



PLANNING COMMITTEE: –

2nd MAY 2013

REPORT OF THE HEAD OF DEVELOPMENT AND DELIVERY

APPLICATION TO FELL 8 TREES ON LAND TO THE REAR OF SPRING LANE AND ASHMORE LAKE ROAD, WILLENHALL.

1. PURPOSE OF REPORT

To seek the determination of the application to fell 8 trees contained in application 12/1581/TR protected by Tree Preservation Order 33 of 1981 (identified as part of area A1).

This application has been brought to Planning Committee due to several local objections and the need to determine this application in line with the proposed development application (12/1693/FL) to be considered on the same agenda.

2. RECOMMENDATIONS

The Committee is recommended to:

- To determine this application in line with the decision on the planning application 12/1693/FL for 112 houses and flats with associated access, car parking, gardens, landscaping, balancing pond and associated works following demolition of existing industrial buildings.

If the Committee is minded to approve the planning application to develop the land, then this application should also be given approval.

3. FINANCIAL IMPLICATIONS

In limited cases, compensation may be payable if an application for tree works is refused by the council.

4. POLICY IMPLICATIONS

Applications to carry out works to protected trees are determined in accordance with legislation and government guidance. There are no council policy implications from this application.

5. **LEGAL IMPLICATIONS**
Failure to comply with the law relating to Tree Preservation Order legislation 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 is situated within Short Heath ward.
9. **CONSULTEES**
Near neighbours in Spring Lane and Ashmore Lake Road were consulted on this application.
10. **CONTACT OFFICER**
Cameron Gibson - Extension: 4741
11. **BACKGROUND PAPERS**
File reference 12/1581/TR

Simon Tranter
HEAD OF DEVELOPMENT AND DELIVERY

PLANNING COMMITTEE: –

2nd MAY 2013

APPLICATION TO FELL 8 TREES ON LAND TO THE REAR OF SPRING LANE AND ASHMORE LAKE ROAD, WILLENHALL.

REPORT DETAIL

Application number: 12/1581/TR
Applicant: Taylor Wimpey West Midlands
Date received: 22 November 2012
Expiry date: 7 February 2013

An e-mail was sent to the applicant on 6 February 2013 requesting an extension of time on which to determine this application. A reply was received on 8 February 2013, from Taylor Wimpey, confirming that they were happy for this application to be dealt with at the same time as the proposed development application (12/1693/FL).

Reason for bringing to committee: *This application has been brought to Planning Committee due to several local objections and the need to determine this application in line with the proposed development application (12/1693/FL).*

Application and Site Details

This is an application to fell 8 trees protected by Tree Preservation Order 33 of 1981 on land to the rear of Spring Lane, Willenhall. The purpose of the application is to enable possible mineshafts to be accurately located prior to housing development.

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

N/A

Determining Issues

The Council has to decide if the proposed felling of the trees is justifiable having regard for the reasons put forward in support of this application and if the works will adversely affect the amenity of the neighbourhood.

Representations

Six individual letters of objection have been received, mainly from the residents of Ashmore Lake Road. They have the following comments to make:

- The trees have been protected for many years.
- The residents of Ashmore Lake Road feel a sense of security with the woodland there.
- The woodland is a haven for wildlife and birds, many of which are in decline due to loss of habitat.
- The loss of the trees, along with the loss of the woodland, will leave us very overlooked by the new development.
- The loss of the trees will increase the risk of burglary.
- The loss of green space is detrimental to the future of young people who will grow up with no amenity.
- My bed-ridden mum will have to stare at brick walls instead of the woodland when it is removed.
- The houses are built on clay soil and their removal will have concerns over heave.
- The trees are a much valued visual and environmental amenity.
- Removal of the trees will devalue my property.
- The trees provide a barrier to privacy, sound and wind.
- The trees absorb water from the natural spring underneath the rear gardens, which avoids flooding of the gardens.
- The suggestion that the trees are at the end of their life is nonsense.
- The trees do a good job in dispersing water from the high water table (700mm below ground level).
- Newly planted trees will take many years to reach maturity.

In addition, a petition containing 11 signatories (3 of which have also submitted individual objection letters) has been received which is appended to the end of this report.

Observations

This application refers to the proposal to remove 8 trees situated on land to the rear of 97, 99 and 101 Ashmore lake Road. They are part of a larger group of trees to the rear of 83-101 Ashmore Lake that form a small woodland feature. The 8 trees consist of 5 Sycamore, 1 Oak, 1 Cherry and 1 Goat Willow, although the application form states they are all Sycamore species. All are protected by Tree Preservation Order 33 of 1981 with the exception of the cherry which is not listed within the Order and therefore not protected. The reason for the application is that the trees must be removed to allow 2

minshafts to be located, which in turn will aid in the design and layout of a proposed development (12/1693/FL).

In relation to British Standard 5837:2010 Trees in Relation to Design, Demolition and Construction, there are 3 'B' class trees, 3 'C' class trees and 1 'U' class tree.

B class trees have an estimated life expectancy of at least 20 years. They are of moderate quality and lack the special quality necessary to merit an A classification. In this instance, this is due to slight squirrel damage.

C class trees have an estimated life expectancy of at least 10 years. They are unremarkable trees of limited merit or are of a condition that they do not qualify in the A or B categories. In this instance, this is due mainly to the tree's poor shape and form.

U class trees are in such a condition that they cannot be retained as living trees for longer than 10 years. In this instance, this is due to one tree being dead and the other having a significant structural defect.

The 'B' and 'C' class trees appear in good condition with no significant visible faults or defects, and form a material consideration in the planning process, with the 5 Sycamore trees being amongst the largest trees on the site.

The mineshaft location forms part of wider proposals to redevelop several commercial units into 112 residential properties. Their location will determine the precise siting of proposed dwellings, roads or hard standing and may have an effect on the overall scheme layout. During the course of the application, it appears that one of the mineshafts had already been located without the need to remove any trees. It is not known whether the other mineshaft has been located or not.

The Natural Environment and Landscape Teams objected to the planning application to develop the land (12/1693/FL) in relation to ecological, arboricultural and landscape issues, specifically on the loss of existing trees, the loss of ecological habitat, and the poor provision of replacement trees and wildlife habitat within the layout. These comments are reported in more detail in the planning application report.

However, the decision on whether or not the trees should be removed to facilitate the site investigations for the development should be made in conjunction with the decision on the planning application to develop the land.

Recommendation

To determine this application in line with the decision on the planning application 12/1693/FL for 112 houses and flats with associated access, car parking, gardens, landscaping, balancing pond and associated works following demolition of existing industrial buildings. If the Committee is minded to approve the application to develop the land, then this application should

also be given approval. If the Committee is minded to refuse the application to develop the land, then consideration should be given to refusing this tree application.

Conditions and Reasons (or reasons for refusal)

If the Planning Committee grants the planning application for development, the following wording will be required in this decision notice.

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

- To remove five Sycamore trees identified as T762, T763, T765, T766 and T767 of the Arboricultural Report by Jeff Marlow dated 14 December 2012.
- To remove one Goat Willow identified as T760 of the Arboricultural Report by Jeff Marlow dated 14 December 2012.
- To remove one Oak identified as T768 of the Arboricultural Report by Jeff Marlow dated 14 December 2012.

Subject to the following conditions:

1. In the event that planning permission to develop the land is not implemented within the expiry period specified within the planning permission this consent is subject to replacement planting of seven trees. Replacements shall be selected from the following species unless otherwise agreed in writing by the Council's Tree Officer : Silver birch (*Betula pendula*), Scots Pine (*Pinus sylvestris*), Field Maple (*Acer campestre*), Oak (*Quercus robur*). The replacement trees shall be nursery grown standards between 8-10cm in girth at the time of planting and be container grown. They shall be planted within area 'A1' of TPO 33 of 1981, at a location agreed in writing with the Council's Tree Officer. The trees must be planted in accordance with good horticultural practice, maintained to ensure establishment. Furthermore, should the replacement tree die within 3 years of its planting, it too must be replaced in accordance with this condition. All replanting shall be notified to the Council's Tree Officer within a month of replanting.

Reason: Pursuant to the requirements of Section 202D(4) of the Town and Country Planning Act 1990 and to protect the amenity and landscape value 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. All tree surgery shall be carried out by a contractor approved by the Head of Regeneration, Delivery and Development, or a person who is appropriately insured and competent in such operations.

Reason: To ensure a satisfactory standard of work.

Note to 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 agreement to undertake work to the trees 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.

If the Planning Committee refuses the planning application for development, the following wording will be required in this decision notice.

Walsall Metropolitan Borough Council, as Local Planning Authority, hereby **refuses consent** for the following works as shown in this application;

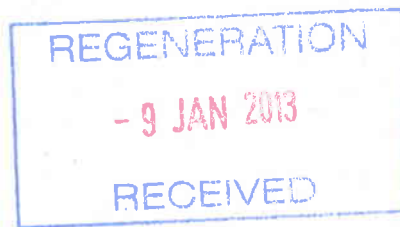
- To remove five Sycamore trees, one Goat Willow and one Oak (identified as T762, T763, T765, T766, T760 and T768 of the Arboricultural Report by Jeff Marlow dated 14 December 2012).

For the following reason:

- The council considers that the trees are in good condition, highly visible from outside of the site and with demonstrable amenity value. They contribute significantly to the landscape of the area and their removal would be detrimental to the amenity and aesthetic value of the area.

Notes to 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 must 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. You may remove deadwood under Regulation 14(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.



93A Ashmore Lake Road
Willenhall
WV12 4LN
7th January 2013

Dear Mr Thompson,

I am writing in connection to the planning application No 12/1581/TR which appears to be to remove some mature Sycamore trees from the wood to the rear of my house.

I would like to point out that I did not receive the letter date 27th December regarding this application, in fact number 95,93 and 91 did not receive it either . I was told by my dad who lives at number 97 Ashmore Lake Road.

I would like to oppose the application on the following grounds

- The water table in Ashmore Lake Road is quite high. In fact you would only have to dig a hole about 700mm deep before water will be found.

According to research a Sycamore tree 70 feet high can take up to 100 gallons of water an hour from the soil and 90% will evaporate from the leaves so they are doing a very good job by dispersing ground water.

You may be aware that recently some houses at the bottom end of Sheppards Drive were flooded, Spring Lane regularly floods but to the best of my knowledge Sheppards Drive has never flooded before. I appreciate that we have just had the wettest summer on record but the water not taken from the ground here will end up somewhere and Sheppards Drive is lower???

- Planning permission has not yet been granted for any change of use or development so I think it senseless to remove trees just on the off chance. If they were removed newly planted saplings would take 50 years to reach maturity. There is also the point that they are providing a woodland habitat for wildlife and a privacy screen between us and the factories mentioned in my other letter(please find enclosed).

Are these trees covered by a preservation order, if not I think we need one.

Please find enclosed a copy of my letter regarding application 12/1693/FL signed by some more local residents.

Some residents in Spring Lane did not receive letters and I only went half way down as you will see by the house numbers ??

Yours Sincerely

██████

I agree with the contents of the attached letter and am opposed to the planning application

30 Tildesley Drive,
Willerhall.

9 Spring Lane
Willerhall

13 Spring Lane
Willerhall

15 Spring Lane.

87 Ashmore Lake Road

95 Ashmore Lake Rd.

85 Ashmore Lake Road

83 Ashmore Lake Rd.

91, Ashmore Lake Rd.

93 Ashmore Lake Road.

72 Ashmore Lake Road