

Delegated Report

Planning Ref: 24/00328/TPO

Applicant: Mr Jack Cousins

Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: 40 Britannia Road Burbage Hinckley

**Proposal: G1 - (Group consisting six Sycamore, one Hornbeam and one Beech) -
Reduce by a third of their height and remove overhang branches over the property.**

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 planning consent for the reduction in the height of G1 by a third of their height and the removal of overhanging branches over the application dwelling at 40 Britannia Road, Burbage.
- 2.2. The group consists of six Sycamore trees, one Hornbeam tree and one Beech tree.

3. Description of the site and surrounding area

- 3.1. The application site relates to a detached two-storey dwelling situated within the settlement boundary of Burbage. The dwelling comprises the use of red brick to the walls, brown tiles to the roof and off-white uPVC to the windows. The site can be accessed from the south of Britannia Road via a track situated between 38 and 44 Britannia Road.
- 3.2. The group of trees are situated to the north-west of the site. Adjacent to the trees sits the public right of way U65 from Britannia Road, Burbage to join footpath U66 north of Burbage Fields.
- 3.3. The six Sycamore, one Hornbeam and one Beech tree (G1) are protected by the Hinckley and Bosworth Tree Preservation Order reference 89/00002/TPORD - BOROUGH COUNCIL OF HINCKLEY AND BOSWORTH (BURBAGE (42 BRITANNIA ROAD) TREE PRESERVATION ORDER (NO.1) 1989.

4. Relevant planning history

01/01024/FUL

- CONVERSION OF EXISTING STABLES TO FORM A RESIDENTIAL ANNEXE
- PER
- 01.11.2001

02/00667/TPO

- WORKS TO SEVEN SYCAMORE TREES
- TPOPER
- 26.06.2002

07/00587/TPO

- WORKS TO TREES
- TPOPER
- 12.07.2007

07/00906/TPO

- REMOVAL OF ONE SYCAMORE
- TPOPER
- 03.08.2007

90/01262/4

- ERECTION OF ONE DETACHED DWELLING
- PER
- 18.12.1990

87/00110/4

- ERECTION OF BUNGALOW OUTLINE
- OUT
- 24.03.1987

90/00012/4

- ERECTION OF DETACHED BUNGALOW
- APRREM
- 20.02.1990

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. One letter of support has been received which is summarised below;

- Fully support this application, just wish the trees were being reduced further as the branches overhang our garden, break off and fall onto our property causing mess, and damage.
- Hundreds of seedlings fall which require removing.
- The branches overhang the alleyway between our properties causing problems there. I trust that, along with the reduction in height, that branches overhanging public right of way and neighbours properties will be removed before they cause more damage or even injury.

6. Consultation

6.1. Burbage Parish Council;

- 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
- Other matters

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 six Sycamore trees, one Hornbeam tree and one Beech tree (G1) are subject to a group tree preservation order and are therefore considered to have a high level of amenity value.

8.3 Paragraph 136 of the National Planning Policy Framework (NPPF) (2023) seeks to ensure that existing trees that make an important contribution to the character and quality of urban environments are retained wherever possible.

8.4 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.

8.5 The group of trees subject to G1 of the Hinckley and Bosworth Tree Preservation Order reference 89/00002/TPORD are situated to the north-west of the application site. The trees are viewable from the adjacent public highways, Britannia Road and Jubilee Way as well as from public right of way U65 which runs directly adjacent to the north-west of the site.

- 8.6 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 and paragraph 136 of the National Planning Policy Framework (NPPF) (2023).
- 8.7 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

- 8.8 The works as proposed to G1 have been assessed by the Local Planning Authority and are considered to be justified due to concerns regarding the trees close proximity to the application dwelling.
- 8.9 By virtue of the above it is not considered that the work would have a significant impact upon public amenity and is therefore acceptable.

Other matters

- 8.10 Concerns have been raised in regards to the trees overhang over the adjacent public right of way (U65) which runs directly adjacent to the north-west of the site. Please note that the Local Planning Authority can only assess the works as outlined in the application. If a member of the public has concerns in regards to the safety of the trees over the adjacent public right of way the Local Planning Authority advises that they either contact the owner of the trees or their Local Highways Authority
- 8.11 Section 154 of the Highways Act 1980 states that *"Where a hedge, tree or shrub overhangs a highway or any other road or footpath to which the public has access so as to endanger or obstruct the passage of vehicles or pedestrians, or obstructs or interferes with the view of drivers of vehicles or the light from a public lamp, or overhangs a highway so as to endanger or obstruct the passage of horse-riders, a competent authority may, by notice either to the owner of the hedge, tree or shrub or to the occupier of the land on which it is growing, require him within 14 days from the date of service of the notice so to lop or cut it as to remove the cause of the danger, obstruction or interference."*
- 8.12 Please note that as the Local Highways Authority are a statutory undertaker a formal application for the works would not need to be submitted to the Local Planning Authority should the Local Highways Authority deem work necessary.

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 six Sycamore trees, one Hornbeam tree and one Beech tree (G1) are considered to be acceptable. The Local Planning Authority 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, policy 12 of the Burbage Neighbourhood Plan and paragraph 136 of the NPPF. 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 SADMP, policy 12 of the Burbage Neighbourhood Plan 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 G1 consisting 6 Sycamore 1 Hornbeam 1 Beech shall be restricted to the reduction by a third of their height and the removal of overhanging branches over the application dwelling 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 SADMP, policy 12 of the Burbage Neighbourhood Plan 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.