

Development Control Committee 7 December 2022

Planning Application DC/22/1439/TPO – 66 Woodlands Way, Mildenhall

Date registered:	22 August 2022	Expiry date:	17 October 2022
		EOT agreed:	15 November 2022
Case officer:	Debbie Cooper	Recommendation:	Approve application
Parish:	Mildenhall	Ward:	Mildenhall Kingsway and Market
Proposal:	Tree preservation order TPO 097 (1969) - one Sweet Chestnut (indicated on plan, within area A1 on order) fell		
Site:	66 Woodlands Way, Mildenhall, Suffolk		
Applicant:	Mr Jordan Nivet		

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and associated matters.

Recommendation:

It is recommended that the committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

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Background:

This application is before the Development Control Committee following consideration by the Delegation Panel. It was referred to the Delegation Panel as the officer's recommendation is one of APPROVAL, contrary to the Town Council's objection to the application.

Proposal:

1. Permission is sought to fell a large Sweet Chestnut tree situated in the rear garden, in close proximity to the house.

Site details:

2. The application site comprises of a semi-detached dwelling situated within the countryside (for planning purposes) in a wooded housing estate on the outskirts of Mildenhall. The tree is protected by Tree Preservation Order 097 (1969) and is within A1 on the Order.
3. There are public footpaths running along the side and front boundaries of the property.

Planning history:

4.

Reference	Proposal	Status	Decision date
DC/15/1746/TPO	TPO/1969/097 - Tree Preservation Order - Sweet Chestnut - T1 - as hatched on plan - 4 metre all round crown reduction	Application Granted	22 October 2015
F/2008/0753/TPO	Fell 1 no. twin stemmed Oak tree to ground level	Approve with Conditions	16 December 2008
F/2002/668	Re-advertisement: change of use of land at front and side of property to private residential garden and erection of side extension.	Approve with Conditions	16 May 2003

Consultations:

5. **Arboricultural Officer:**

The Sweet Chestnut subject to this application is a large specimen. Its size and stature is such that it does contribute to the unique and very verdant character of this area. As such, it does have notable amenity value. While there may be a good number of trees in this areas, removal of this tree would erode this density of tree cover.

However, turning to the reasons for the proposal to remove the tree, I would be of the view this tree does meet the threshold where it does dominate the property, given the relatively small size of the property, including garden. Combined with the level of nuisance the applicants are

experiencing, I would be of the view it would be unreasonable for the Local Planning Authority to object to the proposal, particularly when combined with securing a replacement tree, which would help provide a more diverse species and age spread, which would enhance the long-term amenity of the area. I also note the applicants have taken reasonable steps to reduce or accommodate the nuisances, such as removing shoes before entering the property, but the nuisance still occurs to a level I would be of the view, would be considered unreasonable.

I note the town council objection to the application, and I would note that it is not necessary for a tree to be diseased, dying or dangerous to justify removal, in the context of a TPO application. There is also not requirement for an arboricultural report, nor indeed an arboricultural reason to remove a tree. An arboricultural report would be required where the reasons for the proposal are due to its condition.

Given the above I have no objection to the removal of the tree, with the following replacement condition:

1 no standard (8-10cm girth), specimen, planted anywhere within the bounds of the applicants property, from the following list: Liquidambar styraciflua; Acer campestre; Prunus avium; Acer buergerianum; Davidia involucrate; Amelanchier arborea 'Robin Hill'.

Representations:

6. Parish Council:

Object - The tree is not diseased, dying or dangerous and no qualified arboriculturist report to substantiate the tree to be felled. (Officer note: following consideration of the comments made by the Council's Arboricultural Officer, the Town Council confirmed that they object to the application due to the felling of an otherwise healthy tree).

7. Neighbours:

no representations received

Policy:

8. Assessment of Tree Preservation Order (TPO) works are not made with reference to specific Development Management Policies. Rather, they are assessed on the basis of good arboricultural practise, balancing the need and justification for the works against any harm to amenity.

Officer comment:

9. The issues to be considered in the determination of the application are:
 - Reason for the works / impacts on residential amenity
 - Impacts on the visual amenity of the local area

Reasons for the works / impacts on residential amenity

10. Permission is sought to fell the tree due to the nuisance it causes, primarily the volume of spiked produce which causes injuries to skin. The fruit/seed covers a large proportion of the garden and is easily transferred to the house. It gets stuck in hands and feet and can cause painful injuries. This is exacerbated by the fact that young children live here. The occupants have tried to make reasonable adjustments such as removing shoes before entering the house, but the nuisance remains.
11. The applicant also cites a loss of light and given the size and siting of the tree and the small size of the property this is true to a degree, particularly as the tree is on the southern aspect of the property.
12. A more modest stated nuisance of broken roof tiles from falling foliage is noted. Likewise, the suggested potential damage to foundations. However, the Arboricultural Officer has confirmed that subsidence would not occur in this location due to the known soil types and therefore this aspect does not feature in his assessment of the proposal.

Impacts on the visual amenity of the local area

13. It is acknowledged that this large tree has a notable amenity value, contributing to the unique and verdant character of the area. Even though there are a number of other trees in the vicinity, its removal would erode the density of tree cover.
14. Given this and the apparent good health of the tree, the reasons for the felling need to be convincing.

The balance of considerations

15. The size and location of the tree is such that it dominates the property, which is of a modest size with a relatively small garden.
16. The significant issue of the nuisance of fruit fall in combination with the dominance of the tree and the loss of light means that in this instance the level of nuisance caused is considered to be unreasonable, impacting on the reasonable enjoyment of the property by the occupiers. The level of nuisance will also increase as the tree gets bigger.
17. As is the case with all TPO applications, the Arboricultural Officer has considered alternative tree management options. In terms of alternatives to the felling, there are no pruning options that would significantly reduce the impact of the nuisances cited nor significantly reduce its dominance on the property.
18. Therefore, the balance is tipped towards allowing the felling of the tree and replanting with a different species further away from the house. This replanting will benefit the long-term amenity of the area as Woodlands Way has mostly trees of the same age with a limited species spread. Replacement planting can be secured by condition.

Conclusion:

19. In conclusion, the principle and detail of the development is considered to be acceptable and in compliance with relevant development plan policies and the National Planning Policy Framework.

Recommendation:

20. It is recommended that consent be **APPROVED** subject to the following conditions:

1. The authorised works shall be carried out to the latest arboricultural standards (ref BS 3998:2010 Tree Works: recommendations)

Reason: To ensure the works are carried out in a satisfactory manner.

2. The works which are the subject of this consent shall be carried out within two years of the date of the decision notice.

Reason: To enable the Local Planning Authority to review the situation in the event that the authorised works are not carried out within a reasonable period of time.

3. The 1 No. Sweet Chestnut tree, the removal of which is authorised by this consent, shall be replaced by 1 No. standard tree of 8-10cm girth, planted anywhere within the bounds of the applicant's property, from the following list: Liquidambar styraciflua; Acer campestre; Prunus avium; Acer buergerianum; Davidia involucrate; or Amelanchier arborea 'Robin Hill'; within 6 months of the date on which felling is commenced or during the same planting season within which that felling takes place (whichever shall be the sooner) and the Local Planning Authority shall be advised in writing that the replanting has been carried out. If any replacement tree is removed, becomes severely damaged or becomes seriously diseased it shall be replaced with a tree of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason: To preserve trees and hedges on the site in the interest of visual amenity and character of the area, in accordance with policies DM2, DM12 and DM13 of the West Suffolk Joint Development Management Policies Document 2015, Chapter 15 of the National Planning Policy Framework and all relevant Core Strategy Policies.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/22/1439/TPO](https://www.westsuffolk.gov.uk/DC/22/1439/TPO)