

Delegated Report

Planning Reference 26/00541/TPO
Applicant Mr Bott
Ward Newbold Verdon with Desford & Peckleton



Hinckley & Bosworth
Borough Council

Application Site Kirby Grange Residential Home,
Spinney Drive, Botcheston

Proposal T1 – Tagged 601 Horse Chestnut – Reduce weight in lead to North with historical cable brace by 3m (lead only not entire tree) as Ivy removal has shown a weak union towards the northern side of the 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 following works at Kirby Grange Residential Home, Spinney Drive, Botcheston:

- T1 – Tagged 601 Horse Chestnut – Reduce weight in lead to North with historical cable brace by 3m (lead only not entire tree) as Ivy removal has shown a weak union towards the northern side of the tree.

3. Description of the Site and the Surrounding Area

3.1. The application site relates to a Horse Chestnut tree located to the west of Spinney Drive, which is situated to the front of 1 Meadow View within the Kirby Grange Residential Homes, which is to the northwest of Botcheston in the designated open countryside within Charnwood Forest and the National Forest. The tree affected by the proposed work is protected under G1 of the Hinckley and Bosworth (Botcheston (Polebrook House) (No.1) Tree Preservation Order 87/00001/TPORD, which protects a variety of trees including Horse Chestnuts.

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 Sections 16 and 17 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 does not include any requirement to consult third parties on applications for consent under a Tree Preservation Order. Nevertheless, letters were sent out to several neighbouring properties. No responses were received.

6. Consultation

- 6.1 The Council's Arboricultural Officer stated:

'The proposed works are considered reasonable and necessary in the interests of sound Arboricultural management, appropriately addressing the identified structural defect. Accordingly, no objection is raised.'

- 6.2 No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):

- Policy 21: National Forest
- Policy 22: Charnwood Forest

- 7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM10: Development and Design

- 7.3 Desford Neighbourhood Plan 2018 – 2036 (DNP) (2021):

- Policy H1: Settlement Boundary

- 7.4 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. The tree (T1) is situated to the front of 1 Meadow View 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.
- 8.4 The Council's Arboricultural Officer has assessed the application, who supports the proposal to reduce the weight of the tree as part of ongoing sustainable tree management. It is therefore considered that the proposed works would be suitable as long as they are carried out in accordance with BS 3998:2010. By virtue of the above it is considered that the work would not have a significant impact upon public amenity. The scheme would therefore be considered to accord 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 would be 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 approved works to the Horse Chestnut (T1) shall be limited to reducing the weight of the northern lead with the historic cable brace by 3 metres.

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).

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 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.
5. 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.