

Delegated Report

Planning Ref: 25/00603/TPO

Applicant: Mrs Hemsworth

Ward: Newbold Verdon With Desford & Peckleton

**Site: 27 Peckleton Lane, Desford, Leicester, Leicestershire,
LE9 9JU**



**Hinckley & Bosworth
Borough Council**

Proposal: T1 Ash - Fell - Located immediately on driveway, also close to pedestrian footpath and highway. Onset of dieback has caused branch failures and increasing falling debris.

Case officer: Rudi Simpson

1.	Recommendations
1.1.	Grant consent subject to the conditions
2.	Planning Application Description
2.1	The application seeks planning consent for the following works at 27 Peckleton Lane, Desford, Leicester, Leicestershire, LE9 9JU • T1 Ash - Fell - Located immediately on driveway, also close to pedestrian footpath and highway. Onset of dieback has caused branch failures and increasing falling debris. Originally, the description specified that the Ash tree was to be replaced with a 'full standard Rowan on front lawn'. This was removed from the description after consultation with the HBBC Tree officer who requested an alternative replacement.
3.	Description of the Site and the Surrounding Area
3.1.	The application site relates to a two-storey residential dwelling in the settlement boundary of Desford.
3.2.	The tree(s) affected by the proposed work is protected by the Hinckley and Bosworth (Land at 27 Peckleton Lane, Desford) (No2) Tree Preservation Order
4.	Relevant Planning History 09/00305/TPO • WORKS TO 3x ASH TREES • TPOPER • 16.06.2009 09/00427/TPO • REMOVAL OF 3NO. ASH TREES • WDN

	07.07.2009 17/00380/TPO - Fell 1x ash (T1) and raise crown of 1x ash to 5 metres (T2) - TPOPER 19.06.2017
5.	Publicity
5.1.	The application has been publicised by sending out letters to local residents.
5.2.	One letter of support has been received which has been summarised below - Happy for the tree to be removed - Concerns regarding whether the removal will cause subsidence or damage to neighbouring dwellings
6.	Consultation
6.1.	<u>HBBC Arboricultural Officer</u> “Due to the nature of the location of the tree and the recent mechanical failures I am supportive of the decision to fell and replant. However, in terms of replacement I'd like to enforce planting of a tree which is capable of reaching similar size to the Ash and contributes to the landscape in a similar means. Replant with a container grown, standard sized Fastigate Oak (Quercus robur 'Fastigiata') this will become an interesting and important tree within the landscape and also suitable for the tight planting location. The structural characteristics of the proposed tree will also be highly unlikely to pose a threat to people and property.” <u>Desford Parish Council</u> No comments received
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
	<u>Impact upon the amenity of the area</u>
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 tree 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.	The tree protection order provides protection for 3 Ash trees on site. The Ash tree (T1) subject to this application is the last remaining tree covered by this order. The other two trees were removed under applications 09/00305/TPO and 17/00380/TPO.
8.5.	The tree is located to the front of the property and holds a prominent position. Due to its size and location the tree provides a high level of amenity value.
8.6.	The application has been assessed by the HBBC Tree officer who has confirmed that the tree is in poor health and warrants removal. In order to mitigate the future impact the removal of the tree will have on the area it has been proposed that a Fastigate Oak (Quercus robur 'Fastigiata') should be planted in its place.
8.7.	The Local Planning Authority therefore deems the proposed works as suitable as long as carried out in accordance with BS 3998:2010.
	<u>Whether the application is justified</u>
8.8.	The trees health is in decline which is evidenced by the recent mechanical failures. It is therefore in the interest of public safety that the tree is removed.
8.9.	Whilst the proposed felling will have an impact upon the visual amenity of the area, the work proposed has been assessed and is considered to be justified due to the poor condition of the tree.
8.10.	Given the positive contribution that the existing tree provides to the setting, a replanting condition is therefore considered expedient.
8.11.	By virtue of the above it is considered that although the work would have a significant impact upon public amenity it is considered acceptable subject to replacement tree planting.
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
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 works shall be restricted to the felling of the Ash Tree (T1) 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 Ash Tree (T1); details of the replacement tree, which should be a container grown, standard sized Fastigate Oak (<i>Quercus robur</i> 'Fastigiata') including its location and maintenance requirements shall be submitted to and approved in writing by the Local Planning Authority. The replacement tree shall be planted in accordance with the approved details during the next available planting season (October to March). Reason: To ensure that a replacement tree is 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.