



PLANNING COMMITTEE

5th October 2023

REPORT OF THE HEAD OF PLANNING & BUILDING CONTROL

APPLICATION TO REMOVE 1 PROTECTED BEECH TREE AT 38, MIDDLETON ROAD, STREETLY, B74 3ES.

1. **PURPOSE OF REPORT**

Reason for bringing to committee: Called in by Councillor Sarah Jane Cooper.

2. **RECOMMENDATIONS**

Refuse.

3. **PROPOSAL**

T1 – Beech to fell.

4. **SITE AND SURROUNDING**

A large detached property with extensive front garden and slightly smaller rear garden. The area is predominantly residential with properties of differing plot sizes with dwellings of different ages and architectural styles. The area has good tree cover of diverse species and ages ranges.

5. **RELEVANT PLANNING HISTORY**

Application 04/1093/TR/T1 to prune 3 TPO trees (including T1 Beech) given consent for in August 2004, application 17/0550 to fell 1 Pine given consent in April 2017 and application 20/0108 to fell T1 Beech tree refused 17 March 2020.

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

Not applicable.

8. REPRESENTATIONS

Two representations have been received supporting the application, one from 35, Middleton Road, Streetly, B74 3ES and one from 44, Middleton Road, Streetly, B74 3ES citing the following additional reason for the removal of the Beech:

- A large branch from the Beech tree recently failed and damaged the boundary fence.

9. DETERMINING ISSUES

Whether the proposed removal of the Beech tree will be detrimental to the amenity, aesthetic and landscape value of the locality, and whether there is sufficient justification for the removal of the tree for the reasons given in the application.

10. ASSESSMENT OF THE PROPOSAL

Site Visit: 10/08/2023

Tree: 1 mature Beech tree

The Beech tree, which is the subject of this application, is situated adjacent the south east boundary of 38, Middleton Road, forms part of a linear group of trees along this boundary and is approximately 4.5 metres away from the south corner of the tree owner's house. The Beech tree is protected by TPO title no. 22/2008 and labelled T1 on the application form. The following observations were made during the site visit and inspection of the tree:

T1 – Beech – a mature tree with a height of approximately 25.0 metres and a crown spread of approximately 16.0 metres. The crown overhangs the applicant's house by up to approximately 5.0 metres and extends outside of the applicant's property boundary into the front garden of no. 42, Middleton Road to the south east. There is a vertical wound on the south side of the main stem approximately 1.0m above ground level which has occluded well. There is a large scaffold limb approximately 5.0m above ground level, which extends north east towards the applicant's house. There is evidence of previous pruning works having been undertaken in the lower crown in accordance with previous consents which has been of good quality. The crown of the tree has evidence of minor dead wood throughout, however, all trees of this age and species will generate a certain amount of dead wood as it is part of a trees natural biological process. From a ground inspection, the tree appears to be in good condition with no evidence of any significant faults, decay or indications of pest or disease.

The application to remove the Beech is accompanied by a tree report dated 15 June 2023 by A. L. Smith a fully qualified Chartered Arboriculturist who is acting as the agent for the owner / occupier of 38, Middleton Road, B74 3ES. The tree report refers to an ingress of water due to leaf litter and detritus from the tree falling into the valley guttering between the apexes of the roof and causing blockages at both the tree owner's property and the neighbours. The tree report states that the only way of remedying the issues associated with the tree are to have it removed as

pruning would only be a short-term solution which would have to be repeated on a cyclical basis, which along with the maintenance of the properties because of the tree places an unreasonable burden on the tree owner and neighbour. The tree report further states that the tree is not visible from the road but is only visible to the tree owner and neighbour and that consequently the existence of the Tree Preservation Order(TPO) is not justifiable as a tree protected by a TPO should present a reasonable amount of visual amenity to the wider public.

In response to the representations:

- A large branch (approximately 150mm diameter) was evident on the ground during the site visit; however, it was identified as having originated from another tree and not the Beech tree T1 which is the subject of this application.

11 CONCLUSIONS AND REASONS FOR DECISION

From a ground inspection, the tree appears to be in good condition with no evidence of any significant faults, decay or indications of disease. The tree report references an ingress of water into both the tree owner's property and the neighbours due to leaf litter and detritus falling into and blocking the gutters. However, no evidence has been submitted with the application specifying what damage has occurred to the properties or that the Beech tree is responsible. The removal of leaf litter and other detritus from gutters whilst an inconvenience is considered part of routine property maintenance and would not normally justify the removal of a healthy protected tree. When assessing a tree for possible protection by a Tree Preservation Order, the council uses a system called TEMPO (Tree Evaluation Method for Preservation Orders); this is a quick and easy means of assessing a tree for the suitability of a Tree Preservation Order (TPO) and is used by many Local Authorities. TEMPO is essentially a three-part system – part 1 is the amenity assessment, part 2 the expediency assessment and finally part 3 the decision guide.

- Part 1 - The amenity assessment is in four sections which cover the condition of the tree, its expected safe life expectancy, public visibility and other factors (e.g. historical significance). The tree is scored 0 to 5 against each of these four sections and if it achieves a score of 9 or more then part 2, the expediency assessment is undertaken.
- Part 2 - The expediency assessment awards points on the levels of identified threat to the tree; this includes any known threat, foreseeable threat or perceived threat. As with the amenity assessment, this is also scored 0 to 5.
- Part 3 - The decision guide gives suggested outcomes for the accumulated score with anything scoring 11 or more possibly meriting a TPO.

Using TEMPO the Beech tree scored 12 in the amenity assessment, which would suggest that the TPO is defensible.

12 RECOMMENDATION

Refuse.

13 **CONDITIONS AND REASONS**

Walsall Metropolitan Borough Council, as Local Planning Authority, hereby **refuses consent** for the works as specified in the application:

- To fell Beech T1.

For the following reasons:

- From a ground inspection the Beech tree appears to be in good condition with no significant defects, decay or indications of disease.
- No evidence has been submitted specifying what damage has occurred to the properties due to water ingress or that the Beech tree is responsible.
- It is considered that the tree has demonstrable visible public amenity value and its loss would be detrimental to the visual amenity of the area.
- The shedding of leaves, and dead wood is a natural biological function of the tree and whilst they can be an inconvenience their removal is considered to be part of routine property maintenance.

14 **CONTACT OFFICER**

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Alison Ives,
HEAD OF PLANNING & BUILDING CONTROL