

ROTHERHAM METROPOLITAN BOROUGH COUNCIL

PLANNING REGULATORY BOARD

VISITS OF INSPECTION – THURSDAY, 27TH AUGUST, 2015

1. **RB2015/0445 - Change of use to hand car wash/valeting (use class Sui Generis), former Wath Swimming Baths, Biscay Way, Wath.**

Requested by:- Councillor Atkin, Chairman of the Planning Board

Reason:- To allow Members to view the traffic impact on the main road, impact on the amenity of residents of an adjacent flat and the overlooking of an adjacent play area.

2. **RB2015/0795 - Application to fell various trees protected by RMBC Tree Preservation Order No. 18 1975, Morphy Richards Ltd, Talbot Road, Swinton**

Requested by:- Councillor Atkin, Chairman of the Planning Board

Reason:- To allow Members to view the screening impact of trees for adjacent residents.

<u>No.</u>	<u>Application</u>	<u>Area</u>	<u>Arrival</u>	<u>Departure</u>
1.	RB2015/0445	Wath	9.20 a.m.	9.40 a.m.
2.	RB2015/0795	Swinton	9.50 a.m.	10.10 a.m.

Return to the Town Hall for approximately 10.30 a.m.

SITE VISIT NO. 1 (Approximate time on site - 9.20 a.m.)

Application Number	RB2015/0445
Proposal and Location	Change of use to hand car wash/valeting (use class Sui Generis), former Wath Swimming Baths, Biscay Way, Wath S63 7RT
Recommendation	Grant subject to conditions



Site Description & Location

The site lies along Biscay Way, close to the main town centre in Wath and comprises of the former Wath Swimming Baths. The swimming baths have been closed since March 2009 and the building structure has recently been demolished. The site is rectangular shape and is approximately 0.2ha in area.

The site has a small car parking area within the eastern curtilage of the site and there are some semi mature trees on the northern elevation of the site between the rear elevation and highway access. The site lies within 200 metres of Wath Town Centre and is sited on the northern side of Biscay Way in close proximity to the

junction with Moor Road. To the west of the site is the Tesco supermarket and to the north of the site is a predominantly residential area. The area to the east of the site comprises of Urban Greenspace and is used as a childrens play area.

Background

The site has the following planning history:

RB2011/0659 – Change of use from swimming baths (use class D2) to car wash (use class sui generis) – refused

RB2011/1183 – Application to determine whether prior approval is required for the method of demolition and restoration of the site re: demolition of swimming baths and attached two storey building – granted

RB2011/1258 – Change of use from swimming baths (use class D2) to car wash (use class Sui Generis) – refused

The application for a change of use to a car wash (RB2011/1258) was refused on the following grounds:

01

The applicant has not provided any supporting justification for a proposed change of use to a car wash facility (Sui Generis Use) which is not listed within the menu of acceptable uses within Mixed Use Area MU4 of the adopted UDP. It is not considered therefore that the applicant has satisfactorily demonstrated why the site cannot be used for one of the MU4 use types and that the principle of a car wash use in this location is considered unacceptable.

02

The Council considers that the applicant has failed to provide accurate, representational scaled plans of the proposals, foul water drainage details, along with how the traffic will be managed within the building, the provision of sight lines at the proposed egress and details of signs regarding traffic management within the site. The Planning Authority therefore is unable to accurately assess the impact of the proposal on the visual amenity of the locality, the potential traffic impacts on the surrounding locality and any local drainage impacts, including how foul water would be disposed of. The proposal does not therefore meet the requirements of UDP Policy ENV3.1 'Development and the Environment' and HG1 'Existing Housing Areas'.

Proposal

The application is to convert the site into a Car Wash (Sui Generis use). The hours of use requested are 0800-1800 Mondays to Saturdays and 0900-1600 on Sundays. The applicant has indicated that this is anticipated to employ 1 full time and 4 part time employees.

The applicant has indicated that mains despoil will be required for surface water disposal.

A number of queries were raised with the initial submission including the following:

- How the site has been marketed for other uses
- more detailed plan how site will work
- Removal of palisade fence and replacement with paladin and wall and fencing
- Suggestion of a 3 year temporary condition

Following this the applicant has submitted a Design and Access Statement which can be summarised as follows:

- The applicant bought the site off the Council in approximately 2011.
- Following an earlier refusal for a car wash, the site has been marketed for residential purposes. However, no buyer was found due to the poor state of the buildings and cost of demolition.
- In the long term, the applicant considers that smaller commercial units, or a D2 day nursery would be more appropriate.
- No storage buildings would be erected as part of the car wash.
- The applicant would accept a condition for a temporary use of 5 years.
- A brick structure 1m high x 1m wide x 2m long insulated internally, this serves two functions, it will isolate any noise the motor may generate, so the general public will not hear any machinery, secondly it will add security to the pump and motor.
- The site will hold at least 28 cars plus 2 staff without queueing out onto the road.

The Estates department within RMBC have indicated that the land has been sold to a private developer but has retained access over the rear access in the northern section of the site.

Development Plan Allocation and Policy

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with 'saved' policies from the Unitary Development Plan (UDP).

The application site is allocated for Mixed Use purposes (MU4) in the UDP. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):
CS28 'Sustainable Design'

Unitary Development Plan 'saved' policy(s):
CR1.5 'Community Facilities'
HG1 'Existing Housing Areas'

Other Material Considerations

National Planning Policy Framework: The NPPF came into effect on March 27th 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that “Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF states that “due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

The Unitary Development Plan policies referred to above are consistent with the NPPF and have been given due weight in the determination of this application.

Publicity

The application has been advertised by way of a site notice (17 April 2015) along with individual neighbour notification letters to adjacent properties (15 April 2015). A total of 80 representations have been received. These can be summarised as follows:

- Lack of need of any further car washes in this area
- Where will the surface water runoff go
- Concern about the close proximity with the childrens play area to the east.

Consultations

Neighbourhoods (Environmental Health) – no objections, subject to conditions
Streetpride (Transportation and Highways) – no objections, subject to conditions

Appraisal

Where an application is made to a local planning authority for planning permission.....In dealing with such an application the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations. - S. 70 (2) TCPA '90.

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise - S.38 (6) PCPA 2004.

The main factors in the determination of the application are as follows:

- Principle of change of use of this property including loss of a local community facility

- Impact on neighbouring properties.
- Impact on highway safety.
- Hours of use
- Impact on drainage.

Principle of change of use

From a retail perspective, car washing (as well as the associated waiting of customer vehicles) are classified as a sui generis use, outside of the regular A1 sales use class. Consequently, this use is not considered to represent a town centre use and the applicant is therefore not required to submit a sequential test justifying the principle of this change in an edge of centre location.

The land is allocated for mixed use purposes, and there are a number of mixed uses, including a large-scale retail unit (Tesco supermarket) opposite the site on the eastern elevation of Moor Road. Policy EC5 (Mixed Use Areas) indicates that within Mixed Use Area 4 the following uses: A1, A2, A3, B1, C3, D1 and D2 would be acceptable. UDP Policy EC5 has subsequently been superseded by Core Strategy CS31 Mixed Use Areas which indicates that ‘a variety of land uses will be acceptable. The particular uses appropriate to each area and any limitations or requirements pertaining to these uses or their location will be set out in the Sites and Policies document.’ However the emerging Sites and Policies document has not currently been through examination and cannot be afforded significant weight.

The proposal involves changing the use to a car wash facility which is classified as a Sui Generis Use does not fall within the mixed use menu. However, the site has been vacant in excess of 5 years and was cleared of all buildings earlier in the year. It is considered that the principle of a car wash use in the edge of centre location is considered acceptable in the short term in conformity with CS31 Mixed Use Areas.

Loss of a local community facility

The previous property (Swimming Baths) was vacant for over five years and the building was demolished in early 2015 following a period of deterioration. The applicant indicates that the proposed change of use is for a temporary period and it is considered that a condition of 5 years should be imposed in order to secure the site for a long term future residential or another community or leisure use.

Impact on neighbouring properties.

ENV3.7 states “The Council, in consultation with other appropriate agencies, will seek to minimise the adverse effects of nuisance, disturbance and pollution associated with development and transport. Planning permission will not be granted for new development which; (i) is likely to give rise, either immediately or in the foreseeable future, to noise, light pollution, pollution of the atmosphere, soil or surface water...”

In terms of the visual impact on the surroundings, no further changes to the car parking area are proposed. The applicant’s agent has confirmed that the application does not involve the erection of any additional buildings, containers or storage units. In terms of impact on nearby residential properties, this is considered to further reduce the potential conflict to nearby residential properties and minimise the visual impact on the street scene. The retention of existing landscaping and front boundary

treatment, along with the provision of a new boundary wall along Moor Road is considered to further reduce the potential impact.

It is considered that in terms of noise generation, whilst the proposal may increase noise levels to the surroundings from waiting cars, no noise generating equipment is to be erected on the site. Bearing in mind that the site is in a semi-commercial location on a principal highway it is considered that any additional noise generated from waiting vehicles would not represent a material increase in noise to justify a refusal on these grounds. In addition, the proposed hours of use is considered to be typical for this type of use and mainly relates to daytime hours. The Environmental Health unit have raised no objections to the proposal. This is considered to have an acceptable impact on any nearby residential properties and is in conformity with policy HG1 'Existing Housing Areas.'

Impact on highway safety.

The Transportation Unit have indicated that there are no objections in highway terms to the additional information provided. The proposal can accommodate in excess of 5 waiting vehicles within the site and it is considered that the potential for queuing traffic back into the highway would be low. The site shall have separate accesses in and out, and subject to condition it is considered that the proposal has an acceptable impact in highway safety terms.

Hours of use

The proposed hours of operation requested are 0800-1800 Mondays to Saturdays and 0800-1600 on Sundays. Bearing in mind that the area to the south is predominantly comprises of mixed use types close to Wath town centre, and the Tesco store has a 24 hour use, it is considered that these proposed hours would not have any significant detrimental impact on neighbouring properties. The Environmental Health department have not raised any concerns specifically related to this element of the application.

Other issues

The application site does not lie within a recognised flood risk area in the Development Plan. In terms of the future impact on drainage the applicant has indicated that they intend to discharge all surface water run-off from the site via interceptors which also includes on-site site disposal. It is considered that this can also be satisfactorily safeguarded via condition.

In terms of factors such as competition and need for the facility as highlighted by the objectors, these are not specific material planning considerations that could be given any significant weight during the determination process.

Conclusion

It is considered that due to the mixed residential and commercial character of the surroundings, the principle of a hand car wash could be accepted on this site for a temporary period. Further to the above the uses are not proposed to operate after 18:30 hours, and no additional equipment is to be erected and the uses will not be in operation at unsocial hours that could have an impact on the residential amenity of residents on Moor Road. In light of the above it is concluded that the proposed uses

will not give rise to any amenity issues and will therefore comply with UDP policy ENV3.7. The application is recommended for approval, subject to conditions.

Conditions

01

The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason

In order to comply with the requirements of the Town and Country Planning Act 1990.

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below)

(Drawing numbers Biscay Way Site Plan Rev C)(received 26.05.15)

Reason

To define the permission and for the avoidance of doubt.

03

The existing access shall be clearly signed "In Only" and "No Exit" and the proposed exit signed "Out Only" and "No Entry" before the development is brought into use and the signs shall thereafter be maintained.

Reason

In the interests of highway safety.

04

All surface water run off from the site shall be intercepted and disposed of within the site.

Reason

In the interests of highway safety, flood risk and amenity of the surroundings.

05

There shall be no additional buildings or portakabins erected or external storage of equipment/materials within the site without the prior consent of the Local Planning Authority.

Reason

To define the permission and in the interests of the visual amenity of the surroundings.

06

There shall be no lighting columns erected or illumination of the site.

Reason

To define the permission and in the interests of the visual amenity of the surroundings.

07

The hand car wash use hereby permitted shall only be open to customers or for deliveries between the hours of 0800 – 1830 Mondays to Sundays.

Reason

In the interests of the amenities of the occupiers of nearby dwellings and in accordance with UDP Policy ENV3.7 'Control of Pollution'.

08

This permission shall be valid for a period of 5 years from the date of this permission and at the end of that period the use hereby permitted shall cease and the site restored in a manner to be agreed with the Local Planning Authority.

Reason

So as not to prejudice the long term development proposals for the area and in order to safeguard the site for future alternative development.

09

No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. This shall also indicate final details of the proposed landscaping along the southern elevation facing Biscay Way. The boundary treatment and landscaping shall be completed before the commencement of the development.

Reason

In the interests of the visual amenity of the area and in accordance with Core Strategy CS CS28 'Sustainable Design'.

Informative(s)

The applicant is requested to conform to any soakaways and interceptors required to drain the development.

POSITIVE AND PROACTIVE STATEMENT

During the determination of the application, the Local Planning Authority worked with the applicant to consider what amendments were necessary to make the scheme acceptable. The applicant agreed to amend the scheme so that it was in accordance with the principles of the National Planning Policy Framework.

SITE VISIT NO. 2 (Approximate time on site - 9.50 a.m.)

Application Number	RB2015/0795
Proposal and Location	Application to fell various trees protected by RMBC Tree Preservation Order No. 18 1975, Morphy Richards Ltd, Talbot Road, Swinton
Recommendation	Part Grant, part refuse



Site Description & Location

The application site relates to a group of protected trees that lie on the eastern side of the railway line along the western elevation of the Morphy Richards site on Talbot Road in Swinton.

The trees are protected by RMBC Tree Preservation Order No. 18 1975.

Background

The site has the following relevant planning history:

RB2001/0070 – Application to remove 10 trees and prune other trees within the protected group protected by RMBC Tree Preservation Order No 18,1975 –granted

RB2002/0839 – Application to prune various trees protected by RMBC Tree Preservation Order (No.18) 1975 – granted

RB2013/0991 – Formation of flood defence embankment and removal of various trees protected by RMBC Tree Preservation Order No. 18, 1975 – granted

Proposal

The proposals are protected as part of RMBC Tree Preservation Order (No.18) 1975. The application is to remove all of the 73 protected as group G3 of the above Order trees along this site.

According to the application details the reasons to fell them are due to safety concerns for the staff at Morphy Richards as well as the adjacent railway infrastructure as a result of their reduced condition and limited future prospects. In addition, their removal now will help to avoid severely impeding the operations of the business on the site that may occur if a crane needs to be used to remove them in the future following the construction of the flood defence bund that has previously been approved under RB2013/0991.

Development Plan Allocation and Policy

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with 'saved' policies from the Unitary Development Plan (UDP).

The application site is allocated for residential purposes in the UDP, (and also falls within the Dalton Conservation Area. For the purposes of determining this application the following policies are considered to be of relevance:

Core Strategy policy(s):
CS23 'Valuing the Historic Environment'

UDP Policy ENV3.3 'Tree Preservation Orders'
UDP Policy ENV3.4 'Trees, Woodlands & Hedgerows'

Other Material Considerations

National Planning Practice Guidance (NPPG) - On 6 March 2014 the Department for Communities and Local Government (DCLG) launched this planning practice guidance web-based resource. This was accompanied by a Written Ministerial Statement which includes a list of the previous planning practice guidance documents cancelled when this site was launched.

National Planning Policy Framework: The NPPF came into effect on March 27th 2012 and replaced all previous Government Planning Policy Guidance (PPGs) and most of the Planning Policy Statements (PPSs) that existed. It states that "Development that is sustainable should go ahead, without delay – a presumption in favour of sustainable development that is the basis for every plan, and every decision.

The NPPF notes that for 12 months from the day of publication, decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with this Framework. The Rotherham Unitary Development Plan was adopted in June 1999 and the NPPF adds that in such circumstances due weight should be given to relevant policies in existing plans according to their degree

of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.)

The Core Strategy/Unitary Development Plan policy(s) referred to above are consistent with the NPPF and have been given due weight in the determination of this application.

Publicity

The application has been advertised by way of two site notices which were erected on Coronation Road and Talbot Road. A petition of 34 signatures has been received against the proposal and can be summarised as follows:

- The trees provide a lot of amenity to the area in terms of wildlife and provision of a Green Curtain.
- The trees also protect residents from noise and light pollution from the Morphy Richards site.
- The noise levels from previous pruning events has been very high.
- Questioned why the implementation of the flood defence has taken so long to implement (the last flood event being in 2007).

Consultations

Streetpride (Transportation & Highways) – no objections

Streetpride (Trees Service Manager) – unable to support the removal of all 73 trees concerned at this time. However, there is no objection to a reduced amount of tree removal.

Appraisal

The application was originally to remove all 73 trees protected as part of RMBC Tree Preservation Order (No.18) 1975.

According to the application details, the reasons to According to the application details the reasons to fell them are due to safety concerns for the staff at Morphy Richards as well as the adjacent railway infrastructure as a result of their reduced condition and limited future prospects.

The policies contained within the adopted Unitary Development Plan, ENV3.3 'Tree Preservation Orders' and ENV3.4 'Trees, Woodlands & Hedgerows' state that the Council seeks to promote and enhance tree, woodland and hedgerow cover throughout the Borough, safeguarding their amenity, shelter and wildlife significance and states that mature and ancient woodlands are especially important in this respect.

Furthermore the advice contained within the National Planning Policy Framework (NPPF) at paragraph 109 states that: "The Planning system should contribute to and enhance the natural and local environment by (amongst other things) protecting and enhancing valued landscapes..."

The Council's Tree Officer has commented as follows:

"I am unable to support the removal of all 73 trees concerned at this time due to the significant adverse impact this will have on local amenity and any associated benefits. In addition the removal of all the trees does not appear to be justified at this time for the submitted reasons. However, there is no objection to a reduced amount of tree removal as discussed below. In addition, there is no objection to the remaining trees being pollarded as indicated if a fresh application is submitted to carry out this work. If you agree, I trust any consent will be subject to the following comments and the recommended planning conditions listed below.

Background

The application is to fell 73 trees protected as group G3 of the above Order. According to the application details the reasons to fell them are due to safety concerns for the staff at Morphy Richards as well as the adjacent railway infrastructure as a result of their reduced condition and limited future prospects. In addition, their removal now will help to avoid severely impeding the operations of the business on the site that may occur if a crane needs to be used to remove them in the future following the construction of the flood defence bund that has planning consent, your Ref RB2013/0991.

Collectively the trees provide valuable and important amenity as well as useful screening and associated benefits. From the submitted petition opposing the application it is clear they are particularly valued by local residents who overlook the site. The concerns of the local residents are mainly about the loss of the trees and the subsequent adverse impact this will have on the impact on screening, wildlife, noise / light / odour pollution as well as devaluing their home for these reasons.

Tree Survey details

A Tree Survey by the agent has been provided as part of the submitted details. This includes details of 73 existing Poplar trees, categorised as follows in accordance with BS 5837 Trees in Relation to Design, Demolition and Construction.

Tree category	Description	Number of trees
<i>B</i>	Trees of moderate quality <i>with an estimated remaining life expectancy of at least 20 years</i>	<i>45</i>
<i>C</i>	Trees of low quality <i>with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150 mm</i>	<i>1</i>
<i>U</i>	<i>Those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years</i>	<i>27</i>

It is noted that the recommendations within the report are to fell and pollard 24 and 46 trees respectively as listed below, with the decision of whether to fell or pollard the remaining 3 trees being subject to the full extent of decay in their main stems.

Trees indicated for felling	Trees indicated for pollarding	Trees indicated for felling or pollarding
T15, T19, T20,	T18, T21,	G22/17, G27/11, G29/6
G22/4, 6,	G22/1, 2, 3, 5, 7, 12, 14, 15	
G22/8, 9, 10, 11, 13, 16,	G27/1, 2, 4, 5, 6, 7, 8, 10, 12, 13, 14, 15	
G27/3, 9,	G28/ 1, 2, 4, 5, 6, 7, 8, 10, 12,14,16	
G28/3, 9, 11, 13, 15, 17	G29/1, 4, 5, 8, 9, 10, 11, 12 13, 14, 15, 16, 17	
G29/2, 3, 7, 18, 19		

Poplar trees

Characteristically, Poplar trees are generally fast growing short lived species with a life expectancy of approximately 50 to 70 years. The trees concerned are approximately 70 years old. As a result their condition can be expected to decline naturally. Many of the trees concerned have been severely and inexpertly pruned in the past particularly over the Morphy Richards site possibly in an attempt to control their size, avoid conflict with business operations and reduce the risk of personal harm or damage to property. The large wounds created by the pruning do not heal and Poplars do not have strong natural defence barriers to contain areas of decay. As a result regrowth can become weakly attached and vulnerable to sudden collapse, particularly during strong windy conditions. The removal of trees with significant defects and associated decay is often justified for reasons of safety, particularly when they are close to areas of open pedestrian access, buildings and other infrastructure.

Reasons to fell

The reasons to remove all of the trees at the same time are understood. However, a site inspection reveals the flood defence bund has been constructed prior to any decision on this application. Therefore, any special care and methods necessary to avoid damage to the bund and conflict with the business operations of the site will already be required. Also, hopefully, the impact of any future tree work on the business operations of the site can be avoided or minimised by careful planning and organisation. Indeed, the construction of the bund will no doubt have involved similar considerations to avoid any serious conflict.

Impact of tree removal

There is no doubt that the removal of all of the existing trees will result in a significant adverse impact on local amenity as well as any associated wildlife and biodiversity benefits. In addition, the loss of the trees may increase some of the other difficulties of light and noise pollution from the site that local residents are concerned about, particularly where there are no other existing trees on the land between the dwellings and the site to help continue to screen the industrial buildings. However, due to the reduced condition and limited future prospects of many of the existing trees and their proximity to the railway, it is clear something needs to be done to minimise any possible risk of personal harm and / or damage to property.

Comments on proposals

At present, it appears not all the trees need to be removed at this time for reasons of safety. Indeed, it appears 46 trees may be retained, at least in the short to medium term, if they are pruned in accordance with the recommendations of the submitted tree report. The severe / heavy pruning required to pollard the trees will adversely affect their natural appearance and the level of amenity they provide. In addition it may not prevent their removal in the future due to infection by decay around the large final pruning cuts. However, hopefully regrowth will help to restore a more natural appearance although this may also need to be managed in the future to ensure the trees are maintained in a safe condition. Also, phasing the removal of the trees will help reduce the overall adverse impact on local amenity and allow time for any replacements to become firmly established to help provide future amenity.

For the above reasons, I am unable to support the loss of all 73 trees concerned at this time. However, there is no objection to the removal of the 24 trees recommended to be felled in the submitted tree survey as well as the removal of the 3 additional trees identified as G22/17, G27/11, and G29/6, if necessary if further evidence is provided to show this is unavoidable. Replacement planting is also recommended on a 1:1 basis to provide future amenity and suitable species and their size at planting may be as follows.

*13 x Silver Birch (*Betula pendula*)*

*14 x Upright Norway Maple (*Acer platanoides* *Olmstead*)*

Plant as a 'Selected' Standard 10 to 12 centimetres stem circumference measured at 1 metre above ground level, with a minimum height of 3 to 3.5 metres and container grown within a minimum 25 litre container.

The new trees should be planted in the first available planting season following the removal of the existing trees, from early November 2015 to late March 2016. Their recommended approximate planting positions are within 1 to 2 metres east of the existing trees to be removed, subject to any other site constraints.

Therefore, if you agree with the above comments you will no doubt wish to part grant this application for the removal of the 27 trees in the tree report but refuse the removal of the 46 remaining trees at this time. At the same time you will no doubt wish to inform the applicant and / or the agent as part of any decision notice that there is no objection to the remaining trees being pollarded as indicated in the submitted tree report if a fresh application is submitted accordingly. In addition you will no doubt wish to advise the applicant of his right to appeal to the Secretary of State to any part of the application that is not supported. The planning conditions listed below are recommended with any consent.

Stump grinding

In this instance it is recommended a special planning condition is included with any consent that the tree stumps shall be "ground out" to help reduce the potential for the spread of honey fungus that may be detrimental to the future prospects of any new trees. To assist, a suggested condition is listed below. Whilst this will no doubt involve additional expense to the applicant, hopefully it will not consider as unreasonable to help assist the successful establishment of the replacement trees.

Tree removal “agreement”

In dealing with this matter it is noted that the submitted details indicate that the removal of the trees from the western boundary was “agreed” as part of the planning application for the bund. I am not aware of any formal agreement to this and / or that it formed part of any planning conditions included with consent. However, you will no doubt wish to check your records to clarify this with the applicants / agent if required as part of any decision notice.”

Taking account of the above, it is considered that the proposal would accord with UDP Policies ENV3.3 ‘Tree Preservation Orders’ and ‘ ENV3.4 ‘Trees, Woodlands and Hedgerows,’ and the application can be supported as submitted.

Conclusion

The trees concerned are a prominent feature within the surrounding area. The Tree Officer has indicated that he is unable to support the removal of all 73 trees concerned at this time due to the significant adverse impact this will have on local amenity and any associated benefits. In addition the removal of all the trees does not appear to be justified at this time for the submitted reasons. However, there is no objection to a reduced amount of tree removal. Therefore, it is recommended to part grant this application for the removal of the 27 trees in the tree report but refuse the removal of the 46 remaining trees at this time.

Conditions

01

All tree works shall be carried out in accordance with B.S.3998: 2010 **and shall not exceed the removal of the 27 Poplar trees recommended for removal within the submitted tree survey report by the agent**, unless otherwise agreed in writing with the Local Planning Authority. In addition no tree work shall commence until the applicant or his contractor has given at least seven days’ notice of the intended starting date to the Local Planning Authority. The authorised works should be completed within 2 years of the decision notice otherwise a new application for consent to carry out any tree work will be required.

Reason

To ensure the tree works are carried out in a manner which will maintain the health and appearance of the trees in the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 ‘Borough Landscape’, ENV3.2 ‘Minimising the Impact of Development’ and ENV3.4 ‘Trees, Woodlands and Hedgerows’.

02

Replacement planting condition

13 x Silver Birch (Betula pendula) and 14 x Upright Norway Maple (Acer platanoides Olmstead) shall be planted in the first planting season (early November to late March) following the removal of the 27 existing Poplar trees. Their size at the time of planting shall be ‘Selected’ Standard 10 to 12 centimetres stem circumference measured at 1 metre above ground level, with a minimum height of 3 to 3.5 metres and container grown within a minimum 25 litre container positioned approximately as

indicated on the attached site location diagram or such other size, species, location or period as may be agreed in writing with the LPA.

Reason

To ensure the tree works are carried out in a manner which will maintain the health and appearance of the trees in the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

03

If, within a period of five years from the date of planting, the new trees (or any other new trees planted as replacements for them) are removed, uprooted or destroyed or die, another tree of the same size and species shall be planted at the same place, or in accordance with any variation for which the local planning authority give their written consent.

Reason

To ensure the tree works are carried out in a manner which will maintain the health and appearance of the trees in the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

04

Stump grinding condition

Following the felling of the 27 Poplar trees concerned their stumps will be removed by the use of a suitable stump grinding machine in accordance with BS 3998:2010 Tree Work - Recommendations. The minimum depth for stump grinding should be to extend through the base of the stump leaving the major roots disconnected. The arisings should be removed from the site to help reduce the potential for the spread of honey fungus that may be detrimental to the future prospects of any new trees.

Reason

To ensure the tree works are carried out in a manner which will maintain the health and appearance of the trees in the interests of the visual amenities of the area and in accordance with UDP Policies ENV3 'Borough Landscape', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

Reason for Refusal

01

The Council considers that the removal of the remaining 46 trees (not included within the 27 listed above) will result in a significant adverse impact on local amenity as well as any associated wildlife and biodiversity benefits and insufficient justification for their loss has been provided. The Council considers that the loss of the trees is likely to increase other difficulties of light and noise pollution from the site which would further exacerbate future disturbance to adjacent local residents. Accordingly this element of the application conflicts with UDP Policies ENV3 'Borough Landscape', ENV3.2 'Minimising the Impact of Development' and ENV3.4 'Trees, Woodlands and Hedgerows'.

Informative(s)

a) Wildlife Legislation

Nature conservation protection under UK and EU legislation is irrespective of the planning system and the applicant should therefore ensure that any activity undertaken, regardless of the need for any planning consent, complies with the appropriate wildlife legislation. If any protected species are found on the site then work should halt immediately and an appropriately qualified ecologist should be consulted. For definitive information primary legislative sources should be consulted.