

Delegated Report

Planning Ref: 25/00039/TPO

Applicant: Jonathan Parker

Ward: Cadeby, Carlton, Market Bosworth & Shackerstone

**Site: Forge House, Church Lane, Cadeby, Nuneaton,
Leicestershire, CV13 0AT**



**Hinckley & Bosworth
Borough Council**

Proposal: Walnut Tree (T1) - Remove low dominant limb to collar, prune remaining mid canopy (house side) by 1m and remove any deadwood overhanging the boundary as the tree is overpowering the rear of the property

1. Recommendations

1.1. Grant consent subject to the conditions

2. Planning Application Description

2.1 The application seeks planning consent for the following works at **Forge House, Church Lane, Cadeby, Nuneaton, Leicestershire, CV13 0AT**

- Walnut Tree (T1) - Remove low dominant limb to collar, prune remaining mid canopy (house side) by 1m and remove any deadwood overhanging the boundary as the tree is overpowering the rear of the property

3. Description of the Site and the Surrounding Area

3.1. The application site relates to a residential dwelling situated within the settlement boundary of Cadeby. The tree was originally located within the curtilage of Forge Bungalow, Main Street, Cadeby however, this dwelling has subsequently been demolished and has been replaced with 2 new dwellings under planning consent 19/00714/FUL. The tree is now located to the rear of the application dwelling in neighbouring garden at Church Cottage, Wood Lane, Cadeby.

3.2. The tree is protected by The Borough Council of Hinckley and Bosworth (Forge Bungalow, Main Street, Cadeby, CV13 0AR) Tree Preservation Order (No 11) 2019

4. Relevant Planning History

14/00615/TPOCA

- Work to Sycamore tree, Holly tree and Walnut tree.
- TPOCAP
- 30.07.2014

19/00714/FUL

- Demolition of existing bungalow and erection of 2 no dwellings
- REF (allowed at appeal)
- 09.01.2020

20/01099/TPO

- Reduce lateral spread on x1 Walnut Tree by 2.5m (approx) on the side of the Three Chimneys Cottage
- PERTPO
- 22.12.2020

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. One letter of support has been received which has been summarised below:
- As the owner of the tree I support this application

6. Consultation

- 6.1. HBBC Conservation Officer:

“As this tree is already covered by a Tree Preservation Order I have no comments to make on the proposal other than recommending any works are carried out in accordance with the relevant British Standards for Tree Work and are in accordance with any advice provided by the Council's Tree Officer (if they are available)”

7. Policy

- 7.1. Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM10: Development and Design
- 7.2. National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (2024)
 - Planning Practice Guidance (PPG)
- 7.3. Other Relevant Guidance:
- Good Design Guide (2020)
 - National Design Guide (2019)

8. Appraisal

- 8.1. Key Issues
- Impact upon the amenity of the area
 - Whether the application is justified

Impact upon the amenity of the area

- 8.2. Policy DM10 of the SADMP requires that consideration be given to the impact of the proposal on amenity and the character of the surrounding area. The tree is subject to a tree preservation order and is therefore considered to have a high level of amenity value.
- 8.3. Paragraph 136 of the National Planning Policy Framework (NPPF) (2024) states that existing trees make an important contribution to the character and quality of urban environments and should be retained wherever possible.

- 8.4. The Walnut Tree is located in a private rear garden of Church Cottage, Wood Lane, Cadeby. The crown of the tree hangs over the neighbouring gardens of Three Chimneys Cottage and Forge Bungalow. The tree owner at Church Cottage, Wood Lane, Cadeby has expressed their support of the application.
- 8.5. Due to its location the view of the tree from any public vantage points is limited. The suggested works are therefore considered reasonable and would not have adverse impact upon the amenity of the area.
- 8.6. The Local Planning Authority therefore deems the amended proposed works as suitable as long as carried out in accordance with BS 3998:2010.

Whether the application is justified

- 8.7. The work has been assessed and is considered to be justified. The proposed works will reduce the overhanging branches and ensure that adequate clearance is provided above the neighbouring dwellings.
- 8.8. By virtue of the above it is considered that the work would not have a significant impact upon public amenity and is therefore acceptable.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

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 necessary and will continue to ensure that the life span of the tree is preserved. The proposed works

will not result in the loss of a protected tree and is, therefore in accordance with policy DM10 of the SADMP and paragraph 136 of the NPPF (2024). As a result, the application should be approved with conditions set out below.

11. Recommendation

11.1. Grant consent subject to the planning conditions

11.2. Conditions and Reasons

1. 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 Site Allocations and Development Management Policies DPD and paragraph 136 of the NPPF (2024).

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

Reason: In accordance with the provisions of the Town and Country Planning (Tree Preservation) Regulations 2012.

3. The proposed works to the Walnut Tree (T1) shall be restricted to the removal of the low dominant limb to collar, the pruning of the remaining mid canopy (on the house side) by 1 metre and removal of any deadwood overhanging the boundary.

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 DPD and paragraph 136 of the NPPF (2024).

Notes to Applicant:

You are advised that the consent is 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.

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.

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 we recommend that it be surveyed for bats before any work is carried out.

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. We therefore recommend that work to trees is done outside the nesting season - i.e. between the end of August and beginning March. If work is to

be undertaken during the bird breeding season, we recommend that a suitably qualified ecologist surveys the tree for nesting birds. If nesting birds are present, work must be postponed until the young have left the nest.

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.