Steve Atkinson MA(Oxon) • MBA • MIoD • FRSA
Chief Executive

Please Ask For: Denise Bigley
Direct Dial/Ext: 01455 255674
Direct Fax: 01455 619897
Email: planning@hinckley-bosworth.gov.uk
Your Ref: APP/TPO/K2420/224
Our Ref: 08/00613/TPO
Date: 18/11/2008

Hinckley & Bosworth
Borough Council

A Borough to be proud of

Deborah Tobin,
The Planning Inspectorate,
The Environment Team,
Room 4/04, Kite Wing,
Temple Quay House,
2, The Square,
Temple Quay,
BRISTOL BS1 6PN

Dear Deborah Tobin,

RE: APPEAL BY MR D A SIMPSON AGAINST THE REFUSAL OF CONSENT TO REMOVE ONE OAK TREE AT 19 FARM ROAD BARWELL PROTECTED BY A TREE PRESERVATION ORDER

Thank you for your letter regarding the above appeal which we received on 12th November. Please find enclosed final comments in response to the information submitted by Mr D A Simpson of 26 Ashleigh Gardens, Barwell. These comments are in addition to the statement already submitted.

As stated in our appeal statement the need for regular maintenance of gutters, down pipes and the garden is not considered sufficient justification for the removal of this healthy and visually important tree.

In 2000, consent was granted at 7 Farm Road, Barwell for the removal of one oak tree. This was a different situation to the one we currently have at 19 Farm Road. It was considered appropriate, after consultation with the Borough Council's Arboriculturist, to agree to its removal as this mature oak tree had become severely storm damaged and had already lost several sizable limbs. The current appeal relates to a healthy specimen for which the Local Planning Authority have been prepared to allow regular pruning in order to maintain its visual contribution to this new estate whilst minimising the impact it has on the amenities of immediate neighbours.

With regards to the proximity of the tree to the appellant's house, the appellant was granted planning permission in 2002 for extensions and alterations to his property and the erection of detached garage, which effectively brought the house closer to the Oak tree currently being considered in this appeal and the garage closer to an adjacent protected Ash tree. It was considered that the application would be acceptable subject to a condition being placed on the planning permission to excavate and backfill by hand and for any tree roots with a diameter of 5cm or more to be left unsevered and be bridged during construction work to protect the tree and to guard against the possibility

Visit our website at: www.hinckley-bosworth.gov.uk

of ground heave in future. It is clear then that when planning permission was granted the Local Planning Authority and the applicant were of an agreed opinion that the tree and extension could co-exist. Incidentally the garage was relocated 2 metres further away from the adjacent ash tree to limit impact on the root system as well as improving maintenance issues in relation to falling debris.

Copies of the above decisions, copy of the site plan for the extension application and a copy of a memo from the Borough Council's consultant aboriculturist regarding the extension are included with this letter.

Whether or not the tree was damaged as a young tree and the fact that the central stem branches are 5 foot from the ground is not considered to be relevant, as the tree appears to be a mature and healthy specimen.

The appellant is not the owner of the land on which the tree stands and should this appeal be allowed he would still need to obtain the permission of the land owner before any removal and replacement takes place.

The oak tree in question may have a considerable lifespan and represents part of the original line of an historic hedgerow. Any replacement would not provide anywhere near the same amenity value for years to come and would certainly not recreate the high quality visual appearance currently exhibited by the juxtaposition of this tree with the surrounding modern development.

If you have any questions please do not hesitate to contact me.

Yours Sincerely

Denise Bigley
Planning Technician
Development Services

HINCKLEY & BOSWORTH BOROUGH COUNCIL

Town and Country Planning Act 1990
Notification of decision in respect of proposed work to tree

CONSENT TO CARRY OUT WORK TO TREE PROTECTED BY A TREE PRESERVATION ORDER

Name and Address of Applicant
Mrs J Mason
7 Farm Road
Barwell
Leicester
LE9 8LG

Name and Address of Agent (if any)

Part I - Particulars of Application

Date of Application	**Application No.**
02.11.00	00/01081/TPO

Particulars and location of proposed work :

REMOVAL OF OAK TREE

7 Farm Road Barwell Leicester

Part II

The tree affected by the proposed work is protected by the Barwell (Peckleton Rise - Saffron Meadows) Tree Preservation Order 1982.

Part III - Particulars of decision

The Hinckley and Bosworth Borough Council hereby consents to the work proposed in the application referred to in Part 1 hereof in accordance with the application form and plans submitted, unconditionally.

NOTES TO APPLICANT :-

1 This permission does not convey any authority to enter onto land or give permission to carry out any works to a tree not within the control of the applicant.

Dave Nobbs

Date :- 29.11.00

Proper Officer of the Council

IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ON THE REVERSE SIDE OF THIS FORM

HINCKLEY & BOSWORTH BOROUGH COUNCIL

Town and Country Planning Act 1990

PLANNING PERMISSION

Name and Address of Applicant	Name and Address of Agent (if any)
D Simpson Esq	M S Dennis
26 Ashleigh Gardens	10 Wesley Close
Barwell	Sapcote
Leicester	Leicestershire
LE9 8LE	LE9 4HY

Part I - Particulars of Application

Date of Application	Application No.
02.09.02	02/01019/FUL

Particulars and location of development :

EXTENSIONS AND ALTERATIONS TO DWELLING AND ERECTION OF DETACHED GARAGE

26 Ashleigh Gardens Barwell Leicester

Part II - Particulars of decision

In pursuance of its powers under the Town and Country Planning Act 1990, the Hinckley and Bosworth Borough Council grants permission for the carrying out the development referred to in Part I hereof in accordance with the application form and plans submitted, subject to the following conditions :-

1. The development hereby permitted shall be begun within five years from the date of this permission.

2. This permission relates to the application as revised by amended plan 02/01019A/FULreceived by the Local Planning Authority on. 3rd October 2002

3. The materials to be used on the external elevations of the proposed extension, alteration and garage shall match the corresponding materials of the existing dwelling unless previously agreed in writing with the Local Planning Authority.

4. Any excavation work or trenches for services close to the mature Oak and Ash trees on the eastern boundary of the site shall be excavated and back-filled by hand. Any tree roots encountered with a diameter of 5 centimetres or more shall be left unsevered and shall be bridged or otherwise during construction work to provide protection to the tree and at the same time guard against the possibility of ground heave at some time in the future.

The reasons for the conditions are :-

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. To define the permission.

3. To ensure that the development has a satisfactory external appearance to accord with policy RES7 of the Hinckley & Bosworth Local Plan.

4. The trees on this site are subject to a Tree Preservation Order and this condition is necessary to ensure that proper steps are taken to safeguard the trees during the course of development.

NOTES TO APPLICANT :-

1. This permission does not grant approval under the Building Act 1984 and the Building Regulations 1991 for which a separate application may be required. You are advised to contact the Building Control Section.

Continued ...

IT IS IMPORTANT THAT YOU SHOULD READ THE NOTES ON THE REVERSE SIDE OF THIS FORM

Continuation 02/01019/FUL

2. This permission does not convey any authority to enter onto land or into any building not within the control of the applicant except for the circumstances provided for in The Party Wall etc Act 1996.

Date :- 23.10.02

Proper Officer of the Council

Memorandum

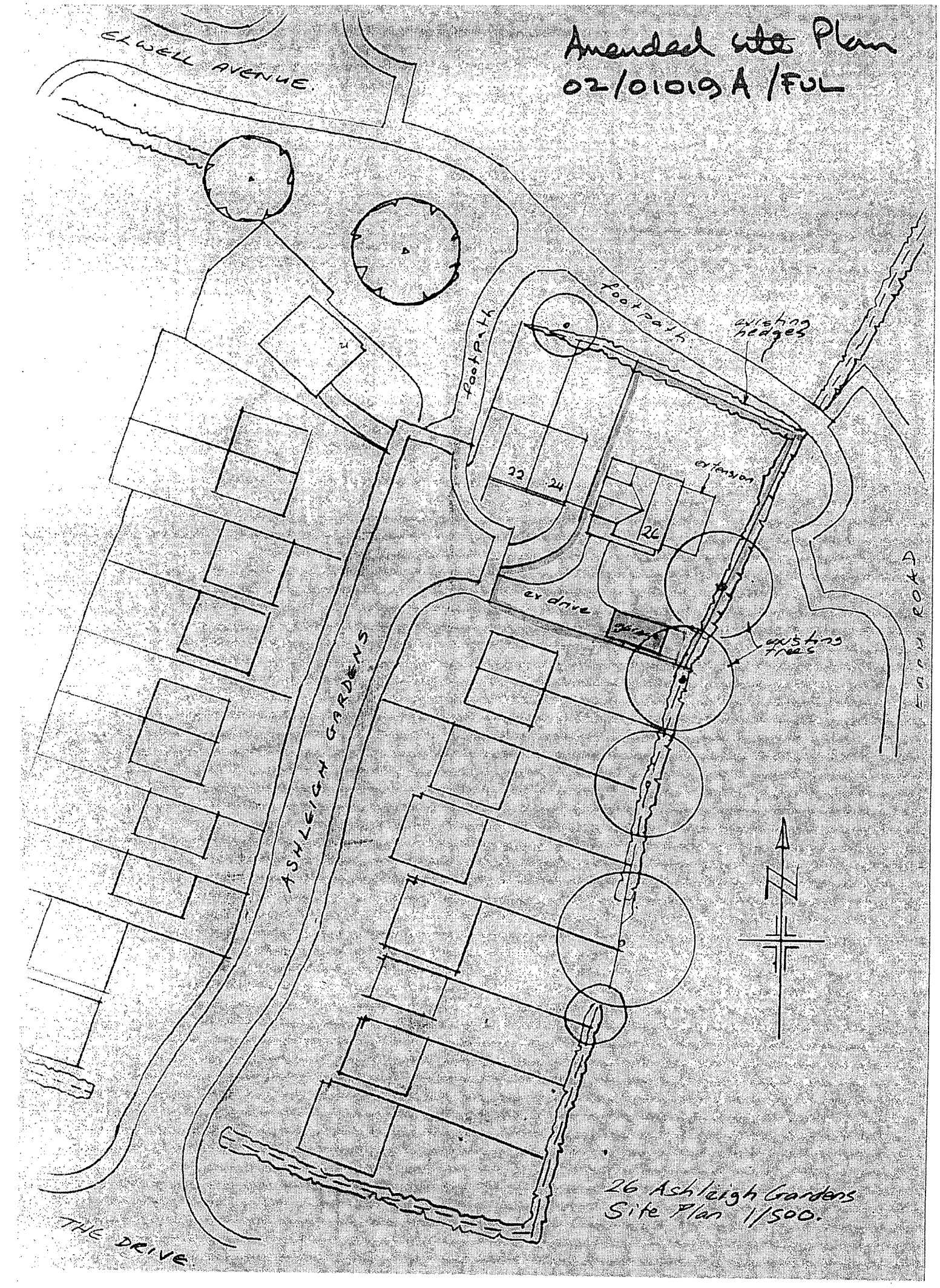
To: ALAN DAVIES
From: JOHN VERNON
Subject: PROPOSED DEVT. 26. ASHLEIGH GDNS. BARWELL.
Date: 27 September, 2002 02/01019/FUL.

Re. The attached application.
The side extension to the property will come very close to the canopy of T8. a protected Oak tree which following a recent application has been considerably cut back , presumably to accommodate the proposed development.
There should not be a problem concerning the well being of the tree, provided that care is taken during excavation work to avoid major damage to any root system which could be encountered . If major roots are exposed, it might be necessary to bridge them, or otherwise provide protection during the building process, and at the same time guard against the possibility of ground heave at some time in the future.

The proposed new garage will come very close to the canopy of the protected Ash tree T7. As Ash are a surface rooting species, it would be advisable to bring the building forward a couple of metres to take account of this, and ultimately to prevent the possibility of dead-wood falling onto the building.

J.V.

Agent phoned 1/10/02, informed him of need to protect trees during building work and that the garage should be set ~~back~~ forward 2 metres.
He promised to consult his client and let me know his decision asap.


Amended site Plan
02/01019A/FUL
ELWELL AVENUE
footpath
footpath
existing hedges
extension
22
24
26
existing trees
ASHLEIGH GARDENS
THE DRIVE
EARLS ROAD
N
26 Ashleigh Gardens
Site Plan 1/500.