

Delegated Report

Planning Ref: 25/00536/TPO

Applicant: Mr Donald McCalman

Ward: Newbold Verdon With Desford & Peckleton

Site: 5 Forest View, Botcheston, Leicester, Leicestershire, LE9 9QH



**Hinckley & Bosworth
Borough Council**

Proposal:

T6 - Reduce the southern upswept limb by up to 2m

T7- Reduce the western upswept limb by up to 2m.

T9 - Remove the tree stake, tie and rabbit guard

T10- Reduce low branch on the south-west side of the crown back by up to 2.5m to the most favourable growth point.

T19 - Remove the rabbit guard

T20 - Remove the tree stake, cane and rabbit guard

Case officer: Rudi Simpson

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 5 Forest View, Botcheston, Leicester, Leicestershire, LE9 9QH • T6 - Reduce the southern upswept limb by up to 2m • T7- Reduce the western upswept limb by up to 2m. • T9 - Remove the tree stake, tie and rabbit guard • T10- Reduce low branch on the south-west side of the crown back by up to 2.5m to the most favourable growth point. • T19 - Remove the rabbit guard • T20 - Remove the tree stake, cane and rabbit guard
3.	Description of the Site and the Surrounding Area
3.1.	The application site relates to a group of trees located to the east of the application dwelling surrounding the war memorial.
3.2.	The tree(s) affected by the proposed work is protected by the Hinckley and Bosworth (Botcheston (Polebrook House)) No 1 Tree Preservation order 1987 87/00001/TPORD.
4.	Relevant Planning History 20/00894/TPO • Crown reduction, branch cut back, mulching, overall reduction, pollarding • and felling to various Horse Chestnut, Red Horse Chestnut and English • Oak trees • PERTPO • 30.10.2020

5.	Publicity
5.1.	The application has been publicised by sending out letters to local residents.
5.2.	No comments have been received
6.	Consultation
6.1.	<u>Desford Parish Council</u> No comments received <u>HBBC Arboricultural Officer</u> “The applied works are in the interest of responsible tree management and as such I am satisfied that there is justification to undertake them in accordance with the relevant British Standard (3998:2010).”
7.	Policy
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
7.4.	National Planning Policies and Guidance: • National Planning Policy Framework (NPPF) (2024) • 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
	<u>Impact upon the amenity of the area</u>
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 trees are subject to a tree preservation order and are 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 trees are protected by the Hinckley and Bosworth (Botcheston (Polebrook House)) No 1 Tree Preservation order 1987. The order offers protection to a number of trees on site. It’s important to note that the trees subject to this application are located within the area Group 3 (G3) which comprises of 20 no.

	Horse Chestnut's and 3 no. English Oak trees.
8.5.	The avenue of trees provides a thoughtful backdrop to the war memorial. As such they provide a high level of amenity value and contribute positively to the character of the area and to the setting of the war memorial.
8.6.	An arboricultural survey was submitted as part of the application. The majority of the trees on site appear to be in good health however, the survey identified six trees which required remedial action. The works are classified as low priority, requiring action within the within 18 months of the survey date.
8.7.	The suggested works are primarily focused on routine maintenance of the trees and would not result in the loss or damage to a protected tree. The Local Planning Authority therefore deems the proposed works as suitable as long as carried out in accordance with BS 3998:2010.
	<u>Whether the application is justified</u>
8.9.	The work proposed has been assessed and is considered to be justified. The HBBC Arboricultural officer is satisfied that the proposed works are reasonable and are in the interest of responsible tree management.
8.10	By virtue of the above it is considered that the work would not have a significant negative 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 acceptable. The proposal 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 Horse Chestnut (T6) shall be restricted to the reduction of southern upswept limb by up to 2m. The proposed works to the Horse Chestnut (T7) shall be restricted to the reduction of the western upswept limb by up to 2m. The proposed works to the Horse Chestnut (T9) shall be restricted to the removal of the tree stake, tie and rabbit guard. The proposed works to the Horse Chestnut (T10) shall be restricted to the reduction of the low branch on the south west side of the crown by up to 2.5m to the most favourable growth point. The proposed works to the Red Horse Chestnut (T19) shall be restricted to the removal of the rabbit guard. The proposed works to the Horse Chestnut (T20) shall be restricted to the removal of the tree stake, cane and rabbit guard. 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.