



DEVELOPMENT CONTROL COMMITTEE: –

1 April 2008

REPORT OF HEAD OF REGENERATION - DELIVERY AND  
DEVELOPMENT

**APPLICATION TO FELL PROTECTED TREE ADJACENT 18, ROSE  
HILL, WILLENHALL, WV13 2AR.**

**1. PURPOSE OF REPORT**

To seek the determination of the application to fell one Poplar tree contained in application 08/0182/TR protected by Tree Preservation Order 2 of 1990. This application has been brought to Development Control Committee because there is significant public interest and the timescales of the application requires it to be dealt with within this Development Control Committee cycle.

**2. RECOMMENDATIONS**

The Committee is recommended to:

- To grant consent for the removal of the Poplar tree.

**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 Willenhall South ward.
9. **CONSULTEES**  
Owners and near neighbours were consulted on this application.
10. **CONTACT OFFICER**  
Andrew Cook - Extension: 2447
11. **BACKGROUND PAPERS**  
File reference 08/0182/TR

**Steve Lewis,**  
HEAD OF REGENERATION DELIVERY AND DEVELOPMENT

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### **APPLICATION TO FELL PROTECTED TREE ADJACENT 18, ROSE HILL, WILLENHALL, WV13 2AR**

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#### **REPORT DETAIL**

**Application number:** 08/0182/TR

**Applicant:** Mr. S. Molyneux, 55, Jane Lane Close, WS20LR

**Date received:** 6 February 2008

**Expiry date:** 2 April 2008

**Reason for bringing to committee:** Community interest in application.

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

This is an application to fell one Poplar which is situated on the access road to industrial units at the rear of Rose Hill.

#### **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

**Adopted UDP:** Policy ENV19: Existing woodlands, trees and hedgerows, states:

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

#### **Relevant Planning History**

**Previously:** 02/1244/TR/T2 consent granted.

## Representations

Five representations were received in objection to the application. Responses were received from nos. 20, 21, 22 and 189, Rose Hill and one that didn't include an address.

A response from the owner/ occupier of 20, Rose Hill states that they object to the removal of the Poplar because if it is removed the subsequent rotting of the root system may well cause subsidence damage to the adjacent properties on Rose Hill which is an unacceptable risk.

A response from the owner/ occupier of 21, Rose Hill states that they are concerned that if the tree is removed it will affect the foundations of the nearby houses as the roots decay. In addition, they enquire as to who would accept responsibility should this occur.

A response from the owner/ occupier of 22, Rose Hill states that should the tree be removed it could cause structural damage to the adjacent properties. They also enquire as to who would be responsible should this occur. It is also stated in the objection that a car washing business which is operating on the industrial estate needs the tree removed to allow easy access for large vehicles.

A response from the owner/ occupier of 189, Rose Hill states that the removal of the tree is not justifiable because the Black Poplar is one of the most endangered native species of tree in the British Isles. The objection also states that the application form is factually incorrect and also asks that the application be cross referenced with the planning application for the car wash.

A response was also received objecting to the application but no address was given. The response states that the application is incorrect and that in 2002 an application was made to WMBC and pruning was allowed but not removal. The objection also states that the tree removal is to allow easy access for large vehicles to the car wash.

The Council understands the significance of this tree and its value to the local landscape and community. Its loss will only be permitted if it is proven that the tree should be removed for health and safety reasons due to its poor physiological and / or structural condition or causing or likely to cause unacceptable nuisance or damage.

In accordance with section 206 of The Town and Country Planning Act 1990 any tree that is removed as a result of this application would be subject to a requirement for replacement planting within twelve months of its removal.

## **Determining Issues**

The Council has to determine if the removal of the tree is justifiable.

## **Observations**

The Poplar tree is an over mature specimen exhibiting signs of decline, it has been crown reduced in the past as a result of application 02/1244/TR/T2 and has also suffered significant damage from vehicle strikes to the main stem, there is also evidence of root damage.

The incorrect house number on the application form is not sufficient enough reason to invalidate the application as the tree is readily identifiable from the supplied plan.

There is a low incidence of shrinkable clay soil in Walsall and consequently if the tree is removed any risk of 'heave' due to the rehydration of the soil would be low and unlikely to cause any structural property damage.

The risk of subsidence damage due to the roots rotting away is also very unlikely, due to the relatively anaerobic conditions of the roots environment there decay will be slow and gradual and any roots under the foundations of the adjacent properties are likely to be minimal because of the unfavourable conditions. Consequently any 'settlement' of the soil would be very minimal and unlikely to be of any risk to the stability and integrity of the neighbouring properties.

Trees are biological structures and have a finite lifespan; the Poplar tree is approaching its safe useful life expectancy and due to its location and likelihood of structural weakness now poses an unacceptable risk to persons and property.

The Council recognises that native Black Poplar are a rare species, however, the Poplar which is the subject of this application is a more common Hybrid and not a true Black Poplar.

The Council also recognises the concerns raised regarding the car wash at the rear of the properties, however, the application for the Poplar trees removal needs to be considered separately from the issues raised.

Photographs are appended to this report.

## **Recommendation**

The Committee is recommended to approve the application.

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

**Walsall Council** as Local Planning Authority hereby **grants** consent for the following works as shown in this application;

- To remove the Poplar tree.

Subject to the following conditions;

The date of felling shall be notified to the Local Planning Authority within one week of felling. The tree felled shall be replaced within 12 months of notification with a new tree of a size, species and location agreed in writing by the Local Planning Authority. The Local Planning Authority shall be notified in writing when the replacement tree has been planted.

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

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 the works not being carried out.

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#### **CASE OFFICER**

Andrew Cook - Extension: 2447

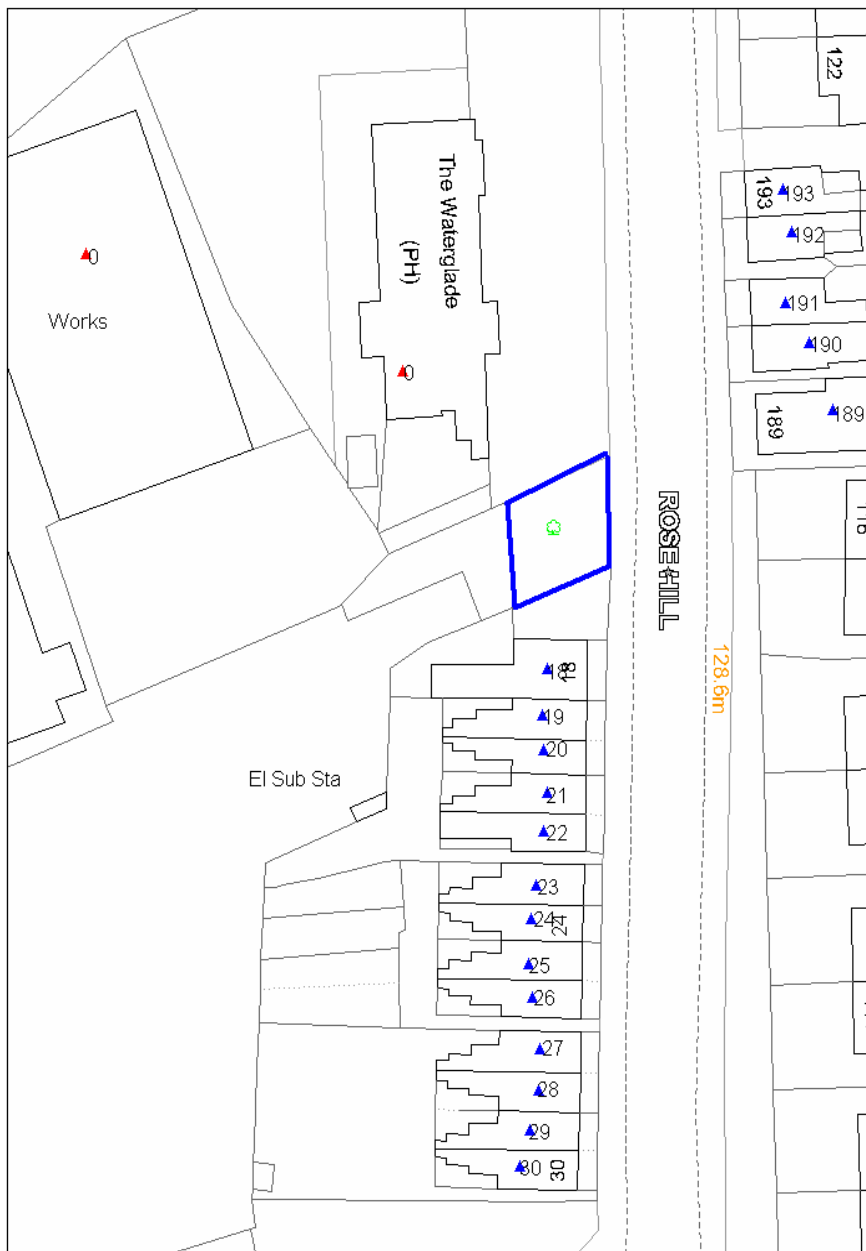
#### **BACKGROUND PAPERS**

File 08/0182/TR

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HEAD OF DELIVERY AND DEVELOPMENT

## SITE PLAN

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Photograph showing vehicle damage to the tree.



Photograph showing root damage.

