



DEVELOPMENT CONTROL COMMITTEE: –

11 December 2007

REPORT OF INTERIM HEAD OF DELIVERY & DEVELOPMENT

**APPLICATION TO UNDERTAKE TREE WORKS TO TREES AT
'CONCORDIA', 17 HIGHGATE, STREETLY, B74 3HW**

1. PURPOSE OF REPORT

To seek the determination of the application to prune trees at 'Concordia' 17 Highgate, Streetly contained in application 07/2300/TR/T1. The trees are protected by Tree Preservation Order 31 of 2006.

2. RECOMMENDATIONS

The Committee is recommended to:

1. To part refuse and part grant the application to prune the three beech trees in accordance with the proposed decision notice contained within this report.

3. FINANCIAL IMPLICATIONS

There are no financial implications.

4. POLICY IMPLICATIONS

There are no policy implications.

5. LEGAL IMPLICATIONS

Council decisions on applications to carry out works to protected trees are legally binding. An applicant who is unhappy with a Council decision on their application has a right to appeal to the Secretary of State. The Council is required to determine applications for work to protected trees within 8 weeks. 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 protects trees for their visual and environmental benefits. Work to prune or fell protected trees may be necessary because trees have a finite lifespan and may also cause nuisance or damage. In all instances the Council has to decide whether the work is justified.
8. **WARD(S) AFFECTED**
This application relates to Streetly Ward.
9. **CONSULTEES**
Near neighbours were consulted on this application.
10. **CONTACT OFFICER**
David Lomas - Extension: 2594
11. **BACKGROUND PAPERS**
File references 07/2300/TR/T1 and 07/0115/TR/T1

Simon Tranter
INTERIM HEAD OF REGENERATION: DELIVERY & DEVELOPMENT

DEVELOPMENT CONTROL COMMITTEE: –

11 December 2007

REPORT OF INTERIM HEAD OF DELIVERY & DEVELOPMENT

Application no 07/2300/TR/T1

Address 'Concordia', 17 Highgate, Streetly, B74 3HW

Applicant Mr and Mrs Harris

Expiry Date 11 December 2007

Reason for bringing to committee: The application has been 'called in' by Councillor Hughes in view of the fact that the applicants believe they have taken every detail from the recent appeal decision and therefore it was expected that the application should be approved.

Application and Site Details

This is an application to prune three beech trees in the front garden of 'Concordia' 17 Highgate, Streetly, B74 3HW. The trees are protected by Tree Preservation Order 31 of 2006.

The trees are a close grown group of three mature beech trees and all three trees have a dense crown. They are about 16-17 metres tall. There is evidence of previous pruning but no signs of major defects. There is some minor dead wood within the crown

The applicants are the owners of the property and the following work is proposed:

- Crown lift all trees to 6 metres above ground level.
- Radial crown reduction of 5-10% back to previous pruning points.
- Lateral reduction by 2 metres from base of crown to the tops of trees back to previous pruning points.
- Crown thinning removing subsidiary branches throughout the inner and outer canopy between 15-20%.
- Crown cleaning to remove dead wood, crossing and suppressed branches from the inner and lower crown only by between 15-20%.

The reason stated for carrying out the work is as follows:

- To increase light levels under the trees.

In addition to this reason, various justifications why the Council should allow the work are provided.

- The works have been suggested by the inspecting officer of the Government Office for the West Midlands following a recent appeal against the refusal of permission by the Council to allow pruning of these trees.
- Tree surgery was last carried out in 2000 and the crown has become dense with some die-back of branches.
- The work is reasonable.
- Neighbours have no objection.

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' published by DETR in March 2000.

Relevant Planning History (most recent first)

07/0115/TR/T1 – Application received on 23 January 2007 to reduce crown; remove crossing branches of the same beech trees in front garden of this property. The reasons for the work were as follows:

- The trees are growing in close proximity to the property.
- To comply with an insurance requirement that the trees do not exceed 60 feet in height.
- To remove crossing branches on safety grounds.
- To raise the crowns of trees overhanging Highgate to prevent high vehicles hitting the trees.

The Council granted permission for the raising of the crown but refused permission for other works because it was not considered that the trees were unsafe or in need of pruning. The trees were also less than 60 feet in height.

The applicant appealed to the Secretary of State and the appeal was dismissed on 27 September 2007. However, the inspector suggested in his report that minor pruning should be allowed subject to details being agreed. The current application is based on the works suggested in the inspector's report.

06/1332/TR/T3 - Application received on 24 July 2006 to crown reduce; remove crossing branches of the beech trees in front garden and to fell a birch tree in the rear garden. The application was part refused and part granted. The felling of the birch tree was permitted but works to the beech trees were refused. The applicants appealed to the Secretary of State but the appeal was out of time and was not accepted by Government Office for the

West Midlands. The application 07/0115/TR/T1 was made immediately afterwards.

BC60029T – An application received on 27 September 1999 to prune the beech trees was granted.

Representations

No representations were received in respect of this application.

Determining Issues

The Council has to determine whether the work applied for is in line with good arboricultural practice and in accordance with the recommendations in the inspector's report following the dismissal of the recent appeal.

Observations

The three beech trees are prominent and visually important trees and justify their protection. The Tree Preservation Order 31 of 2006 was made on 4 August 2006 following a site inspection as part of a review of old Orders in the Streetly area.

The Council has been reluctant to grant permission for any substantial reduction works to these trees because the works have been considered unnecessary. Removal of deadwood or damaged branches would not need permission and the trees are not unsafe.

The recent inspector's report concurred that the trees were safe but that minor pruning work should be allowed to reduce shading to the property which was not a problem the applicants themselves appear to have raised.

The inspector advised that minor pruning works could be allowed subject to the exact specification being agreed between the Council, the applicants and the tree surgeon appointed by the applicants. I do not believe that the applicants have appointed a tree surgeon and no works have been discussed or agreed prior to the current application being submitted.

My concern with this application is that while the works proposed are broadly in line with those suggested by the government inspector, they go beyond those works and could potentially result in extensive and damaging work. The permission therefore has to be properly specified to ensure the trees are protected from excessive works and remain in a healthy condition.

The works applied for are as follows;

- Crown lift all trees to 6 metres above ground level.
- Radial crown reduction of 5-10% back to previous pruning points.
- Lateral reduction by 2 metres from base of crown to the tops of trees back to previous pruning points.
- Crown thinning removing subsidiary branches throughout the inner and outer canopy between 15-20%.
- Crown cleaning to remove dead wood, crossing and suppressed branches from the inner and lower crown only by between 15-20%.

The main problem with the works proposed is that the applicants propose to crown thin the trees by 15-20% in addition to cleaning the crown in which it is proposed to take out a further 15-20%. Potentially these two operations, as described in the application, could lead to a thinning of the canopies of the three trees by up to 40% which would be damaging to trees of this age and species and significantly exceeds the work proposed by the government inspector, who recommended only minor works to the trees. It is therefore proposed that the crown thinning and cleaning in total does not exceed 15-20%. The removal of deadwood is not included within this total as this operation would not require permission.

The inspector also proposed the reduction of the height of the trees by approximately 1 metre but no reduction to the spread (sideways growth) of the tree canopies. The applicants have added the reduction to the trees' spread to the application. However, the Council has no objection to this additional work but proposes that the wording is changed to clarify the work allowed.

The proposed decision is therefore an exercise in clarifying the work proposed in line with the government inspector's report. It does not refuse permission for any work suggested in this report. The most convenient format for the decision notice is the part grant/ part refuse model.

The Committee is therefore recommended to issue the permission set out below.

Conditions and Reasons (or reasons for refusal)

Walsall Council as Local Planning Authority hereby **refuses** consent for the following works:

- Crown cleaning to remove dead wood, crossing and suppressed branches from the inner and lower crown only by between 15-20%.
- Radial crown reduction of 5-10% back to previous pruning points.
- Lateral reduction by 2 metres from base of crown to the tops of trees back to previous pruning points.

For the following reasons:

- The trees are in good health and a 15-20% reduction followed by a 15-20% crown clean as proposed would be detrimental to their health.
- The crown reduction description has been reworded below to better define the permission.

Walsall Council as Local Planning Authority hereby **grants** consent for the following works:

- Crown reduction of all trees to the most recent pruning points in the crown of the tree. This permits reduction to both height and spread of the combined tree canopies.
- Crown thinning of subsidiary branches and a crown cleaning to remove crossing and suppressed branches throughout the crowns to a maximum of between 15-20%.
- Crown lift all trees to a maximum of 6 metres above ground level.

Subject to the following conditions

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

The date of completion of tree surgery shall be notified in writing to the Local Authority within one week of completion

Reason: To ensure satisfactory standard of work and Tree Preservation Order records

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 local planning authority an opportunity of re-assessing the condition of the trees in the event of works not being carried out

SITE PLAN

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