



PLANNING COMMITTEE: –

11 November 2010

REPORT OF HEAD OF DEVELOPMENT AND DELIVERY

APPLICATION TO FELL FOUR TREES, CROWN REDUCE ONE TREE AND TO CROWN RAISE THREE TREES AT 44, PARK ROAD, WALSALL, WS5 3JU.

1. **PURPOSE OF REPORT**

To seek the determination of the application 10/1067/TR to fell 4 trees, crown reduce one tree and to crown raise three trees protected by Tree Preservation Order 23 of 2007 at 44 Park Road, Walsall, WS5 3JU. This application has been brought to the Planning Committee because there is significant community interest and at the request of Councillor R. Martin.

2. **RECOMMENDATIONS**

The Committee is recommended to:

- To refuse consent for the removal of one tree.
- To grant consent for the removal of three trees and the pruning of another four subject to the conditions proposed in this report.

3. **FINANCIAL IMPLICATIONS**

In certain restricted cases compensation may be payable for loss to the applicant as a result of the Council refusing an application.

In the event of a successful appeal against the refusal of an application or the imposition of conditions, the appellant may be able to claim costs against the Council.

4. **POLICY IMPLICATIONS**

There are no policy implications arising from this application.

5. **LEGAL IMPLICATIONS**

Applications have to be determined by the council in compliance with legislation and official guidance.

Failure by an applicant to comply with the terms of a decision notice renders them 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 Paddock Ward.

9. **CONSULTEES**

Near neighbours were consulted on this application.

10 **CONTACT OFFICER**

Andrew Cook - Extension: 2447

11. **BACKGROUND PAPERS**

Application file reference 10/1067/TR

Tree Preservation Order file reference PDI/17/791

Simon Tranter

HEAD OF DEVELOPMENT AND DELIVERY

REPORT DETAIL

Application number: 10/1067/TR

Applicant: Rob Keyzor Tree Surgeons & Arboricultural Consultants, Lodge Lane, Stafford, ST20 0NZ

Date received: 08 September 2010

Expiry date: 03 November 2010

Reason for bringing to committee: Significant community interest in the application and at the request of Councillor R. Martin.

Application and Site Details

This is an application to fell four trees and to prune four others in the rear garden of 44 Park Road, Walsall WS5 3JU. The trees which are the subject of this application are currently protected by Tree Preservation Order 23 of 2007. Park Road is a residential street characterised by detached houses on large mature plots. The application site was formerly the site of 44 Park Road where a large bungalow was recently demolished and has now been replaced with 5 detached houses in accordance with planning permission 08/0871/FL.

The rear garden of the applicant's property is at a higher level than the adjacent properties to the rear on Beacon Road. The protected trees contribute to the screening between the properties, however, there are numerous established trees and shrubs outside of the applicant's rear garden that also provide effective screening. The majority of the protected trees in the applicant's rear garden are planted close together near to the southern boundary. These protected trees comprise mainly of Fir, Cypress and Birch and number approximately 18 trees, it is proposed to undertake pruning works to four and to remove four.

The application is supported by a tree inspection report undertaken by qualified arboricultural consultant Rob Keyzor Fd BSc. Arb. whose recommendations are to remove four protected trees in the rear garden and to undertake pruning works to four others. These trees and the proposed works are as follows:

- **Willow** tree (tag no. 646) to crown reduce by 30%.
- **Fir** tree (tag no. 647) to remove to near ground level.
- **Birch** tree (tag no. 648) to remove to near ground level.
- **Fir** tree (tag no. 649) to remove to near ground level.
- **Cypress** (tree tag no. 650) to remove to near ground level.

- Three **Fir** trees (no tag nos.) to crown raise to give 3.0m ground clearance.

A plan showing the location of each tree is attached to this report.

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 May 2009).

Relevant Planning History

Previously : Application 08/1885/TR was made in December 2008 to remove 36 trees and to prune one. The application site was the whole of the former 44 Park Road and was submitted by the developer to remove trees in poor condition prior to the sale of the new houses. This application was part approved and part refused, the council giving consent for the removal of 7 of the trees and the pruning of one.

Representations

Five representations were received from the owners/ occupiers of 25 and 25A Beacon Road, 31 and 35, Park Road, one by email from an undisclosed address and also from Councillor Rose Martin. The issues raised were as follows:

A response by letter from the owners/ occupiers of 25 Beacon Road states that the general level of the rear garden of 44, Park Road is approximately level with the top of the boundary fence to their property and the removal of the trees close to the boundary would be a serious invasion of their privacy. The letter further states that since the construction of the properties they have inherited problems with flooding at the top of the garden, this is assumed to be as a result of alterations to the water course caused by springs and the concern is that tree removal would add to the problems. The letter also stated that they have no objections to the crown raising of the three Fir trees and no objection to the crown reduction of the Willow tree.

A response by email from 25A, Beacon Road states that the construction of the new properties at the site of the former 44, Park Road has resulted in a loss of privacy for the adjacent properties on Beacon Road. It is only the presence of the tree foliage that gives a degree of privacy and that the abundance of trees is the principle attractive feature of the neighbourhood. The email requests the council to reject the proposal.

A response by email from 31, Park Road states that 60% of the trees were removed prior to the construction of the property and that the three trees to be crown lifted are approximately 9.0m in height and a reduction to 3.0m would be detrimental to their health. The email also states that tree removal will

affect the privacy for the properties on Beacon Road and that surface water is a problem in the area and the removal of more trees may exacerbate the situation.

A response by email from 35, Park Road states that a substantial amount of trees have already been removed and that it is their understanding that the remaining trees were to be looked after and replaced if they died or got damaged. The email also states that the properties further down the road are experiencing water problems due to the tree removal and the development on the site.

Another representation by email supports the application, however, it also states that the removal of Fir trees may have adverse implications for other neighbours who have experienced water logging and flooding after the housing development was built.

Councillor Martin raises concerns about the condition of the trees and about flooding and land drainage in the area.

Determining Issues

The Council has to decide if the works proposed are justified having regard for the reasons put forward in support of them and the objections received. The application has to be judged on its merits.

The Council also has to assess the amenity value of the trees and the likely impact on the amenity of the area from the proposals. It has to consider whether any loss or damage is likely to arise if consent is refused.

Observations

The representations received between them raise all the issues relevant to the determination of this application.

- Condition of the trees.
- Loss of privacy.
- Effect of tree loss on land drainage.

Each of these issues is discussed in further detail below.

Condition of the trees.

The site was inspected by one of the council's arboricultural officers on 8 October 2010. All trees proposed for felling or pruning works were inspected. The following observations were made:

The mature **Willow** (tag no.646) is approximately 16.0m high with a spread of about 7.0m in each direction and is growing close to the western boundary of the garden and the rear elevation of the applicant's house. From a ground inspection the tree appears to be in fair condition. However, it has received

poor quality pruning work in the past and has numerous broken branches and deadwood throughout the crown. Unsympathetic pruning in the past has also resulted in an asymmetrical crown. There are sufficient growth points to allow the proposed reduction of the tree which will balance the crown and preserve its amenity.

Fir tree (tag no. 647) is a young mature tree with a height of approximately 7.70m; it has significant dieback in the crown and is in poor physiological and structural condition. The tree appears to be moving in the ground but this may be as a result of altered soil levels around the base of the tree. It is highly unlikely that the tree will recover and its removal is recommended subject to a replacement tree being planted.

Birch tree (tag no. 648) is a mature twin stemmed tree with a height of approximately 13.70m. There is evidence of previous pruning which is of a poor standard, the crown is relatively sparse and there is also evidence of deadwood. However, the tree is in a fair condition and it should be given the opportunity to recover.

Fir tree (tag no. 649) is a young mature tree with a height of approximately 11.00m. It has significant dieback in the crown and is in poor physiological and structural condition. It is highly unlikely that the tree will recover and its removal is recommended subject to a replacement tree being planted.

Cypress tree (tag no. 650) is a mature tree with a height of approximately 7.20m. It is of poor physiological and structural condition, the main leader has snapped out at a height of approximately 3.0m leaving a large tear down wound on the main stem. The tree has a limited safe useful life expectancy and should be removed subject to a replacement tree being planted.

The three **Fir** trees (untagged) situated adjacent the garden shed are young mature trees in fair condition and in excess of 9 metres tall. The proposal is to raise the crowns by the removal of the lower branches to give 3.0m clearance from the adjacent ground level. This is minor work and in line with good arboricultural practice and would not result in a loss of privacy for adjacent properties. One of the objections made by 31, Park Road states that the reduction of these three trees to a height of 3.0m would be detrimental to their health, however, it is not proposed to reduce them as the application only refers to crown raising by 3.0m which means removing the lower branches to a height of 3.0 metres only.

Loss of privacy.

To the rear of the application site the trees in the Tree Preservation Order provide screening between the application site and the adjacent houses in Beacon Road. The rear garden of the application site is at a higher level than the properties to the rear and therefore the protected trees provide some screening between the properties. Garden hedges and other trees and shrubs outside the application site also provide important screening. The removal of the four trees proposed in this application would have little adverse effect on the vegetation separating the application site from the houses to the rear as

they represent only a small proportion of the total amount of protected trees in the rear garden of 44, Park Road.

It is not considered that the very limited number of trees which officers consider could usefully be removed will make a discernible difference to the screening. By securing replacement planting the tree screen will be maintained in the longer term.

Effect of tree loss on land drainage.

It has not been possible to ascertain the reasons for the wet conditions the complainants refer to other than the underlying soils are clay and do not readily drain. An examination of council records and old maps of the neighbourhood was made when previous application 08/1885/TR was made for tree works in December 2008 and no records were found of water courses, ditches or drains in the immediate neighbourhood. The characteristics of the groundwater flows and the effect of the existing trees in any neighbourhood are difficult to ascertain. However, if only three relatively insignificant trees in poor condition were removed as recommended, there would probably be negligible impact on the hydrology. It is impractical to retain declining trees on the basis of an unknowable effect on ground water. If felling is permitted and replacement planting secured, these new trees would take up water from the soil in increasing amounts as they mature. Whether this would affect ground water flows is uncertain.

Replacement of any trees felled.

It is recommended that replacements for the trees recommended for removal are secured. At present the trees on this site are of a similar age and many will reach the end of their safe useful lives at the same time. Allowing limited felling when justified together with replacement planting will introduce a more diverse age structure ensuring the long-term continuity of trees on the site.

Other matters.

It is unlikely that any loss or damage to site owner will be caused by any refusal to grant this permission in full. No reasons have been submitted by the applicant to suggest that loss or damage might result if any of the trees which are the subject of this application remain. However, the trees recommended for felling will deteriorate to a point where they could become unsafe.

Recommendation

The Committee is recommended to part approve and part refuse the application as set out below:

Conditions and Reasons (or reasons for refusal)

Walsall Metropolitan Borough Council hereby **refuses consent** for the following works as proposed in this application:

- The removal of Birch tree tag no. 648.

For the following reason:

- The Birch tree is in fair condition both structurally and physiologically and has demonstrable amenity value; consequently its removal cannot be justified at this time.

Walsall Metropolitan Borough Council hereby **grants consent** for the following works as shown in this application:

- To crown reduce Willow tree tag no. 646 by 30%.
- To remove two Fir trees tag nos. 647 and 649.
- To remove Cypress tree tag no. 650.
- To crown raise the three Fir trees situated adjacent the garden shed to give 3.0m clearance from the nearest adjacent ground level.

Subject to the following conditions:

The date of felling shall be notified to the Local Planning Authority within one week of felling. The trees felled shall be replaced within 12 months of notification with three standard size trees. The species and location of the replacement trees shall be agreed in writing by the Local Planning Authority. All planting shall be carried out in accordance with the agreed details. The Local Planning Authority shall be notified in writing when the replacement trees have been planted.

Reason: Pursuant to the requirements of Section 197 of the Town and Country Planning Act 1990.

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

Reason: To ensure a satisfactory standard of work.

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 trees in the event of the works not being carried out.

**APPLICATION TO FELL FOUR TREES AND PRUNE FOUR OTHERS
AT 44 PARK ROAD, WALSALL WS5 3JU.**

