



DEVELOPMENT CONTROL COMMITTEE: –

13 August 2009

REPORT OF THE HEAD OF DEVELOPMENT AND DELIVERY

APPLICATION TO FELL ONE PROTECTED BEECH TREE AT LICHFIELD COURT, WALSALL, WS4 2DH

1. PURPOSE OF REPORT

To seek the determination of the application to fell one Beech tree contained in application 09/0833/TR protected by Tree Preservation Order 21 of 1973. This application has been brought to Development Control Committee at the request of Councillor Arif because he was concerned about the impact of a refusal of this application on the residents of Lichfield Court.

2. RECOMMENDATIONS

The Committee is recommended to:

- To refuse consent for the removal of the Beech tree at Lichfield Court.

3. FINANCIAL IMPLICATIONS

None arising from this report.

4. POLICY IMPLICATIONS

Applications to carry out works to protected trees are determined in accordance with legislation and government guidance. There are no council policy implications from this application.

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 St. Matthews ward.

9. **CONSULTEES**

Owners and near neighbours were consulted on this application.

10. **CONTACT OFFICER**

Andrew Cook - Extension: 2447

11. **BACKGROUND PAPERS**

File reference 09/0833/TR

Simon Tranter

HEAD OF DEVELOPMENT AND DELIVERY

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13 AUGUST 2009

APPLICATION TO FELL ONE PROTECTED BEECH TREE AT LICHFIELD COURT, WALSALL, WS4 2DH

REPORT DETAIL

Application number: 09/0833/TR

Applicant: Fraser Wood (Midlands) Ltd, 16, Lichfield St.
Walsall, WS1 1TS

Date received: 24 June 2009

Expiry date: 19 August 2009

Reason for bringing to committee: At the request of Councillor Arif.

Application and Site Details

This is an application to remove one Beech tree at the front of Lichfield Court, Walsall, WS4 2DH.

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 (updated September 2008).

Relevant Planning History

Previously : 07/2576/TR to remove the same Beech tree which was refused on 11/01/2008.

Representations

No representations have been received.

Determining Issues

The Council has to determine if the removal of the Beech tree is justifiable on the grounds put forward by the applicant.

Observations

The application refers to a significant mature Beech tree situated at the front of Lichfield Court which is widely visible from the surrounding street scene. The tree has a height and spread of approximately 17.0m and 14.0m. It is estimated that the tree is between 80 to 100 years old. The main stem is thinly covered in ivy and there is minor deadwood evident in the crown which is normal for the species and no cause for concern. The tree has a slight lean towards the flats and an imbalanced crown which is possibly due to it once being in close proximity to a larger tree which has been removed in the past. From a ground inspection the tree appears to be in good condition exhibiting no signs of structural or physiological problems.

This is a fine and prominent tree and should not be felled without adequate evidence that it is responsible for the damage reported by residents.

The applicants believe the Beech tree has been implicated in subsidence damage to the adjacent Lichfield Court flats. Site investigation data entitled 'Site Investigation Report' dated 8 November 2007 was submitted in support of the application. This report is identical to one submitted with the previous application 07/2576/TR which was refused on 11 January 2008. This latest application also contains a new covering report entitled 'Addendum Technical Report' dated 15 November 2007 which claims to contain further investigations but does nothing to indicate that anything further has been done.

After scrutinising the engineers report and the addendum which accompanied the application the following observations have been made by the Group Leader for Structures & Geotechnics;

1. The Engineers report describes cracking, but does not give any accurate locations on a plan.
2. There are also no elevations showing the extent of the cracking or the degree and/or orientation of the tapering.
3. The photographs of the cracking are only black and white copies and show insufficient detail from which to draw any conclusions. The internal photographs refer to flats E & F which from the description appear to be on the ground floor but again insufficient detail an/or location information make these meaningless.
4. There is a reference in the discussion to shrinkable clay beneath the foundations. In my experience, the Walsall area has no history of foundation problems caused by shrinkable clays. In trial pit E/H1 the soil description is soft/firm mottled brown/light grey slightly sandy CLAY with occasional gravel. In trial pit E/H2 the soil description is dry brown sandy TOPSOIL with gravel. Although the word CLAY is emphasised in capitals in the first trial pit neither trial pit shows a material which could be considered to be shrinkable. The test results indicate that the samples were '*too granular to test*'
5. The report refers to rehydration in the winter months implying a cyclic movement. I doubt whether any cyclic moisture change e.g. from tree

- roots would cause enough movement to damage brickwork at the distance away is supposed to have done.
6. There are many causes of cyclic movement other than that caused by tree roots e.g. Thermal movement. The presence of topsoil under areas of the foundations is another possible cause of differential settlement.
 7. The report refers to not undertaking any site investigations or partial underpinning until the tree has been removed and monitoring shows that any movement has ceased. However, trial holes have been excavated (see 4 above for my comments)
 8. The originals of the level monitoring exercise are I assume in colour. From a black and white copy it is impossible to draw any conclusions from the data as presented. No units are given for the readings. Again settlement in itself does not prove tree damage.

In my view the structural report is poorly written and other possible causes for the cracking are totally ignored. The structural evidence produced does not stand up to scrutiny and certainly does not support a case for the removal of the Beech tree.'

When the previous application was refused the Structures & Geotechnics team gave detailed advice on the evidence required to demonstrate that the tree was implicated in the damage experienced by the residents. Unfortunately this advice has not been heeded and an almost identical application has been made using the same evidence which was considered inadequate previously. Therefore there is no justification for the Council to issue a different decision.

I have some sympathy for the residents who are caught up in this matter. Their insurers will not carry out repairs until the tree is removed but the investigations carried out are wholly inadequate despite council advice on what was required.

Recommendation

The Committee is therefore recommended to refuse the application.

Conditions and Reasons (or reasons for refusal)

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

- To remove the mature Beech tree at the front of Lichfield Court.

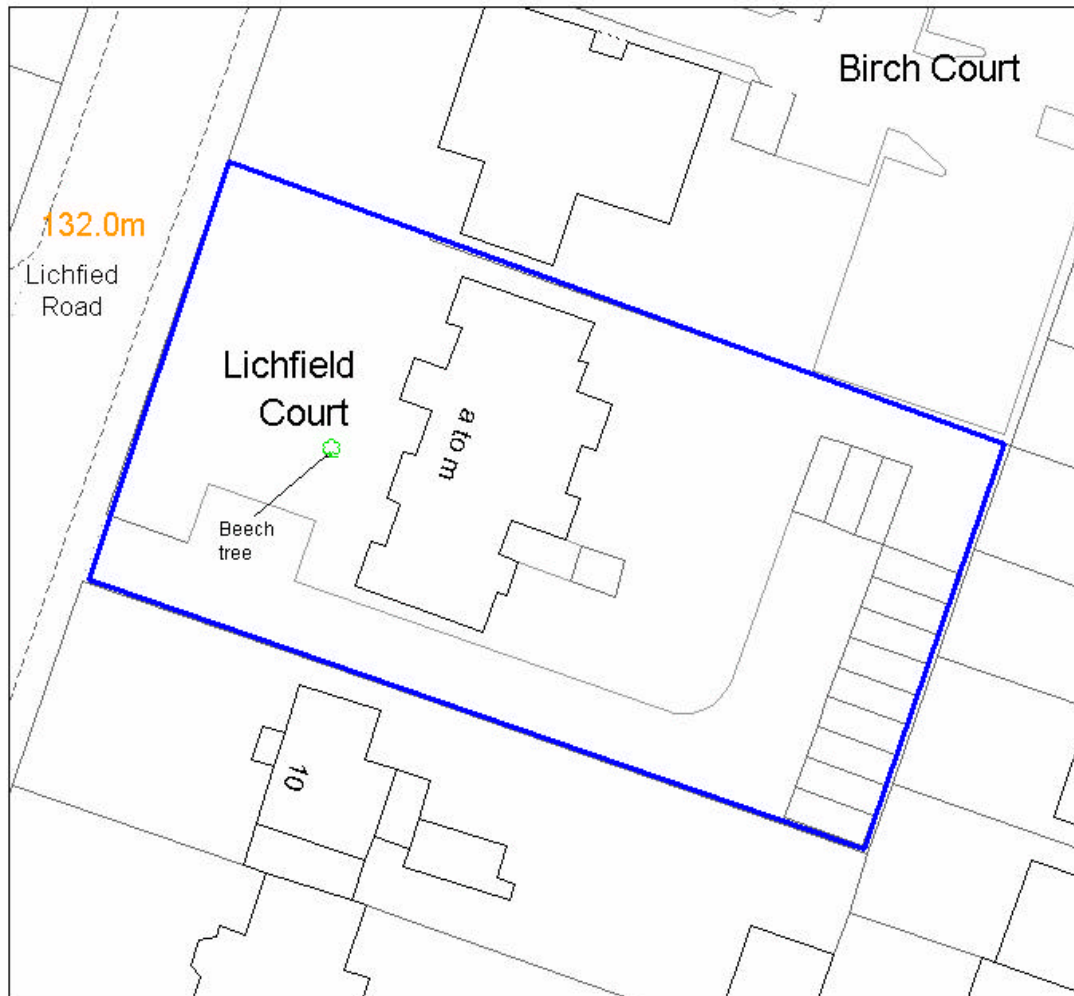
For the following reason;

- The council considers that insufficient evidence has been supplied to justify the removal of the Beech tree based on the contents of the site investigation report and the addendum.

SITE PLAN

APPLICATION TO FELL ONE PROTECTED BEECH TREE AT LICHFIELD COURT, WALSALL, WS4 2DH

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Photograph of the Beech tree taken from the south.



Photograph of the Beech tree taken from the north.

