

Estate Management Appeals Panel
19 April 2018

WELWYN HATFIELD COUNCIL

Minutes of a meeting of the ESTATE Management Appeals Panel held on Thursday 19 April 2018 at 7.30 pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, Herts, AL8 6AE.

PRESENT: Councillors S.Glick (Chairman)

M.Birleson, M.Cowan, F.Thomson, H. Bromley,
J.Weston and B.Fitzsimon

OFFICIALS Development Management Service Manager (C. Carter)
PRESENT: Tree Officer (O. Waring)
Governance Services Officer (G. Paddan)
Governance Services Officer (H. Johnson)

28. SUBSTITUTION OF MEMBERS

The following substitutions of Panel Members had been made in accordance with Council procedure Rule 19-22:-

Councillor H Bromley for J. Beckerman.
Councillor B. Fitzsimon for T. Mitchinson.
Councillor J Weston for A Chesterman.

29. APOLOGIES

An apologies for absence was received from Councillors J. Beckerman, A Chesterman and T. Mitchinson.

30. MINUTES

The Minutes of the meeting held on 15 February 2018 were agreed as a correct record and signed by the Chairman.

31. 43 DIGSWELL PARK ROAD, WELWYN GARDEN CITY, AL8 7NW - 6/2017/2870/EM - REMOVE SILVER BIRCH AND REPLACE WITH SMALLER VARIETY

Report of the Executive Director (Public Protection, Planning and Governance) which set out an appeal against the refusal of Estate Management Consent for a removed of a silver birch tree. The tree in question which was discussed was a semi-mature silver birch growing within the front garden of 43 Digswell Park road, Welwyn Garden City.

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It was noted that Digswell Park Road was a minor residential road. The northeast end of the road consists of grass verges with trees, mainly silver birch, within the back verge or front gardens. The silver birches form part of the character of the area and are an intentional planning choice along this section of the road.

The key issue in the determination of this appeal was the impact of the tree removal on the landscape and whether the reasons for removal justify its removal.

The report noted that the appellant had divided the comments into five points which were addressed as below:

- 1) That the roots were undermining the block paved drive. The appellant had supplied photographs showing the driveway. The photographs showed some very minor disruption to some of the blocks. Although it was possible that the roots could affect the driveway from the slight movement of the drive as it was considered not sufficient to warrant removal of the tree.
- 2) The tree roots were growing into the drains. There was no evidence supplied to indicate that the roots were damaging the drain.
- 3) That all the other silver birch trees along the road were planted within Council maintained land and this tree was planted by the previous owner. It was not possible to verify the age of the tree or why it was originally planted, however it was in keeping with planting along the road and contributed to the line of silver birches and character of the area.
- 4) That the tree was very close to the main front window of the living room and blocked light. The tree had been reduced in the past and the resident was concerned about the ongoing cost of reducing the tree on a regular basis. Although located within the front garden the tree was in a similar position distance from the front of the house as those in the Council maintained land. The tree would affect light to the property however silver birch as a species are not densely leaved and allow light through the crown. In winter when light levels are low in winter the tree will have lost its leaf which would allow more light to reach the property. With regard to the cost of maintenance the Council does not contribute to the cost of private tree work.
- 5) The neighbours either side of the property would like the tree removed due to a constant shedding of seedlings. The Council does not allow removal of trees for natural phenomena as this was a minor seasonal disruption and does not justify removal of the tree.

Officers advised that the removal of the silver birch from the street scene, would result in an inappropriate loss of landscaping that would harm the character and amenities of the area; contrary to Policy EM3 (soft landscaping) of the Welwyn Garden City Estate Management Scheme. No additional evidence or information had been put forward by the appellant which added to or would alter the Officer's recommendation.

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Members agreed that the silver birch in question was in good health and there was no justification for its removal. The owners would have been aware of the tree and the Estate Management Scheme via their solicitor at the time of purchase of the said property. It was further agreed that the response letter to the appellant would need to contain the resolution of this Panel; that in the event of the cutting down the tree the owner would be requested to replace the tree with a silver birch. Also the tree to be maintained by the owner, in terms of pruning.

It was moved by Councillor M. Birleson, seconded by Councillor F. Thomson and

RESOLVED
(unanimously)

That the delegated decision be upheld and the appeal dismissed.

32. UPDATE ON OUTSTANDING ENFORCEMENT CASES AND RECOMMENDATIONS FOR ENFORCEMENT ACTION UNDER THE TERMS OF THE MANAGEMENT SCHEME

The report of the Executive Director (Public Protection, Planning and Governance), which updated the Panel with regard to arbitration cases that were put before the Panel on 15 February 2018.

RESOLVED

73 Walnut Grove – A site visit on 27 March 2018 showed that the works had not been completed. A request for an update on works had been sent to the owner. It was noted that the owner responded to advise that works stalled temporarily owing to ill health and recent unfavourable weather conditions. The enforcement Team will continue to monitor implementation with a view to recommend the case for closure on satisfactory completion – approximately within 6 months.

251 Knightsfield – It was noted that applicant still had the drawings from the application and still had not exhausted her chance of appealing against the refusal. Officer's report was supportive at least in principle of the proposal under W6/2013/1237/EM. Thus an appeal was considered a pragmatic option. An update will be made available at an EMAP meeting.

31 Sandpit Road – The owner had sent evidence that a privet hedge has been planted. The Council was pleased with the choice of hedge as there are other privet hedges on the street. Notification of closure will contain an informative highlight the need for the prospective new owner of the property to nurture the hedge. Officers to confirm via email whether the hedge planted was a privet hedge before closing the case.

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72 Chequers – The report noted that the applicant had failed to submit the requisite information to validate the application despite being given the benefit of time extensions. Consequently the application was withdrawn on the 16 March 2018. An application will be made by end of April 2018 to the President of the Royal Institute of Chartered Surveyors to appoint an arbitrator to determine the case.

19 Fearnley Road – Enforcement Officer had sent a further chaser email on 24 January 2018 with a warning of formal action in an attempt to speed up the process. Final notice letter detailing requirement for alleviating the breach was sent on 29 March 2018 with a 28 day deadline for an application to be submitted failing which formal enforcement action would ensue.

56 Broomhills – Awaiting confirmation from the owner that the hedge has been planted. The Panel will be updated at the next meeting.

11 the Moors – The owner however indicated unwillingness to participate in the arbitration process and has informed the Team via email on 20 December 2017 that an architect had been commissioned to prepare a new scheme for submission to the Council for consideration. The decision for both application was due on 9 April 2018. Officers to provide the outcome of the decision of 9 April in due course.

88 Pentley Park – Details of recommended remediation works had been sent to the owner on 29 March 2018 with a requirement to submit an application for the works within 28 days or risk arbitration process commencing without further warning. Case Officer to be notified within 14 days of the letter to the owner.

3 Digswell House Mews – Following notification of authorisation to take this case to arbitration, the agent acting on the owner's behalf had communicated with the Enforcement Officer in February 2018 and confirmed that the roof light will be moved to the rear roof slope subject to an application being approved. Deadline for the work to take place to be confirmed.

37 Linkfield – The owner has been unsuccessful in providing the required document for an application to be validated for formal determination. It was noted that the Head of Planning be authorised to refer the matter to be determined by an arbitrator appointed by the President of the Royal Institute of Chartered Surveyors.

A general discussion ensued on timescales and potential challenges on grounds of legality and owners being aware of the EMS requirements within the EM titled area. It was noted that a year ago owners within the EMS area had a questionnaire asking them what their thoughts were on the scheme.

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The Panel were thanked for their attendance and the Chairman was thanked for her exemplary chairing during the year.

Meeting ended at 8.05 pm
GP/HJ