



DEVELOPMENT CONTROL COMMITTEE: –

29th April 2010

REPORT OF THE HEAD OF DEVELOPMENT AND DELIVERY

APPLICATION TO FELL ONE PROTECTED LIME TREE AT 9 LANGHAM GREEN, STREETLY B74 3PS.

1. PURPOSE OF REPORT

To seek the determination of the application to fell one Lime tree contained in application 10/0207/TR protected by Tree Preservation Order 32 of 2008. This application has been brought to Development Control Committee at the request of Councillor Hughes because he was concerned about the impact of a refusal of this application on the owner of 9 Langham Green.

2. RECOMMENDATIONS

The Committee is recommended to:

- To refuse consent for the removal of the Lime tree at 9 Langham Green, Streetly B74 3PS.

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 is situated within the Streetly ward.

9. **CONSULTEES**

Owners and near neighbours were consulted on this application.

10. **CONTACT OFFICER**

Cameron Gibson - Extension: 2453

11. **BACKGROUND PAPERS**

File reference 10/0207/TR

Simon Tranter

HEAD OF DEVELOPMENT AND DELIVERY

DEVELOPMENT CONTROL COMMITTEE: –

29 APRIL 2010

APPLICATION TO FELL ONE PROTECTED LIME TREE AT 9 LANGHAM GREEN, STREETLY B74 WPS.

REPORT DETAIL

Application number: 10/0207/TR

Applicant: Mr. Raymond Edwards, 9 Langham Green,
Streetly B74 3PS.

Date received: 26 February 2010

Expiry date: 23 April 2010

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

Application and Site Details

This is an application to remove one Lime tree to the rear of 9 Langham Green, Streetly B74 3PS.

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 :

03/1695/TR/T2: Fell Lime tree - Part approve/part refuse.

06/0279/TR/T3: Fell Lime tree – Refuse.

06/0626/TR/T3: Crown thin Lime tree by 20% - Grant consent.

07/0462/TR/T1: Fell Lime tree – Part approve/part refuse.

09/0390/TR: Fell Lime tree – Part approve/part refuse.

Representations

No representations have been received.

Determining Issues

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

Observations

The application refers to a semi mature Lime tree in the rear of 9 Langham Green, Streetly. It is approx. 13m in height with a radial crown spread of approx. 5m. The base of the tree is located approx. 5m from the nearest part of the bungalow (a small extended section on the south west corner) and approx. 7m from the remainder of the dwelling.

The tree is of good shape and form, appears to be in good condition, well rooted and stable, and with no visible faults or defects. There is evidence of previous pruning works within the crown in the form of a significant crown reduction. This would have removed a significant proportion of the crown and has resulted in vigorous regrowth leading to a further application to thin the crown. These works have been undertaken although the crown thinning work appears to have not been undertaken fully as the upper half of the crown appears significantly denser than the lower half. The lower half has almost been over thinned for some unknown reason.

The applicants have cited numerous reasons for wanting the tree felled;

1. It shades light from the kitchen.
2. It shades the neighbours property.
3. It dominates the rear garden.
4. It sheds detritus.
5. The aphids excrete honeydew causing dirt on windows etc.
6. Periodic pruning is required to avoid complete domination.
7. Maintenance costly for the occupants as they are both OAPs and suffer from various health problems.

The rear of the property is orientated to face approx. in a north west direction. This aspect automatically reduces the amount of direct light available to the rooms in this part of the dwelling, regardless of the presence of the tree. However, the tree does start to cast shade on the northern part of the dwelling from approx. 4pm onwards and continues to shade approx. 50% of the rear elevation for the remainder of daylight hours. In addition, the tree will restrict the amount of ambient light reaching the rear of the dwelling although this is considered to be a minor consideration as the orientation of the property appears to be the main factor in this respect.

Unfortunately, trees cast shade. There is an, approx, 180° arc of shade cast by every single tree in the UK, on its northern half, which means that they are likely to cast some shade at some point on someone's property. This is a situation which is unavoidable, particularly where the built environment is integrated with the natural environment. However, shade can be an emotive

issue with several arguments for and against it. The Councils approach to this is to assess whether the amount of shading in a property is considered excessive and whether it prevents the occupiers to have reasonable enjoyment of the property. In this instance, it is considered that shade is not an issue, on its own, that would warrant the removal of the tree.

The rear garden area measures approx. 14m in a northeast-southwest direction and approx. 9m in a north west-southeast direction, or 134m². The cross sectional area of the crown equals approx. 78m², indicating half the area is covered by the tree crown. However, the tree is situated towards the northern half of the rear garden and casts most of its shade in this area. See Appendix A attached showing approx. shadow pattern diagrams.

As mentioned previously, the tree is approx. 13m in height with a radial crown spread of 5m. It is not mature and, if left unmanaged, would continue to grow in height and spread. However the tree is a Lime, which responds very well to pruning, as has been demonstrated by previous pruning works. At present, it is not considered to dominate the property, as can be seen by the photograph at Appendix B.

Lime trees are notorious for problems associated with honeydew. It is a very common problem and, again, a very emotive one. Honeydew is excreted from aphids that are feeding on the leaves of the tree, which indicates that the problem is restricted to the growing season. It is a sugary, sticky substance which, if allowed to persist on surfaces, can attract the growth of mould, giving it an unsightly appearance. However, honeydew can easily be washed off surfaces if dealt with fairly swiftly, leaving surfaces clean. The problems associated with honeydew would not normally be considered sufficient, on their own, to warrant removal of a tree however, each situation must be considered on its own merits. In this instance, it would not be considered appropriate to allow the removal of the tree on these grounds.

It has also been stated that the tree drops detritus. The Council can only deduce that detritus means a combination of twigs, deadwood, flowers, fruit, leaves etc etc, all of which would be consistent with any tree species. If the built environment and the natural environment are to co-exist, the aforementioned annoyances must be tolerated.

The Lime tree is semi mature in nature and of good shape, form and condition. It has previously been subjected to pruning works which have resulted in a denser crown than normal, although recent attempts to improve this have been unsuccessful. It is clear to see that the Lime tree requires some work to improve its aesthetic value and increase its amenity value in the locality. In addition to this, the previous pruning work indicates that, normally unacceptable, pruning may be considered to alleviate the concerns of the occupants whilst still retaining a tree that provides amenity value. However, the occupants have chosen not to follow this path but instead apply to have the tree removed altogether. The Council considers that the removal of the tree would be detrimental to the overall amenity, aesthetic and landscape value of the area.

On a more general note, whilst the Council sympathises with the occupants and the concerns they have raised, it must be stated that they bought this property only 3 or 4 years previously with the tree in full view. It is unreasonable for the Council to allow an occupant to remove a protected tree on hindsight although consideration can be given to mitigating any issues raised. Indeed this may have financial implications but the Council considers that the amenity value provided by the tree to the general public far outweighs the concerns of the occupants.

Recommendation

The Committee is therefore recommended to refuse the application but agree to lesser works.

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 fell the Lime tree in the rear garden of 9 Langham Green, Streetly.

For the following reasons;

- The tree has a high amenity value and its removal would be detrimental to the amenity, aesthetic and landscape value of the area.
- There are other remedial pruning works which could help alleviate the concerns associated with the application.

Walsall Metropolitan Borough Council, as a Local planning Authority, hereby **grants** consent for the following works;

- Thin the upper half of the crown by removing approx. 20%-25% of the secondary and small diameter branch growth from throughout the crown to produce an even density of foliage around a well spaced and balance branch structure.

Subject to the following conditions;

1. All tree surgery work 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.

2. 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 tree in the event of works not being carried out.

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

Reason: To ensure a satisfactory standard of work.

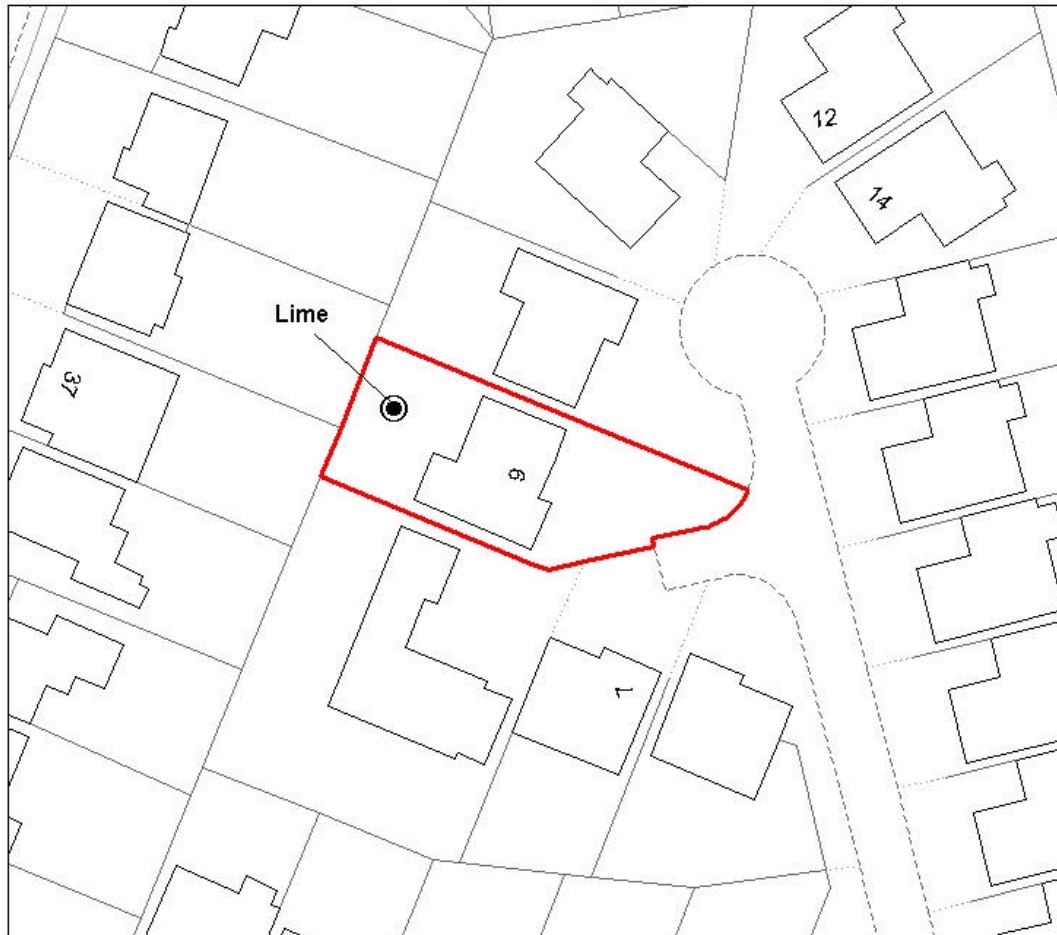
Note to Applicant;

1. All 17 species of bat found in Britain are fully protected under the Wildlife and Countryside Act 1981 (as amended by National and European legislation). The applicant should inspect the trees for the presence of bat activity. If bats are discovered during inspection or subsequent work, all work must cease immediately and Natural England must be informed. They can be contacted on 0845 600 3078.
2. All wild birds, their nests and eggs are protected under the Wildlife and Countryside Act 1981. It is an offence to damage or destroy a nest of any wild bird. Birds are generally nesting between March and July, although exceptions to this do occur.
3. This consent to undertake work to the tree(s) does not give consent for any person to enter the land where the tree is situated for the purposes of undertaking the works without the formal consent of the landowner.
4. You may remove deadwood under Section 198(6a) of the Town and Country Planning Act 1990 as this operation is exempt from the need to obtain formal planning permission.

SITE PLAN

APPLICATION TO FELL ONE PROTECTED LIME TREE AT 9 LANGHAM GREEN, STREETLY B74 3PS.

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Appendix A

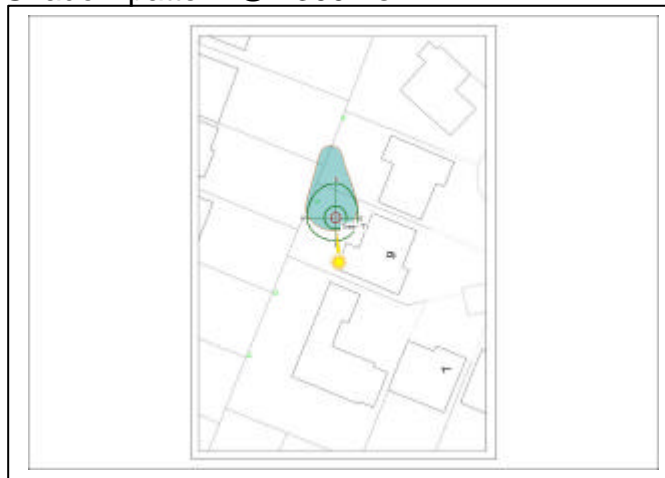
Shadow pattern @ 0900hrs.



Shadow pattern @ 1100hrs

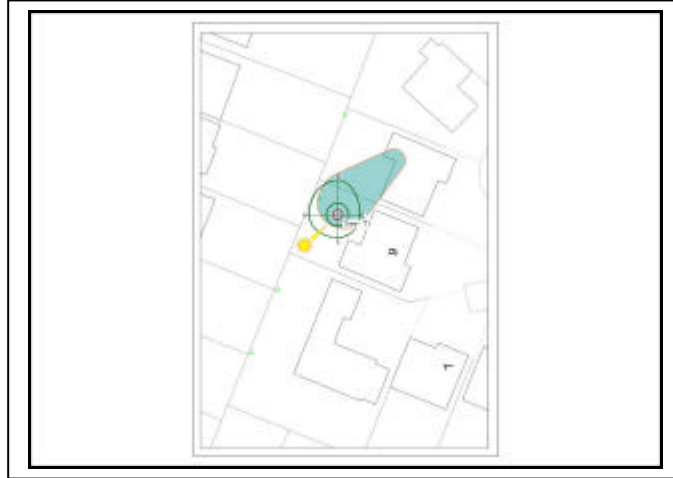


Shadow pattern @ 1300hrs



Appendix A ...cont'd

Shadow patterns @ 1500hrs



Shadow patterns @ 1700hrs



Shadow patterns @ 1900hrs



Appendix B

T4 Lime

