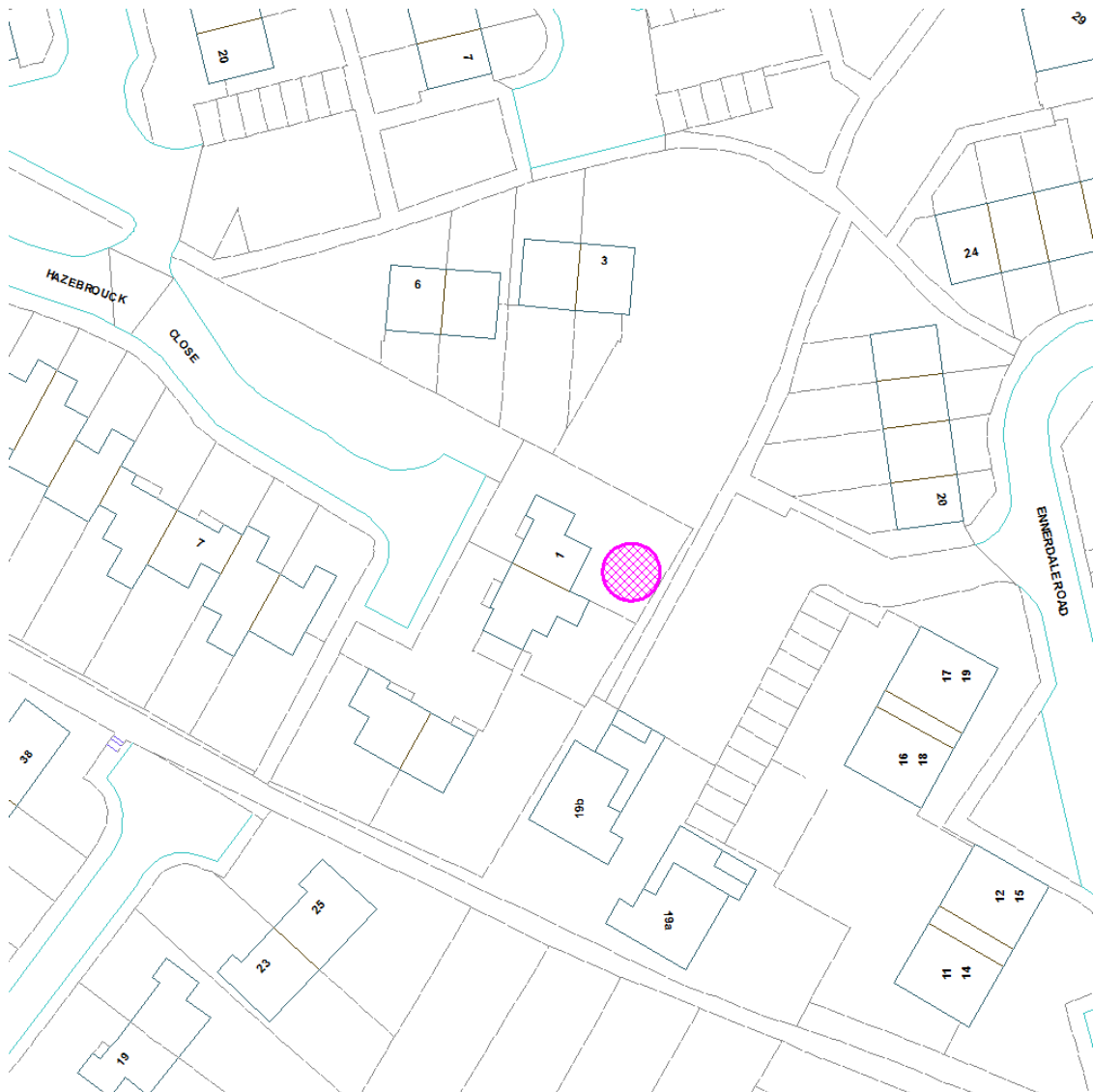


<b>APPLICATION NO:</b> 17/02251/TPO	<b>OFFICER:</b> Miss Ann Holdstock
<b>DATE REGISTERED:</b> 17th November 2017	<b>DATE OF EXPIRY:</b> 12th January 2018
<b>WARD:</b> Up Hatherley	<b>PARISH:</b> Up Hatherley
<b>APPLICANT:</b>	Mr & Mrs M Ling
<b>AGENT:</b>	Hampshire Planning Ltd
<b>LOCATION:</b>	1 Hazebrouck Close, Cheltenham
<b>PROPOSAL:</b>	Oak Tree in rear garden - fell

**RECOMMENDATION:** Permit application to fell



## 1. DESCRIPTION OF SITE AND PROPOSAL

- 1.1 This is a 15m high and 12-15m broad, native oak tree in good structural and biological condition. It has a future life span of several decades and could grow a further 25-30%. It is located in a domestic rear garden in the suburb of Hatherley and is flanked by a mature London Plane under the management of Cheltenham Borough Homes. There is a TPO protected Yew tree within the same rear garden. The proposal is to completely remove this oak tree.
- 1.2 The application is at Planning Committee at the request of Councillor Whyborn.

## 2. CONSTRAINTS AND RELEVANT PLANNING HISTORY

### Constraints:

Tree Preservation Order 28, made October 1977 and confirmed December 1977.

### Relevant Planning History:

**02/00143/TPO 28th March 2002 REF**

Fell Oak tree in rear garden

The appeal against this decision was dismissed; Reference NO. SW/THM//8147/394

**06/00373/TPO 17th May 2006 PER**

Crown thin oak by 30% remove lowest three branches from yew

## 3. POLICIES AND GUIDANCE

Cheltenham Borough Council Local Plan 2006:

Policy GE5 – The Borough Council will resist the unnecessary felling of trees on private land.

## 4. CONSULTATIONS

### Cheltenham Tree Group

*7<sup>th</sup> January 2018*

I visited the house on Saturday [yesterday, 6th] at 12:30 and was kindly invited in by the female owner. The visit lasted 10 minutes as it was unannounced and I did leave a Tree Group 'business' card with the owner and explained what we do.

1. It is a beautiful Oak, mature with a diameter of, I am guessing, nearly a metre. It visually looks in good order, with a balance on the boughs and no obvious signs of previous 'maintenance'

2. It is clearly in the wrong place for the house. The height and spread - whilst viewed in Winter, I could imagine the tree in full leaf and the affect on light etc. to surrounding houses - mean that the trunk cannot be more than seven or eight metres if that from the house. So, when the house was originally built, I understand from the owner that building regs allowed such a proximity

3. Clearly too there is strong feeling from the owner and neighbours: there is no obvious grass nor other planting in the garden, which has some decking but little

else. I can imagine that light for other plants typically found in urban gardens would struggle, especially grass, but then again, there was no obvious evidence of attempts having been made. I was told that boughs have also fallen in the past

4. Comment was made as to structural damage to the house, or the potential for, by the owner and so it would be helpful to understand whether this tree is the cause through a structural report. There is another fir on the fence boundary for the garden that looks to have been pruned regularly, so this tree may also have an impact

Overall, it would seem that the options would be:

a] As stated, no obvious, extensive pruning has been undertaken to the canopy and this would be my first thought, given that it is an oak and was in place before the house was built. I want to make clear though that the strength of feeling of the owner needs to be taken into account and equally, whilst they knew that the tree was there when the house was bought, they did not plant it. The surrounding environment of course would need to be taken into account, as this area has some large trees that may still restrict light etc. but it is generally open and limited in trees

b] Complete removal [I struggle to see how the roots could be removed, so this would mean cutting to ground level - thus still restricting garden use but ensuring light etc.]. I would see that this COULD set an unwelcome precedent - as stated, no obvious pruning has been undertaken to the canopy in the first instance

This is not an easy case, as the tree is fantastic.

## 5. PUBLICITY AND REPRESENTATIONS

Number of letters sent	<b>12</b>
Total comments received	<b>7</b>
Number of objections	<b>0</b>
Number of supporting	<b>7</b>
General comment	<b>NB:</b> 5 of the 7 letters of support received were from the applicant's relatives

**5.1** 12 Letters of consultation were sent to adjacent neighbours and two site notices were erected.

### **5.2 Comments Received**

The applicant has engaged tree consultant Jim Unwin to support the application. His report is attached (Appendix A). A synopsis of his arguments in support of removal are:

1. Tree dominates the garden by its overbearing nature and shade cast on the rear of the house and garden.
2. The tree has taken the outdoor amenity of the garden which will increase as the tree continues to grow.
3. A lesser concern is the proximity of the tree to the rear of number 1 on shrinkable subsoil.
4. Effective pruning options will reduce the amenity of the tree.
5. Removal of the tree would not denude local tree cover, because other adjacent trees would be retained.

6. A replacement tree of appropriate species could be planted.

## **6. OFFICER COMMENTS**

### **6.1 Determining Issues**

This is a large but not fully grown tree in a domestic suburban garden. The tree overwhelms the garden, there is no solution to the tree's overbearing nature on the property without removal of the majority of the tree's amenity. The overbearing nature of this tree will increase if left unpruned.

The tree is 60-80 years old. When the current owner bought the property the tree would not have been significantly smaller or less oppressive.

A previous application to remove the tree was made in 2002 (02/00143/TPO) this was refused and a subsequent appeal was dismissed. The arguments within the owner's consultant's report do not vary significantly from this current application. The appeal inspector stated that "the appeal tree forms a significant feature in the locality and the Secretary of State considers therefore that it has an important amenity value. In the Secretary of State's opinion the proposed felling should not be permitted unless there are clear and convincing reasons to do so". The tree would unlikely have grown by more than 1-1.5m in the subsequent 15 years.

### **6.2 The site and its context**

The rear garden of this property does not appear well used. It is not easy to quantify the overbearing nature of the tree. The tree will cast much shade and extract much water from the soil making the cultivation of usual domestic plants all but impossible. The tree will deposit many leaves, twigs, flowers and fruit throughout the year.

There are several adjacent and nearby large trees within this neighbourhood.

### **6.3 Design and layout**

The tree is east-southeast of the property and as such will cast shade for the morning till afternoon, later in the afternoon the sun will go behind the house and so it is the house which casts shade.

### **6.4 Impact on neighbouring property**

Reference has been made to the shrinkable nature of the soil adjacent. Professional consideration of the potential for heave of this semi-detached property must be made prior to the removal of this tree.

Whilst many neighbours view this large tree, this Council has received no objection to the proposed removal.

### **6.5 Sustainability**

Should this application be refused it would seem unreasonable to refuse moderate proposals to prune the tree away from the property. Heavy and repeated pruning would be required to substantially improve light levels to the garden and rear of the property. This may detract from the tree's visual amenity.

## **6.6 Other considerations**

Owners have reported squirrels are using the tree to access the roof and are eating the soffit which has to be replaced.

## **7. CONCLUSION AND RECOMMENDATION**

**7.1** Trees Officers consider this to be a fine tree in good condition with a long future life expectancy. It is considered to be growing in the wrong place and causing an unreasonable degree of perceived nuisance which could not be alleviated through pruning without significant reduction of the trees visual amenity. These arguments were rehearsed in 2002 with a previous application to fell. Since then the tree has continued to grow if the tree had been removed and replaced with a more appropriate species in 2002 the replacement tree would already be substantial enough to be making significant visual amenity to the area.

Trees Officers consider that the best long-term plan is to remove and replace this tree with an appropriate species such as pear, apple, cherry, hawthorn etc. Officers consider that whilst such species do not equate to the majesty of a mature oak such smaller species would be more appropriate for such a domestic setting.

## **8. CONDITIONS**

**8.1** Replacement tree is planted in the current growing season.

## **9. Informatives**

**9.1** An appropriate heave assessment to the property should be undertaken prior to the removal of the tree.