

26/00605/TPO

Applicant Mr Kevin Major

Location 6 Wilford Lane West Bridgford Nottinghamshire NG2 7QX

Proposal T1 Cedar of Lebanon – Fell

Ward Compton Acres

THE SITE AND SURROUNDINGS

1. This application relates to a tree that is subject to a TPO, and is located outside of a Conservation Area. The tree is located at the side of the building which is in commercial use, currently occupied by the applicant's company; M360 Limited.
2. To the rear of the building is a car park which is accessed via the side driveway running between the building and the site boundary; it is alongside this driveway, at the boundary of the site, where the tree is located.
3. The tree is visible from the highway fronting the property, and from the path along the river to the rear boundary of the site, as well as being visible from Wilford Bridge, the greatest visibility is from the riverside path.

DETAILS OF THE PROPOSAL

4. The proposal is for the felling of one Cedar of Lebanon tree.

SITE HISTORY

5. 26/00267/TPO – Cedar of Lebanon - Fell and replant two suitable trees as replacement along the rear boundary; Invalid Application (application form incomplete and location of the tree to be felled not shown on the location plan) – Application Returned 20.03.2026.
6. 15/02264/TPO – Deadwood, lift branches and remove overhanging branch of Cedar; Consent Granted 26.10.2015.
7. There is no other history of tree work applications at this address.

REPRESENTATIONS

Ward Councillors

8. Cllr Phillips Comments: "If the tree is not in danger of falling then it should not be felled. I note the application mentions the tree has not been pruned in 20

years. Pruning the tree with the support and guidance of the RBC landscape officer would preserve this fine tree. Object to the felling of this tree with TPO on it.”

Town/Parish Council

9. West Bridgford do not have a Parish Council, so no Parish Council to consult.

Statutory and Other Consultees

10. The Senior Landscape and Design Officer has commented raising no objection, his full comments are as follows:

The Cedar tree is a large specimen growing within the driveway to the side of the premises. The TPO was made around 30 years ago, so it has had time to mature since the order was made. It has lifted the asphalt surface by at least 20cm close to the buttress roots which has affected the access to the car park, with lesser disruption further from the trunk. It may be possible to resurface around the tree but this would push water towards the building which may create a different set of problems. The roots are growing against the old boundary brick wall which has a slight lean and the odd crack but seems to be structurally sound. I couldn't see any signs of the tree affecting the building but you can trace the roots disrupting the surfacing up to the edge of the building so there will be some interaction and reduction in soil water volume going on, but there are no suggestions in the application that this is causing movement. The canopy overhangs its roof and the 2 nearest parking spaces. The trunk of the tree is 5m from the access ramp and 6m from the building itself.

The tree appears to be largely healthy with a broadly conical canopy shape. The tree has been crown lifted on the eastern side to clear the building. Overall the canopy appears to be in reasonable condition and health although it has a number of competing limbs that have grown out horizontally before growing vertically despite this the unions seem sound. Cedar trees are known for their tendency to shed large limbs in snow or periods of heavy wind and rain. This is a difficult thing to predict although the risk increases as the canopies mature and become increasingly broad spreading. Whether the tree has outgrown its location at this moment in time is not a black and white issue, but I think it is clear that the tree is too close to the property to reach full maturity as it will continue to increase in size, particularly in relation to its branch spread and this will only increase the current perceived nuisance and the future risk of failure. I also think the tree only has limited potential to be pruned as most of the foliage is on the outer edges of the canopy.

In terms of public amenity value the tree is not prominent from Wilford Lane with it being screened from view by the building and more prominent roadside trees on the adjacent site. The tree is more prominent from the paths alongside the river. It is screened from view on the southern bank to the west and is visible for around 50 metre on the southern bank to the east. The tree is visible from the suspension bridge and from the path along the north side of the river for longer distances, albeit as part of a wider view which contains lots of other points of visual interest.

The application proposes planting 2 replacement trees at the northern end of

the car park, these would be Fastigate Beech, so they would be very tall and narrow trees, but given the prominent location close to the end of the suspension bridge, I believe that such trees would create quite a focal point in a more prominent part of the site than the current tree. However, the loss of a mature tree would result in a loss of public amenity value for the first 10 years or so until the replacement trees had chance to establish and grow. If we allowed such an approach I would want to vary, or create a new TPO, to secure the long term retention of these trees.

This is an application I'm torn on, the damage to the drive is fairly substantial but it could be relayed. There is no foreseeable risk of the tree failing due to obvious defects bar the knowledge that this is a perennial risk with Cedars and an unpredictable one. The tree is not prominent from Wilford Lane but is more prominent than I recalled from the riverside and whilst the tree is healthy it will increasingly outgrow its location. I also think the proposed replanting is positive and would have the potential to become prominent trees of character. In such situations we can use our points based assessment to consider whether the tree would still meet the criteria to warrant protection as it was protected over 30 years ago and has grown in this time. Given the risk to the building it does fall below the threshold where we would currently consider it appropriate to make a TPO. Therefore, I think we could justify allowing the work to take place, but as stated above, I think it would be prudent to vary the order to include the 2 proposed replacement trees. If permission is granted we should condition that '2 replacement Fastigate Beech trees, the size to be agreed in writing beforehand, are to be planted in the location shown on the plan entitled 'New Hard Planting Area' the first winter after the felling of the Cedar tree. If the replacement trees die or are removed within 5 years of planting, replacements shall be planted the following winter.' Such a condition would allow us time to vary the TPO to include the new trees and this can ensure their long term retention.

Local Residents and the General Public

11. A site notice was displayed outside the site. Four representations supporting the application have been received. Three of these representations are from people who work at the premises. The comments raised are summarised below, the full details of these public comments are available on the public file:
 - a) The tree is an increasing physical and health hazard in what is a narrow entrance way to the car park, causing issues for cars accessing the site, as well as on the walkway to the office
 - b) The tree roots are breaking up the hard surface of the entrance driveway and car park creating an uneven and hazardous surface, and is raised enough to damage the underside of a car
 - c) The tree is pushing against the adjacent brick wall which is beginning to lean into the neighbouring property. A large crack can be seen at the base
 - d) The tree overhangs the building and branches fall during windy weather Health and safety risk from falling debris, pine cones and branches
 - e) Bird droppings and pine needles cover the entrance way into the offices, creating a slip hazard and hygiene concern. Impossible to keep clear daily
 - f) Waste bins covered in bird droppings, health risk to those opening and closing the bins.

PLANNING POLICY

12. The Development Plan for Rushcliffe consists of The Rushcliffe Local Plan Part 1: Core Strategy (LPP1) and the Local Plan Part 2: Land and Planning Policies (LPP2). Other material considerations include the 2021 National Planning Policy Framework (NPPF), and the National Planning Practice Guidance (the Guidance).
13. Relevant policy within the Local Development Framework is within Policy 37 (Trees and Woodlands) of Local Plan Part 2 (LPP2).
14. Within Policy 37, section 1 is the most relevant as sections 2 and 3 refer to situations of granting planning permission and woodland planting for biodiversity gain which are not relevant in this instance:

“1) Adverse impacts on mature tree(s) must be avoided, mitigated or, if removal of the tree(s) is justified, it should be replaced. Any replacement must follow the principle of the ‘right tree in the right place’.”
15. The full text of the Council’s policies are available on the Council’s website at: [Rushcliffe - Planning Policy](#).

Relevant National Planning Policies and Guidance

16. There are no sections of the NPPF which specifically refer to protected trees, however paragraph 136 briefly mentions that planning decisions should:
17. “secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.”

Full details of the NPPF can be found [here](#).

18. Central Government has published separate guidance to local authorities on tree protection [here](#) the key points of which can be summarised as:
 - assess the amenity value of the tree and the likely impact of the proposal on the amenity of the area;
 - consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it;
 - consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions;
 - consider whether any requirements apply in regard to protected species;
 - consider other material considerations, including development plan policies where relevant; and to ensure that appropriate expertise informs its decision.

Full details of this legislation can be found [here](#)

19. Legislation sets out circumstances where applicants may seek compensation for “loss or damage” which arises as a result of a local authority refusing consent for works to trees where the damage occurs and claim is made within 12 months of a decision being issued under section 203 of the Town and Country Planning Act 1990:

A tree preservation order may make provision for the payment by the local planning authority, subject to such exceptions and conditions as may be specified in the order, of compensation in respect of loss or damage caused or incurred in consequence:

- a) of the refusal of any consent required under the order, or*
- b) of the grant of any such consent subject to conditions.*

APPRAISAL

20. Not all species of tree are best suited to urban environments. Cedars have a tendency to shed limbs as they age and they do so unpredictably. As such they are not ideal in areas where failure may impact upon the public, or publicly accessible spaces and roads. As such in this instance a cedar tree in this location does not represent the ‘right tree in the right place’ as advocated in Policy 37 of LPP2. Public comments do acknowledge that the tree has shed branches in the past, which is unsurprising given its species.
21. There is evidence of tree root damage to the surfacing of the access road to the car-park, and in places this is significant with uplifts of around 4 inches (100mm). Some public commenters have also indicated anecdotal cases of vehicle damage arising from this disrupted surface.
22. The disruption of surfacing extends right up to the adjacent commercial building, and whilst there is no current sign of damage to building fabric this is a potential issue as the tree continues to grow. The canopy of the tree already overhangs the building and it is often a rule of thumb that a tree’s root protection area will not be smaller than its canopy.
23. As the tree overhangs the building, the access road and two parking spaces, the tendency of cedar trees to shed branches does represent a potential risk to property (both cars and buildings) and human health and safety (should anyone happen to be passing under the tree on the access road when a limb falls). Whilst the likelihood of a branch fall occurring whilst someone is passing beneath is small, such incidents are unpredictable and cannot be ruled out.
24. The tree is also adjacent to a boundary wall and again there is evidence that roots extend to this wall. There are signs of a slight lean and some cracking but not to the point that there is an immediate structural concern. However, as stated above the tree is still growing and any impact on this wall will likely only get more substantial over time.
25. In terms of amenity value, the tree is visible, but not particularly prominent, from the roadside, screened by other trees to one side and the adjacent building to the other such that visibility is limited to directly along the access and the upper canopy over the roof of the building. There are more vantage

points on the Suspension Bridge and the riverside path (both sides) from which the tree is more visible, but again not highly prominent as an individual tree, instead forming part of a general level of tree cover along this section of the riverside.

26. The tree is in good health, but the issue with cedar trees dropping limbs is not associated with poor health so this doesn't reduce the likelihood of branch loss. Given its position, regardless of whether it is believed to have already outgrown its position, it is only a matter of time until it does, with the added potential of damage to neighbouring structures, vehicles, or people.
27. Public comments raise a number of points around bird droppings, however these are unlikely to be compelling reasons to fell a tree.
28. The Council should be mindful there are limited circumstances where the Council could be liable to pay compensation after refusing a TPO application. A claim for damages needs to be over £500, made within 12 months of the Council's decision or appeal decision. However, the authority's liability is limited. In such cases, compensation is not payable for any:

loss or damage which was:

- Reasonably foreseeable by that person; and
 - Attributable to that person's failure to take reasonable steps to avert the loss or damage or mitigate its extent;
 - loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
 - Loss of development value or other diminution in the value of land; and/or
 - Costs incurred in making an appeal to the Secretary of State against the refusal of any consent or the grant of consent subject to conditions.
29. As the tree overhangs the only access to the car park it is not clear how a staff member or visitor could be expected to have an awareness of the risk of falling limbs in order to reasonably foresee risk or take any steps to avoid harm. The access is so narrow that it would not be possible to access the car park without passing directly under the canopy of the tree and no sensible degree of crown reduction could address this.
 30. The Senior Design and Landscape Officer in his comments, highlights that this is a finely balanced application, and in an effort to explore the issues from all angles, he has considered whether this tree would meet the criteria for protection via a new TPO today if it were not already protected, given that the current TPO was made 30 years ago and the tree has grown significantly since then. In his expert opinion he is not convinced that the tree would be a candidate for protection via TPO today and has completed an assessment matrix, again included on the application file and presented as a slide in the presentation.
 31. The modest amenity value of the tree, together with its inability to grow to full maturity in this location alongside the potential risk to buildings, vehicles and people and the fact that the tree would be unlikely to be protected today if it were not already, is weighed against the fact that the tree is healthy, could be

retained at least in the short term and does make some positive contribution to amenity. Some weight is also given to the ability to secure two new trees as part of this application, which could then be protected. Taking these matters into account the recommendation on balance is to allow the felling subject to the proposed planting of two trees in replacement which would be more suited to their location and make a greater contribution, once established, to public amity along the riverside.

32. As such, subject to a condition securing replacement planting of two trees, it is considered reasonable and appropriate, on balance of the above considerations and factors, to allow the felling of the tree.
33. The replacement planting would ensure that the contribution of trees to public amenity, particularly along the riverside, is maintained and the choice of replacement (Fastigate Beech) is more appropriate to a suburban environment being more narrow and vertical, and having less of a tendency to shed limbs.

RECOMMENDATION

It is RECOMMENDED that consent be granted subject to the following condition(s)

- 1. The works must be completed no later than the expiration of two years beginning with the date of this consent.**

[To ensure that the work is completed before the tree(s) has significantly altered in size, appearance and condition].

- 2. Two replacement Fastigate Beech trees shall be planted in place of the Cedar of Lebanon in the location indicated on the approved "New Hard Planting Area" plan, during the first planting season after the felling of said tree. Prior to the felling of the Cedar details of the size of the replacement trees shall be submitted to, and approved in writing by, the Borough Council, and replacement planting shall then be carried out in accordance with those approved details. If the replacement trees die or are removed within 5 years of planting, replacements shall be planted during the following planting season.**

[In the interests of amenity and to comply with policy 37 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019)].