

Delegated Report

Planning Reference 25/00835/TPO
Applicant(s) Mrs Rhodes
Ward Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Application Site 6 Summers Close, Kirkby Mallory, Leicester,
Leicestershire, LE9 7QP.

Proposal T1 Horse Chestnut - Fell
Progressive dieback in crown, visible presence of bacterial infection and slim flux at main union. Re-plant with a Tulip tree.

Case Officer Jack Playle (Technical Planning Assistant)

1. Recommendations

1.1. **Grant consent** subject to conditions at the end of this report:

2. Planning Application Description

2.1. This application seeks consent for the felling of Horse Chestnut tree (T1) at 6 Summers Close, Kirkby Mallory, Leicester, Leicestershire, LE9 7QP. The Applicant has stated that the proposed works are required due to progressive dieback in the crown, there is visible presence of a bacterial infection, and there is slim flux at max union. The proposed works include the provision of a replacement tulip tree.

3. Description of the Site and the Surrounding Area

3.1. The application site relates to a Horse Chestnut tree (T1) located to the south of Summers Close and is situated to the front of No 6 Summers Close within the settlement boundary of Kirkby Mallory. The tree(s) affected by the proposed work is protected under T1 of the Hinckley and Bosworth, Kirkby Mallory (KIRKBY HOUSE FARM) Tree Preservation Order 1986 (86/00004/TPORD) which protects a variety of trees.

4. Relevant Planning History

4.1 There is no relevant planning history within this application site that is applicable to the current development proposals.

5. Publicity

5.1 The application has been publicised by sending out letters to local residents. No further responses have been received.

6. Consultation

6.1 The Council's Arboricultural Officer stated:

'I am satisfied that sufficient justification has been provided for the removal of the tree protected by the Tree Preservation Order (TPO). Following felling, the tree must be replaced with a container-grown standard specimen, provided in a container with a minimum volume of 35 litres.'

The application proposes replanting with Sweet Chestnut (Castanea sativa), which I am generally supportive of. However, given the garden setting and the species' potential to become a significantly large tree in maturity, I would like to suggest alternative species that may be more appropriate for the location. These include Field Maple (Acer campestre) or Tulip Tree (Liriodendron tulipifera).'

6.2 Kirkby Mallory, Peckleton, and Stapleton Parish Council did not object to the application.

6.3 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- No relevant policies.

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
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- National Design Guide (2019)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. The key issues in respect of this application are the impact of the proposal upon the amenity of the area, and whether the proposed works are justified

- 8.2 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.3 The affected tree is subject to a Tree Preservation Order and is therefore considered to have a high level of amenity value.
- 8.4 The tree (T1) is situated to the front of No 6 Summers Close and due to the size and position of the trees, they are considered to play an important part for the character and the appearance of the local area and neighbouring properties.
- 8.5 The Council's Arboricultural Officer has assessed the application and supports the proposal to fell the Horse Chesnutt tree (T1) and to replace the felled tree with a Tulip tree. It is therefore considered that the proposed works are suitable as long as they are carried out in accordance with BS 3998:2010. By virtue of the above it is considered that the proposed works do not have a significant impact upon public amenity and is therefore acceptable in accordance with Policy DM10 of the SADMP.

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.
- 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 and therefore in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024), subject to the imposition of appropriate conditions.

11. Recommendation

- 11.1 **Grant consent** subject to conditions at the end of this report:

11.2 Conditions and Reasons

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

Reason: To ensure that works are appropriate to the condition of the tree(s) at the time they are undertaken in accordance with the provision of the Town and Country Planning (Tree Preservation) Regulations 2012.

2. 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 adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024).

3. The proposed works to the Horse Chestnut tree (T1) shall be restricted to felling only.

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 Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024).

4. Within one month of the removal of the Horse Chestnut tree (T1) details of the replacement Tulip tree (*Liriodendron tulipifera*) including its size, location and maintenance requirements shall be submitted to, and approved in writing by, the Local Planning Authority. The replacement tree shall be of container-grown standards, each in a pot with a minimum volume of 35 litres and sited outside of the existing crowns and driplines. The replacement tree shall be planted in accordance with the approved details during the next available planting season (October to March).

Reason: To ensure that a replacement tree is planted on site in the interests of protecting the amenity of the area in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024).

a. Notes to Applicant(s)

1. The Applicant is advised that the consent hereby granted is only 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.
2. 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.
3. 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, the affected tree(s) should be surveyed for bats before any work is carried out.
4. 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. All works to trees should therefore be done outside the nesting season (i.e. between the end of August and beginning March), unless carefully checked beforehand by a suitably qualified person. If nesting birds are present, work must be postponed until the young have left the nest.