

TWC/2022/0515

Site of 23 Wellington Road, Muxton, Telford, Shropshire
Felling of 1no. Monkey Puzzle tree and 3no. Pine trees

APPLICANT

Oliver Hardy Homes

RECEIVED

17/06/2022

PARISH

Donnington and Muxton

WARD

Muxton

**THIS APPLICATION HAS BEEN CALLED IN BY DONNINGTON & MUXTON
PARISH COUNCIL TO BE DETERMINED BY MEMBERS OF THE PLANNING
COMMITTEE**

Online Planning File: <https://secure.telford.gov.uk/planning/pa-applicationssummary.aspx?applicationnumber=TWC/2022/0515>

1. SUMMARY RECOMMENDATION

- 1.1 It is recommended that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **GRANT TREE PRESERVATION ORDER CONSENT.**

2. APPLICATION SITE

- 2.1 The application site is situated within Muxton, which is a predominantly residential area, approximately 6 miles from Telford Town Centre.
- 2.2 The trees in question are situated to the south east of Plot 2 of the development site approved under planning application TWC/2019/0957.
- 2.3 The trees subject to this application are visible from within the street scene and surrounding area, with the 3no. Pine Trees being situated directly adjacent to the nearby highway and the 1no. Monkey Puzzle tree being situated to the north of the 3no. Pine Trees.

3. PROPOSED DEVELOPMENT

- 3.1 This is a Tree Preservation Order application for the felling of 1no. Monkey Puzzle tree and 3no. Pine trees.
- 3.2 The trees are located at Site of 23 Wellington Road, Muxton to the south east of the application site, directly adjacent to the nearby highway.
- 3.3 The applicant has submitted a Tree Report as part of the proposed application, which has been produced by Cedarwood Tree Care.

4. PLANNING HISTORY

- 4.1 TWC/2019/0957 – Erection of 4no. dwellings following the demolition of 1no. dwelling together with the associated access, parking and landscaping works – Full Granted on 5th June, 2020
- 4.2 TWC/2020/0168 – Erection of 41no. dwellings with associated parking and access infrastructure – Full Granted on 15th January, 2021.
- 4.3 TWC/2021/0213 – Variation of condition 18 (Development carried out in accordance with deposited plans) on planning application TWC/2019/0957 (Erection of 4no. dwellings) to allow amendments to design of plot 3 – Full Granted on 26th April, 2021
- 4.4 TPO 167 Dated 17/01/2018

5. RELEVANT POLICY DOCUMENTS

5.1 National Guidance:

National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

5.2 Local Development Plan:

Telford & Wrekin Local Plan 2011-2031:
Policy NE2 Trees, hedgerows and woodlands

Donnington & Muxton Neighbourhood Development Plan:
No specific policies as Plan refers to relevant policies of TWC Local Plan.

6. NEIGHBOUR REPRESENTATIONS

- 6.1 The application has been publicised though direct neighbour notification. Twenty objections and three representations of support were received during the consultation, the contents of which are available in full on the planning file, but key material planning considerations have been summarised as follows:

Object

- The Monkey Puzzle tree is very symbolic. Beautiful tree that should not be felled for the sake of yet another property and wasn't part of the original planning.
- Removal is detrimental to the surrounding area
- Loss of more nature.
- Original planning permission made no mention of removing the trees.
- Concerned about the loss of biodiversity and scenic views.
- No need except for monetary gain.
- Believe there is a tree preservation order already on the monkey puzzle tree
- Important for the environment

Support

- Not recommended to be in small gardens as thick/sharp pines are dangerous.
- Not currently supporting any wildlife and impact on environment will be insignificant
- Monkey Puzzle tree has been in a bad state for a number of years
- Tree is dangerous

7. STATUTORY RESPONSES

7.1 Donnington & Muxton Parish Council: Object

The Parish Council objects to and wishes to call in this application. In both previous applications for this site (TWC/2019/0957 and TWC/2021/0213 measures and conditions were put in place to protect these trees. The Parish Council objects to the trees being felled despite the fact that damage appears to have already been done to the Monkey Puzzle Tree. The Parish Council would like to know if Telford & Wrekin Council's tree officer has been consulted and would like to see their report.

7.2 Arboricultural: Support subject to conditions

TPO 167 was made on the 17th January, 2018, in reaction to the proposed development on the land. Following an objection to the TPO from the owner at that time the order was later confirmed at a Planning Committee meeting on the 29th May, 2018. The Schedule of the Order included one Monkey Puzzle tree (T1) and a group of three Scots Pine Trees (G1) growing within the grounds of 23 Wellington Road, Muxton.

The trees were then conditioned to be retained as part of the planning application on the land, TWC/2019/0957. Planning conditions were imposed upon the development, the three tree specific conditions have been listed below.

- Condition 3 – Tree Protective Fencing.
- Condition 4 – A full Arboricultural Implications Assessment was to be undertaken to include Tree root protection zones, clearly marked on a scale plan, likely alterations to site levels, likely changes to surfacing, likely locations for the layout of services, demolition of existing buildings and removal of hardstanding.

Condition 5 – details of underground services which may breach the root protection area of the trees.

Condition 6 – prior to the commencement of groundworks and the laying of foundations, the applicant/developer shall contact the Council's Arboriculture Officer to ensure that all tree protective measures are in place and suitably installed. The development shall be carried out in accordance with the agreed details.

Reason: To ensure the protection of trees subject to Tree Preservation Orders.

Sadly, except for condition 3, none of the other planning conditions were adhered to. A site visit was made on the 21st of September, 2021, where upon it was noticed that the protective fencing for the TPO'd trees had not been erected. Furthermore, a number of the planning conditions had been breached. There were a number of large concrete blocks placed within the trees root protection areas. There were a number of soil level alterations and severed roots which has been exposed to the atmosphere and a large pile of earth containing what appeared to be tree roots.

Consequently, a report was requested by Planning Enforcement from the developers, who commissioned Rob Keyzor Arboricultural Consultant's Ltd. The report was provided on the 21st November, 2021. The title of the report was 'Preliminary Evaluation of Roof Damage to TPO trees at 23 Wellington Road, Muxton'.

It concluded that there had been clear and obvious ground and root damage to the TPO'd trees, which was a contravention of the TPO legislation. The damage to the Pines may have left them unstable in the ground and liable to failure. It recommended that to quantify the damage a Static Integrated Assessment & Statics Integrated Method assessment should be undertaken. Which at a basic level, is a method of evaluating the resistance of main stem breakage via static load tests e.g. a 'pull test'. This however was never progressed.

On the 17th June, 2022, TWC/2022/0515 was validated for comment by the planning department, which is seeking to remove all 4 TPO'd trees and is the subject to this report.

There is evidence that from November 2021, until the 11th August, 2022, the canopy of the Monkey Puzzle Tree has declined severely, which coincides with the area which had been severely compacted by a 13 tonne excavator. A number of roots on the Pines, both within the site and on the line of the old boundary wall of the site, had been severed. The Pines now appear to be showing early signs of die back in the crown, which is indicative of damage within the rooting environment.

Therefore, in the interest of safety and future amenity, an objection cannot be sustained to the removal of the trees, which in the opinion of the Council's Tree Officer, have been irrecoverably damaged during the development of the land and the failure to adhere to the imposed planning conditions by erecting the protective fencing around the trees.

However, the proposed replacement trees by Cedar Wood Tree Care are not considered acceptable. The suggested replacement trees are 1x Liquidambar and 3x Silver Birch trees at a size of 12-14cm girth. These are the wrong species for what is being lost and far too small to make any meaningful impact upon the landscape.

Should consent be afforded to the proposal, a replacement tree condition is required for the like for like replacements. 1 x Monkey Puzzle and 3 x Scots

Pines at a semi mature size 20-25cm girth. This will need to be accompanied by an after care, post planting management plan, to ensure that they survive and establish within the landscape.

8. APPRAISAL

8.1 Having regard to the Development Plan and other material considerations including comments received during the consultation process, the application raises the following main issues:

- The principle of felling the 1no. Monkey Puzzle Tree and 3no. Pine Trees
- Other matters

8.2 The principle of felling the 1no. Monkey Puzzle Tree and 3no. Pine Trees

8.2.1 Policy NE2 of the Telford & Wrekin Local Plan looks specifically at trees, hedgerows and woodlands and states that the Council expects existing trees, hedgerows and woodlands with biodiversity value, visual amenity value and landscape value to be retained, protected and appropriate managed.

8.2.2 Policy NE2 of the TWLP also states that the Council's expects proposals that involve felling or removal of trees, hedgerows or woodlands or are considered likely to cause demonstrable harm will normally be resisted, unless acceptable mitigation or compensation measures can be secured.

8.2.3 Policy NE2 also states that the Council will, where applicable, expect development to provide replacement and enhancement planting which maintains local amenity, character of the local area and biodiversity value and should primarily include native species of local provenance. Furthermore, development should provide replacement planting both in terms of habitat and amenity value where tree, hedgerow or woodland loss is unavoidable.

8.2.4 As part of this application a Tree Condition Report has been produced by Cedarwood Tree Care. The tree report states that in terms of the Monkey Puzzle trees, there is dead wood present across numerous branches across the lower and mid crown. There is sap oozing from the trunk which, with the foliage dieback, indicates the possible presence of Honey Fungus. The ground around the tree has also been compacted and this has affected the tree. The tree has declined since it was inspected in November 2021, and unfortunately, measures to mitigate compaction would not reverse the dieback and physiological problems being experienced by the tree.

8.2.5 With regards to the 3no. Pine Trees, the tree report goes on to state that there is evidence of root plate damage within the site and from work to the pavement beyond. The long-term stability of the trees is of concern, resulting in overall safety concerns with regards to all three trees.

8.2.6 As part of this application process, the Council's Tree Officer has been consulted and comments have been received, which are supportive of the proposal, subject to conditions. Within these comments the Council's Tree

Officer has provided clear details of the history of the site, confirming that following the approval of TWC/2019/0957, a number of tree specific conditions were included on the decision notice. Unfortunately, other than condition 3, none of the tree specific conditions were adhered during the construction works carried out.

- 8.2.7 A site visit was carried out by the Tree Officer in September 2021, where it was noticed that the protective fencing had not been erected and a number of planning conditions had been breached. At that time the Council's Enforcement team had requested a report from the developer, which was provided on the 21st November, 2021. This report concluded that there had been clear and obvious ground and root damage to the TPO'd trees. It had also stated that the damage to the Pine trees may have left them unstable in the ground and liable to failure. At that time it was recommended that to quantify the damage a Static Integrated Assessment & Statics Integrated Method assessment should have been undertaken. Something which was never carried out.
- 8.2.8 The Council's Tree Officer has confirmed that between November 2021 and August 2022, the canopy of the Monkey Puzzle tree has declined severely. A number of roots on the Pines, both within the site and on the line of the old boundary wall of the site have also been severed. The Pines now appear to be showing early signs of die back in the crown, which is indicative of damage within the rooting environment.
- 8.2.9 As a result of the activity which has been carried out on site and failure to adhere to the imposed planning conditions, the Council's Tree Officer has confirmed that in the interest of safety and future amenity, there is no objection to the removal of the trees; which have been irrecoverably damaged.
- 8.2.10 Whilst every effort has been made to preserve the Trees in question through the inclusion of tree specific conditions on previous applications, based on the current state of the trees, the evidence submitted as part of the application and comments received from the Council's Tree Officer, stating that the trees need to be removed for safety purposes, the Council reluctantly consider that the trees need to be felled, due to the irreparable damage. This is however, subject to a condition being added for the planting of specific replacement trees.
- 8.2.11 As a result the above and the fact that acceptable mitigation measures will be secured, through the implementation of a condition onto this decision notice, the Local Planning Authority consider the proposed scheme complies with Policy NE2 of the Telford & Wrekin Local Plan.
- 8.2.12 The Tree Report produced has confirmed that the applicant's wish to replace the 4no. trees with one Liquidamber styraciflua in place of the Monkey Puzzle tree, and three Silver Birch trees in place of the 3no. Pine trees. This being said, as per comments received from the Council's Tree Officer, these are considered to be the wrong species for what is being lost and are far too

small. The Council's Tree Officer has confirmed that a replacement tree condition should be imposed for like for like replacements with; 1 x Monkey Puzzle Tree and 3 x Scots Pines at a semi mature size 20-25 cm girth. Alongside this, the submission of an after care, post planting management plan is required, to ensure that the trees survive and establish within the landscape.

8.3 Other Matters

- 8.3.1 Officers must clearly note that whilst it is appreciated that there is significant evidence that the trees have been wilfully damaged, the legality of what has happened to the trees is not a matter of consideration on this application. The Local Planning Authority can only assess the application based on the current health of the trees and cannot assess how the trees have been damaged. The legality of what has been carried out, is not a matter to be dealt with under this application and is being dealt with separately by the Council's Enforcement department.
- 8.3.2 Informatives have been attached advising the applicant and the appointed tree contractor regarding bats and nesting wild birds.

9. **CONCLUSIONS**

- 9.1 Based on the Tree Report submitted and comments received from the Council's Tree Officer, detailing the damage evident on the existing trees and reasoning why this has occurred, officers consider that for safety reasons the felling of the trees is considered necessary due to the irreparable damage that has occurred. Accordingly, the proposal complies with Policy NE2 of the Telford & Wrekin Local Plan and guidance contained within the NPPF.

10. **DETAILED RECOMMENDATION**

- 10.1 Based on the conclusions above, the recommendation to the Planning Committee on this application is that **DELEGATED AUTHORITY** be granted to the Development Management Service Delivery Manager to **GRANT TREE PRESERVATION ORDER CONSENT** subject to the following:
- a) The following Condition(s) and Informative(s) (with authority to finalise Condition(s) to be delegated to Development Management Service Delivery Manager):

Condition(s):

C079 – TPO tree – suitable contractor

C089Custom – Replacement trees

C089Custom – Aftercare and post planting management plan

Informative(s):

I23 - Bats

I25m – Nesting wild birds

I40 - Conditions

I41 - Reasons for Grant of Tree Preservation Order Consent
RANPPF1