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## PLANNING COMMITTEE

05 November 2015

### REPORT OF THE HEAD OF REGENERATION - DEVELOPMENT AND DELIVERY

### **CONFIRMATION OF TREE PRESERVATION ORDER 6 OF 2015 AT 4 FALLOWFIELD ROAD, WALSALL WS5 3BS.**

#### **1. PURPOSE OF REPORT**

To seek the confirmation of the Tree Preservation Order 6 of 2015.

#### **2. RECOMMENDATIONS**

The Committee is recommended to:

- (i) Confirm the Walsall Tree Preservation Order 6 of 2015 in a modified form. The original plan and schedule and an amended plan and schedule are attached to this report.
- (ii) Support the reason for making the Tree Preservation Order set out in the report detail, paragraph 10.
- (iii) Note that one representation has been received in response to the making of this Tree Preservation Order.

#### **3. FINANCIAL IMPLICATIONS**

Within budget, in general, new Tree Preservation Orders generate additional applications for consent and increase officers' workload.

#### **4. POLICY IMPLICATIONS**

Within Council policy – YES

#### **5. LEGAL IMPLICATIONS**

The owners and future owners of this site will be required to apply for Council permission if they wish to fell or prune any tree protected by the Tree Preservation Order. Failure to do this renders anyone carrying out unauthorised works to trees liable to criminal proceedings.

#### **6. EQUAL OPPORTUNITY IMPLICATIONS**

Not applicable.

## **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**

The Tree Preservation Order 6 of 2015 is located within the Pheasey Park Farm Ward.

## **9. CONSULTEES**

Owners and near neighbours were sent copies of the Tree Preservation Order and invited to make representations to the Council in either opposition or support of this Tree Preservation Order. Any response is described within the report.

## **REPORT DETAIL**

10. The Tree Preservation Order 6 of 2015 was made using the Head of Service's emergency delegated powers on 29<sup>th</sup> May 2015 following a request from a local resident due to the potential sale of the land. The subsequent Tree Preservation Order protected one significant Leopoldii Sycamore and a semi mature Monkey Puzzle for the following reasons;
  - The trees form a prominent landscape feature in the local area and will continue to contribute to landscape quality in the future.
  - The trees add to the amenity and visual diversity of the immediate area.
  - The property has recently been placed on the property market. The Council received a telephone call from a prospective purchaser who requested advice on the tree's protected status. This indicates that the trees are at risk of removal either prior to the property being sold or immediately after it is sold.
11. The minimum six week period allowed for objection to the Order expired on 9<sup>th</sup> July 2015. One letter objecting to the Order has been received from the prospective owner of the trees, which was accompanied by (part) copies of a Homebuyers Survey and a Structural Engineers Report. The objection received makes the following comments;
  - The property has some structural problems which have been attributed to T2 Sycamore.
  - The large Sycamore tree shades the small garden.

- The Sycamore conceals potential burglars climbing over into the rear garden.
- A call to the Council ascertained there was no TPO on any tree.

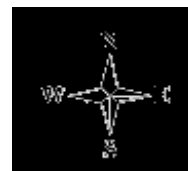
12. The officers' response to the representations is as follows;

- A tree officer met with the owner of the property to discuss the issues she raised in her objection on 3<sup>rd</sup> August 2015. He examined the damage noted in the reports and discussed the comments of the surveyor and structural engineer.
- The Homebuyers Report noted serious defects that needed to be repaired or replaced urgently. These included movement of the mains walls, stepped cracking at various locations, and damaged and uneven floors. As a result, it recommended a Structural Engineer be commissioned to investigate these issues further with the aim of identifying the cause and any potential remedial measures.
- The Structural Engineers Report notes that the majority of the damage to the walls was the result of thermal shrinkage or previous building works. However, it also stated that previous repointing works were undertaken in areas where the likely cause was minor differential foundation movement (subsidence).
- The property owner submitted an application to undertake works to the trees. During the application process, it was noted that the applicant commissioned the services of a builder to repair the damaged and uneven concrete floors. It was also noted that the soil underneath the floor consisted of a significant amount of clay. The tree is located approximately 10m from the nearest point of the dwelling, which is within the influencing distance of the property.
- Having considered all the factors involved, the tree officer was of the opinion that the tree was likely to have been a contributory factor to the previous damage to the building, and was likely to cause damage in the near future. The proposal to remove the tree was therefore considered acceptable, subject to replacement planting as indicated in the Decision Notice.
- The prospective purchaser checked for the presence of TPO's on the property on 22<sup>nd</sup> May 2015 and was told there was no TPO. However, she was advised that the Council may make a TPO in the future if the trees justified protection. Trees are often at most threat when a property changes ownership and the enquiry confirmed the situation in an earlier request for a TPO by a local resident.
- It is noted that the Sycamore tree has now been removed.
- The objection is also taken by officers as applying to T1 Monkey Puzzle although there are no detailed objections to this tree. Therefore the tree officer cannot respond to objections on this tree other than to state that the

owner has verbally indicated that she has no problem with the Monkey Puzzle subject to some minor pruning being undertaken. A recent submitted tree work application requested that some of the lower branches of this tree be removed in order to allow access to the ground underneath the tree. These works have been granted consent and have been implemented.

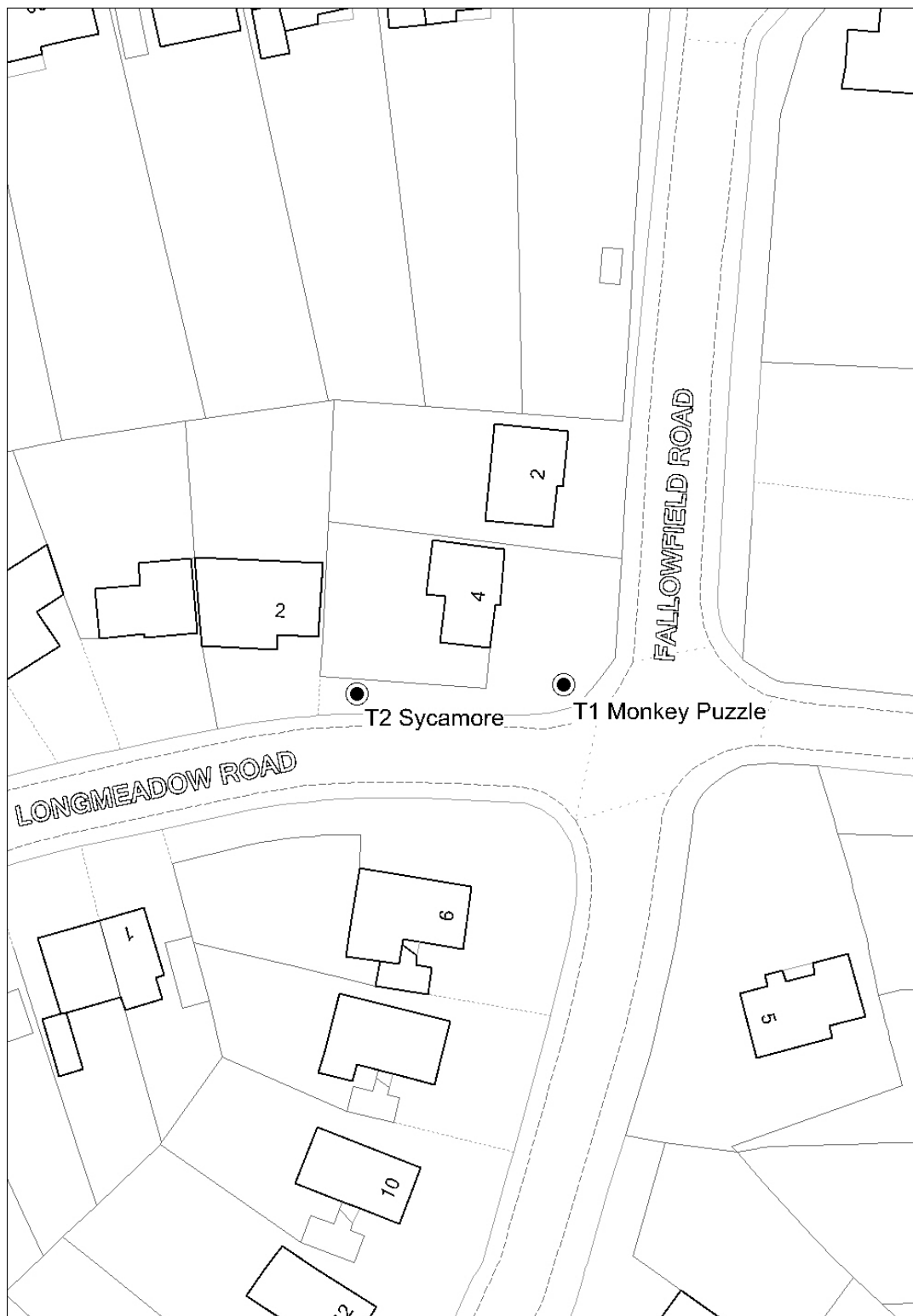
- It is not considered likely that the Monkey Puzzle will cause damage to the property in the future due to the amount of hard standing located between it and the main dwelling which will restrict the potential for root growth and reduce the potential for moisture extraction from the soil underneath the foundations of the property.
  - As the detailed objection relates to the inclusion of T2 Sycamore, which has now been removed, the tree officer has invited the owner to withdraw her objection. She has not responded either to confirm the withdrawal of the objection or to confirm that the objection still stands. The officers' view is that the remaining tree occupies a prominent position in the property being on the junction of Fallowfield Road and Longmeadow Road, and has not been implicated in damage to the property. It is a fine, healthy tree and justifies protection and it is unlikely that it will cause damage to the property in the future for the aforementioned reasons.
13. Officers have taken account of the representation received. However, T2 Sycamore has now been removed due to it being implicated in causing damage to the property. T1 Monkey Puzzle is not likely to cause damage in the near future and has great potential to be a feature tree in a prominent location. The existence of the Tree Preservation Order does not prevent good arboricultural management and should the owner wish to undertake further tree work the officers would consider any application submitted. The Planning Committee is therefore recommended to confirm Tree Preservation Order No 6 of 2015 in a modified form to include T1 Monkey Puzzle only.
14. **CONTACT OFFICER**
- Cameron Gibson - Extension: 4741.
15. **BACKGROUND PAPERS**
- File PD1/17/1973 relating to Tree Preservation Order 6 of 2015.

**Simon Tranter,**  
HEAD OF DEVELOPMENT AND DELIVERY



## TPO 6 of 2015

### 4 Fallowfield Road, Walsall WS5 3BS



Not to Scale      Date 27 May 2015      Cameron Gibson

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## SCHEDULE

### TPO 6 of 2015 SPECIFICATION OF TREES

#### **Trees specified individually**

(encircled in black on the map)

| Reference on map | Description   | Situation  |
|------------------|---------------|--|
| T1               | Monkey Puzzle | In the front garden of 4 Fallowfield Road, Walsall WS5 3BS.                |
| T2               | Sycamore      | On the grass verge towards the rear of the site, fronting Longmeadow Road. |

#### **Trees specified by reference to an area**

(within a dotted black line on the map)

| Reference on map | Description | Situation |
|------------------|-------------|-----------|
| None             |             |           |

#### **Groups of trees**

(within a broken black line on the map)

| Reference on map | Description | Situation |
|------------------|-------------|-----------|
| None             |             |           |

#### **Woodlands**

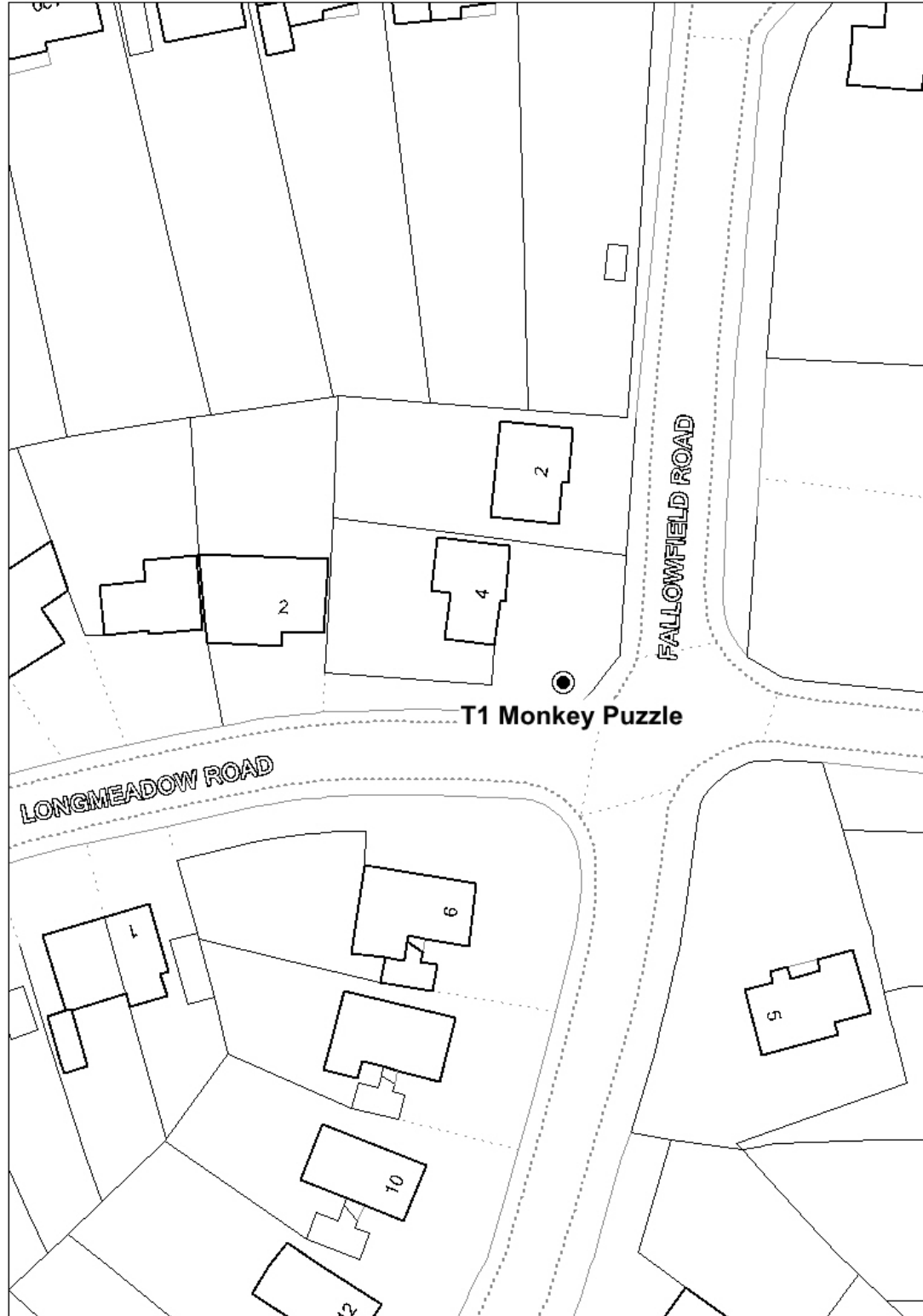
(within a continuous black line on the map)

| Reference on map | Description | Situation |
|------------------|-------------|-----------|
| None             |             |           |



## TPO 6 of 2015 (Amended Plan)

### 4 Fallowfield Road, Walsall WS5 3BS



Not to Scale

Date 26 October 2015

Cameron Gibson

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## **SCHEDULE (AMENDED)**

### **TPO 6 of 2015 SPECIFICATION OF TREES**

#### **Trees specified individually** (encircled in black on the map)

| Reference on map | Description   | Situation   |
|------------------|---------------|---|
| T1               | Monkey Puzzle | In the front garden of 4 Fallowfield Road, Walsall WS5 3BS. |

#### **Trees specified by reference to an area** (within a dotted black line on the map)

| Reference on map | Description | Situation |
|------------------|-------------|-----------|
| None             |             |           |

#### **Groups of trees** (within a broken black line on the map)

| Reference on map | Description | Situation |
|------------------|-------------|-----------|
| None             |             |           |

#### **Woodlands** (within a continuous black line on the map)

| Reference on map | Description | Situation |
|------------------|-------------|-----------|
| None             |             |           |