

Delegated Report

Planning Reference 26/00219/TPO
Applicant(s) Mr Steven Maloy
Ward Barwell



Hinckley & Bosworth
Borough Council

Application Site Barwell Indoor Bowls Club, Kirkby Road, Barwell

Proposal T1 Mature Oak – prune to gain 2m clearance from the roof.

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 pruning of a Protected Mature Oak Tree ('T1') to gain a 2-metre clearance from the roof at Barwell Indoor Bowls Club, Kirkby Road, Barwell.

3. Description of the Site and the Surrounding Area

3.1. The application site relates to a Mature Oak tree located to the rear of the Barwell Indoor Bowls Club, Kirkby Road within the settlement boundary of Barwell. The tree affected by the proposed work is protected under T1 of the Hinckley and Bosworth (BOWLS CLUB, KIRKBY Road) Tree Preservation Order 98/00007/TPORD which protects Oak trees.

4. Relevant Planning History

4.1 Several applications for works to trees protected by 98/00007/TPORD have been submitted to the Local Planning Authority, including 06/01033/TPO, 17/00100/TPO, and 25/00151/TPO, but none of which have affected the tree within this current application.

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, the application has been publicised by sending out letters to local residents. No responses have been received.

6. Consultation

- 6.1 Barwell Parish Council did not object to the proposed works. The Council's Arboricultural Officer confirmed that the proposed pruning works to ensure a clearance of 2 metres above from the roof of the property would be acceptable. No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):

- No relevant policies.

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design

- 7.3 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 rear of Barwell Indoor Bowls Club and due to the size and position of the trees, it is 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 and supports the proposal to prune the Mature Oak tree to gain 2 metres clearance from the roof of the property 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 and is therefore acceptable in accordance 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 proposed works to the Mature Oak (T1) shall be restricted to pruning to gain to 2 metres clearance from the roof 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 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 be 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 the 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.