

Delegated Report



Hinckley & Bosworth
Borough Council

Planning Reference 25/01047/TPO
Applicant(s) Mr Chris Clarke
Ward Barwell

Application Site 1 Moat Way, Barwell, Leicester, Leicestershire, LE9 8EY

Proposal T1 - Alder - Crown reduction of 2m
T4 - Walnut - Trim back by 1.5 metres from building

Case Officer Rudi Simpson

1. Recommendations

1.1. **Grant consent** subject to conditions at the end of this report:

2. Planning Application Description

2.1. This application seeks consent for the following works to the protected trees at 1 Moat Way, Barwell:

- T1 - Alder - Crown reduction of 2m
- T4 - Walnut - Trim back by 1.5 metres from building

2.2. Following concerns raised by the Council's Arboricultural Officer, the description of the proposed works was amended. Originally, the application sought to top off tree T1 by 4m, which the Arboricultural Officer stated would predispose the tree to disease and decay, and compromise the tree's natural form and longevity.

3. Description of the Site and the Surrounding Area

3.1. The application site relates to a commercial gym building situated on the corner of Moat Way and Mill Street to the southwest of Barwell. Moat Way bounds the eastern side of the site and Mill Street borders the south of the site. Beyond these public highways are residential properties within Barwell. The wider Mill Street Industrial Estate is to north of the site and further dwellings are located to the east of the site.

3.2. The protected trees are located to the south of the site and are largely screened from views along Moat Way by the commercial unit to the north of the trees. However, the trees are visually prominent from Mill Street. The trees are protected by the Hinckley and Bosworth (Land at junction of Mill Street and Moat Way, Barwell) Tree Preservation Order 2009 (09/00003/TPORD).

4. Relevant Planning History

- 4.1 There is no relevant planning history within this application site that is applicable to the current proposals.

5. Publicity

- 5.1 The application has been publicised by sending out letters to local residents.
- 5.2 A letter of support was received, which included requests for additional works to be included within the application. The member of the public was advised regarding the application process for the requested additional works. No further responses have been received.

6. Consultation

- 6.1 Barwell Parish Council objected to the proposal because the protected tree and the associated land was owned by the Parish Council.
- 6.2 The Parish Council have been advised that the Applicant would be required to obtain landowners consent prior to any work commencing. However, Land Registry searches have confirmed that the Applicant is the owner of the land within this application.
- 6.3 Following the revisions to the description of the proposed works, the Council's Arboricultural officer confirmed that they were satisfied that the revised specification demonstrates responsible arboricultural management.
- 6.4 No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):
- No relevant policies.
- 7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM10: Development and Design
- 7.3 National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (2024)
 - National Design Guide (2019)
 - Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. The key issues in respect of this application are the impact of the proposal upon the amenity of the area, and whether the proposed works are justified.
- 8.2 Paragraph 136 of the NPPF highlights that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change.
- 8.3 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.4 The affected tree(s) are subject to a Tree Preservation Order and are therefore considered to have a high level of amenity value. The trees (T1 and T4) are located in a prominent position, on a small grass verge adjacent to Mill Street. Given their size and location, they are considered to make a positive contribution to the character and the amenity of the street scene.
- 8.5 The works to the Walnut tree (T4) are necessary in order to provide adequate clearance to the adjacent properties. The works to the Alder (T1) are considered to be in accordance with responsible tree management, aiding future maintenance and ensuring that the lifespan of the tree is preserved. The Council's Arboricultural Officer has assessed the application and supports the amended proposal. It is therefore considered that the proposed works are suitable as long as they are carried out in accordance with BS 3998:2010.
- 8.6 By virtue of the above, it is considered that the proposed works would not have a significant impact upon the character of the surrounding area. Therefore, the proposals are acceptable in accordance with Policy DM10 of the SADMP.

9. Equality Implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -
 - (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.
- 9.3 There are no known equality implications arising directly from this development.
- 9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1 In conclusion, the proposed works are considered to be acceptable and therefore in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024), subject to the imposition of appropriate conditions.

11. Recommendation

- 11.1 **Grant consent** subject to conditions at the end of this report:

11.2 Conditions and Reasons

1. The works to which this consent relates shall be completed within two years from the date of this consent.

Reason: To ensure that works are appropriate to the condition of the tree(s) at the time they are undertaken in accordance with the provision of the Town and Country Planning (Tree Preservation) Regulations 2012.

2. The approved works shall only be carried out in accordance with British Standards Recommendations for Tree work - BS 3998:2010.

Reason: To ensure that the works are carried out in a way that safeguards the health and amenity of the tree in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024).

3. The proposed works to the Alder tree (T1) shall be restricted to a 2m crown reduction only.

The proposed works to the Walnut tree (T4) shall be restricted to the pruning back of the branches by 1.5m to achieve clearance from the adjacent buildings only.

Reason: To ensure that the works are carried out in a way that safeguards the health and amenity of the trees in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024).

a. **Notes to Applicant(s)**

1. The Applicant is advised that the consent hereby granted is only valid for a period of two years commencing from the date permission is granted. The works for this consent may only be carried out once unless stated otherwise by condition.
2. This permission does not affect any private property rights and does not authorise the Applicant to carry out work on land outside of their control. The Applicant is therefore required to obtain the landowners consent prior to commencing any works.
3. It is a criminal offence to disturb or harm bats, or to damage, destroy, or obstruct a roost. Therefore, if the tree is mature and has hollow cavities, is covered with ivy, or has a suitable habitat in which bats may roost, the affected tree(s) should be surveyed for bats before any work is carried out.
4. The Wildlife and Countryside Act 1981 offers protection to wild birds, their eggs and nests. It is an offence for any person to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built or to take or destroy the egg of any wild bird. All works to trees should therefore be done outside the nesting season (i.e. between the end of August and beginning March), unless carefully checked beforehand by a suitably qualified person. If nesting birds are present, work must be postponed until the young have left the nest.
5. You are advised that if a tree in a conservation area is removed, uprooted or destroyed without permission, in contravention of Section 211 of the Town and Country Planning Act 1990, the landowner is placed under a duty to plant another tree of an appropriate size and species in the same or similar position as soon as they reasonably can.