

Delegated Report

Planning Reference 26/00431/TPO

Applicant Mr Richard Waite

Ward Twycross, Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Application Site 56 Kennel Lane, Witherley, Atherstone

Proposal 1 x sycamore 2 metre reduction to canopy height. Minimum reduction to sides but canopy balancing where required.
2 x lime trees 3 metre reduction to height of canopy. 0.5 metre reduction to sides

Case Officer Rudi Simpson (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 following works at 56 Kennel Lane, Witherley:

- 1 x sycamore 2 metre reduction to canopy height. Minimum reduction to sides but canopy balancing where required.
- 2 x lime trees 3 metre reduction to height of canopy. 0.5 metre reduction to sides

3. Description of the Site and the Surrounding Area

3.1. The application site relates to two Lime Trees and one Sycamore along the southern boundary of 56 Kennel Lane adjacent to Hunt Lane within the identified settlement boundary of Witherley. The trees affected by the proposed work are protected by the Tree Preservation Order 00/00015/TPOORD titled 'Borough Council of Hinckley and Bosworth (Land at 56 Kennel Lane, Witherley).'

4. Relevant Planning History

- 4.1 **22/00702/TPO** Permitted (determined: 29.09.2022)
Lime (T1, T2, T3) Norway Maple (T4) - Crown thinning by 30% and crown lifting by removal of lower branches to 4m. above ground level.
- 4.2 **12/00872/TPO** Permitted (determined: 13.12.2012)
Removal of sycamore tree

5. Publicity

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

6. Consultation

- 6.1 The Council's Arboricultural Officer raise no objections to the proposed works, subject to the works being carried out in accordance with BS 3998:2010. 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 trees are subject to a Tree Preservation Order and are therefore considered to have a high level of amenity value. The trees are situated to south of the application dwelling and hold a prominent position on the corner of Hunts Lane and Kennel Lane. Due to their size and position they are 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 reshape the crown of all three trees as part of ongoing sustainable tree management. It is therefore considered that the proposed works are suitable as long as they are carried out in accordance with BS 3998:2010.

8.5 By virtue of the above, it is considered that the proposed arboricultural works would not have a significant impact upon public amenity and would therefore be 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 are 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 Sycamore tree shall be restricted to a 2-metre reduction to canopy height. Minimum reduction to sides ensuring a balanced canopy is retained and representative of the species' natural habit and form.

The proposed works to the Lime trees shall be restricted to 3 metre reduction to height of canopy. 0.5 metre reduction to sides ensuring a balanced canopy is retained and representative of the species' natural habit and form.

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).

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 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.