

Delegated Report

Planning Ref: 23/01098/TPO

Applicant: Claire Bradbury

Ward: Newbold Verdon With Desford & Peckleton

Site: 28 Spinney Drive Botcheston Leicester



Hinckley & Bosworth
Borough Council

Proposal: (T1) - Canadian Pine tree - Fell

1. Recommendations

- 1.1. **Refuse planning permission** subject to the reasons at the end of this report.

2. Planning application description

- 2.1. The application seeks consent to fell Canadian Pine tree (T1) at 28 Spinney Drive, Botcheston.

3. Description of the site and surrounding area

- 3.1. The application site relates to a single storey semi-detached bungalow situated outside of the settlement boundary of Botcheston, with the National Forest and Charnwood Forest catchment area. The dwelling is compromised by the use of dark red brick and brown wooden cladding to the walls, brown tiles to the roof and brown uPVC windows and doors. The dwelling is surrounded by large areas of grass land and vegetation which fall under the ownership of Spinney Meadows Limited.
- 3.2. The tree is located on a prominent corner of Spinney Drive on the Kirby Grange Residential Home estate near Botcheston. Many trees within the estate are protected by preservation order, and there is a mixed woodland appearance to the area. The tree is protected by the Hinckley and Bosworth Tree Preservation Order reference 87/00001/TPORD.
- 3.3. An application (17/00916/TPO) to fell the Canadian Pine tree (T1) was submitted in September 2017, and was refused in October 2017.

4. Relevant planning history

07/00612/FUL

- REPLACEMENT OF EXISTING CONSERVATORY (RETROSPECTIVE APPLICATION)
- PER
- 21.08.2007

17/00916/TPO

- Fell 1x Corsican pine
- TPOREF
- 31.10.2017

20/00787/TPO

- Remove lowest four limbs from Pine (T9)

- TPOPER
- 29.09.2020

92/00455/4

- ERECTION OF CONSERVATORY
- PER
- 17.06.1992

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. Two objections have been received which are summarised below;

- The tree is a mature and beautiful specimen
- The tree has stood on this spot for decades before the village was built over 30 years ago.
- The tree, is as far as we know in sound condition and is not causing any structural issues with the property of 28 Spinney Drive.
- The report included in the documents section clearly puts any blame on the construction of the foundations of the buildings in question.
- The Application is to fell the tree for the purposes of reducing risk to possible future development (replacement of a conservatory) which does not form part of this application. This is not grounds for removal under The Town and Country Planning (Tree Preservation) Regulations 2012 and Government Guidance Note 'Tree Preservation Orders and Trees in Conservation Areas.

6. Consultation

6.1. Desford Parish council have objected to the application on the grounds that the tree was present before the conservatory and patio was constructed.

6.2. The HBBC Arboricultural Officer objects to the proposal on the following grounds:

- The applicant has stated that they have no concerns about the condition and health of the tree.
- The submitted site investigation report from Crawfords indicates that the existing construction, where structural damage has been reported, is sub-standard with inadequate foundations.

7. Policy

7.1. Desford Neighbourhood Plan 2018-2036

- Policy H1: Settlement Boundary

7.2. Core Strategy (2009)

- Policy 8: Key Rural Centres Relating to Leicester

7.3. Site Allocations and Development Management Policies DPD (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) (2021)
- 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

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 Canadian Pine tree (T1) is subject to a tree preservation order and is therefore considered to have a high level of amenity value for the local area.

8.3 The HBBC Arboricultural Officer has assessed the Canadian Pine tree (T1) and has concluded that the proposed felling of the tree is unnecessary and would be highly damaging towards the amenity of the area.

8.4 An application (17/00916/TPO) was previously submitted in September 2017 for the proposed felling of the tree, which was later refused in October 2017 due to the applicant having no concerns regarding the tree's health and the great impact that the removal would have upon the amenity of the area. Both present and previous prescriptions for the felling of the tree are deemed as excessive and the Local Planning Authority's views remain as concluded in 2017.

8.5 Overall the proposed felling of the Canadian Pine tree (T1) would have a significant, negative impact upon the overall character, appearance and visual amenity of the area.

Whether the application is justified

8.6 The proposed felling has been assessed by the HBBC Arboricultural Officer and has been considered to be unnecessary. No concerns have been raised by the applicant in regards to the tree's condition and therefore there is no justification for felling the pine.

8.7 The submitted site investigation report from Crawfords indicates that the existing construction, where structural damage has been reported, is sub-standard with inadequate foundations. The tree was present long before the construction of the conservatory and patio at the application dwelling. By virtue of the above the tree is not foreseen to be the root cause of any subsidence damage at the property.

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.

10. Conclusion

- 2.2. The proposed felling of the Canadian Pine tree (T1) at 28 Spinney Drive, Botcheston would have a significant, negative impact upon the overall character, appearance and visual amenity of the area, and would result in the loss of a protected tree without proper justification. The proposed work would not be in accordance with the Tree Officer's recommendations and would therefore be unacceptable. The proposal is contrary to Policy DM10 of the Site Allocations and Development Management Policies DPD and paragraph 131 of the National Planning Policy Framework.

11. Recommendation

- 11.1 **Refuse planning permission** subject to the reasons at the end of this report.

- 11.2 **Reason**

1. Without any satisfactory justification, the proposed felling would result in the loss of a protected tree in acceptable condition, without proper justification. The proposed development would therefore result in a significant detrimental impact upon visual amenity, contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).