

**SHREWSBURY TOWN COUNCIL
RECREATION & LEISURE COMMITTEE
4 MAY 2022**

Officer: Helen Ball (Town Clerk)

REQUEST TO FELL A TREE

PURPOSE OF THE REPORT

To appraise the committee on the continuing request to fell a group of 3 Sycamore Trees on the open space between the River Severn and Victoria Street.

BACKGROUND

Members of the Committee considered a request from the resident of 9 Victoria Street to fell the Sycamores and replace with fruit trees, citing the following reasons:

- Both husband and neighbour suffer lung issues
- Trees create dust
- Seeds and leaves contain HGA a poison to pets and humans and is potentially injurious to the pet tortoise who roams the garden
- Grass is damp and dying
- There is no sunshine to the garden
- There is poor airflow to the house

TREE REPORT

The Council commissioned an independent tree survey to assess the health of the trees; this report is appended to this report.

The Report is summarised as follows:

Environment: The trees are situated in an area of open space between the River Severn and Victoria Street / The Dana in Shrewsbury. The land slopes down from Victoria Street and has been terraced with dwellings at the top of the bank and their garden below.

General Description: G1 is comprised 3 trees that form an aerodynamic and visual group. This group is in a prominent location and is protected by the Shrewsbury Conservation Area.

Structural Condition:

Structural Root System & Root Buttress:

Examined visually no significant defects noted. A small clump of fruit bodies that appeared to be honey fungus (*Armillaria sp.*) were noted close to the base of the eastern most tree, but there was no indication that the tree was infected with this fungus at this time and it

Main Stem

Examined visually. The stem height – diameter ratios of all trees is well within acceptable limits for an open grown trees and there were no indications of significant defects or decay. Ivy on the trees did hinder inspection slightly.

Crown Structure

Minor deadwood and some past branch failure of small branches.

Foliage

Size, density and colour were all normal. Minor tar spot and some mould associated with honey dew from the tree.

Health & Vitality:

No indication of any significant pests or diseases, vitality normal.

Amenity Value and Residential Impact:

The group of trees is in a prominent position close to the river and has a high public amenity value.

Concerns have been raised by the owners of the adjacent house that the trees impact on their residential amenity and reasonable enjoyment of the property. These concerns centre around worries that the trees may fail, impact of shade on the house and garden and impacts on health of the occupants from mould spores associated with the tree, encroachment over the lower part of the garden and leaf litter

The trees have been inspected and there is no indication that they are at an increased risk of failure or that they pose an unacceptable risk to people or property.

The trees are to the south of the property and will cast some shade during the middle of the day however, sunlight would reach the property in the mornings and later in the afternoon. The trees are approximately 12 metres from the house (measured to the centre of the trunk) and are on land that is significantly lower than the house and garden. This reduces the impact of shade on the house and garden.

Building Research Establishment guide to good practice (BR209) Site Layout Planning for Daylight and Sunlight advises that, in order to appear reasonably sunlit a dwelling should have at least one main window wall that faces within 90° of due south and that on this wall, all points on a line 2m above ground level are within 4m of a point which receives at least a quarter of the annual probable sunlight hours. The guide also advises that for gardens to appear adequately sunlit, no more than two-fifths and preferably no more than a quarter should be prevented from receiving any sunlight on 21st March. In this case, although no formal assessment has been undertaken, it is very likely that the level of sunlight and daylight at the property would exceed these minimum requirements.

Encroachment by the crown over the lower part of the garden does affect a small part of the garden to some degree.

Leaf litter is common to all trees and whilst clearing it is inconvenient it is not usually considered reason to remove trees.

I am not in a position to comment on the health issues, other than to note that the complaints arise from issues that are common to many trees and are not specific to this species.

Conclusions and Recommendations:

There are no reasonable arboricultural grounds for undertaking any work to these trees other than to remove the ivy from the stem and to periodically re-inspect them. Minor crown reduction may help alleviate some of the issues with encroachment over the garden and leaf fall.

During the meeting the local ward member expressed his objection to the removal of the trees citing the considerable amenity value to the public. Officers were also not supportive of the removal of the trees making reference to the Council's Tree Management Policy which only allows for removal of trees on health and safety grounds

Committee duly agreed to defer a decision pending definitive medical advice citing this group of Sycamores as the key factor in the applicant's health issues.

MEDICAL REPORT

The applicant forwarded a letter from the family GP confirming the applicant had a lung condition and that "lung conditions can be worsened by the exposure to mildew and mold". The applicant further submitted a screen shot from her phone asking Google how far from a house should a sycamore be planted with the answer being 17m. The applicant advised that the tree was only 4m from their building.

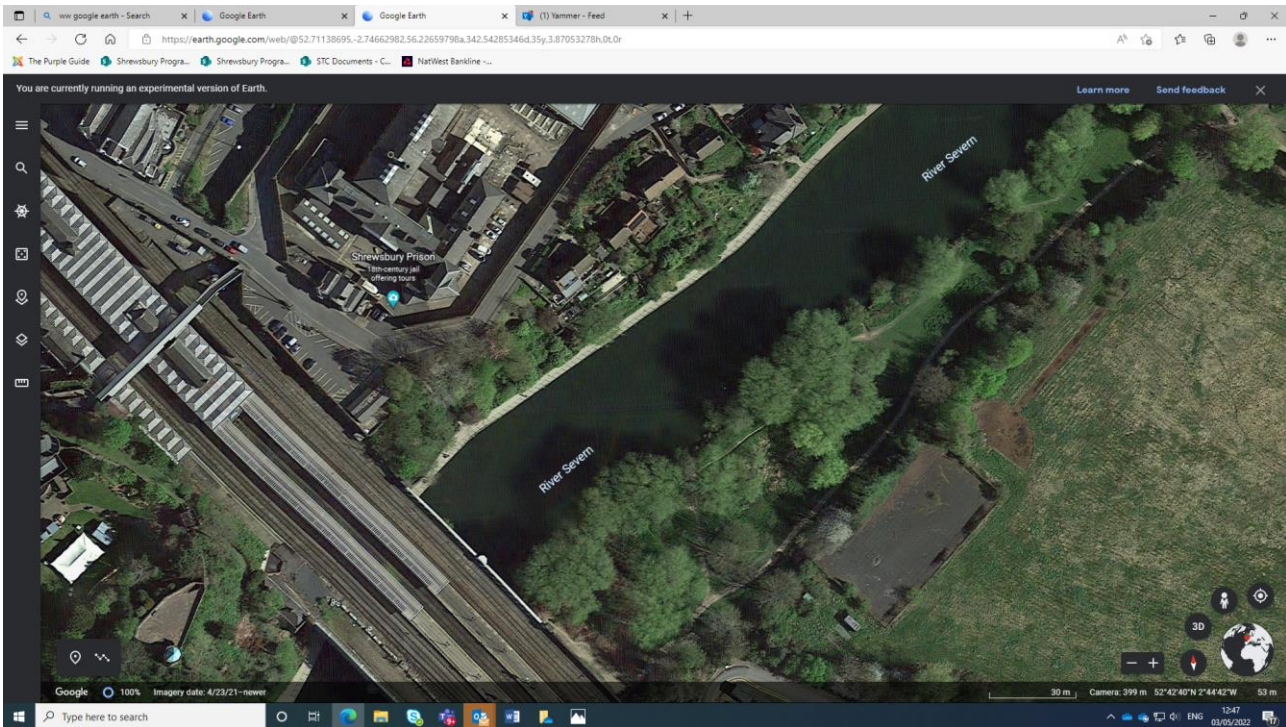
LOCATION OF THE TREES

As the Independent Report shows the trees are situated in the lower level of the Dana Garden some 12 metres from the house. The trees whilst mature are much lower than the house and as such do accord with the BR209 guidance.

As can be seen by the photo (taken 03.05.2022) the applicant continues to encroach on Town Council land despite letters being sent to them.



The area is well covered by trees in the area, many of which are capable of hosting honey fungus. It is therefore doubtful that this group of trees is the sole contributory factor to any health issues.



LEGAL PRECEDENCE

Without any definitive medical advice to categorically link the tree with the applicant's health condition, reference has been made to Case Law.

R (on the application of Anne) v Test Valley BC 16.11.01

Novelist David Anne took Test Valley BC to the High Court claiming their unreasonableness in refusing to condemn a 120 year old lime tree as a statutory nuisance and serve notice requiring it to be felled. He claimed that expert evidence backed his claim that over many years the tree protected by a Tree Preservation Order had posed a health risk by depositing "tones" of treacle-like honeydew on the thatch at his cottage, causing severe allergy problems to him and his wife. Mr Justice Forbes ruled that Test Valley BC had not acted unreasonably or irrationally when refusing to condemn the tree as a statutory nuisance and there wasn't sufficient medical evidence to show that the allergy symptoms suffered by the Annes were directly attributable to that tree.

FACTORS TO CONSIDER

- The Council operates a Tree Management Policy that will only allow for felling of trees in exceptional circumstances
- The Independent Tree Officers has not made recommendations for felling

- The tree sites in the Shrewsbury Conservation Area and will require consent to fell. Given the Tree Officer has stressed the amenity value of the tree, there is a likelihood that the group of trees will have a Tree Preservation Order attached to them
- There is no definitive evidence to suggest that this group of trees are directly attributable to the applicants medical conditions
- The planting of replacements in the form of fruit trees will never have the same carbon sequestration effect of these trees
- There is established Case Law relating to this case.

RECOMMENDATIONS

That the request for the trees to be felled be refused.