



# Walsall Council

## PLANNING COMMITTEE

29<sup>TH</sup> November 2018

### REPORT OF THE HEAD OF PLANNING, ENGINEERING AND TRANSPORTATION – DEVELOPMENT CONTROL

#### APPLICATION TO REMOVE 4 PROTECTED SYCAMORE TREES AT DRAYMAN CLOSE, WS1 3JR.

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

Reason for bringing to committee: Significant Community Interest

#### 2. **COMMITTEE UPDATE**

The application was deferred by August 2018 planning committee for the following reasons:

*The Chair advised Members that Committee could not make any decisions with regards to the trees without the owner's permission.*

The exact location of the trees was difficult to ascertain as a result of minor discrepancies in the plan available and site constraints. However, approximate locations of the trees determined and the relevant landowners consulted on the proposed felling, giving 21 days to respond. To date, no representations have been received from the landowners.

Regardless of the specific location of the trees, the Council can assess if the proposed felling of the trees will be detrimental to the amenity, aesthetic and landscape value of the locality. The Councils Decision Notice clearly states that it does not grant consent for the applicant (or their representative) to enter third party land for the purposes of undertaken the consented works without the consent of the landowner.

However, in light of the recent additional consultations, the recommendation to refuse the felling of the 4 Sycamore trees remains unchanged, as do the reasons for recommending the refusal.

The original report now follows with updated reasons for refusal:

#### 3. **RECOMMENDATIONS**

Part Approve/Part Refuse

4. **PROPOSAL**

Remove 4 sycamore trees.

5. **SITE AND SURROUNDING**

The 4 sycamore trees are located on the rear boundary of nos. 5-15 Drayman Close and adjacent to the garages serving nos. 37-47 Emery Close. The precise boundary of the rear gardens is undetermined at this stage as there is a double fence line and therefore the ownership of the trees is undetermined at present.

Drayman Close lies to the south of Emery Close with the rear gardens having a north facing aspect. It is located within the Highgate Conservation Area and is part of the Listed Building status for Highgate Brewery.

6. **RELEVANT PLANNING HISTORY**

14/1485/TR: Fell 5 trees to the rear of 5, 7, 9, 11 Drayman Close – Part Refuse/Part Approve (allow the removal of 2 trees, minor pruning to the remaining three.)

08/0195/TR: Reduce and thin 5 Sycamore trees – Part Approve/Part refuse

7. **RELEVANT POLICIES**

National guidance explaining the regulations governing Tree Preservation Orders can be found in the National Planning Policy Framework, Planning Practice Guidance -Tree Preservation Orders and Trees in Conservation Areas (updated 06 March 2014).

Saved UDP Policy: ENV18: Existing woodlands, trees and hedgerows, states:

‘The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows’.

8. **CONSULTATION REPLIES**

N/A

9. **REPRESENTATIONS**

A petition with 5 signatories objecting the proposal and 4 separate letters of support have been received.

The letters of **objection** are based on the following reasons:

- i. The application is contrary to Policy ENV18 of the Walsall UDP.
- ii. The trees are in good health and not causing a danger.
- iii. The trees are not alleged to be causing structural or subsidence damage.
- iv. The 4 trees support a range of wildlife and their removal will have a negative effect on such.
- v. The application is contrary to Policy NE7 of the SPD Conserving Walsall’s Natural Heritage.

- vi. The alleged loss of sunlight has not been supported by any evidence and should carry little weight.
- vii. The falling of leaves and twigs is a natural occurrence and whilst an inconvenience, should carry no weight in the determination of the application.
- viii. The removal of the trees will result in an unacceptable loss of privacy to the residents of Emery Close.
- ix. There may be an impact on flooding if the trees were to be removed.

The letters of **support** are based on the following reasons:

- i. The trees grow considerably every year and the branches get nearer the house.
- ii. They block the light.
- iii. They have very limited space being trapped between two fences.
- iv. They are a danger to damaging the fence to Drayman Close.
- v. Washing can't be dried in the garden due to the trees.
- vi. The trees have deprived our house of light, a living lawn, damaging paintwork on vehicles, damaging fencing, patio furniture destroyed, roots are going under the house which could cause structural damage and the leaves are a nuisance.
- vii. They were never meant to be trees and never maintained by the Brewery. They have warped the metal fence to the parking area in Emery Close, reducing its size. We can no longer park cars along the fence side of the car park.
- viii. The branches hang over the parking area and one previously dropped off but luckily didn't damage any cars.

## 9 DETERMINING ISSUES

- 1. Whether the proposed works will be detrimental to the amenity, aesthetic and landscape value of the locality.

## 10 ASSESSMENT OF THE PROPOSAL

Site Visit: 06/07/2018

Tree(s): 4 Sycamore trees.

The application has been accompanied by an annotated copy of the TPO Plan, indicating the 4 trees to be removed, and the 2 trees removed previously under consent. The annotation is incorrect as the remaining Sycamore trees on site are labelled as T2, T3, T5, and T7. For the purpose of this report the numbering on the plan will be used to reference the trees, comments as follows:

- 1. T2 Sycamore – is a multi-stemmed maturing tree of good shape and form. It appears in good condition with no visible faults or defects although profuse ivy growth to approximately 3.5m prohibited a full inspection of the base and main stem. The crown appears of normal density for the species and it is greater than 2m from the nearest point of the building on Drayman Close. The lowest branches hang at approximately 4m above level ground.

2. T3 Sycamore – is a multi-stemmed maturing tree of reasonable shape and form (it is slightly asymmetrical due to the more mature T2 and the now removed T4). It appears in good condition with no visible faults or defects although profuse ivy growth to approximately 5m prohibited a full inspection of the base and main stem. The crown appears slightly denser than normal and it is greater than 2m from the nearest part of the building on Drayman Close. The lowest branches hang at approximately 2.5m above ground level on the garage side, 6m over the garden area of the properties in Drayman Close.
3. T5 Sycamore - is a multi-stemmed maturing tree of reasonable shape and form (it is slightly asymmetrical due to T4, now removed). It appears in good condition with no visible faults or defects although profuse ivy growth to approximately 4m prohibited a full inspection of the base and main stem. The crown appears slightly denser than normal and it is greater than 2m from the nearest part of the building on Drayman Close. The lowest branches hang at approximately 2.5m above ground level on the garage side, 4m over the garden area of the properties in Drayman Close.
4. T7 Sycamore - is a multi-stemmed maturing tree of good shape and form. It appears in good condition with no visible faults or defects although profuse basal growth and surrounding fences prohibited a full inspection of the base and main stem. The crown appears of normal density but is less than 2m from the gutter and roof of 15 Drayman Close. The lowest branches hang at approximately 3.5m above ground level over the garden area of the properties in Drayman Close.

The trees are situated on the north side of 3-15 Drayman Close, adjacent to the boundary with the garages serving 37-47 Emery Close. They are situated on land that is approximately 1m above the ground level adjacent to the rear elevation of the buildings, creating a feeling of increased dominance. They are prominent and significant trees that make useful contributions to the amenity of the locality, the setting of the listed building, the setting of the conservation area and offering a good level of screening between the properties.

The application cites numerous reasons for requesting the trees removal, consisting of:

1. The gardens are littered with flowers, leaves, twigs, seeds and greenfly making it difficult to use the gardens with pleasure.
2. There is restricted light to the gardens and rear facing rooms.
3. It is difficult to grow grass and plants

The 'debris' that falls from a tree is considered more of a nuisance and one that is dealt with through normal property maintenance. The gardens will be in shade for most of the day due to the north facing nature of the 3 storey building, which casts the vast majority of the shade, and as a consequence, it may be difficult to grow sun loving plants in the predominantly shady area.

## 11 CONCLUSIONS AND REASONS FOR DECISION

1. The trees are of good shape and form with no visible faults or defects indicating they are in good health.
2. The trees are prominent in the locality and make a significant contribution to the amenity, aesthetic and landscape value of the area.
3. The trees make a significant contribution to the character of the Conservation Area and the setting of the Listed Building.
4. The trees offer a useful amount of screening between the properties in Drayman Close and Emery Close.

Therefore, the reasons given for requesting their removal do not outweigh the positive contributions that the trees provide to the locality.

## 12. RECOMMENDATION

Part Approve/Part refuse

## 13. CONDITIONS AND REASONS

### **Refuses Consent for the Following Work(s):**

1. Remove 4 Sycamore Trees

### **For the Following Reason(s):**

1. The trees are prominent in the locality and make significant contributions to the amenity, aesthetic and landscape value of the area. They make useful contributions to the setting of the listed building, the setting of the conservation area and offering a good level of screening between the properties. The reasons given for requesting their removal do not outweigh the positive contributions that the trees provide to the locality.

### **Grant Consent for the Following Work(s):**

1. T2 Sycamore – remove the growth arising from the base of the tree
2. T3 Sycamore – remove the growth arising from the base of the tree, thin the crown by 15%.
3. T5 Sycamore – thin the crown by 10-15%
4. T7 Sycamore – lift the crown over the garden of 15 Drayman Close to give 4.5m clearance, cut back the crown from the building to give 3m clearance.

### **Subject to the Following Condition(s):**

1. 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.

2. All tree surgery work shall be in accordance with British Standard 3998: 2010 "Tree Work - Recommendations".

*Reason:* To ensure a satisfactory standard of work.

3. All tree surgery shall be carried out by a person who is appropriately insured and competent in such operations.

*Reason:* To ensure a satisfactory standard of work.

4. The applicant shall give at least 5 working days' notice prior to any works in order that a mutually convenient time can be arranged with the Borough Council to discuss the extent of the works and/or supervise the works with the contractor on site.

*Reason:* To ensure a satisfactory standard of work.

### **Notes for applicant**

1. All 18 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 trees are situated for the purposes of undertaking the works without the formal consent of the landowner.
4. You may remove deadwood under Regulation 14(1)(b) of the Town and Country Planning (Tree Preservation)(England) Regulations 2012 as this operation is exempt from the need to obtain formal planning permission.

## 14 **CONTACT OFFICER**

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**Steve Pretty,**  
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