



PLANNING COMMITTEE

10TH December 2020

REPORT OF THE HEAD OF PLANNING & BUILDING CONTROL – DEVELOPMENT MANAGEMENT

APPLICATION TO REMOVE 1 PROTECTED SYCAMORE TREE AT 23 MELLISH ROAD, WALSALL WS4 2DQ.

1. PURPOSE OF REPORT

Reason for bringing to committee: Councillor Call-in. It is stated the tree creates a danger to property and life.

2. RECOMMENDATIONS

Refuse Consent

3. PROPOSAL

To fell 1 Sycamore to ground level.

4. SITE AND SURROUNDING

The site is orientated in a north-south direction and is situated on the north side of Mellish Road. The building is fairly centrally located and faces south. The front garden area is laid mainly to hard landscaping, with a small strip of soft landscaping located adjacent the front and right-hand boundaries.

The surrounding area is mainly residential.

5. RELEVANT PLANNING HISTORY

19/1491: Fell Sycamore – Part Approve/Refuse

18/0917: T1 Sycamore, Fell – Part Approve/Part Refuse

6. 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:

- (a) 'The Council will ensure the protection, positive management and enhancement of existing woodlands, trees and hedgerows'.

7. CONSULTATION REPLIES

N/A

8. REPRESENTATIONS

No representations have been received.

9. DETERMINING ISSUES

Whether the proposed works will be detrimental to the amenity, aesthetic and landscape value of the locality, and whether sufficient justification has been demonstrated for the removal of the trees.

10 ASSESSMENT OF THE PROPOSAL

Site Visit: 14/10/2020

Tree(s): 1 x Sycamore

The tree, the subject of this application, is located within G5 of Tree Preservation Order No. 5/1965. It is a maturing, twin stemmed tree of good shape and form. The union between the stems appears sound with no visible faults or defects.

The tree is located approximately 5m from the front of no. 23 Mellish Road (single storey extension) and 6m from the front of no. 25 Mellish Road. The crown over no.23 is approximately 3.5m above ground level and less than 1m from the building. The crown over no. 25 is approximately 8m above ground level and 2m from the building. An extensive driveway is evident to the front of no. 25 which extends up to the flank boundary between the properties.

The tree appears in good condition with no visible faults or defects. However, a fungal fruiting body was observed close to the base of the tree although this doesn't appear to be a species that would affect the long-term health and condition of the tree. Poorly undertaken pruning is evident to the lower branches over no. 25 and the Councils planning records indicate there was no formal consent for this. The crown appears healthy with normal sized leaves and extension growth.

The applicant submits that the tree is a danger to property and life. To support this, the application was accompanied by a Tree Report undertaken by AEC Architectural and Engineering Consultants dated 15th August 2019. This is somewhat of an unconventional approach as it is normal to commission the services of a person experienced and competent in their specialised field and, in this case, a person who is able to identify the principles of tree hazard assessment and provide recommendations as necessary. The Report falls short of addressing the areas of most risk and appears to dramatize various aspects of the trees condition/location. Nevertheless, the Report highlights the following, summarised, issues (with the planning authority comments in *italics*):

1. The tree damaged and pushed over a boundary wall. Whilst the wall was rebuilt, it is likely further damage will occur.

The frontage of no. 25 has been extensively re-landscaped in recent years with all soft landscaping removed and replaced with hard standing extending up to the boundary wall. Re-aligning a wall to accommodate the growth of a tree is a common issue as trees cannot identify property boundaries and grow where it is most conducive to grow. The age of the tree indicates that further damage to the wall may occur but it is not foreseeable.

2. The tree has a considerable lean towards the buildings.

The tree has an appearance of leaning towards no. 25 although this is a natural consequence of being twin stemmed. This is exacerbated by the removal of the lower branches over no. 25 and is visual only.

3. The crown has splits in it.

It is noted that the main stem divides into two (forks) at approximately 1m above ground level. There are no signs of reaction growth around the fork would indicate a fault or defect at this location. Therefore, little weight can be apportioned to the implication that the fork constitutes a danger and a risk to persons or property.

In addition, the Report also notes the "... upper crown has a minor split..." although it does not identify its specific location. However, it is assumed this comment relates to a large branch junction (fork) located approximately 6m above ground level on the stem nearest no. 25. In comparison to the previous comments, there are no signs of reaction growth around the fork that would indicate a fault or defect at this location. Therefore, little weight can be apportioned to the implication that the fork constitutes a danger and a risk to persons or property.

4. Previous pruning has resulted in exposed dead branches.

It is noted and agreed that previous pruning has been undertaken on the tree, and in a manner that doesn't comply with current best practice. The 'exposed dead branches' are commonly known as 'dead ends' and are a result of the pruning operation not being undertaken at a branch junction (also known as a fork). Dead ends have no direct consequences for tree health but can act as a food source for decay causing fungi, allowing continual attacks on the trees natural defence barriers, and preclude the tree from sealing the affected part.

In any event, the removal of deadwood is exempt under Regulation 14 of the Tree Preservation Regulations from the need to obtain formal planning consent as it is a safety issue.

5. The tree has a tendency to shed loose branches and leaves over the applicant's car park area.

Being a substantial deciduous tree, the sycamore will cause a degree of seasonal inconvenience to the applicant and his neighbours in terms of the shedding of leaves and other debris, and honeydew deposition associated with aphids feeding on the leaves. However, such issues are an unavoidable consequence of owning a property close to a protected tree and do not justify the proposed works to a prominent healthy specimen such as this. The installation of proprietary leaf guards would help to reduce the build-up of leaves and other debris in the gutters and rainwater downpipes.

Therefore, it is considered the reasons given are not sufficient either individually or collectively to outweigh the public visual amenity afforded by the sycamore and hence warrant the proposed works.

11 CONCLUSIONS AND REASONS FOR DECISION

The government's on-line Planning Practice Guidance states that it must be demonstrable that the proposed work is a proportionate solution to the expressed concerns. The reasons given for the removal of T1 Sycamore do not outweigh the harm that would arise from its removal. It has demonstrable public visual amenity and is in good condition. Consequently, the recommendation is to refuse the application to fell the Sycamore tree as the reasons given for the works applied for are not sufficient to justify the removal of the tree.

12 RECOMMENDATION

Part Approve/Part Refuse

13 CONDITIONS AND REASONS

Refuses Consent for the Following Work(s):

1. To fell 1 Sycamore to ground level.

For the Following Reason(s):

1. The tree is of reasonable shape and form with no visible faults or defects indicating it is in good health.
2. The tree is prominent in the locality and makes a significant contribution to the amenity, aesthetic and landscape value of the area.
3. The tree is not considered overbearing or oppressive to the nearby residential properties which receive direct sunlight for parts of the day.
4. Whilst sticky residue is an inconvenience of living in close proximity to a mature tree it is not sufficient enough justification for its removal.
5. The removal of leaf litter is considered to be part of normal property maintenance and is not a justifiable reason for the trees removal.
6. The reasons given in the application for the removal of the tree are not considered to outweigh the harm that would arise from the loss of what is a healthy tree with demonstrable public visual amenity.

Grant Consent For the Following Work(s):

1. T1 Sycamore – Prune back from no. 23 to create up to 2m clearance from the building.

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. Reduction shall be only as far as lateral growths or branches, so as to leave a flowing crown outline with no stubs.

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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