On balance, it is not considered that the detrimental impact of the removal of these trees will be so significant as to warrant a refusal. The objection to the proposal by the parish council is based on private rather than public impact. In its current form as a hedge, the trees would not be able to be protected by a new TPO. It is therefore not considered that a refusal is appropriate on this occasion. Some mitigation of the visual loss of a hedgerow can be achieved through a condition requiring replacement tree planting as set out below.

10.0 RECOMMENDATION – PERMIT subject to the following conditions or informatives

Summary of reasons now in intro box so no need to repeat

CONDITIONS to include

- (1) Three replacement trees selected from the following list of suitable species shall be planted on or near the land on which the trees 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/s shall be of not less than Nursery light standard size (6-8cm girth, 2.5-2.75m height);, conforming to the specifications 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; suitable species: *Acer campestre* (Field Maple)

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

(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

Case Officer: Nick Gallavin

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.