

Delegated Report

Planning Ref: 25/00593/TPO

Applicant: Mr Gladman

Ward: Barwell

Site: 5 The Drive, Barwell, Leicester, Leicestershire, LE9 8LB



**Hinckley & Bosworth
Borough Council**

Proposal: T1 Ash Works: Crown Reduce by 30% approximately 4-5m from tips.

Reason: Inonotus decay (marked red dot on photo) infection on primary stem, reduction will reduce the risk of serious failure.

Case officer: Rudi Simpson

1. Recommendations

- 1.1. Grant consent subject to conditions

2. Planning Application Description

- 2.1 The application seeks planning consent for the following works at (5 The Drive, Barwell, Leicester, Leicestershire, LE9 8LB)

- Inonotus decay (marked red dot on photo) infection on primary stem, reduction will reduce the risk of serious failure.

3. Description of the Site and the Surrounding Area

- 3.1. The application site relates to a two-storey detached dwelling in the settlement boundary of Barwell.
- 3.2. The trees affected by the proposed work is protected by the Hinckley and Bosworth Borough Council Barwell (5 and 7 The Drive) Tree Preservation Order 1993

4. Relevant Planning History

98/00144/TPO

- RAISE AND THIN CROWN OF TREE AND REMOVE DEAD WOOD
- TPOPER
- 16.03.1998

17/00581/TPO

- Removal of one Ash tree (T1)
- TPOREF
- 01.08.2017

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. HBBC Arboricultural Officer

"A crown reduction of 4-5m (using arborist's best discretion on pruning points) is suitable and in the interest of mitigating foreseeable mechanical failure(s). The works must be undertaken in accordance with the relevant British Standard (3998:2010)."

Barwell Parish Council

No comments received

7. Policy

7.1. Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

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

7.2. National Planning Policies and Guidance:

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

7.3. 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 tree is subject to a tree preservation order and is 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 Ash tree is situated in the rear garden of 5 The Drive, Barwell. The tree is largely screened by the application dwelling however the crown of the tree protrudes above the roofline meaning it has some visibility from the highway on The Drive. In contrast, the tree is a much more prominent feature from highway at Willow Tree Close and the adjoining recreation ground to the rear.

8.5. The proposed works will not have a detrimental impact on the long term health of the tree but will improve the overall shape and appearance.

8.6. The works are largely preventative and therefore regarded as essential in order to preserve the life of the tree. Ensuring that it can continue to contribute positively to

the amenity of the area for many years to come.

- 8.7. The Local Planning Authority therefore deems the proposed works as suitable as long as carried out in accordance with BS 3998:2010.

Whether the application is justified

- 8.8. The work has been assessed by the HBBC Arboricultural officer who has recommended the works are approved.
- 8.9. Given the physiological condition of the tree the work proposed is considered to be justified. The works are necessary in order to prevent any future mechanical failure and are in the best interest of both the tree and public safety.
- 8.10. By virtue of the above it is considered that the work would not have a significant 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 Ash tree (T1) shall be restricted to a crown reduction of approximately 30% (4-5m) from tips (using arborist's best discretion on pruning points).

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.