

BROMSGROVE DISTRICT COUNCILPLANNING COMMITTEE2ND MARCH 2009APPLICATION FROM MARLOW CONSULTING LTD. ON BEHALF OF
CHANCERY HOMES TO FELL 22 POPLAR TREES ON THE WESTERN
BOUNDARY OF THE OLD VICARAGE, VICARAGE CLOSE, FINSTALL,
BROMSGROVE

Responsible Portfolio Holder	Councillor Mrs. J. Dyer M.B.E.
Responsible Head of Service	Head of Planning and Environment Services
Non-Key Decision	

1. SUMMARY

- 1.1 Consent is sought to fell 22 Hybrid Black Poplar trees pursuant to condition 14 of planning approval ref: B/2003/1053.
- 1.2 The matters for consideration are:
- (i) to determine the application to fell the trees
 - (ii) if consent to fell is granted, to determine the scheme of replacement planting required.

2. RECOMMENDATION

- 2.1 It is recommended that approval to fell the trees is granted subject to the following conditions:

(1) By the end of the first planting season following the felling of the existing trees, replacement tree and hedge planting shall be carried out along the entire length of the Western boundary of the application site to the approval of the Local Planning Authority. This replacement planting shall consist of (i) restocking of the existing hedge through the planting of 40-60cm high native shrub species at a density of no less than 6x shrubs per metre, and (ii) the planting of Scots Pine trees of a minimum initial height of 3m at no less than 4m apart.

(2) The remaining hedge and all the new tree and shrub planting carried out shall thereafter not be removed, lopped, topped or felled without the approval of the Local Planning Authority. Any trees or shrubs dying, being removed or becoming diseased, damaged or

dangerous shall be replaced with trees and shrubs of similar size and species to the approval of the Local Planning Authority.

3. BACKGROUND

- 3.1 Planning approval ref B/2003/0702 granted consent for the erection of 5 houses on the application site and the conversion of the old vicarage. This development is currently being carried out. Condition 14 of this planning approval required the approval of the Local Planning Authority for the removal of any trees on the site and the replacement of any trees which are removed or become seriously damaged or diseased. This application relates to consent to fell trees covered by that Condition.
- 3.2 A Tree Preservation Order - TPO (14) 2002 - protects two large oak trees on the Eastern side of the site. This TPO does not cover the Poplar trees which are the subject of this application.
- 3.3 On Monday 19th and Tuesday 20th January, the Council received a substantial number of calls and emails from residents of Dragoon Fields and Vicarage Close complaining that works to the above trees were being carried out. On investigation it was apparent that consent for any works, as required by the above Planning Condition, had not been given. The Council's Woodland Officer therefore visited the site on the morning of Tuesday 20th January to investigate the complaints.
- 3.4 On arrival, it was found that tree surgeons were present on site and had already carried out works to reduce the height of four of the 22 trees by approximately two-thirds. It was claimed that these works were being done to remedy concerns that the upper limbs of the trees were at risk of falling on either the application site or neighbouring properties. The presence of a number of limbs and trees on the site that had already fallen over previous years and months provided some evidence that these concerns may be justified.
- 3.5 Prior to the commencement of the works, the majority of the trees were also heavily clad and shrouded in ivy which had to be removed before the tree surgeons could work on the trees. The removal of this ivy revealed the presence of considerable decay in the lower trunks of the trees. The trees show evidence that they were all reduced in height to leave a 3 metre high 'stump' approximately 15 years ago. Decay appeared to have set in as a result of these original pruning wounds and then spread downwards into the trunks of the trees. The overall vigour of the trees appears to have remained undiminished, however, such that new shoots grew back and have continued growing above the decaying areas.
- 3.6 The tree surgeons and the site manager were informed that they would need to make an application to the Council to carry out any further works to the trees. Permission was not required, however, for removal of the ivy from all the trees and it was suggested that this was done so that the full

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extent of any decay could be seen and the overall condition of the trees assessed. It was recommended that the site owner had their own professional inspection carried out to argue the justification for any works they proposed. The terms of the Planning Condition means that while the unauthorised works do not attract a prosecution, suitable mitigation is required and can be enforced by this Authority.

- 3.7 A tree survey and report was subsequently carried out by Marlow Consulting Ltd. and submitted with the application to fell the trees. A copy of this report is enclosed as Appendix II. This report considers that the trees *'have major structural defects which leave them prone to imminent partial or total failure'* and that reducing the trees back to the previous pruning points would reduce the short-term risk of failure but that regular re-pruning of the trees would be required every 5 years or less to maintain this reduced risk. Marlow Consulting's report also considers that the initial and ongoing reduction of the trees will remove any screening benefit they have and that the removal of the trees will have limited effect in respect of the loss of privacy to neighbouring residents.
- 3.8 The Council's Woodland Officer inspected the trees on 22nd January and a copy of this report is attached as Appendix III with photographs shown in Appendix VI. This concludes that the long-term retention of the trees is not an effective solution to the safety or screening issues and a better long-term result can be achieved for all parties by allowing the removal of the existing trees and planting replacements.
- 3.9 Given the considerably public response to the original unauthorised works, it was felt that this application merited both wider public consultation and a Committee Decision. To this end, a letter was sent to the residents of those properties immediately adjoining the application site inviting them to make comments regarding the felling of the trees and the possible replanting scheme that may be required. A copy of this letter is attached as Appendix IV and those representations received to date are enclosed as Appendix V.
- 3.10 The points raised in those representations received to date have principally been concerning the need for the proposed works to be carried out and the desire for replacement planting to replace the wildlife value and screening that the current trees provide. The Woodland Officer's report has addressed these issues and it is considered that the current recommendation will protect and ultimately enhance these interests of the local residents.

4. FINANCIAL IMPLICATIONS

- 4.1 In the event that the Council refuses consent for the felling of the trees on safety grounds, the Authority may be found partially liable for any damage or injury that the trees cause that can be shown to have occurred as a result of the Council's decision.

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5. **LEGAL IMPLICATIONS**

5.1 as 4.1 above. The Town and Country Planning (Trees) Regulations 1999 are relevant.

6. **COUNCIL OBJECTIVES**

6.1 Council Objective 4 - Environment

7. **RISK MANAGEMENT**

7.1 The main risk associated with the details included in this report is:-

Effective, efficient and legally compliant tree service.

7.2 This risk is being managed as follows:-

Risk Register: Planning and Environment Services
Key Objective: Effective, efficient and legally compliant
Key Objective: Strategic Planning Service

8. **CUSTOMER IMPLICATIONS**

8.1 The property owners and relevant adjoining/neighbouring property owners' will be notified of this decision.

9. **EQUALITIES AND DIVERSITY IMPLICATIONS**

9.1 None.

10. **VALUE FOR MONEY IMPLICATIONS**

None.

11. **OTHER IMPLICATIONS**

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	None
Community Safety including Section 17 of Crime and Disorder Act 1998	Trees are not considered to be a risk
Policy	None

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Environmental	Amenity Value
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12. **OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	No
Chief Executive	No
Executive Director - Partnerships and Projects	No
Executive Director - Services	No
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	No
Head of Legal, Equalities and Democratic Services	No
Head of Organisational Development and HR	No
Corporate Procurement Team	No

13. **WARDS AFFECTED**

14. **APPENDICES**

Appendix I - Application Form
Appendix II - Report from Marlow Consulting Ltd.
Appendix III - Woodland Officer's Report
Appendix IV - Letter sent to residents 4th Feb 2009
Appendix V - Representation received as of 20th Feb 2009
Appendix VI - Photographs taken 22nd Jan 2009

15. **BACKGROUND PAPERS**

Slideslow

CONTACT OFFICER

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