



Planning Committee

20 January 2015

Application no.	14/01309/TR	
Site	Land to the front of 8 Surrey Drive, Wolverhampton	
Proposal	Felling of 1 pine tree, located on the grass verge.	
Ward	Park	
Applicant	Mr R Evans	
Cabinet Member with lead responsibility	Councillor Peter Bilson Economic Regeneration and Prosperity	
Accountable director	Tim Johnson, place	
Planning officer	Name	Charlotte Morrison
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	Email	Charlotte.morrison@wolverhampton.gov.uk

1. Summary Recommendation

1.1 Refuse the application to fell a protected tree.

2. Site and Tree Details

- 2.1 The tree is located halfway along Surrey Drive's eastern side. The verge, and the tree are part of the public highway and therefore Council owned. The applicant is a private householder and the permission of the Council of landowner has not been given for the work.
- 2.2 There are a number of large mature trees in the vicinity many of which are covered by tree preservation orders.
- 2.3 The tree itself is a fully mature Corsican pine. It stands in Surrey Drive's eastern grass verge 7.8 metres west of the front of No8. The pine has a single defect free lower stem of 76 cm diameter. The tree appears to be in good health and is managed by the City Council.
- 2.4 The relevant Tree Preservation Order is the Merridale Grove 1960.

3. Application Details

3.1 The application seeks to remove the tree

4. Planning History

4.1 07/00125/TREE – Application to fell - Refused

4.2 07/00125/TREE – Appeal against decision to refuse application – appeal dismissed.

5. Relevant Policy Documents

5.1 National Planning Policy Framework (NPPF)

5.2 The Development Plan:
Wolverhampton Unitary Development Plan (UDP)
Black Country Core Strategy (BCCS)
The Tettenhall Neighbourhood Plan

6. Environmental Impact Assessment Regulations

6.1 This development proposal is not included in the definition of projects that requires a “screening opinion” as to whether or not a formal Environmental Impact Assessment as defined by the above regulations is required.

7. Publicity

7.1 The application has been advertised as part of the application process by way of a site notice and 2 objections have been received since the site notice was erected, however a number of representations were sent in with the application and form part of it. The details of these are outlined here and they have been considered as objections to the application.

7.2 10 letters in support of the application have been received citing the following issues;-

- The pavement being damaged by roots
- The tree canopy remain all year round and during strong winds causes concern to residents
- The tree is dangerous
- Falling pine cones and needles cause damage to cars
- Needles make the ground slippy
- A large branch fell from the tree and might have caused serious injury
- Removing the tree will not destroy the ambience of the road
- Clogging up of guttering
- Problems caused by roosting birds
- Damage to the footpath

8. Internal Consultees

8.1 The arboricultural manager has commented that:

1. This tree is included on the authorities Highway Tree Maintenance Programme and is inspected every 4 Years.
2. As part of this inspection the tree receives appropriate arboriculture maintenance, this ensures that the tree remains healthy and reduces the risk of failure during normal weather conditions.
3. This tree was last maintained and inspected on 4 December 2013; where all dead branches were removed and a visual inspection was carried out.
4. Regarding the resident concerns of branches failing during high winds, the tree has been inspected on these occasions and found to be healthy with no visible sign of decay or disease that would lead us to believe the tree was unsafe during normal weather conditions.
5. The resident concern regarding tree debris, resin, honey dew, birds fouling are naturally occurring process that cannot be altered by arboriculture procedures.

8.2 As stated above this tree is a healthy example of the Pinus genus when growing in a Highway environment, as part of the Authority's Risk Management System it does not represent a risk of failing during normal weather conditions and until such time its health changes there are no plans for its removal.

9. Legal Implications

- 9.1 The law on Tree Preservation orders is in Part VIII of the Town and Country Planning Act 1990 and related Regulations. A Tree Preservation Order is an order made by a local planning authority to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the, cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees without the local planning authority's written consent.
- 9.2 Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area.
- 9.3 'Amenity' is not defined in law, so authorities need to exercise judgment in considering whether a tree is significant in amenity terms.
- 9.4 There are a limited set of circumstances in which consent to fell a protected tree can be granted for example in this case it would need to be dying, or be liable to cause risk of serious harm. If an application is refused compensation may be payable in limited cases
(LD/08012015/C)

10. Appraisal

10.1 The key issues are:-

- The previous appeal decision
- Contribution of the tree to the amenity of the area
- The current application
- Weather Damage
- Roosting / Nesting birds and Tree Resin
- Needles and Cones

The previous application and appeal decision

10.2 A previous application to fell the tree was refused and dismissed at appeal. There have not been any material changes in the circumstances of the tree since this application and appeal were dealt with. None of the evidence submitted suggests that the situation is any different to that which existed at the time. All of the issues have been previously considered. The application is very limited in evidence from a suitably qualified person, despite being requested on the application forms. The rest of this report draws heavily on the Inspectors decision letter.

Contribution of the tree to the amenity of the area

10.3 The tree is an attractive specimen which, being visible over a wide area, makes a significant contribution to the general amenity of the area. The pine is almost 22 metres tall with a stem diameter of 76 centimetres measured at 1.5 metres high.

10.4 There is a crack in the pavement to the front of number 10 which does affect the pavement at the entrance to the driveway. Although it is possible that this has been caused by tree roots, there is no substantive evidence that this is the case. Notwithstanding this this type of damage does not provide justification for the removal of a healthy tree.

10.5 The tree is isolated from other trees, and is set in a shallow valley, this brings the trees canopy to a prominent level from higher ground to the west and east. The tree is prominent from several vantage points around the site and is one of several large trees which provide evidence of a previous land use and therefore is of historic interest. The Inspector considered, for these reasons, that the tree was very significant to public amenity.

10.7 There is no evidence of significant defects and it has been well managed by the City Council.

The current application

10.8 Although the application gives basic details of the tree and provides letters from residents in support of its felling the application has failed to engage a specialist in order to evaluate the tree and no substantive information has been provided in connection with it.

Weather damage

- 10.9 As a tall tree it moves considerably in the wind, the Inspector considered that any tree can be blown over in a violent gale but that the objective risk of windthrow is relatively low. It is accepted that the swaying of the tree in high winds may lead residents to feel anxious. Numbers 6,8 and 10 Surrey Drive are within tree-height distance from the tree. The risk of branches ripping off the tree in strong winds is moderate. As noted by a number of the representations a branch was blown off the tree in December 2006 and a small branch fell in April 2007. The risk such a branch would pose to adjacent properties and the chance of a person being hit by a branch was, in the view of the Inspector, relatively low. The Inspector considered that the trees owner should not hesitate to remove dead branches. The tree is inspected regularly and is considered to be in good health and condition. On balance the relatively low potential for weather damage is not justification for removal of the tree.

Roosting / Nesting birds and Tree Resin

- 10.10 The tree provides easy take-off and landing for birds having long bare branches set well above ground in an open canopy. It is difficult to control birds and there is seldom a successful legal method of deterring them. The main amenity space of the affected properties is the rear garden which is not affected by any bird droppings. The driveways to the properties slope towards the road and as such the Inspector considered that periodic swilling with water and brushing of the front paving should be sufficient to remove bird mess from the front gardens. The footpath is the responsibility of the City Council.
- 10.11 As well as bird droppings resin from the tree is likely to drop onto cars parked at 8 Surrey Drive both bird droppings and resin can permanently damage paintwork if left on and allowed to harden, this does often necessitate daily cleaning. The Inspector considered that bird droppings and resin from the tree do not provide sufficient reason to justify its removal. There is no change to this circumstance.

Needles and Cones

- 10.12 The Inspector acknowledged that copious volumes of needles and cone parts would be shed from the tree and that the worst affected property would be 8 Surrey Drive. The Inspector went on to say that the lower gutter is easy to clean out but the upper gutter would be more difficult. The Inspector considered that gutter guards could ease the problem. The difficulty of cleaning gutters and other material falling from a healthy tree is not justification for its removal.

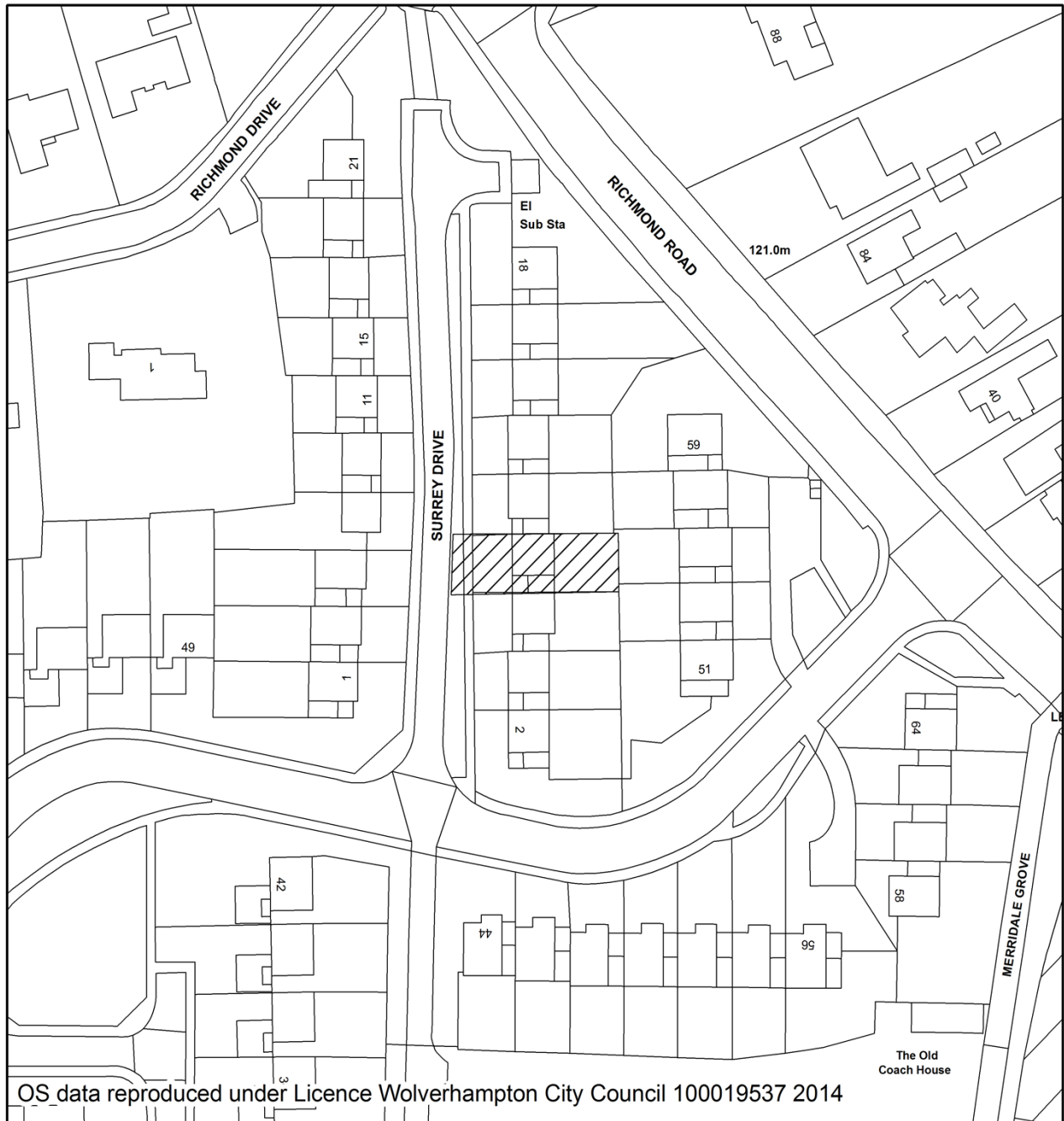
11. Conclusion

- 11.1 Given the previous appeal decision, the lack of any material change in circumstances, and the continued health and prominence of the tree there is no justification for its removal.

12. Detailed Recommendation

12.1 That the application be refused for the following reasons;

The applicant has failed to provide any technical or substantive information in connection with the application. The tree is healthy and well managed and there is not sufficient justification for its removal.



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