



DEVELOPMENT CONTROL COMMITTEE: –

9 October 2007

REPORT OF HEAD OF REGENERATION - DELIVERY AND DEVELOPMENT

APPLICATION TO FELL PROTECTED TREES IN THE HAWTHORNS, CARTBRIDGE LANE, WALSALL, WS4 1SB.

1. PURPOSE OF REPORT

To seek the determination of the application to fell trees contained in application 07/1736/TR/T1 protected by Tree Preservation Order 6 of 1974 and 25 of 2007. This application has been brought to Development Control Committee because there is significant public interest and the timescales of the application requires it to be dealt with within this Development Control Committee cycle.

2. RECOMMENDATIONS

The Committee is recommended to:

- To refuse permission to remove sixteen trees comprising of six Beech trees, three Sycamores and seven Poplars.
- To refuse pruning works to two Poplars, one Horse Chestnut, one Beech and one Pine.
- To grant consent to prune one Red Chestnut and remove eleven trees comprising of two Beech, two Horse Chestnuts, two Pears, one Thorn and four Poplars.

3. FINANCIAL IMPLICATIONS

The applicants have hinted in their application that failure by the Council to allow felling may result in a claim for damages for financial loss resulting from the continued presence of the trees. However, the Council does not believe that sufficient information has been submitted by the applicant to conclusively prove the case for removal of the trees.

Should such evidence be submitted in the future the Council will reassess the application.

4. **POLICY IMPLICATIONS**

Policy ENV18 of the Council's UDP (Existing Woodlands, Trees and Hedgerows) commits the Council to ensuring the protection, positive management and enhancement of existing trees and to resisting development where it would damage or destroy trees protected by a Tree Preservation Order. In cases where development is permitted involving the loss of trees, developers are required to minimise the loss and to provide appropriate planting of commensurate value.

5. **LEGAL IMPLICATIONS**

Failure to comply with a Tree Preservation Order renders anyone carrying out unauthorised works to trees liable to criminal proceedings.

6. **EQUAL OPPORTUNITY IMPLICATIONS**

None arising from this report.

7. **ENVIRONMENTAL IMPACT**

The management of Walsall's tree cover through the administration of the Tree Preservation Order system has positive implications in protecting trees for their visual and environmental benefits. Removal of protected trees is often necessary because trees have a finite lifespan and may also cause nuisance or damage. In these instances the Council has to decide whether the removal of protected trees is justified. In the event that felling a tree is permitted, the Council can secure replacement planting to maintain tree cover.

8. **WARD(S) AFFECTED**

This application relates to the Rushall ward.

9. **CONSULTEES**

Owners and near neighbours were consulted on this application.

10. **CONTACT OFFICER**

Andrew Cook - Extension: 2447

11. **BACKGROUND PAPERS**

File reference 07/1736/TR/T1

Steve Lewis,
HEAD OF REGENERATION DELIVERY AND DEVELOPMENT

DEVELOPMENT CONTROL COMMITTEE: –

9 October 2007

APPLICATION TO FELL PROTECTED TREES IN THE HAWTHORNS, CARTBRIDGE LANE, WALSALL, WS4 1SB.

REPORT DETAIL

Application number: 07/1736/TR/T1

Applicant: Mr. A. Smith, 3, Blackberry Way, Stafford

Date received: 7 August 2007

Expiry date: 2 October 2007

Reason for bringing to committee: Community interest in application.

Application and Site Details

This is an application to fell a total of 27 trees comprising of eight Beech trees, two Horse Chestnuts, eleven Poplars, two Pears, one Hawthorn and three Sycamores, the application also proposes to undertake pruning works to two Poplars, one Horse Chestnut, one Beech, one Pine and one Red Chestnut, all the trees are within the curtilage of 'The Hawthorns', Cartbridge lane.

All of the trees which are the subject of this application have been tagged and the agent has submitted a tree condition survey which includes a table detailing the recommended works required to the trees, a copy of which is appended to this report.

Policy Guidelines

National guidance relating to trees in Tree Preservation Orders and Conservation Areas is found in 'Tree Preservation Orders. A guide to the law and good practice' March 2000

Adopted UDP: Policy ENV19: Existing woodlands, trees and hedgerows, states:

- (a) 'The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows'.

Relevant Planning History

Previously: None

Representations

Five representations were received in objection to the application. Responses were received from numbers 2B, 3 and 4, Cartbridge Lane and 188 and 190, Lichfield Road. Details of these responses are described below.

A response from the owner/ occupier of 2B, Cartbridge Lane states that they object to the intended pruning works and tree removal because it will result in a loss of privacy and a destruction of wildlife habitat; they also state that the trees contribute greatly to the local landscape and their removal would have a detrimental effect on the environment.

A response from the owner/ occupier of 3, Cartbridge Lane states that the outlook enjoyed from their property would be lost and that the land would subsequently be the subject of a planning application for housing development.

A response from the owner/ occupier of 4, Cartbridge Lane states that the area is green belt and Walsall Council has a duty to prevent the removal of the trees, however, green belt does not afford trees individual protection. The response also states that the proposed tree works will destroy wildlife habitats and that the removal of the trees is a precursor to residential development.

A response from the owner/ occupier of 188, Lichfield Road states that the removal of the trees is not justifiable as they are mature specimens which are proposed for removal solely for the reason of accommodating future residential development of the site.

A response from the owner/ occupier of 190, Lichfield Road states that they object to the removal of the trees unless it is absolutely necessary to make it safe and then only on the proviso that a replacement tree is planted.

The Council understands the significance of these trees and their value to the local landscape and community. Their loss will only be permitted if it is proven that the trees should be removed for health and safety reasons due to their poor physiological and / or structural condition or causing or likely to cause unacceptable nuisance or damage.

In accordance with section 206 of The Town and Country Planning Act 1990 any trees that are removed as a result of this application would be subject to a requirement for replacement planting within twelve months of their removal.

Determining Issues

The Council has to determine if the tree work recommendations contained within the condition report submitted with the application are appropriate.

Observations

Mature Poplar tree (tag no.455) has extensive decay at the base; to facilitate its removal two Beech trees (tag nos. 453 and 454) and one Horse Chestnut (tag. No. 452) would also need to be felled, regrettably this is unavoidable due to their close proximity, however, they are of poor form and the Poplar tree is of a poor structural condition and in close proximity to the neighbouring property.

Poplar tree (tag no.485) on the Northern Boundary has significant decay at the base and is within falling distance of the property.

Hawthorn (tag. no.489) contorted and suppressed by adjacent Poplar trees, not a significant tree and not visible to surrounding properties.

Horse Chestnut (tag no.464) is of poor form and has significant decay at the base.

Two Pear trees (tag nos.467 and 471) have crown dieback and bark damage to the main stem; they are not significant trees and are not highly visible from surrounding properties.

Two Poplar trees (tag nos.473 and 474) one has fallen over into the other which is also leaning significantly towards the centre of the site.

One Red Chestnut (tag no.487) situated at the Northern end of the property overhangs the roof and in some areas is touching, to prevent direct damage it would be acceptable to reduce the branches to give 2.0m clearance from the property.

The proposal to crown raise the Horse Chestnut (tag no.461) the Beech (tag no.463) and the Pine (tag no.483) is in the opinion of the Council unnecessary work and of no benefit to the trees.

Beech trees (tag nos.447, 448, 451, 456, 457 and 458) are proposed for removal in the tree condition survey based on the fact they lean and have poor crown formation, however, this does not justify their removal, they form part of the screen along the Southern boundary of the site and as a group they have good amenity value.

Two Poplar trees (tag nos.468 and 469) situated adjacent the boundary with 'Moorfield' bungalow have been heavily reduced in the past and have been highlighted for removal in the survey, however, the trees are not in poor condition and it would be acceptable as a form of management to reduce them again in the future as opposed to removing them.

Sycamore tree (tag no.475) is suppressed, however, if the removal of nearby trees as detailed in this application is undertaken it will give the Sycamore the opportunity to become established.

Two Poplars (tag nos.477 and 478) situated towards the Western end of the site, it is proposed to reduce or fell these trees due to poor crown development, however, the trees appear to be in good condition and this alone is not enough to justify their removal.

Five mature Poplar trees (tag nos.486, 488, 490, 492 and 502) are also proposed for removal due to their proximity to the property and the boundaries, however, this is not enough to justify their removal at this time as the trees appear to be in fair to good condition.

Two Sycamore trees (tag nos. 494 and 495) situated on the North Eastern boundary, it is also proposed to remove these trees, however, they appear to be in good condition and form part of a larger group of Sycamores which form an effective screen which has good amenity value.

The condition report has correctly identified that some of the trees are in a poor condition and their removal would be acceptable for health and safety reasons.

Recommendation

The Committee is recommended to part approve and part refuse the application.

Conditions and Reasons (or reasons for refusal)

Walsall Council as Local Planning Authority hereby **refuses** consent for the following works as shown in this application;

- To remove Beech (tag no.447), Beech (tag no.448), Beech (tag no.451), Beech (tag no.456), Beech (tag no.457), Beech (tag no.458), Sycamore (tag no.475), Poplar (tag no.486), Poplar (tag no.488), Poplar (tag no.490), Poplar (tag no.492), Sycamore (tag no.494), Sycamore (tag no.495), Poplar (tag no.502), Poplar (tag no.468), Poplar (tag no.469), Poplar (tag no.477) and Poplar (tag no.488).
- To crown raise Horse Chestnut (tag no.461), Beech (tag no.463) and Pine (tag no.483).
- To reduce Poplar (tag no.477) and Poplar (tag no.488).

For the following reasons;

- The Council considers the trees to be of high amenity value either as individuals or as part of a group; they form a prominent landscape feature in the local area and are an important contribution to the landscape quality.
- The pruning works are unnecessary and of little or no benefit to the trees.
- The trees are currently not showing any signs disease or decay.

Walsall Council as Local Planning Authority hereby **grants** consent for the following works as shown in this application;

- To remove Horse Chestnut (tag no.452), Beech (tag no.453), Beech (tag no.454), Poplar (tag no.455), Horse Chestnut (tag no.464), Pear (tag no.467), Pear (tag no.471), Poplar (tag no.473), Poplar (tag no.474), Poplar (tag no.485) and Hawthorn (tag no.489).
- To reduce the branches encroaching onto the property from the Red Chestnut (tag no.487) to give 2.0m clearance.

Subject to the following conditions;

All tree surgery shall be carried out by a contractor approved by the Head of Regeneration Delivery and Development, Planning Services, or a person who is appropriately insured and competent in such operations.

Reason: To ensure a satisfactory standard of work.

All surgery shall be completed in accordance with British Standard B.S. 3998.

Reason: To protect the health and appearance of the tree(s) in the interest of maintaining the amenity of the area.

The date of felling shall be notified to the Local Planning Authority within one week of felling. The tree felled shall be replaced within 12 months of notification with a new tree of a size, species and location agreed in writing by the Local Planning Authority. The Local Planning Authority shall be notified in writing when the replacement tree(s) have been planted.

Reason: Pursuant to the requirements of Section 197 of the Town and Country Planning Act 1990.

This permission expires 2 years from the date of the decision and any works not undertaken by the date of expiry shall be the subject of a further application.

Reason: In order to give the Local Planning Authority an opportunity of reassessing the condition of the trees in the event of the works not being carried out.

CASE OFFICER

Andrew Cook - Extension: 2447

BACKGROUND PAPERS

File 07/1736/TR/T1

Steve Lewis,
HEAD OF DELIVERY AND DEVELOPMENT

SITE PLAN

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