

Delegated Report

Planning Ref: 24/00060/TPO
Applicant: Mrs Juliette Sherwin
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: Land At Swains Green Burbage

Proposal: Works to trees

1. Recommendations

1.1. Grant consent subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

2.1. The application seeks consent for the below works at Land at Swains Green, Burbage;

- Common Ash tree (T15) - General Works and Pollarding;
- Corsican Pine (21) - General Works and Clear Out;
- Silver Birch tree (T23) - General Works and Clear Out.

3. Description of the site and surrounding area

3.1. The application site relates to an adopted and emerging Open Space & Recreation Facility to the north-west of Swains Green, Burbage. Swains Green predominantly consists of residential dwellings. To the north-east of the site sits Burbage Junior School, however this can only be accessed from Grove Road.

3.2. The trees are protected by the Hinckley and Bosworth Tree Preservation Order reference 01/00001/TPORD.

4. Relevant planning history

02/01111/TPO

- WORKS TO TREES
-
- PER
- 01.11.2002

03/01400/TPO

- REMOVAL OF ONE PINE TREE
- TPOPER
- 19.01.2004

04/00917/TPO

- WORKS TO 2 NO SILVER BIRCH TREES
- TPOPER

- 11.10.2004

05/00126/TPO

- WORKS TO TREE
- TPOPER
- 24.03.2005

14/00576/TPO

- Works to Corsican pine (T23)
-
- TPOPER
- 22.07.2014

19/00936/HOU

- Roof extension
- WDN
- 16.10.2019

19/01247/HOU

- Single storey side extension and rear dormer
- PER
- 23.12.2019

5. Publicity

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

6. Consultation

- 6.1. Burbage Parish Council have no objections.

7. Policy

- 7.1. Burbage Neighbourhood Plan 2015-2026

- Policy 1: Settlement Boundary
- Policy 2: Design and Layout
- Policy 12: Important Trees

- 7.2. Core Strategy (2009)

- Policy 4: Development in Burbage

- 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) (2023)
- 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 Common Ash tree (T15), Corsican Pine (T21) and Silver Birch tree (T23) are subject to a tree preservation order and are therefore considered to have a high level of amenity value.
- 8.3 Policy 12 of the Burbage Neighbourhood Plan seeks to ensure that development proposals that damage or result in the loss of a tree or trees protected with a tree preservation order (TPO) or a tree or trees of significant amenity value and with important arboricultural, landscape or ecological significance, will only be permitted in exceptional circumstances.
- 8.4 The Common Ash tree (T15) is situated within the rear garden of the neighbouring site, 26 Falconers Green, Burbage. The Corsican Pine (T21) and Silver Birch tree (T23) are situated to the north-east of Swains Green Open Space & Recreation Facility. Adjacent to (T21) and (T23) sits the residential dwellings 3 and 5 Swains Green, Burbage.
- 8.5 The Local Planning Authority have assessed the proposed works and can conclude that the works will not have an adverse impact upon the amenity of the area. The proposed works will not result in the damage or loss of a protected tree and therefore also complies with Policy 12 of the Burbage Neighbourhood Plan.
- 8.6 The Local Planning Authority therefore deems the amended proposed works as suitable as long as carried out in accordance with BS 3998:2010.

Whether the application is justified

- 8.7 The work as proposed has been assessed by the Local Planning Authority and has been considered necessary.
- 8.8 The Common Ash tree (T15) has slime flux and weak branch unions to the crown therefore the proposed repeat works are considered to be justified.
- 8.9 The Corsican Pine (T21) has an asymmetric crown, broken hanging branches, a crown tear out wound, a leaning trunk and minor decay at the ground level of the trunk therefore the proposed works are considered to be justified.
- 8.10 The Silver Birch tree (T23) has broken hanging branches, a leaning trunk and surface root damage therefore the proposed works are considered to be justified.
- 8.11 By virtue of the above it is not considered that the work would 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:-

- (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

10.1. In conclusion the proposed works to the Common Ash tree (T15), Corsican Pine (T21) and Silver Birch tree (T23) are considered to be acceptable. The HBBC Tree Officer is satisfied that the proposed works to the trees are necessary and that the works will ensure that amenity of the area is retained. The proposal is in accordance with policy DM10 of the SADMP and policy 12 of the Burbage Neighbourhood Plan. As a result, the application should be approved with conditions set out below.

11. Recommendation

11.1 **Grant consent** subject to:

- Planning conditions outlined 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.

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 Common Ash tree (T15) shall be restricted to the General Works and Pollarding, the proposed works to the Corsican Pine (T21) shall

be restricted to the General Works and Clear Out and the proposed works to the Silver Birch tree (T23) shall be restricted to the General Works and Clear Out 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.

11.3 Notes to applicant

- It is a criminal offence to damage or destroy a bat roost. Therefore, if the tree is mature and has hollow cavities and / or is covered with ivy, or has suitable places in which bats might roost, we recommend that it be surveyed for bats before any work is carried out to the tree. All birds, their nests and eggs are protected by the Wildlife and Countryside Act. We recommend that work to trees is done outside the bird-nesting season - i.e between the end of August and beginning March. If work to the tree 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 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.
- It is necessary, when carrying out works to tree(s) to be aware of the WILDLIFE AND COUNTRYSIDE ACT, 1981, whereby it is an offence for any person who intentionally takes, damages or destroys the nest of any wild bird, while the nest is in use or being built, or takes or destroys any eggs of such wild bird. The times when birds are nesting is generally between the months of March to September inclusive.