



WORTHING BOROUGH  
COUNCIL

**Worthing Planning Committee**  
**19th October 2022**  
**Agenda Item no. 7**

**Ward: All**

## **Improved Procedures to Ensure the Protection of Trees and Implementation of New Tree Planting on Brownfield Development Sites.**

### **Report by the Director for Economy**

#### **1.0 Summary**

- 1.1 The attached report was requested by Executive Member for Regeneration, Cllr Neocleous, following the felling of conifer trees, during redevelopment of The Mannings, Surry Street, Shoreham.
- 1.2 Whilst this is an Adur matter, the considerations are relevant for all developments across the Borough and the improvements to procedures agreed by Adur Planning Committee are considered appropriate for Worthing.

#### **2.0 Background**

- 2.1 The Adur Committee report (attached) highlighted a case with the redevelopment of the former Parcelforce building where supporting Computer Generated Images (CGI) showed significant tree planting around the site and along the road frontage but changes to the level of parking resulted in the development proceeding with minimal tree planting.
- 2.2 Recent cases in Worthing have also identified that certain developments have been approved with various supporting images indicating the retention of existing trees and significant new planting only to find that such planting is not delivered when the development is implemented. The recent Bayside development is another example where supporting images showed trees along the frontage but these were then not planted due to services under the highway. This brings the credibility of the planning system into dispute as highlighted by The Herald newspaper when it published before and after photographs of the Bayside development. Whilst the developer, working with

your Officers has sought to address this matter by adding large planted pots along the frontage of the development it does highlight the importance of considering underground services at the planning application stage.

- 2.3 The failure to implement approved planting schemes can often result in insufficient information at the planning application stage about services in and around the site. However, in some cases it is because computer generated images (CGI's) of schemes give unrealistic impressions of existing or proposed planting to 'sell' their schemes to the Planning Committee and the local community.

### **3.0 Proposals**

- 3.1 To avoid some of the problems highlighted the Committee is requested to note the two main changes set out below. Regarding the use of CGI's, your Officers are now encouraging applicants to take off new planting so that the visual impact of development can be better appreciated and to avoid the situation where the optimum view of a development might be shown shrouded behind a tree(s).
- 3.2 The first change is the submission of additional information when planning applications are first made. The Council operates a Local List of validation requirements: [<https://www.adur-worthing.gov.uk/media/Media,99591,smxx.pdf>] which describes the range of information which may be required from applicants before a planning application can be accepted. The list can be amended to ensure that, in addressing foul and surface water drainage requirements or other underground services full regard should be given to existing and proposed planting to ensure no conflict exists.
- 3.3 The second change is the use of a revised landscaping condition requiring the *retention of trees* as proposed unless an application is subsequently made for their removal. The effect of this would be that felling could only be undertaken if an application is first submitted under that condition. Unlike The Mannings case, the description of an application made under such a condition would not be 'approval of landscaping details' but for instance 'removal of trees originally indicated to be retained as part of a development.'
- 3.4 This approach would have two effects. Firstly to compel developers to make the felling of trees explicit rather than implied in any subsequent condition discharge applications. Secondly, the description of the application within the Weekly List is more likely to be of interest to Councillors, who may then in turn seek further information and/or call the matter in for determination by the

Planning Committee. This would require an amendment to the current Scheme of Delegation.

- 3.5 It should be borne in mind that such a planning condition could not be used to retain trees indefinitely. Once development has been completed the planning condition would require retention and replacement (if removed within 5 years) but beyond this the trees could be removed. Only the service of a Tree Preservation Order would provide ongoing protection (unless the site was in a Conservation Area\*).

#### **4.0 Recommendation**

- 4.1 The Planning Committee is requested to note the report and the proposed changes to procedures to ensure the retention of trees where applicable and to ensure that new planting proposed is delivered as originally envisaged.



**Adur Planning Committee  
5th September 2022  
Agenda Item no.7**

**Ward: St Mary's**

**Improved Procedures to Ensure the Protection of Trees and Implementation of New Tree Planting on Brownfield Development Sites.**

**Report by the Director for Economy**

**1.0 Summary**

1.1 The attached report was requested by Executive Member for Regeneration, Cllr Neocleous, following the felling of conifer trees, during redevelopment of The Mannings, Surry Street, Shoreham. The report considers how the trees were felled after originally being shown to be retained and recommends improvements to current procedures. The Planning Committee is recommended to note the report and the improved procedures relating to validation and the use of a revised landscaping condition.

**2.0 Background**

2.1 Recent cases have identified that certain developments have been approved with various supporting images indicating the retention of existing trees and significant new planting only to find that such planting is not delivered when the development is implemented. The attached report highlights the issues at the Mannings but there are other examples for instance at Parcelforce where the credibility of the planning system is brought into dispute when Developers fail to implement the approved planting schemes.

2.2 The failure to implement approved planting schemes can often result in insufficient information at the planning application stage about services in and around the site. However, in some cases it is because computer generated images (CGI's) of schemes give unrealistic impressions of existing or proposed

planting to 'sell' their schemes to the Planning Committee and the local community.

### 3.0 Proposals

- 3.1 To avoid some of the problems highlighted in the attached report the Committee is requested to note the two main changes set out below. Regarding the use of CGI's your Officers are now encouraging applicants to take off new planting so that the visual impact of development can be better appreciated and to avoid the situation where the optimum view of a development might be shown shrouded behind a tree.
- 3.2 The first change is the submission of additional information when planning applications are first made. The Council operates a Local List of validation requirements: [<https://www.adur-worthing.gov.uk/media/Media,99591,smxx.pdf>] which describes the range of information which may be required from applicants before a planning application can be accepted. The list can be amended to ensure that, in addressing foul and surface water drainage requirements or other underground services full regard should be given to existing and proposed planting to ensure no conflict exists.
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- 3.4 This approach would have two effects. Firstly to compel developers to make the felling of trees explicit rather than implied in any subsequent condition discharge applications. Secondly, the description of the application within the Weekly List is more likely to be of interest to Councillors, who may then in turn seek further information and/or call the matter in for determination by the Planning Committee. This would require an amendment to the current Scheme of Delegation.
- 3.5 It should be borne in mind that such a planning condition could not be used to retain trees indefinitely. Once development has been completed the planning condition would require retention and replacement (if removed within 5 years) but beyond this the trees could be removed. Only the service of a Tree Preservation Order would provide ongoing protection (unless the site was in a Conservation Area\*)

#### **4.0 Recommendation**

- 4.1 The Planning Committee is requested to note the report and the proposed changes to procedures to ensure the retention of trees where applicable and to ensure that new planting proposed is delivered as envisaged.

**Executive Member Report: Trees in Adur & The Mannings, Surry Street.  
30th June 2022**

**This report has been prepared at the request of the Executive Member for Regeneration, Cllr Neocleous, following the recent felling of conifer trees, during redevelopment of The Mannings, Surry Street, Shoreham. It looks in particular at the planning process by which this felling was approved.**

**1. Background**

- 1.1 In 2019 a planning application AWDM/1281/19 was submitted by the housing association Southern Housing Group, for the demolition of a block of 40 no. flats and the construction of a larger replacement block of 74 flats at The Mannings in Surry Street, Shoreham. The site included a line of 36no. conifers (Leyland Cypress) along its western boundary with the adjoining car park of the Co-Op (photo and aerial view below).





- 1.2 The application was considered by the Planning Committee on 11th November 2019, at which the Committee resolved to require detailed design changes to the building. The changes were made and on 9th December the Committee resolved to approve the application, subject to planning conditions to require submission of certain details, including material and landscaping, and subject to a legal agreement to secure affordable housing, transport and education provisions.
- 1.3 After resolution of a land ownership matter, Southern Housing completed the agreement in October 2021 and planning permission was issued.
- 1.4 It is relevant that the officer report considered by the Committee stated, under the sub-heading 'Trees and Vegetation' that: 'a line of conifer trees at the Co-op boundary are shown to be retained'. By contrast, it also stated that sycamore and trees and elder elsewhere on the site fronting Ham Road were to be removed.

- 1.5 In late February 2022, agents for Southern Housing submitted an application for the approval of landscape details, as required condition 4 of the planning permission.
- 1.6 The submitted plans show a row of hornbeam trees in place of the conifer trees at the western boundary. No direct explanation of this change was submitted. The only partial explanation was provided two months earlier in a pre-application email (2nd December 2021) to the planning office, which chiefly concerned sycamore trees at Ham Road. In this a landscape consultant for the applicant refers to removal of the conifers due to their low quality, it also mentions that low soil volume and proximity of services is a consideration.
- 1.7 In considering the application to discharge the landscaping condition during March-May 2022, planning officers, in consultation with the tree officer, explored with the applicant, the question of whether more tree planting could be included in the landscape proposals, particularly at the north-west corner of the site where it would be visible from Ham Road. Highway land outside the site was also included in discussions.
- 1.8 Officers did not seek further information or explanation concerning the implied felling of the conifer trees, nor did they raise an objection to this.
- 1.9 In response to discussions, the applicant confirmed that no space could be found for additional tree planting within the site due to the location of services. However a small change was made to landscaping proposals to add a hawthorn, alongside the proposed hornbeam trees at the western boundary and understorey shrub planting. This was to provide some compensation for the two sycamore trees fronting Ham Road, the removal of which was referred to in the 2019 report to Committee. Officers specified that this and the hornbeam trees should be extra heavy standard trees.
- 1.10 The application was approved on 15th May 2022 under delegated authority. The notice of approval referred to the amended landscape plan. It also included an informative stating strong support for the applicant's proposal to enter discussions with the highway authority, to secure additional planting in the highway verge, outside the site.
- 1.11 Following this approval, the conifer trees at the western boundary were felled during the week of 6th June. At this time Ward Councillors and the Executive Member for Regeneration received complaints from residents, that the felling of trees was contrary to the plans approved by the Planning Committee in 2019. It had been carried out during the nesting season and also represented a loss of biomass, habitat and air quality benefits.
- 1.12 The Executive Member therefore requested that a detailed report be compiled for publication.

## 2. Decision-Making Process and Information Relied Upon

- 2.1 The decision in 2019 to approve redevelopment of the site to provide 74 flats was made by Planning Committee. The Council's Scheme of delegation at 3.6.5 (d) requires that all applications for major development (more than 10 dwellings) are determined by the Committee.
- 2.2 The decision to approve the application for landscaping details pursuant to condition 4 was made under delegated authority within the provisions of 3.6.6 of the Council's Scheme of Delegation. This covers applications for consent pursuant to the conditions of planning permission.
- 2.3 The application for determination of the landscaping details was dealt with by a planning case officer whose recommendation for approval was considered and agreed by a principal planning officer, who authorised the decision.
- 2.4 Relevant information in 2019 as part of planning application AWDM/1281/19 comprises the Proposed Site Plan (Appendix 1), applicant's Planning Statement (Appendix 2) the Arboricultural Impact Assessment (Appendix 3) and Planning Condition no 4 of the planning permission (Appendix 4)
- 2.5 The 2019 site plan shows a series of green areas around the proposed building, with the presence of trees along the western boundary. It is notable that the series of five, separate green-shaded circles is unlike the tightly spaced series of 36 conifer trees in this location; there is no key or annotation to explain the significance of the five circles.
- 2.6 However, the applicant's planning statement stated that five trees are to be removed which implies that the 36 no. conifer trees were to remain. The Arboricultural Impact Assessment also submitted by the applicant's consultant identified the conifers as a group of 36no. Leyland Cypress, which it classified as category C2 (low quality). It states that these are a:

*'Low quality group but functional as a screening between residential flats and car park. High pruned to height of neighbouring wall to the west and from parked cars'.*

- 2.7 The conclusion drawn by officers in 2019 and reported in the officer's report to Committee was that the whilst other trees were proposed to be felled, the conifer trees were to remain:

*'Trees & vegetation*

*Two sycamore trees and three Elders would be removed from the Ham Road and Surry Street frontages. These are of poor quality, although they contribute to the overall mass of vegetation. One of the sycamores has regrown from a stump and is particularly poor. A line of conifer trees at the Co-op boundary are shown to be retained. Although there would not be suitable space for tree*

*planting, a landscaping scheme would provide some new shrubs and grasses at frontages and beside the car park.'*

- 2.8 The officer's report proposed that approval of the application should include planning conditions, among them would be a requirement for the submission and approval of hard and soft landscaping details and implementation, including biodiversity measures. This condition was recommended in order to ensure that where the proposed plan offered little detail, the precise details of planting and biodiversity measures would be approved and implemented subsequently
- 2.9 **Relevant information in February 2022** comprised the Proposed Planting Plan (**Appendix 5**). **Appendix 6** is the applicant's covering letter submitted with the application is also attached but makes no reference to the conifers. **Appendix 7** is an email thread between the applicant's architect and landscape consultant which was forwarded to the planning office 2nd December 2021.
- 2.10 The planting plan proposes a row of hornbeam trees along the western boundary, in replacement for the conifer trees. The applicant's covering letter makes reference only to the removal of one of the sycamore trees (T3). This tree was one of those referred to in the 2019 report to Committee as to be felled. The applicant described the proposed planting as offering mitigation for this.
- 2.11 Explanation for the proposed felling of the conifer trees is given only in the preceding email thread of 2nd December, two months prior to the submission of the application.
- 2.12 The email thread is a discussion between the applicant's design manager and landscape consultant in which removal of the conifers is mentioned. The reason stated by the consultant is their poor quality, although they are said to be provide screening and are shown to be retained in the Arboricultural Report [of 2019].
- 2.13 Design Manager (2nd December), refers to a subsequent discussion with the planner, described as positive, concerning the removal of further trees. The thread is then forwarded to the planning office for further advice on the proposed planting plan as mitigation

### **3. Observations**

- 3.1 The position in 2019 appears reasonably clear. Despite the ambiguous site plan drawing showing only five green circles at the western boundary, the applicant's Arboricultural Assessment and Planning Statement describe felling of five trees and not the conifer trees. Retention of the conifers was stated in the officer's report to Committee. This position was repeated in the landscape consultant's comments to their client in November 2021.

- 3.2 Felling of the conifer trees is first referred to by the landscape consultant in November 2021. The reason refers to their low quality. This status had been the case in 2019, and it is notable that no other reasoning is stated for the change in approach, although the location of underground services and soil volume is mentioned but not directly as a reason for their removal.
- 3.3 When the application (AWDM/0325/22) for the approval of landscape details, including the removal of the conifers was received, no supporting statement was submitted to provide an explicit reason. Officers did not seek an explanation subsequently.
- 3.4 The email thread refers to discussions with the Council's planning officer, regarded as positive. The officer recalls that the applicant's architect had phoned the office to ask for informal comments on two matters, firstly the replacement of the sycamore trees to be felled at the northern boundary, secondly the proposal to replace the boundary conifers.
- 3.5 The officer's informal verbal advice was that replacement of the sycamores within the site would be preferable if space could be found. Alternatively the landscape consultant's idea of planting in the roadside verge might have merit if the Highway Authority were in agreement.
- 3.6 On the matter of the removal and replacement of the conifer trees, the officer noted that Leyland Cypress are not recommended as boundary planting in new schemes and that other native planting is usually preferred. However, the existing trees were prominent, which was also a consideration. The merits of removal and replanting would be considered in any application.
- 3.7 In considering the subsequent landscaping application during March-May 2022, the planning case officer consulted with the tree officer, who recommended the use of extra heavy standards for the new planting, in order to afford a greater effect. He did not raise an objection to the removal of the conifers. In common with other applications for the approval of planning conditions (as distinct from planning applications for new development), the landscape proposals were included in the weekly list of applications but not publicised wider than this (i.e. no neighbour consultation letters are sent out).
- 3.8 Much of the discussion between the case officer and the applicant's agent in April/May 2022, concerns the search for space to plant additional trees on the site. Focus was on the north-west part of the site, just beyond the line of conifers. New tree planting here would have been visually more prominent, particular from Ham Road. However, the location of underground services meant that this would not be possible. An additional hawthorn tree was added to the planting proposals along the western boundary as a second preference.
- 3.9 The case officer also checked that the trees were neither subject to a tree preservation (TPO) order nor within a conservation area, where specific applications for felling would be needed. He recommended that the application

be approved subject to a tree maintenance plan submitted with the application, section 5 of which requires nurturing, watering and maintenance of new planting in the short and long term.

- 3.10 This recommendation was agreed by the Principal Planner, who authorised approval subject to the maintenance plan and use of an informative expressing strong support for discussions with the Highway Authority regarding the possibility of tree planting in the Highway Verge.

#### **4. Discussion**

- 4.1 The decision-making process here illustrates several important points.
- 4.2 Firstly and of particular importance, there is understandable public sensitivity to matters concerning trees and their removal. The recent application at the Civic Centre also highlighted considerable concern at the loss of a mature tree and clearly trees play an important part in providing visual amenity, biodiversity and contribute towards reducing the effects of climate change. The failure by the developer of Mariners Point to provide new trees and landscaping as part of the approved development is another recent example. Clearly there is a need to respond to this underlying public concern by improving the opportunity for scrutiny of future proposals to remove existing trees particularly when shown for retention at the planning application stage.
- 4.3 Secondly, it is evident that whilst higher density developments such as the Mannings are playing an increasingly important role in meeting the District's Housing needs, they have also placed greater demands on the space available within brownfield sites. The pressure to utilize space can lead to competition between trees, parking and underground services such as cables and drains. The need to provide surface water storage to restrict the rate of run off from sites often conflicts with the necessary root protection zones for existing trees and there is a need for better information about the space needed for underground services at the planning stage. In this way there can be greater certainty that trees and landscaping will not be sacrificed at a later stage in the development process.
- 4.4 Thirdly, when applications for the discharge of landscaping details are submitted under planning conditions, they are listed in the weekly list of new applications, which is circulated to all Councillors. However, an application which is described as 'approval of details of landscaping', as in the case of The Mannings, is very unlikely to attract attention and scrutiny by Councillors. Even officers had to drill down into those proposals to find the proposed felling of trees, which was implied rather than directly stated on the application form.
- 4.5 The process of discharging a wide range of planning condition matters under delegated authority is very rarely a source of concern. It is a necessary and time-efficient process relied upon by the many users of the planning services, which includes a wide range of householders enlarging and improving their

homes as well as developers of major sites. The changes which can be made in response to the concerns raised in relation to loss of mature trees can be targeted and specific rather than a wider change to the process for the discharge of planning conditions

## 5. Changes in Process

- 5.1 A first change is the submission of additional information when planning applications are first made. The Council operates a Local List of validation requirements:

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which describes the range of information which may be required from applicants before a planning application can be accepted. The list can be amended to ensure that, in addressing foul and surface water drainage requirements or other underground services full regard should be given to existing and proposed planting to ensure no conflict exists.

- 5.2 The second change is the use of a revised landscaping condition requiring the retention of trees as proposed unless an application is subsequently made for their removal. The effect of this would be that felling could only be undertaken if an application is first submitted under that condition. Unlike The Mannings case, the description of an application made under such as condition would not be *'approval of landscaping details'* but for instance *'removal of trees originally indicated to be retained as part of a development'*.

This approach would have two effects. Firstly to compel developers to make the felling of trees explicit rather than implied in any subsequent condition discharge applications. Secondly, the description of the application within the Weekly List is more likely to be of interest to Councillors, who may then in turn seek further information and/or call the matter in for determination by the Planning Committee. This would require an amendment to the current Scheme of Delegation.

- 5.3 It should be borne in mind that such a planning condition could not be used to retain trees indefinitely. Once development has been completed the planning condition would require retention and replacement (if removed within 5 years) but beyond this the trees could be removed. Only the service of a Tree Preservation Order would provide ongoing protection (unless the site was in a Conservation Area)

Footnote \*In Conservation Areas six-weeks advance notice must be given to the Council of proposed felling, this affords opportunity for the making of TPOs for trees of particular importance.