

Delegated Report

Planning Ref: 25/00468/TPO
Applicant: Mr Cameron Elder
Ward: Hinckley Clarendon



Hinckley & Bosworth
Borough Council

Site: 65 Bosworth Close, Hinckley, Leicestershire, LE10 0XW

Proposal: Oak (T1) – Fell to ground level due to significant decay at base of main stem, inonotus dryadus present.

Case Officer: Jack Playle (Technical Planning Assistant)

1. Recommendations

- 1.1. Refuse consent subject to reasons at the end of this report

2. Planning Application Description

- 2.1 The application seeks consent for the following works at 65 Bosworth Close, Hinckley, Leicestershire, LE10 0XW.
- Oak (T1) – Fell to ground level due to significant decay at base of main stem, inonotus dryadus present.

3. Description of the Site and the Surrounding Area

- 3.1. The application site relates to a residential two-storey dwelling within the settlement boundary of Hinckley.
- 3.2. The tree affected by the proposed work are situated on the corner of Bosworth close. The Oak tree is protected under No. 7 of the Hinckley and Bosworth (Roston Drive) Tree Preservation Order 1974 (75/00008/TPORD) which protects Ash, Oak and Three Cherrie trees.

4. Relevant Planning History

22/00929/TPO

- T1 Oak – Crown to be lifted by removal of lower branches to provide 5.1m clearance above the highway and 2.1m clearance over a footway and specific branches are shortened to provide 2m clearance from the dwelling.
- PERTPO
- 02/11/2022

13/00010/TPO

- Works to Oak Tree
- TPOER
- 08/01/2013

5. Publicity

- 5.1. No letters were sent out to local residents.

6. Consultation

6.1. HBBC Arboricultural Officer:

‘Although the tree in question does have presence of desiccated Pseudoinonotus dryadeus brackets, this is not sufficient evidence supporting the request to fell the tree. Decay is considered to be extremely slow although hollowing does ensue.

The presence of the fungus alone does not justify reactive felling works at present.’

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 trees 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. This application seeks the removal of an Oak Tree situated south-west of the application dwelling. There have been previous tree preservation order applications to maintain the Oak tree which have been approved.

8.5. The tree is highly visible as it sits on a prominent corner of Bosworth Close and is part of the street scene of Roston Drive. The tree contributes positively to the

amenity and character of the local area.

Whether the application is justified

- 8.6 The application has been assessed by the HBBC Arboricultural officer who does not support the removal of the Oak tree, as the presence of desiccated *Pseudoinonotus dryadeus* brackets is not sufficient evidence to fell the tree. The decay associated with this fungus is 'extremely slow' and 'the fungus alone does not justify the reactive felling of the tree'.
- 8.7. The work proposed has been assessed and is considered to be unacceptable. It is contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 136 of the National Planning Policy Framework.
- 8.8. By virtue of the above it is considered that the work would have a significant impact upon public amenity and is therefore not 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 unacceptable. The proposal is, therefore not in accordance with policy DM10 of the SADMP and paragraph 136 of the NPPF (2024). As a result, the application should be refused subject to the reasons at the end of this report.

11. Recommendation

11.1. Refused subject to the reasons at the end of this report.

11.2. Reasons

The HBBC Arboricultural officer has assessed the application and does not support the removal of the Oak tree as there is not sufficient evidence provided.

- 1 The proposed works would have a significant negative impact upon the character, appearance and visual amenity of the area and would result in unnecessary harm to a protected tree without adequate justification. The proposal is therefore contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 136 of the National Planning Policy Framework (2024).