

Delegated Report

Planning Ref: 24/00707/TPO
Applicant: Mr Brian Rigby
Ward: Barwell



Hinckley & Bosworth
Borough Council

Site: 112 Kirkby Road Barwell Leicester

Proposal: T4 - Horse Chestnut tree - Remove one south facing branch over dwelling and one north facing branch over neighbours dwelling, lower branches to be trimmed to allow vehicle access to dwelling and pruning of branches in the high crown.

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 to the Horse Chestnut tree (T4) at 112 Kirkby Road, Barwell.

- Removal of one south facing branch over the application dwelling;
- the removal of one north facing branch over neighbours dwelling,
- the trimming of the lower branches to allow vehicle access to dwelling and;
- the pruning of branches in the high crown.

2.2. Further information to support the works were sought from the applicant during the application process.

3. Description of the site and surrounding area

3.1. The application site relates to a detached residential bungalow situated within the settlement boundary of Barwell. The application dwelling comprises the use of brown brick to the walls, brown interlocking tiles to the roof and brown uPVC windows and doors. The dwelling is afforded by a shared access to the north-east of Kirkby Road which serves 110, 110A and 112.

3.2. The surrounding area is predominantly residential in nature. Notwithstanding this, to the east of the site sits a sports facility which hosts various activities such as bowling, cricket and football and to the west of the site sits a cemetery and recreational grounds.

3.3. The Horse Chestnut tree (T4) is situated to the west of the site and is protected by the HINCKLEY AND BOSWORTH BOROUGH COUNCIL BARWELL (126 KIRKBY ROAD) TREE PRESERVATION ORDER 1992 (Reference; 92/00001/TPORD).

4. Relevant planning history

99/00678/TPO

- TRIMMING ONE HORSE CHESTNUT TREE
- TPOPER
- 10.09.1999

09/00892/TPO

- WORKS TO HORSE CHESTNUT (T4 ON TPO ORDER)
- TPOPER
- 11.01.2010

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. Two letters of support have been received which are summarised below;
- The branches are extremely dangerous, causing damage to properties.
 - Vast amount of conkers fall from the tree.
 - Debris cause walkways to become slippery.

6. Consultation

- 6.1. Barwell Parish Council;

“No objections providing the work is carried out by a professional arborist.”

7. Policy

- 7.1. Core Strategy (2009)
- Policy 3: Development in Barwell
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM10: Development and Design
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)
- 7.4. 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 Horse Chestnut tree (T4) is subject to a tree preservation order and is therefore considered to have a high level of amenity value.

- 8.3 The application seeks consent for the removal of a south and north facing branch, the trimming of the lower branches and the pruning of the branches within the upper crown to the Horse Chestnut tree (T4) at 112 Kirkby Road, Barwell. The tree is situated to the west of the site and is highly visible from a public realm from the adjacent highway, Kirkby Road.
- 8.4 The Local Planning Authority have assessed the works to the tree and deem the works as appropriate. The proposed works would not have an adverse impact upon the character, appearance or visual amenity of the area or surrounding area. Further to the above, adequate justification has been provided by the applicant for the proposed works.
- 8.5 By virtue of the above, the proposed works will not result in the damage or loss of a protected tree and therefore will preserve the amenity of Kirkby Road and the surrounding area. The Local Planning Authority therefore deems the revised proposed works as suitable as long as carried out in accordance with BS 3998:2010.

Whether the application is justified

- 8.6 The Local Planning Authority is required to consider the public benefit of proposed works to protected trees. The proposed works to the Horse Chestnut tree (T4) are required in order to provide clearance over the application dwelling, neighbouring dwelling to the north and access way.
- 8.7 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 Horse Chestnut tree (T4) are considered reasonable. The Local Planning Authority are satisfied that the works proposed to the tree is necessary due to the tree significantly overhanging the application dwelling and into the neighbouring property. The proposal is in accordance with policies DM1 and DM10 of the SADMP. 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 Horse Chestnut tree (T4) shall be restricted to the removal of one south facing branch over the application dwelling, the removal of one north facing branch over neighbours dwelling, the trimming of the lower branches to allow vehicle access to dwelling and the pruning of branches in the high crown 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.

- You are advised that if a tree in a conservation area is removed, uprooted or destroyed the landowner is placed under a duty to plant another tree of an appropriate size and species at the same place as soon as he or she reasonably can.