

# PLANNING APPLICATION NUMBER:P05/2733

Type of approval sought	Tree Preservation Order
Ward	Pedmore & Stourbridge East
Applicant	Dr. V.K. Mittal
Location:	<b>2, CHERRINGTON GARDENS, STOURBRIDGE, DY9 0QB</b>
Proposal	<b>FELL ONE TREE</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

## TREE PRESERVATION ORDER NO: D 79(1979) – T7

### SITE AND SURROUNDINGS

1. The tree subject to this application is a large mature cedar tree that is situated in the rear garden of 2 Cherrington Gardens. The tree is located in close proximity to a main road into the borough and as such is highly prominent and provides a high amount of amenity. There are also a number of other large mature trees in the vicinity.

### PROPOSAL

2. Summary of proposals for the works on the protected trees is as follows:
  - Fell one Cedar Tree
3. The tree is marked on the attached plan.

### HISTORY

4. There have been one previous Tree Preservation Order applications on the site.

<i>Site History</i>		
Application No	97/51038	08/07/97
Proposal	Crown reduction and deadwood of 3 Cedars and 1 Wellingtonia.	Approved

### PUBLIC CONSULTATION

- No public representations have been received. However comments from Brian James, form the Councils Highway section have been received and are attached to this report.

## ASSESSMENT

### Tree(s) Appraisal

Criteria	Tree 1
Species	Cedar
Height	13m
Spread	17m
Diameter	1400mm
Form	Good
Vigour	Good
Approx Age	Mature
Pests / Diseases	None evident
Canopy	Good – Has been reduced over road.
% Deadwood	1%
Cavities	None Evident.
Bark	Good
Roots	Pushing adjacent wall (see report)
Overall Health	Good
Visibility	Very High
Amenity Value	Very High

### Further Assessment

- The tree subject to this application is a mature cedar tree that is located adjacent to a main road. As such the tree provides a high amount of amenity to the surrounding area.
- On inspection the tree was found to be in a good state of health with no substantial defects. However the roots of the tree are pushing on the adjacent retaining wall and causing it to lean into the public highway.
- The owner of the tree has been contacted by the Council's highway department as they have concerns about the safety of the retaining wall. The highways department have been monitoring the wall since November 2003 and have seen an increase in the lean of the wall. The wall is now 200mm out of plumb.
- The highways department now consider that the wall is dangerous and needs to be repaired as a matter of urgency. Failure to sufficiently repair the wall will result in the Council applying to the Magistrates court to seek an order to enforce the owner to take the required action.
- The problem with the tree arises because it is the direct pressure from the buttress roots on the wall that is causing it to lean at such an angle. During a site visit with the tree owner and Mr James possible methods of repairing the wall were discussed.

From this discussion the only solution that would satisfy the Highways department would be for the leaning section of the wall to be removed.

11. This would cause problems as it would leave the roots of the tree exposed, and the surrounding soil would be liable to erode, which in turn would destabilise the tree.
12. The rebuilding of the wall was also discussed, however the rebuilding of the wall on its existing footings would require the removal of major roots that have, over time, expanded to occupy the space directly above the footings. As such the only way to re-build a safe wall would be to move the footings out into the public footpath. Such an operation would require a 'stopping up' order from the Secretary of State, and advice taken from Mr James suggests that the chance of being granted such an order are highly unlikely.
13. The situation as it stands is as follows; the wall needs to be made safe by either removal or repair. The removal of the wall would leave a substantial amount of the sub soil beneath the tree exposed to erosion and is likely to lead to the rapid destabilisation of the tree. The rebuilding of the wall would lead to the cutting of significant roots, and again would lead to the tree becoming dangerously unstable.
14. Whilst the removal of this tree would have a detrimental affect on the amenity of the area, strong consideration must be given to the reasons behind the proposed work. That is that the wall is dangerous and the two solutions to the problem are likely to cause the tree to become dangerous within a short period of time.

## **CONCLUSION**

15. The tree subject to this application is a mature Cedar tree that provides a high amount of amenity to the surrounding area. However the roots of the tree are pushing the adjacent retaining wall over.
16. The Council's Highway section considers that the wall poses a danger to the public highway and users of the adjacent 'A' class road. Various options of remedy have been discussed, but due to the close proximity of the tree and the location of the roots, no satisfactory solution could be found that involves the retention of the tree and the safe repair of the wall.
17. As such if the wall is to be repaired so that it no longer constitutes a dangerous structure as per section 77 of the Building Act 1984 and section 167 of the Highways Act 1980, the tree will have to be removed.
18. The removal of the tree will have a detrimental affect on the amenity of the area; however this could be slightly mitigated by the planting of a replacement tree(s) in a more suitable location.
19. As such, as the tree needs to be removed to enable the safe retention of the wall, and for the compliance of a statutory requirement of the Highways Act 1980, it is recommended that the application is approved subject to the conditions set out below.

## RECOMMENDATION

20. It is recommended that application is approved subject to the conditions set out below.

### Conditions and/or reasons:

4. The tree works subject of this consent shall be carried out in accordance with British Standard BS 3998:1989 'Recommendations for Treework'.
5. The tree is to be inspected for bird nests and any crevices for bats. If any nests are present and disturbance to nesting or fledgling birds are present then works shall not be undertaken between 1st March and 30th August in any year. If bats are present then advice should be sought from English Nature or the local Wildlife Trust.
6. Two replacement trees shall be planted between the beginning of November and the end of March, within 1 year of felling (and replanted if necessary) and maintained until satisfactorily established. The size, species and location of the replacement trees shall be agreed in writing with the Local Planning authority prior to the felling of the tree to which this application relates.



