

Delegated Report

Planning Ref: 23/01231/TPO

Applicant: Mr Robert Chenery

Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: 32 Northumberland Avenue Market Bosworth Nuneaton

**Proposal: Oak tree (T1) - A full crown reduction to approximately 12 meters above ground level, removal of branches overhanging property and removal of dead limbs.
Copper Beech tree (T2) - Removal of a single limb overhanging our glass balcony.**

1. Recommendations

- 1.1. **Refuse consent** subject to the reasons at the end of this report.

2. Planning application description

- 2.1. The application seeks consent for the below works at 32 Northumberland Avenue, Market Bosworth;
- Oak tree (T1) - To conduct a crown reduction to approximately 12.00 metres above ground level, the removal of branches overhanging the application dwelling and removal of dead limbs.
 - Copper Beech tree (T2) – To remove a single limb overhanging the glass balcony at the application dwelling.

3. Description of the site and surrounding area

- 3.1. The application site relates to a detached dormer bungalow situated within the settlement boundary of Market Bosworth.
- 3.2. The existing property, no.32 Northumberland Avenue, is situated on a shared driveway at the end of Northumberland Avenue. The dwelling on the application site is finished in a dark brick, brown concrete tiles, and uPVC windows and doors.
- 3.3. The application site was built after and under separate planning permissions to the remainder of the properties on Northumberland Avenue. As a result of the later construction, the application site is not so much read in the street scene with the properties along Northumberland Avenue, but more so with properties along Shenton Lane by virtue of its design and orientation.
- 3.4. The majority of properties along Northumberland Avenue are two storey semi-detached dwellings, with one bungalow. The dwellings along Northumberland Avenue are of all of brick construction, with sporadic uses of render and mock Tudor effects. The application of render can be found at neighbouring 64 Shenton Lane, as well as the new build properties at nos. 50, 48 and 46 on Shenton Lane.
- 3.5. The Oak tree (T1) is situated within the grounds of 32 Northumberland Avenue, Market Bosworth to the south-east of the application dwelling and the Copper Beech tree (T2) is situated to the north-east of the application site within the grounds of South Farm, 64 Shenton Lane, Market Bosworth.

- 3.6. The trees are protected by the Hinckley and Bosworth Tree Preservation Orders 86/00003/TPORD, and 84/00002/TPORD.

4. Relevant planning history

18/00016/FTTREE

- T1 Oak - Fell and replace
- T2 Beech - Remove 2 damaged lower limbs
- T3 Lime - Prune encroaching canopy back by 3-4m
- DISMIS
- 12.04.2019 **01/00815/TPO**
- WORKS TO ONE OAK TREE
- TPOPER
- 11.09.2001

04/01196/TPO

- WORKS TO TREE
- TPOPER
- 10.11.2004

09/00549/TPO

- WORKS TO OAK TREE (T4 ON TPO)
- TPOPER
- 07.10.2009

15/00923/TPO

- Works to oak tree
- TPOPER
- 13.10.2015

18/00211/TPO

- T1 Oak - Fell and replace
- T2 Beech - Remove 2 damaged lower limbs
- T3 Lime - Prune encroaching canopy back by 3-4m
- NONDET
- 24.05.2018

19/01103/HOU

- Single storey side extension, and extension above garage
- REF
- 10.01.2020

20/00141/HOU

- Single storey rear extension and front canopy extension

- PER
- 19.08.2020

20/01329/DISCON

- Application to discharge conditions 4 (Tree Protection Plan), 5 (No-dig Construction Method Statement) attached to planning permission 20/00141/HOU
- DISCHA
- 01.03.2021

21/00481/NMA

- Non material amendment to planning permission 20/00141/HOU to lower the ground floor slab of extension, and extend the ground floor balcony, and amend plinth material
- PERNMA
- 03.06.2021

21/00501/NMA

- Non material amendment to planning permission 20/00141/HOU to change the roof tile
- PERNMA
- 20.07.2021

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. One objection has been received which is summarised below;

- Two limbs have previously been removed from the Copper Beech tree (T2), the removal of another major limb would unbalance the tree
- The tree was in situ long before 32 Northumberland Avenue

6. Consultation

6.1. HBBC Arboricultural Officer;

“The applicant has stated that they have no concerns about either tree's condition but this is followed by concerns expressed about health and safety which seems to be a contradiction.

The oak's constraints and natural processes were well considered at the time of the application to construct an extension but if the applicant has now noted a change in condition, an independent arboricultural report should be provided with a thorough professional specification for appropriate tree surgery work.

The work as proposed would be harmful to the trees' amenity value and I recommend refusal of the application.

Arboricultural Association Registered Consultants are listed at www.trees.org.uk”

6.2. Market Bosworth Parish Council;

“Market Bosworth Parish Council is very concerned about the proposed works to the veteran Oak tree which is visible on approach to the Conservation Area, and is also very concerned about the viability of the proposed tree works to the Copper Beech tree which works might cause imbalance.

The Parish Council requests a professional arboricultural report be prepared so that a more informed comment can be made as to whether the tree works are necessary and viable or not. If the tree works are not necessary for tree health or are unviable for any reason, the Parish Council objects to this planning application.

The Parish Council would support valid objections from neighbours.”

6.3. The Market Bosworth Society;

“The Market Bosworth Society would normally only comment upon applications within the Conservation Area. However this tree stands on an important entry to the Conservation Area and helps with the transition from a rural landscape to that of an urban landscape.

The tree is a valued asset, as are all the trees which line both sides of Shenton lane, even more so as they move into their veteran age.

Raising the crown to 12 metres is unacceptable. This will seriously damage the tree and may well end its life. We are strongly against such radical treatment of a veteran tree. We would also strongly recommend that a professional arborist be consulted before any decision is made. The Borough Tree Surveyor must also be asked to inspect and comment upon the proposed works to this tree.

With regard to the branch overhanging the property, this is also a radical solution. If the branch is not damaged or diseased it should be allowed to remain. If the branch is damaged then pruning rather than removing would appear to be a preferable option. Removing a branch of this size could unbalance the whole tree. As the wind is predominantly a western wind the result could be extremely dangerous to the owners of the tree.

Once again we are strongly against such radical treatment of a veteran tree. We would also recommend that a professional arborist be consulted together with the Borough Tree Surveyor before any work is undertaken on the tree.

We would also wish to draw to the attention of the Planning Officer the Planning Notice issued under 20/00141/HOU. Condition 4. stated: Before any development commences on the site, including site works of any description, a Tree Protection Plan prepared by a suitably qualified arboriculturist shall be submitted to and approved in writing by the local planning authority. The plan shall include protective barriers to form a secure construction exclusion zone and root protection area in accordance with British Standard 5837:2012

Trees in relation to design, any trenches for services are required within the fenced-off areas, they shall be excavated and back-filled by hand and any tree roots or clumps of roots encountered with a diameter of 25cm or more shall be left un-severed. The development shall be implemented in accordance with the approved Tree Protection Plan.

Reason: *To ensure that the trees on site are to be retained and adequately protected during and after construction in the interests of the visual amenities of the area and*

biodiversity in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2019) Policy DM6 is still in place and therefore the tree must be protected.”

7. Policy

7.1. Market Bosworth Neighbourhood Plan 2014-2026

- Policy CE1: Character and Environment
- Policy CE4: Trees

7.2. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 11: Key Rural Centres Stand Alone

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets

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

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 Oak tree (T1) and Copper Beech tree (T2) are subject to a tree preservation order and therefore considered to have a high level of amenity value for the local area.

8.3 Policy CE4 of the Market Bosworth Neighbourhood Plan seeks to ensure that the loss or damage to protected trees does not occur without satisfactory justification.

8.4 Paragraph 136 of the National Planning Policy Framework states the following **“Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work**

with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.”

- 8.5 The Oak tree (T1) is situated within the grounds of 32 Northumberland Avenue, Market Bosworth to the south-east of the application dwelling and the Copper Beech tree (T2) is situated to the north-east of the application site within the grounds of South Farm, 64 Shenton Lane, Market Bosworth.
- 8.6 The trees are highly visible from both Northumberland Avenue and Shenton Lane. Shenton Lane has a rural/countryside character on the approach to the centre of Market Bosworth which contributes to the setting of the Market Bosworth. Despite the presence of housing on one side of the lane such as the application site, the trees are important features creating a verdant and attractive approach to Market Bosworth.
- 8.7 The site is an appreciable distance from the Market Bosworth Conservation Area (CA) and is separated from it by areas of modern housing. However, it is clear from paragraph 3.0 of the Conservation Area Appraisal (CAA) that the setting of Market Bosworth is comprised of a ridge top settlement approached through woodland, pasture, and traditional parkland and this setting makes a substantial contribution to its significance. Moreover, at section 4.0 the CAA specifically sets out how important the entrances are to the setting of the town. ‘The countryside around the settlement and its relationship to the roads is a major factor in the appreciation of the character of the village and its Conservation Area’. The approach from the south via Shenton Lane is specifically referred to as contributing to the setting of the town. Therefore, it is apparent from the CAA that all entrances to the town, including that from Shenton Lane, are important in defining the significance and character of the CA.
- 8.8 The CAA recognises that this approach is through countryside with ‘clumps of trees and shrubs’. The CAA acknowledges the short length of housing on the northern side of the lane before entering the settlement proper adjacent to the new cemetery where the application site lies but nothing in the CAA detracts from the overall sense of Shenton Lane, on its approach to the CA, being predominantly rural/countryside in character.
- 8.9 The HBBC Arboricultural Officer has assessed the works to the Oak tree (T1). The proposed crown reduction to approximately 12.00 meters above ground level, removal of branches overhanging property and removal of dead limbs is considered to be unnecessary and would be highly damaging towards both towards the Oak tree and the amenity of the area without satisfactory justification being provided for the works. The proposed work to the Oak tree is substantial and would significantly and harmfully alter the appearance of the tree. Considering the visibility of the tree and its contribution to the immediate setting of the area this would result in a significant, negative impact on the character, appearance visual amenity of the area. Furthermore, for the reasons outlined above Shenton Lane and the trees lining/surrounding it contribute to the setting and thus the significance and character of the CA. The proposed works to the Oak Tree are also judged to harm the setting of the Conservation Area.
- 8.10 The Local Planning Authority have approached the applicant, however a suitable resolution has not been reached and an independent arboricultural report has not been submitted.
- 8.11 The HBBC Arboricultural Officer has not raised any concerns in regards to the proposed removal of a single limb to the Copper Beech tree (T2) and therefore should a further application be submitted the Local Planning Authority would not

sustain against such works. Such works if appropriately justified would have a lesser impact on the character of the area and conservation area.

- 8.12 Overall the proposed works to the Oak tree (T1) would have a significant, negative impact upon the overall character, appearance and visual amenity of the area and Market Bosworth Conservation Area and would be contrary to Policy DM10, DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016), Policy CE4 of the Market Bosworth Neighbourhood Plan and paragraph 136 of the National Planning Policy Framework.

Whether the application is justified

- 8.13 The work as proposed has been assessed by the HBBC Arboricultural Officer and has been considered to be unnecessary and highly damaging to the Oak tree (T1). Therefore, the application is recommended refusal.

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. The proposed works to conduct a crown reduction to approximately 12.00 meters above ground level, removal of branches overhanging property and removal of dead limbs to the Oak tree (T1) at 32 Northumberland Avenue, Market Bosworth would have a significant, negative impact upon the overall character, appearance and visual amenity of the area including the Market Bosworth Conservation Area, and would highly damage the Oak tree without proper justification. The proposal is contrary to Policy DM10, DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016), Policy CE4 of the Market Bosworth Neighbourhood Plan and paragraph 136 of the National Planning Policy Framework.

11. Recommendation

- 11.1 **Refuse consent** subject to the reasons at the end of this report.

- 11.2 **Reasons**

11.3 The proposed works would have a significant, negative impact upon the overall character, appearance and visual amenity of the area including the Market Bosworth Conservation Area, and would highly damage the Oak tree without proper justification. The proposal is contrary to Policy DM10, DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016), Policy CE4 of the Market Bosworth Neighbourhood Plan and paragraph 136 of the National Planning Policy Framework.

11.4 **Notes to applicant**

- a.) 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.
- b.) 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 wild bird. The times when birds are nesting is generally between the months of March to September inclusive.