

Delegated Report

Planning Ref: 24/00617/TPO

Applicant: Cally-Ann

Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: Playground Equity Road Earl Shilton

Proposal: T4 - Whitebeam - Crown lift over the highway (5.20 metres), T8 - Pine - Fell to ground level, T9 - Pine - Crown lift over the highway (5.20 metres), T17 - Pine - Crown lift over the highway (5.20 metres)

1. Recommendations

- 1.1. **Grant planning consent** conditions outlined at the end of this report

2. Planning application description

- 2.1. The application seeks consent to crown lift the Whitebeam tree (T4) and the Pine trees (T8-T17) over the highway by 5.20 metres and to fell the Pine tree (T8) to ground level at the Equity Road Playground in Earl Shilton.

3. Description of the site and surrounding area

- 3.1. The application site relates to an open space and recreation facility, situated to the north-east of Equity Road, within the settlement boundary of Earl Shilton. The playground was constructed under application 01/00898/FUL for the approval of the 24 residential dwellings to the north-east of the site. The site is situated approximately 0.44km from the centre of Earl Shilton.
- 3.2. The trees are situated to the south-west of the site. The Whitebeam tree (T4) and Pine trees (T8-T9) are situated adjacent to 12 Equity Road, Earl Shilton and the Pine tree (T17) is situated adjacent to 9 Equity Road, Earl Shilton.
- 3.3. The trees are protected by the HINCKLEY AND BOSWORTH, EARL SHILTON (EQUITY ROAD) TREE PRESERVATION ORDER 1982 (Reference; 82/00006/TPORD).

4. Relevant planning history

14/00303/TPO

- Works to trees
- TPOREF
- 20.05.2014

14/00523/TPO

- Works to Scots Pine (947, 949, 955, 957, 964, 965), Crab Apple (952, 961), Stump (953), Rowan (958) and Cherry Kanzan (963)
- TPOPER
- 22.07.2014

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. No objections have been received.

6. Consultation

6.1. Earl Shilton Town Council:

- No objections.

7. Policy

7.1. Core Strategy (2009)

- None relevant.

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 Whitebeam tree (T4) and Pine trees (T8, T9 and T17) 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 The Local Planning Authority have assessed the proposal and can conclude that the proposed works are considered to be acceptable. The proposal does include the felling of Pine tree (T8), nevertheless due to the vast amount of mature trees to remain at the site, along with a replanting condition having been implemented, the potential negative impacts are considered to be outweighed.

8.5 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

- 8.6 The Local Planning Authority is required to consider the public benefit of proposed works to protected trees. The proposed works to the trees are considered necessary in order to provide clearance from the overhead utilities, the adjacent public footpath, the adjacent highway and telephone cables.
- 8.7 The felling of the Pine tree (T8) has been considered justifiable, due to the tree being confirmed dead.
- 8.8 It is therefore considered that the proposed works are justified, 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.

10. Conclusion

- 10.1. In conclusion the proposed works to the Whitebeam tree (T4) and Pine trees (T8,T9 and T17) 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 therefore in accordance with Policy DM10 of the SADMP, and paragraph 136 of the NPPF. As a result, the application should be approved with conditions set out below.

11. Recommendation

- 11.1 **Grant planning permission** 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 Whitebeam tree (T4), Pine tree (T9-T17) shall be restricted to the crown lifting over the highway by 5.20 metres only. The proposed works to the Pine tree (T8) shall be restricted to the felling to ground level.

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.

4. Within one month of the removal of the tree; details of tree, including its location, to replace Pine tree (T8); 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 in the next available planting season (October to March).

Reason: To ensure that replacement trees are planted on site in the interests of protecting the amenity of the conservation area in accordance with Policy DM10 of the adopted Site Allocations and Policies Development Plan Document (2016).

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.