



# Planning Access and Rights of Way Committee

## Development Control Related Matter for Noting Tree Preservation Order

Location of Tree: Adjacent to Glynrhedyn, Llanwenarth Citra, Crickhowell, NP8 1EP

Officer: Mike Higgins

Title: Tree Officer

Date: 15th August 2019

### **Background**

It was identified that a Cedar tree along the A40 was under threat and worthy of a Tree Protection Order. The Authority's previous Tree Officer, Bettina Broadway Mann undertook a site visit and completed an assessment on the tree.

A Tree Preservation Order was issued on the 4<sup>th</sup> April 2019 to protect the Cedar tree under reference TPO 36, 2019. An objection letter was received on the 25<sup>th</sup> April from the neighbouring landowner – owner of Glynrhedyn.

His objections included:

1. He claimed that the majority of the weight of the tree is South facing and overhangs the A40. This may prove dangerous if the tree was to fall or lose a limb.
2. The tree roots are claimed to be destroying his boundary wall and the pavement surface.
3. It is claimed that 'Highway Rights' are in force on the unregistered land the tree sits on. He has argued that this TPO cannot be applied without the removal of these rights.

A second site visit has been carried out by the current Tree Officer to assess these claims and the tree. The conclusions are:

4. Point 1 - Majority of the weight of the tree is South facing and overhangs the A40. This may prove dangerous if the tree was to fall or lose a limb
  - In relation to the lean of the tree no major problem was observed.
  - The tree is a good example of a large Cedar Lebanon, which may only be half way through its expected life span. It is an important feature in the street scene along a major road through the National Park.
  - The implementation of a TPO would not prevent good arboricultural management of the tree in the future; should any limbs be deemed as a possible nuisance to the adjacent highway that require reducing or pruning.

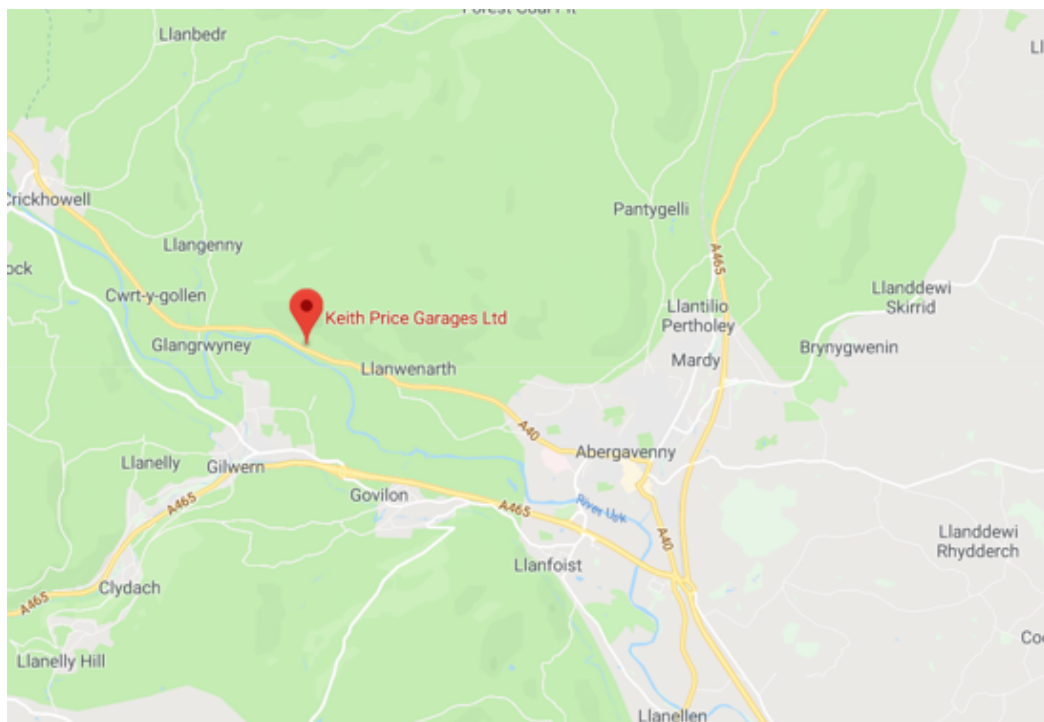
Point 2 - The tree roots are claimed to be destroying his boundary wall and the pavement surface

- Where damage (legal nuisance) is considered an issue; it is advised that legal advice is obtained
- This matter would not be a planning consideration; other than to consider mitigating works under a TPO application, should it be required.
- A TPO does not prevent works being carried out in accordance with Health and Safety; as such once an issue has been adequately identified (through assessment by a tree professional/ structural engineer), suitable measures can be taken.
- In deciding whether trees have become dangerous the Courts adopt the sensible approach of a prudent citizen; there must be a present danger which need not be limited to disease or damage to the trees themselves.
- As such; if the pathway becomes damaged in the future the relevant authority can be contacted, and if a report by a tree professional or engineer/surveyor identifies the tree as an issue, this can be dealt with accordingly.
- It would not be reasonable to remove the tree if such damage is far off, remote and not immediate.

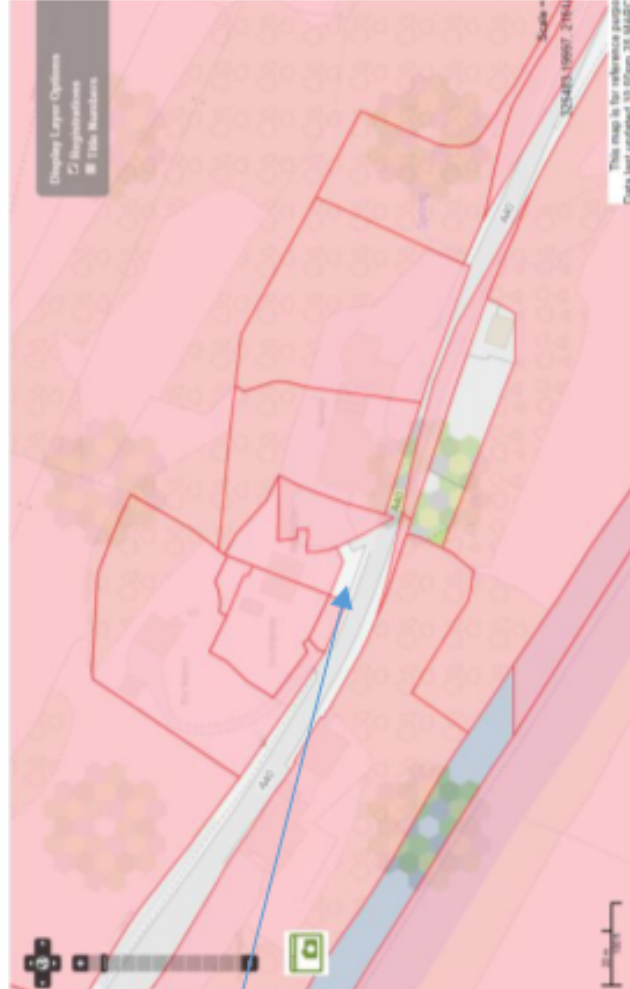
Point 3 - It is claimed that 'Highway Rights' are in force on the unregistered land the tree sits on. He has argued that this TPO cannot be applied without the removal of these rights.

- With regard to the 'Highway Rights' the small parcel of land the tree sits within is indeed unregistered. The Welsh Assembly Government – Trunk Rd Agency - were sent a copy of the TPO – as the relevant body responsible for trunk roads, and no response has been received.
- No clear damage to the wall was observed at the site visit. The owner of Glynrhedyn seems to have extended his garden by enclosing this unregistered land within his boundary – see picture below and Land registry map.

## Site Location Plan



## Land Registry Map



Unregistered  
land/Location of the  
Cedar Tree

## Location of Cedar Tree



### **Recommendation**

The second assessment of the tree confirms that this Cedar tree merits a Tree Preservation Order through assessment under the TEMPO (Tree Evaluation Method for Preservation Orders) criteria. The Tree Officer is satisfied that the claims made in the objection letter would not be sufficient to prevent the confirmation of the Tree Preservation Order at this time; therefore no changes are to be made to the order issued on the 4<sup>th</sup> April 2019 and it is asked that committee approve confirmation.

It may be worth noting that following service of a TPO the Authority has 6 months in which to confirm it. The tree is protected until the 6 months expire. In this instance the expiry of 6 months falls on 4<sup>th</sup> October 2019.

Members are requested to note the above report