

Delegated Report

Planning Ref: 24/00144/TPO
Applicant: Mr Jacob Whitmore
Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: Street Record Beechrome Drive Earl Shilton

Proposal: T1- Goat Willow tree, remove, T3 - Stump, Remove, T4 – Pine tree, remove, T5 – Cherry tree, tip back from the garage

1. Recommendations

1.1. Grant consent subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

2.1. The application seeks consent for the below works at Land to the south of Beechrome Drive, Earl Shilton;

- T3 - Stump – Remove
- T4 - Pine tree – Remove

3. Description of the site and surrounding area

3.1. The application site relates to an area of Greenland to the south of Beechrome Drive, Earl Shilton. The land surrounding the site is predominantly residential in nature.

3.2. The trees are protected by the Hinckley and Bosworth Tree Preservation Order reference 81/00002/TPORD and relate to G3 within the order in which protects 17 Austrian Pine species, 9 Birch, 17 Scotch Pine and 2 Norway Maple species.

3.3. The Stump (T3) is situated to the south of the site, adjacent to the boundary line of 6 Burgess Drive. The Pine tree (T4) is situated to the north of the site approximately 8.00 metres away from the boundary line of 25 Beechrome Drive.

3.4. Please note that after further investigation the Goat Willow tree (T1) and Cherry tree (T5) are exempt from the need for a formal application as they are not a listed protected species within the G3. The Local Planning Authority would, however like to draw you attention to the point 11.6 (b).

4. Relevant planning history

07/00586/TPO

- WORKS TO 17 TREES
- TPOPER
- 06.07.2007

13/00920/TPO

- Removal of Birch (T1 on submitted plan) and Conifer (T2 on submitted plan) and works to Holly (T3 on submitted plan)
- TPOPER

- 02.12.2013

21/00459/TPO

- T1 Holly - Fell
- T2, T3, T4 Pines - Fell
- PERTPO
- 24.06.2021

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. Two objections have been received one of which refers to T2 in which is not included within the proposed description. Please see the relevant comments summarised below;

- Environmental Assessment request
- There is a large presence of numerous birds and bat species that are present throughout the year. To name a few; Sparrowhawks have annually nested seasonally to the rear of properties 21 and 22 Burgess drive, Greater-spotted Woodpeckers are often observed, along with the rest of the common (and potentially uncommon) woodland species. At dusk April to October there are bats to be observed around the properties and surrounding Woodland area.

6. Consultation

6.1. Earl Shilton Town Council;

“Members recommend to the Borough Council to ensure that works to the TPO trees are within the remit of the TPO and where possible the trees are prevented from being felled. If a tree is deemed unsafe and has to be felled then ESTC would encourage a replacement tree is replanted. Town Clerk to submit these Consultee observations.”

7. Policy

7.1. Earl Shilton and Barwell Area Action Plan DPD 2014

- None relevant

7.2. Core Strategy (2009)

- None relevant.

7.3. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

7.5. 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
- Other matters

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 Stump (T3) and the Pine tree (T4) are subject to a group tree preservation order and therefore considered to have a high level of amenity value for the local area.

8.3 The Stump (T3) is situated to the south of the site, adjacent to the boundary line of 6 Burgess Drive. The Pine tree (T4) is situated to the north of the site approximately 8.00 metres away from the boundary line of 25 Beechrome Drive.

8.4 The Local Planning Authority have assessed the proposed removal of T3 and T4 and have concluded that the proposed works are considered proportionate and reasonable subject to the findings identified within the Annual Tree Health & Woodland Inspection as received by the Local Planning Authority on the 14th February 2024.

8.5 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

8.6 The works as proposed have been assessed by the Local Planning Authority. Works to the Stump (T3) are considered to be justified as the stump has regrown a branch which is currently pointing at eye level and by virtue of this removal is considered justified in order to alleviate any possible safety risks to members of the community.

8.7 Works to the Pine tree (T4) are considered to be justified as the tree has been confirmed to be dead/dying.

8.8 The works are therefore considered acceptable and appropriate as long as the works are carried out as described. As a result, works are acceptable and should be allowed.

Other matters

8.9 A letter of objection has been received requesting for an Environmental Assessment to be carried out by the agent. It is of the responsibility of the tree surgeon whom conducts the works to the trees to carry out the relevant surveys to ensure that they are they are not breaching the Wildlife and Countryside Act 1981.

8.10 The Local Planning Authority would, like to draw you attention to our standard in formatives included within point 11.6 (b) and (d) of this report below;

- b.) *It is a criminal offence to damage or destroy a bat roost. Therefore, if the tree is mature and has hollow cavities and / or is covered with ivy, or has suitable*

places in which bats might roost, we recommend that it be surveyed for bats before any work is carried out to the tree. All birds, their nests and eggs are protected by the Wildlife and Countryside Act. We recommend that work to trees is done outside the bird-nesting season - i.e between the end of August and beginning March. If work to the tree 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.

- d.) *It is necessary, when carrying out works to tree(s) to be aware of the WILDLIFE AND COUNTRYSIDE ACT, 1981, whereby it is an offence for any person who intentionally takes, damages or destroys the nest of any wild bird, while the nest is in use or being built, or takes or destroys any eggs of such*

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.

10. Conclusion

10.1. In conclusion the proposed removal of the Stump (T3) and Pine tree (T4) are considered reasonable for safety reasons. The Local Planning Authority is satisfied that the proposed works to the tree is necessary. The proposal is in accordance with Policy DM1 and DM10 of the SADMP. As a result, the application should be approved with conditions set out below.

11. Recommendation

11.1 **Grant consent** subject to:

- Planning conditions outlined at the end of this report

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.

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 shall be restricted to the works outlined below;

T3 - Stump - Remove

T4 - Pine tree - Remove

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.

4. Within one month of the removal of the trees; details of trees, including their location, to replace T3 and T4 shall be submitted to and approved in writing by the Local Planning Authority. The replacement trees shall be planted in accordance with the approved details in the next available planting season (October to March).

Reason: To ensure that replacement trees are planted on site in the interests of protecting the amenity of the area in accordance with Policy DM10 of the adopted Site Allocations and Policies Development Plan Document (2016).

11.3 Notes to applicant

- a.) The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside of their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.
- b.) It is a criminal offence to damage or destroy a bat roost. Therefore, if the tree is mature and has hollow cavities and / or is covered with ivy, or has suitable places in which bats might roost, we recommend that it be surveyed for bats before any work is carried out to the tree. All birds, their nests and eggs are protected by the Wildlife and Countryside Act. We recommend that work to trees is done outside the bird-nesting season - i.e between the end of August and beginning March. If work to the tree 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.
- c.) 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.
- d.) It is necessary, when carrying out works to tree(s) to be aware of the WILDLIFE AND COUNTRYSIDE ACT, 1981, whereby it is an offence for any

person who intentionally takes, damages or destroys the nest of any wild bird, while the nest is in use or being built, or takes or destroys any eggs of such.