

Delegated Report

Planning Reference
Applicant(
Ward

26/00608/TPO
Mrs Patel
Groby



Hinckley & Bosworth
Borough Council

Application Site

4 Spinney Close, Groby

Proposal

T1 Goat Willow - Remove. Tree is located approximately 1m from neighbour's property, 3m from client's property. Fast growing species. In conflict with roofs. Preventing safe use of chimney. Shallow roots will damage driveway. Current legislation would not allow for a tree to be retained in such proximity to houses. Shouldn't of been part of the original TPO.

Case Officer

Jack Playle (Technical Planning Assistant)

1. Recommendations

1.1. Refuse consent subject to reasons at the end of this Report.

2. Planning Application Description

2.1. This application seeks consent to remove protected Goat Willow tree ('T1') from 4 Spinney Close, Groby. The Applicant has stated that the works are justified because the tree is located in close proximity to the neighbour's property and the Applicant's property, which is preventing the safe use of the Applicant's chimney and is damaging the Applicant's driveway.

3. Description of the Site and the Surrounding Area

3.1. The application site relates to a protected Goat Willow tree located to the north of Spinney Close and is situated to the front of No 3 and 4 Spinney Close Road within the settlement boundary of Groby. The tree affected by the proposed work is protected under W1 of the Hinckley and Bosworth (THE SANDPIT, RATBY ROAD) Tree Preservation Order 83/00003/TPORD, which protects a variety of trees.

4. Relevant Planning History

4.1 There is no relevant planning history applicable to this 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 and no publication therefore took place for this application.

6. Consultation

6.1 The Council's Arboricultural Officer objected to the proposed works and stated:

'I object to the proposed works. The applicant states that, "Current legislation would not allow for a tree to be retained in such proximity to houses;" however, no relevant legislation has been identified that would support this assertion. The statement appears to be unsubstantiated, and the agent should clarify the legislative basis upon which this claim has been made.

The application also claims that, "Shallow roots will damage the driveway." This is currently speculative, as no evidence of existing damage has been provided. Furthermore, where damage occurs to a driveway constructed within a tree's rooting zone, it may indicate deficiencies in the driveway's underground design or construction rather than an inherent defect of the tree.

The statement that the tree, "Shouldn't have been part of the TPO," is not a material justification for its removal.

It is acknowledged that, given the tree's location and proximity to buildings and chimneys, maintenance works may be appropriate. However, the reasons presented do not provide sufficient Arboricultural or technical justification for the removal of a protected tree and therefore consent for its removal cannot be supported.'

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) (2026)
- 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. NPPF Policy DP3(1) confirms that development proposals should respond to their context (the history, character and features of their site and its setting), so that they integrate with and enhance their surroundings. NPPF Policy DP3(4) highlights that development proposals should be refused if, without clear justification, they would conflict with Paragraph 1 of this Policy, and substantial weight should be given to compliance with relevant development plan policies when assessing the design quality of proposals.
- 8.3. NPPF Policy N2(d) requires development proposals to conserve and enhance existing natural features of visual historic or nature conservation value (such as established trees and hedgerows) where possible.
- 8.4. 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.
- 8.2 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 front of No 3 and 4 Spinney Close, Groby 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.
- 8.3 The proposed works have been assessed in conjunction with the Council's Arboricultural Officer, who objected to the proposed works due to the absence of appropriate arboricultural or technical justification to support the removal of the protected tree. As a result, the Applicant has failed to demonstrate that the proposed works would be necessary in these site-specific circumstances, and this would result in significant harm to the protected tree and the character of the surrounding area to which the tree currently positively contributes to. By virtue of these factors, the proposal would be considered to be contrary to, and in conflict with NPPF Policies DP3 and N2, and 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 Applicant has failed to provide clear justification to demonstrate that the proposed works would be necessary in these site-specific circumstances, As a result, the proposed works would result in significant harm to the protected tree and the character of the surrounding area to which the tree currently positively contributes to. By virtue of these factors, the proposal would be considered to be contrary to, and in conflict with NPPF Policies DP3 and N2, and Policy DM10 of the SADMP. In accordance with NPPF Policies S4(c) and DP3(4), the application is refused.

11. Recommendation

11.1 **Refuse consent** subject to reasons at the end of this Report.

11.2 Reasons

1. The Applicant has failed to provide clear justification to demonstrate that the proposed works would be necessary in these site-specific circumstances, As a result, the proposed development would result in significant harm to the protected tree and the character of the surrounding area to which the tree currently positively contributes to. By virtue of these factors, the proposal would be contrary to, and in conflict with Policies DP3 and N2 of the National Planning Policy Framework (2026), and Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016). In accordance with Policies S4(c) and DP3(4) of the National Planning Policy Framework, the application is therefore refused.

a. **Notes to Applicant**

1. The application has been determined in accordance with the following details submitted to the Local Planning Authority on 01 July 2026:
 - Application Form
 - Photo of Trees
 - Site Location Plan