

Delegated Report

Planning Ref: 25/00532/TPO
Applicant: Mr Robin Wass
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: 50 Cardinal Drive, Burbage, LE10 2NS

Proposal: G1 – Two Lime trees within G1 belt at the rear of the property. Both Lime trees need felling to ground level. They both look unhealthy and are full of dead branches.

Case Officer: Jack Playle (Technical Planning Assistant)

1. Recommendations

- 1.1. Grant consent subject to the conditions.

2. Planning Application Description

- 2.1 The application seeks consent for the following works at 50 Cardinal Drive, Burbage, Leicestershire, LE10 2NS.
- G1 – Two Lime trees within G1 belt at the rear of the property. Both Lime trees need felling to ground level, unhealthy and full of dead branches.

3. Description of the Site and the Surrounding Area

- 3.1. The application site relates to a two Lime trees located to the rear of 50 Cardinal Drive within the settlement boundary of Burbage.
- 3.2. The tree(s) affected by the proposed work is protected under G1 of the Hinckley and Bosworth (Land at Johnsons Apparelmaster site off Rugby Road, Burbage) Tree Preservation Order 2009 which protects 22 Lime trees.

4. Relevant Planning History

- 14/00761/TPO
- TPOPER
 - Raise crowns on the site side of all (G1) Lime trees by 3 metres.
 - 05.08.2014

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. Burbage Parish Council:

01.07.2025 - *'Burbage Parish Council objects to this application. It would prefer*

to see the trees retained, as per Burbage Neighbourhood Plan guidance on Trees in the Built Environment (point 32) but would accept the advice of the Borough tree officer and, if felling was recommended, would request replanting with suitable native species.'

6.2. HBBC Arboricultural Officer Response:

07.07.2025 – 'Having visited this site I can confirm the two Lime trees at the rear of 50 Cardinal Drive are due removal. Both trees are in states of gradual physiological decline and are both structurally compromised to different extents.'

16.07.2025 – 'In relation to the proposed felling of two trees at 50 Cardinal Drive, I can confirm that they are suggested to be replaced with container-grown Fastigate Oak trees (Quercus robur 'Fastigiata'). This species has been selected to suit the constraints of the planting location, while offering high amenity value to the local area. The proposal is also consistent with the Burbage Neighbourhood Plan guidance on "Trees in the Built Environment" (Point 32), supporting our commitment to sustainable and context-sensitive planting.'

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. Burbage Neighbourhood Plan 2015 – 2026 (BNP):

- Policy 2: Design and Layout
- Policy 10: Landscape Character
- Policy 12: Important Trees

7.3. National Planning Policies and Guidance:

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

7.4. 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 trees are 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 two Lime trees are located to the rear of 50 Cardinal drive and is an important part of the character and amenity of the local area due to its prominent location which relates to Policy 2, 10 and 12 of the Burbage Neighbourhood Plan (2015-2026).
- 8.5. The respective trees are in a state of gradual physiological decline and are structurally compromised. However, due to the location of the trees, Burbage Parish Council have raised objections to the felling because of point 32 of the Burbage Neighbourhood Plan guidance on Trees in the Built Environment unless it is recommended by the tree officer, and if so that suitable native species can be planted as a replacement.
- 8.6. 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

- 8.7. The HBBC arboricultural officer has assessed the application and deemed that the felling of the trees is justified due to the structural integrity of the trees, however in relation to the concerns raised by Burbage Parish Council, the tree officer has suggested that suitable native species, in this case container-grown Fastigiate Oak trees (*Quercus robur* 'Fastigiata'), are to replace the felled trees.
- 8.8. The replanted trees would add to the character and amenity of the local area and be in compliance with the Burbage Neighbourhood Plan point 18.1 Trees in the Built Environment, which states that new native and parkland types of trees would provide future 'statement trees reflecting the character of the village'.
- 8.9. 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 **at the end of this report.**

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 work to the two Lime trees shall be restricted to felling to ground level 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 DPD and paragraph 136 of the NPPF (2024).

4. Within one month of the removal of the Lime trees, details of two container-grown Fastigate Oak trees (*Quercus robur* 'Fastigiata'), including their location, shall be submitted to and approved in writing by the Local Planning Authority. The replacement trees shall be planted in accordance with the approved details during the next available planting season (October to March).

Reason: To ensure that replacement trees are planted on site in the interests of protecting the amenity of the area in accordance with Policy DM10 of the

adopted Site Allocations and Policies Development Plan Document (2016) and paragraph 136 of the NPPF.

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.