



DEVELOPMENT CONTROL COMMITTEE: –

5 November 2009

REPORT OF HEAD OF REGENERATION - DELIVERY AND DEVELOPMENT

APPLICATION TO FELL ONE BLACK POPLAR TREE AT 78 WEDNESBURY ROAD, WALSALL, WS1 4JH.

1. PURPOSE OF REPORT

To seek the determination of the application to fell one Black Poplar tree contained in application 09/1222/TR protected by Tree Preservation Order 13 of 1982. This application has been brought to Development Control Committee as it has been called in by Councillor Yasin on the grounds of public health and safety.

2. RECOMMENDATIONS

The Committee is recommended to:

- To refuse consent for the removal of the Black Poplar tree at 78 Wednesbury Rd. But allow lesser works of re-pollarding the Black Poplar at the previous pollard points (approx. 7/8m above ground level).

3. FINANCIAL IMPLICATIONS

None arising from this report.

4. POLICY IMPLICATIONS

Policy ENV18 of the Council's UDP (Existing Woodlands, Trees and Hedgerows) commits the Council to ensuring the protection, positive management and enhancement of existing trees and to resisting development where it would damage or destroy trees protected by a Tree Preservation Order. In cases where development is permitted involving the loss of trees, developers are required to minimise the loss and to provide appropriate planting of commensurate value.

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 relates to the Palfrey ward.

9. **CONSULTEES**

Owners and near neighbours were consulted on this application.

10. **CONTACT OFFICER**

Cameron Gibson - Extension: 2453

11. **BACKGROUND PAPERS**

File reference 09/1222/TR

Simon Tranter

HEAD OF REGENERATION – DEVELOPMENT AND DELIVERY

DEVELOPMENT CONTROL COMMITTEE: –

5 November 2009

APPLICATION TO FELL ONE PROTECTED BLACK POPLAR TREE AT 78 WEDNESBURY ROAD, WALSALL, WS1 4JH.

REPORT DETAIL

Application number: 09/1222/TR

Applicant: Mr. Ravat, 78 Wednesbury Rd, Walsall WS1 4JH.

Date received: 11 September 2009

Expiry date: 6 November 2008

Reason for bringing to committee: Called in by Councillor Yasin.

Application and Site Details

This is an application to remove one Black Poplar tree to the rear of 78 Wednesbury Rd, Walsall, WS1 4JH.

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 : 07/1916/TR/T1: fell 1 Black Poplar – Refuse Consent.

Representations

One letter of support received from a local resident.

Determining Issues

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

Observations

In support of the application to have the Black Poplar tree removed, the applicant has cited the following reasons ;

The tree is leaning against a brick wall, which is now cracking and will eventually fall, causing damage and injury to the public.

The garden is unusable due to the tree shedding a wool like substance, which also causes a nuisance to the neighbours in Corporation St West and Wednesbury Rd. It also exacerbates my children's asthma problems as it gets onto their clothes, bedding and interior of the house, even on the food when the windows are open.

The tree is so large that, if we have severe weather conditions with high winds, the tree will fall causing huge damage to houses on the street as well as damage and injury to the public.

The response by the council is as follows;

The tree is a maturing specimen of good shape and form. It also appears in good condition as no visible faults, defects or ill health were noted at the time of the inspection. It is prominent in the locality and contributes significantly to the amenity, aesthetic and landscape value of the area.



The tree is situated in close proximity to a 2m high brick wall, which forms the boundary between the public footpath on Corporation Street West and the rear gardens/parking area of 78, 78a and 78b Wednesbury Rd. The stem is <100mm from the wall, with the wall showing signs of severe cracking on its north side. This cracking is very consistent with the annual incremental growth of the base of the

tree although no evidence was submitted, or viewed on site, to support this. However, it is highly likely that the tree has been the cause of the cracking although there may be an element of poor construction of the wall included. In any case, the wall will have to be repaired at some point in the near future to prevent it from falling onto the public footpath, with the possibility of severe damage or injury to the general public. If the Council is minded to refuse the application to fell the tree, the wall could easily be rebuilt using modern construction techniques (bridging) which may allow the tree to increase in size without creating a conflict with the brick wall.

The wool like substance which falls from the tree in the summer months contains the seeds of the tree. The tree starts to shed these around June. The size and age of the tree indicate that this may be extensive, and this is supported by the photographic evidence submitted with the application. However, as is common with many trees in residential situations, the shedding of leaves, seeds and small branches onto garden area is not considered to be such an annoyance to warrant the removal of a prominent protected tree. The amenity value that the tree provides to the general public over-rides any concerns or annoyances that the property owners may have and that any work to clear the substances would be classed in line with normal property maintenance.

It was also stated that the wool like substance exacerbates the applicant's children's asthma. However, this is produced for a relatively short period of the year and the applicant has not, apparently, explored alternative methods of dealing with the problem other than felling the tree. Whilst I sympathise with the children's condition, there is no evidence that the problem justifies the felling of the tree.

The tree is approx. 18m in height and has previously been pollarded at approx. 7/8m above ground level. Subsequent regrowth has formed a new crown, with natural competition shading out the weaker stems. Pollarding is an ancient tree management technique used to encourage lateral branches and to contain trees and shrubs at a regular height and size. It is an operation that requires regular undertaking due to the potentially weak attachment between the new growth and the original branch/limb and can, in certain situations and species, cause the onset of decay within the original stem/limb. In this situation, the pollarding of the tree appears not to have been undertaken for quite some time, leading to uncertainties regarding the structural integrity of the regrown branches. As such, and considering the proximity of an adopted highway, it may be prudent to bring this tree back into a regular pruning regime to mitigate the potential for damage to persons or property through branch loss, and to retain a mature tree of high amenity value in a reduced size and form. It will also reduce the amount of woolly material produced for quite some time.

Recommendation

The Committee is recommended to refuse the application but allow lesser works of re-pollarding the Black Poplar at the previous pollard points (approx. 7/8m above ground level).

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 fell 1 Black Poplar tree in the rear car park.

For the following reason(s);

- The tree is prominent in the locality and of high amenity value. Its removal would be detrimental to the amenity, aesthetic and landscape value of the area.
- The concerns of the applicant are not considered to outweigh the amenity value that the tree provides to the general public.

Walsall Metropolitan Borough Council, as a Local planning Authority, hereby **grants** consent for the following works;

- Re-pollard the tree to the previous pollard points (approx. 7/8m above ground level).

Subject to the following conditions;

1. All tree surgery work shall be completed in accordance with British Standard B.S. 3998.

Reason: To protect the health and appearance of the tree(s) in the interest of maintaining the amenity of the area.

2. 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.

3. 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 protect the health and appearance of the tree(s) in the interest of maintaining the amenity of the area.

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

Reason: To ensure a satisfactory standard of work.

Note to Applicant;

1. Should the applicant wish to undertake substantial repairs to the brick built boundary wall on the Corporations Street West frontage, a further application to the Council is necessary due to the proximity of the works to a protected tree and the potential for damage to such. The application should include details of the proposed works to the wall and an indication of excavation depths and construction techniques.
 2. 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.
 3. 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.
 4. This consent to undertake work to the tree(s) 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.
-

**APPLICATION TO FELL ONE PROTECTED BLACK POPLAR TREE
AT 78 WEDNESBURY ROAD, WALSALL, WS1 4JH.**

Crown copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Walsall MBC. Licence LA 076414.

