



PLANNING COMMITTEE: –

2<sup>nd</sup> December 2010

REPORT OF THE HEAD OF DEVELOPMENT AND DELIVERY

**NOTIFICATION OF INTENTION TO UNDERTAKE FELLING AND PRUNING WORKS TO TREES IN WALSALL ARBORETUM**

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1. **PURPOSE OF REPORT**

To seek the determination of the notification to undertake extensive felling and pruning works contained in application 10/1284/TR, to trees situated in the Arboretum Conservation Area.

This application has been brought to Planning Committee due to significant community interest.

2. **RECOMMENDATIONS**

The Committee is recommended to:

- (a) Accept the proposed works set out in the notification.
- (b) Not make a Tree Preservation Order to prevent the works.

3. **FINANCIAL IMPLICATIONS**

None arising from this report. Failure to approve the works could delay the proposed renovation and improvement works to Walsall Arboretum.

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 the Conservation Area legislation renders anyone carrying out unauthorised works to trees liable to criminal proceedings, similar to that relating to Tree Preservation Orders.

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 St. Matthew's Ward.

9. **CONSULTEES**

Near neighbours, St. Matthew's and Paddock ward Councillors, and the Friends of the Arboretum were consulted on this application.

10. **CONTACT OFFICER**

Cameron Gibson - Extension: 2453

11. **BACKGROUND PAPERS**

File reference 10/1284/TR

**Simon Tranter**

HEAD OF DEVELOPMENT AND DELIVERY

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### NOTIFICATION OF INTENTION TO UNDERTAKE FELLING AND PRUNING WORKS TO TREES IN WALSALL ARBORETUM

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#### REPORT DETAIL

**Application number:** 10/1284/TR

**Applicant:** Green Spaces Improvement Team, The Top Lodge, Lichfield St, Walsall WS4 2BU.

**Date received:** 27 September 2010

**Expiry date:** 8 November 2010

**Reason for bringing to committee:** Significant community interest.

#### **Application and Site Details**

This is a Conservation Area Notification of intention to undertake extensive tree works at Walsall Arboretum, Lichfield St, Walsall, which is within the Walsall Arboretum Conservation Area. Works include: felling, crown lifting, coppicing, crown reduction and transplanting. Approximately 260 trees would be felled. A schedule of works is appended to this report. The location of the tree works proposed is within the boundary shown on the plan appended to this report.

The Council is undertaking a substantial restoration project within Walsall Arboretum, which will be implemented during 2011, and is supported and grant aided by the Heritage Lottery Fund. (HLF) The project includes the provision of a new visitor centre, the restoration of the historic buildings, paths, fencing, fixtures and significant horticultural improvements. Comprehensive landscape works are also proposed and new tree planting will include species such as Maple, Birch, Beech, Ash, Oak, Lime, Cherry, Holly, Dawn Redwood and Wellingtonia.

This notification is part of this larger project. Various reasons for the tree works are summarised as follows:

- the trees to be removed are the poorest of the trees in the Arboretum
- some of the trees are in inappropriate locations and are inappropriate species

- some of the trees have been identified for removal in a Health and Safety survey in 2007
- the works will open up historic views and vistas and allow the replication of historic landscapes
- subsequent replanting will improve the diversity of the current tree stock.

The original notification consisted of the removal of approximately 368 individual trees, along with some minor lower crown pruning (crown lift) and the transplanting of about 13 trees.

In assessing the notification, there were extensive on-site discussions between officers from the Green Spaces Improvements and the Natural Environment Teams. This resulted in significant reductions in the work proposed and corrected inevitable errors and inconsistencies between the schedule of works and the submitted plans. The revised schedule of works involves the removal of about 260 trees and a row of Leyland cypress as well as crown lifting, crown reduction and coppicing work.

All the people consulted on the original notification were re-consulted on the revised proposals.

## **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**

07/2038/TR/T1: Crown lift various trees to clear highways and footpaths, and clear epicormic growth – No proposal for TPO.

07/1930/TR/T1: Crown lift 5 Lime trees by 2m and crown lift Beech to allow 2m clearance from clock tower – No proposal for TPO.

10/0947/TR: Fell 4 trees for redevelopment of the bandstand, fell 10 trees for the redevelopment of the visitor centre – No Proposal for TPO.

## **Determining Issues**

The Planning Committee has to determine if the proposed works are justifiable on the grounds put forward by the applicant.

In assessing an application to undertake tree works in a Conservation Area, the Planning Committee has two options.

- (a) It can either agree to the proposed works in their entirety. No conditions or replanting requirements can be imposed.
- (b) If it does not agree the works, it must make a Tree Preservation Order to protect the trees from the proposed works. Any tree works would then require council permission.

## **Representations**

Five letters of representation (all objections) have been received. Three are from residents of adjoining properties, the other 2 are from residents of Bloxwich. The following points were raised:

- the trees are noted as being in fair and good condition
- many parks across the country would be proud to have such a variety of trees
- the health and safety issue could be addressed through pruning
- replacement trees will take many years to achieve their true potential
- opening up historic views is hard to picture as the park was a lime pit previously
- the park should be enhanced, not cut down
- why can't new building projects be built with the trees in mind rather than the easy option of cutting them down?
- the trees provide a home for insects, butterflies, birds and animals
- they also provide a place of warmth and well being and somewhere for quiet reflection and inspiration
- the number of trees appears to have increased since the consultation process
- the whole point of an arboretum is to protect trees
- how can you justify the removal of over 350 trees for aesthetic reasons only?
- the plans have not been made public
- it is unnecessary to destroy the trees to achieve what could be done with a little thought
- the ecological balance of nature will be destroyed forever
- the thousands of birds, insects and animals who live happily together will be forced to flee their homes and flee for their lives
- there is great wealth in the trees that no-one has considered and no amount of new planting will compensate for this
- the new facilities are welcome but not at the destruction of some of the most beautiful trees this town owns
- not enough consultation has taken place
- the trees create a sea of green in the centre of the Borough and to remove them is unproportional and unreasonable
- the tree removal goes against sustainability
- there are no valid reasons for removing trees in good condition for aesthetic reasons only

## Observations

Each tree affected by the notification was assessed individually by officers.

The main consideration was whether a Tree Preservation Order should be made to prevent any tree works proposed. However, if a tree does not fulfil the criteria for a Tree Preservation Order to be made, there can be no objection to the proposed works. A significant number of trees in the application fall into this category by reason of being insignificant trees or of poor condition, form or shape. Their removal can therefore be agreed on the basis that they are not worthy of a Tree Preservation Order.

However, when considering the remainder of the trees for removal in the application, their TPO worthiness was not the only factor that was taken into account. Many of the trees are mature and of species such as Poplar or Ash that would require an increased frequency of inspection due to their increased likelihood to shed large limbs in high public use areas, in adverse weather conditions. Their removal is considered prudent in the short term to remove the potential for injury to persons or damage to property.

In other situations, many of the trees have been planted in close proximity to each other and, if left to mature, would result in severely misshapen crowns, with no prospect for individual tree management at a later stage. Thinning trees is a necessary tool of tree management and is entirely justified.

The pruning works mainly involve the crown raising of trees to either open up views under the crowns of trees or to provide clearance for users of the Arboretum. Mainly the trees proposed to be pruned are well away from adjacent houses. One exception is the line of boundary trees along the northern side of the bowling green where houses in Buchanan Avenue back on to the Arboretum. Here the proposal is to crown raise trees to allow pedestrian access beneath the tree canopies. No objections have been received in respect of this proposal.

These proposals for tree works are part of a wider restoration project which also includes a scheme of replanting to provide a balance of young and mature tree stock. The new trees will be planted along boundaries which will benefit from enclosure, to replace older trees where the continuation of tree cover is desirable and within newly created spaces such as the old nursery site. These will be enjoyed by both current and future visitors and it is the intention to continue to provide a high level of amenity in the longer term.

In addition, the trees will be subject to a tree management programme incorporated into a 10 year management and maintenance plan for the Arboretum.

There were a few anomalies noted in the current, amended proposal. The only significant error is where removal was agreed between the applicant and the Tree Officer. However, these trees have not been included in the

application and therefore, cannot now be felled without a further notification. The trees are as follows;

1. Holly adjacent T628 (Tea Garden area)
2. Thuja between T2270 and T2195 (Lions Den area)
3. T585 Ash
4. T2268 Fir
5. T2293 Thuja
6. Thuja to south east of T2195 Oak

However, given the small number of trees and their limited visual impact, any further application would not justify as wide a consultation as this application for extensive works.

The relatively small number of objections received mainly relate to the loss of trees and the perceived, aesthetic and ecological damage to an important borough asset. Some state that the tree removal is unnecessary and trees to be retained could be retained with more careful design. Others complain about a lack of public consultation on the proposals for the restoration of the Arboretum.

While I have sympathy with the views put forward by the objectors, the proposals have to be seen in the following context:

- There are almost 1500 individual trees in the Arboretum. Removal of about 20% of the trees should not have the severe impacts envisaged by the objectors.
- Many of the trees to be removed are those which are insignificant and/or of poor condition, form or shape.
- The tree removal is part of a wider project for the renovation of the Arboretum including replanting.

With respect to the complaints about the lack of consultation. The applicant's directorate has provided details of consultation undertaken earlier in the design process. The following paragraphs reflect the information provided. They state that extensive surveys and consultation with statutory consultees, and other specialists as well as representatives of the users of the Arboretum, were undertaken as part of the Heritage Lottery Fund submission. Responses from this earlier consultation include the following key points:

- The variety of trees and the diversification of the site were considered a top priority.
- One-quarter of the Adult Forum and Citizens Panel considered tree and shrub removal, and replacement, a high priority.

The initial masterplan for the park (2007) was developed following comprehensive consultation with a wide range of stakeholders and was (and still is) available on the Council's website and was widely publicised. This

masterplan formed the basis of a Stage 1 bid to the Heritage Lottery Fund / Big Lottery Fund for funding to restore the park.

The Council received a Stage 1 pass from the Heritage Lottery Fund in March 2008 and then undertook further consultation on the proposals for the park as the plans were developed. Project information and the developing masterplan were published on the Council's website and several key consultation exercises were undertaken between October 2008 and February 2009.

The masterplan for the park was developed and refined, reflecting the results of the consultation events and specialist survey and design work undertaken during the development of a Stage 2 lottery application. This application was submitted in September 2009 and the Council received confirmation of £4.6m of Heritage Lottery Funding for the restoration of the park in January 2010.

The project has been well publicised to keep residents informed of progress and the first phase of work, a youth play area, was completed in October 2010.

To summarise, the trees in the arboretum appeared to have been left relatively unmanaged for quite some time with numerous trees growing in close proximity to each other, particularly in the Lions Den area. This has necessitated the need for, what could be misconstrued as heavy handed management proposals, although in the long-term, the thinning out of the denser parts and the opening up of the area gives those trees that are considered worthy of retention, greater space in which to grow unhindered into feature trees of high amenity value.

Overall the proposed works indicate an improvement in layout with a reduction in the potential for trees to cause damage to persons or property. The overall character of the Conservation Area will be retained and the vast majority of the significant trees within the Arboretum will be retained for current and future amenity.

### **Recommendation**

The Committee is therefore recommended to agree to the proposals contained in the Notification and not to make a Tree Preservation Order to protect the trees from the works proposed.

### **Conditions and Reasons (or reasons for refusal)**

Walsall Metropolitan Borough Council, as Local Planning Authority, hereby confirms that it **does not** intend to make a Tree Preservation Order in respect of the trees in the notification. You may therefore carry out the works described on your recent notification form.



- Fell approx. 213 individual trees, crown lift 19 individual trees, transplant 12 trees. Also, G1 - crown lift all trees, selective removal of holly. G2 - reduce yew trees to 5m, coppice hollies. G3 - fell approx. 20 sycamore. G4 - selective removal of approx. 4 ash. G5 - selective removal. G6 - remove approx. 23 lawson cypress. G7 - crown lift. G8 - remove low level vegetation. G9 - remove row of Leyland cypress. G10 - crown lift. G11 - crown lift.

#### Note to applicant

1. This approval does not cover works to the following trees, which were discussed on site between the applicant and the Tree Officer:

1. Holly adjacent T628 (Tea Garden area)
2. Thuja between T2270 and T2195 (Lions Den area)
3. T585 Ash
4. T2268 Fir
5. T2293 Thuja
6. Thuja to south east of T2195 Oak

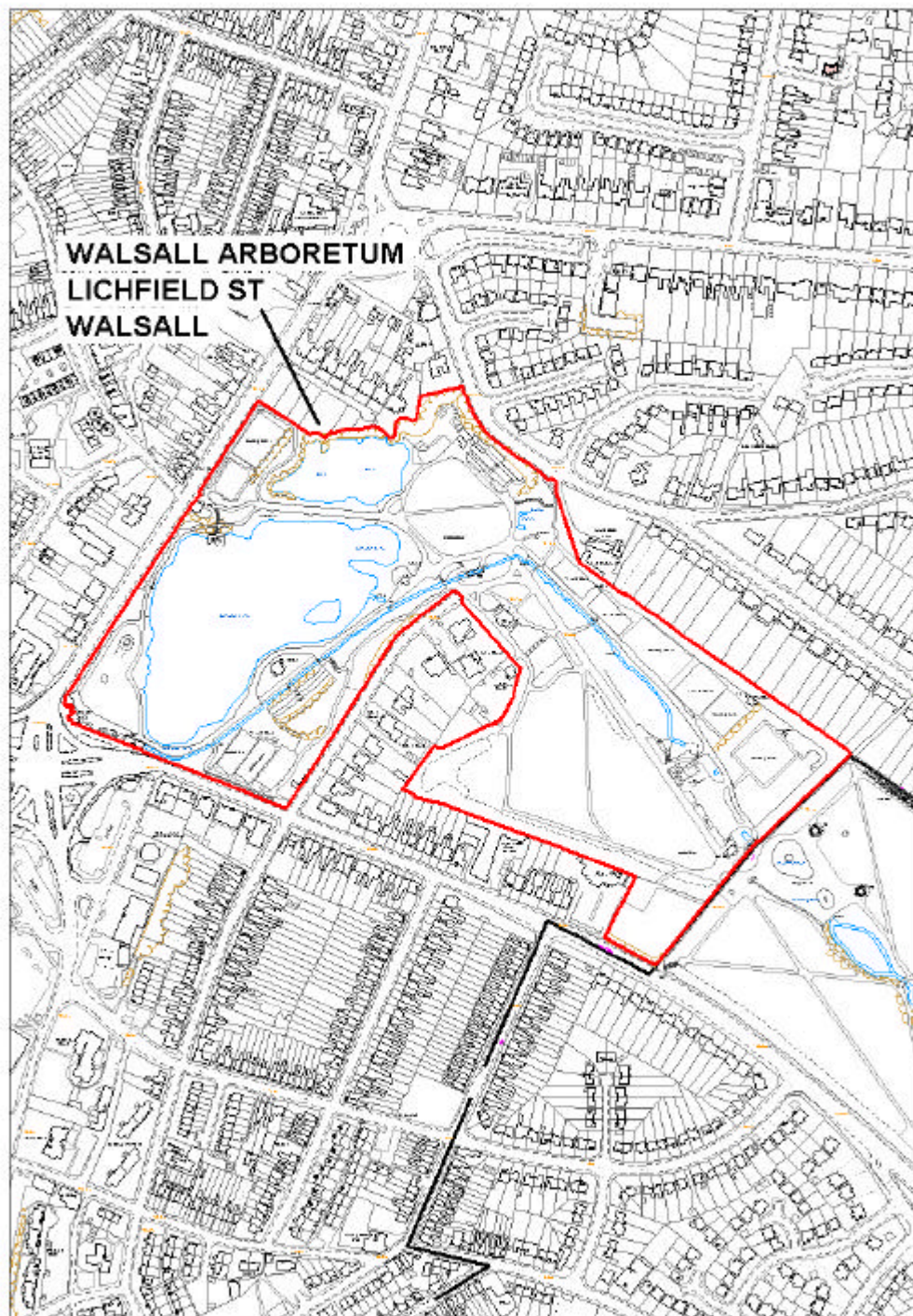
These trees have been omitted from the current Notification and the works cannot be undertaken without a further Notification being submitted to the Council.

2. If the works proposed to the above trees are not carried out within two years, you must re-notify the Council so that the condition of the trees can be re-assessed.
3. 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.
4. 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.
5. This agreement to undertake work to the trees 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.
6. 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**

### **NOTIFICATION OF INTENTION TO UNDERTAKE FELLING AND PRUNING WORKS TO TREES IN WALSALL ARBORETUM**

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## **SCHEDULE OF PROPOSED WORKS**

### **NOTIFICATION OF INTENTION TO UNDERTAKE FELLING AND PRUNING WORKS TO TREES IN WALSALL ARBORETUM**

Fell approximately 213 individual trees.  
Crown lift 19 individual trees.  
Transplant 12 trees.

The above trees are distributed over much of Arboretum with a concentration of felling works in the Lion's Den area between the Tea Garden and the Rose Garden.

Group G1 (West of Hatherton Lake between Clock Tower and Boat House)  
Crown lift all trees, selective removal of holly.

Group G2 (West bank of Deep Pool)  
Reduce yew trees to 5m and coppice hollies.

Group G3 (North bank of Deep Pond)  
Fell approximately 20 sycamore.

Group G4 (North of Deep Pond)  
Selective removal of approximately 4 ash.

Group G5 (Behind proposed visitors' centre)  
Selective removal.

Group G6 (Behind proposed visitors' centre)  
Remove approximately 23 Lawson cypress.

Group G7 (Northern shore of Hatherton Lake)  
Crown lift trees.

Group G8 (South of entrance from Arboretum into Arboretum Extension)  
Remove low level vegetation.

Group G9 - (South of entrance from Arboretum into Arboretum Extension close to Broadway frontage)  
Remove row of Leyland cypress.

Group G10 (Boundary trees north of bowling green and tennis courts)  
Crown lift.

G11 (Boundary trees east of bowling green)  
Crown lift.