



DEVELOPMENT CONTROL COMMITTEE: –

29th April 2010

REPORT OF THE HEAD OF DEVELOPMENT AND DELIVERY

APPLICATION TO FELL ONE PROTECTED POPLAR TREE AT THE LODGE, NEW STREET, WALSALL, WS1 3DF.

1. PURPOSE OF REPORT

To seek the determination of the application to fell one Beech tree contained in application 10/0269/TR protected by Tree Preservation Order 2 of 2010. 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 owner of The Lodge.

2. RECOMMENDATIONS

The Committee is recommended to:

- To refuse consent for the removal of the Poplar tree at The Lodge, New Street, Walsall.

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 St. Matthews ward.

9. **CONSULTEES**

Owners and near neighbours were consulted on this application.

10. **CONTACT OFFICER**

Cameron Gibson - Extension: 2453

11. **BACKGROUND PAPERS**

File reference 10/0269/TR

Simon Tranter

HEAD OF DEVELOPMENT AND DELIVERY

DEVELOPMENT CONTROL COMMITTEE: –

29 APRIL 2010

APPLICATION TO FELL ONE PROTECTED POPLAR TREE AT THE LODGE, NEW STREET, WALSALL, WS1 3DF.

REPORT DETAIL

Application number: 10/0269/TR

Applicant: Mr. Anthony Sprigg (Beech Tree Management),
66 Station Road, Rushall, Walsall WS4 1ES.

Date received: 22 March 2010

Expiry date: 17 May 2010

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

Application and Site Details

This is an application to remove one Poplar tree at the front of The Lodge, New Street, Walsall, WS1 3DF.

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 : 09/1825/TR to remove the same Poplar tree, along with 6 other trees, which was part refused on 02/02/2010.

Representations

No representations have been received.

Determining Issues

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

Observations

The application refers to a significant mature Poplar tree situated to the right hand side of the access drive to The Lodge, New Street, Walsall. The property is situated within the Church Hill Conservation Area, with the trees being highly visible in the street scene. The application was accompanied by an Arboricultural Survey Report by Sylvanus Arboricultural Consultants Ltd dated February 2010 and comments in response to this are included in the following report.

The Poplar tree was made the subject of a Tree Preservation Order (TPO) on 29 January 2010 as a result of a Conservation Area Notification to fell this tree, and 6 others. The Council agreed to the felling of 4 of the trees due to poor shape, form and proximity to property likely to result in damage.

The Poplar tree is approx. 20m in height with a radial crown spread of approx. 8m. It is, by far, the largest tree in the immediate area and consequently, has a high amenity value. It is part of a small group of trees consisting of Silver Birch, Sycamore and Rowan although the majority of these other trees are young in nature and have been severely influenced by the growth of the more mature Poplar. The Sycamore, however, is a semi mature tree located in very close proximity to a 2m high boundary wall, indicating that it is highly likely to cause damage to the wall through annual incremental growth. It is this fact that precluded this tree from inclusion in Tree Preservation Order 2 of 2010.

The tree is of good shape and form with a branch structure that is normal for the species, and appears to be in good condition with no visible faults, defects or other structural concerns. There is evidence of previous pruning works to the tree through two pruning wounds at 2m and 3m on the south west side of the tree. These are showing signs of good woundwood formation with no degradation of the exposed surface, indicating a tree of good health and vigour. There is another minor pruning wound on a branch that extends towards nos. 1 and 2 St. Mathews Close but this is of no consequence.

The property is situated in an elevated position to the south east of Walsall town centre. It has no shelter or shade from the prevailing south westerly winds, indicating that the full force of any adverse weather conditions would be felt. However, the mature Poplar tree, that would also feel the full force of any adverse weather, shows no signs of branch loss or breakage. This, again, would appear to indicate a tree of good health, vigour and structural integrity.

The application cites many reasons for wanting the tree felled, one of which being that the owners are concerned about root damage as there are large surface roots evident. It was noted on site that large roots were indeed present although whether any damage is present is unclear. In any case, the tree is situated approx. 5m from a 2m high brick built boundary wall, which is covered in thick ivy making a full inspection difficult. However, it was noted that there is visible cracking above a door in the wall, in close proximity to the tree. It is unclear as to the cause of this although the proximity of a semi

mature Sycamore would be an obvious place to start. This tree is so close to the wall that it is likely that annual growth has displaced the wall and led to the cracking above the door. However, this cannot be positively stated without further intrusive investigations into this area.

The Tree Report accompanying the application also cites many reasons for wanting the tree felled. I will deal with each of these below although there may be some overlap with my previous comments;

1. '*The subject tree ... is a relatively short lived species with a propensity to shed large limbs...*' – The Council agrees with this statement but would add that there are other common and widely planted species of tree with the same characteristics, including Cedar and Beech, although there is no evidence of these trees being felled for this reason alone. The propensity of a species to behave in a certain manner does not mean that all trees of that species will. It is a characteristic of the species but each tree and situation should be taken on its own merits. As has been stated previously, this tree shows no signs of branch loss or breakage even though it has the addition of dealing with the full force of adverse weather conditions. It would therefore be reasonable to assume that this tree does not conform to the characteristics of the species and that this reason for felling the tree is unfounded and unwarranted.
2. '*... this specimen has little in the way of a safe useful life expectancy ...*' – When considering a tree for inclusion in a TPO, the Council makes an assessment of its safe useful life expectancy as part of the Amenity Assessment procedure. In this instance, the tree was considered to have between 10 and 20 years of safe useful life expectancy. It is widely held that trees with a life expectancy of less than 10 years would not be considered for inclusion in a TPO, although the law does not state this.
3. '*... Poplar is a species with a high water demand and notorious for their involvement in building subsidence.*' – The Council agrees with this statement, although it is a very broad, sweeping one. Building subsidence is a very complicated issue and relies on various site specific information being obtained before a tree can be implicated as being contributory. In addition to this, even if the initial investigations indicate that subsidence is likely, the complex relationship between the tree, the soil and the building may result in no subsidence at all.

As the applicant has not submitted any evidence or reports to implicate the tree in building subsidence, this indicates that this comment has merely been included in the Tree Report in an attempt to add weight to their case. The Government guidance indicates that applicants claiming subsidence should supply supporting technical evidence as part of the application, which was not the case in this instance.

4. '*... the removal ... represents an insignificant loss in terms of visual impact whilst effectively managing a hazard ...*' – As mentioned previously, the Poplar is by far the largest and most prominent tree in the locality. There are other trees of visual prominence in close proximity, these being a semi mature Silver Birch in the grounds of the Church Hill Memorial Gardens and 2 semi mature Lime trees to the front of St. Mathews Close. All these trees have individual amenity albeit not to the same degree as the Poplar, and contribute to the overall tree cover and character of the area. However, the Council fails to see the logic behind this statement as naturally, the loss of this most prominent tree will be significant to the overall character and amenity of the area, particularly as the three other visually prominent trees have a much reduced amenity value.

A hazard is something with the potential to cause harm. All trees have the potential to cause harm, whether it be through the dropping of debris or whole tree failure. These issues are managed through regular inspections and recommendations to mitigate any hazard and are based on the overall condition of each tree. As previously mentioned, there are no faults, defects or structural concerns with the tree and it does not conform to its species characteristics. Therefore it is difficult to comprehend why the Tree Report states that the tree is a hazard when there is no evidence to suggest so. In addition, the Secretary of States view is that it would be inappropriate to make a TPO in respect of a tree that is a hazard, an issue that carries through to the aforementioned Amenity Assessment procedure.

When considering trees for inclusion in a TPO, the Council has numerous criteria to consider before making a decision. These include the following;

- (a) The tree must be of public amenity and not only of private benefit.
- (b) The tree must not have been mutilated in the past to an extent that removes its arboricultural amenity value.
- (c) That it is healthy and safe or can reasonably be made so.
- (d) That it is capable of a reasonably long life ahead.
- (e) It is not so close to buildings that it would be unreasonable to refuse its felling if requested.
- (f) Whether it is expedient to make a T.P.O. This usually means whether the tree is under some form of threat, e.g. by proposed development.

This information is then used to complete the Amenity Assessment form where a numeric value and recommendation is obtained. A copy of the TEMPO form is appended to this report and, as is evident, shows the Poplar tree is in the highest bracket for inclusion in a TPO. This shows that the tree is well worthy of inclusion in a TPO and that its removal would have a significant impact on the local environment and its enjoyment by the public.

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 Poplar tree at The Lodge, New Street, Walsall.

For the following reason(s);

- The council considers that the applicant has failed to demonstrate that their concerns outweigh the amenity, aesthetic and landscape value that the tree provides to the general public, and justify the removal of the tree.
- The tree is of high amenity value and its loss would be detrimental to the amenity value and character of the area.

SITE PLAN

APPLICATION TO FELL ONE PROTECTED POPLAR TREE AT THE LODGE, NEW STREET, WALSALL WS1 3DF.

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