

Delegated Report

Planning Reference 26/00476/TPO

Applicant Gill

Ward Newbold Verdon with Desford & Peckleton

Application Site Rotherwood, Station Road, Desford



Hinckley & Bosworth
Borough Council

Proposal T1 *Fraxinus excelsior* - Fell, tree has heavy bias toward structure and low amenity value. Replant with *Fagus sylvatica* 175/200cm within 10m of T1.

T2 *Fraxinus excelsior* - Fell, tree has poor form and little amenity value. Replant with *Fagus sylvatica* 175/200cm within 10m of T2

T3 *Acer pseudoplatanus* - Pollard at approx. 35ft to maintain tree whilst managing height and spread.

T4 *Aesculus hippocastanum* - Fell, basal defect and concerns about future structural integrity. Replant with *Quercus robur* 175/200cm within 10m of T4.

T5 *Acer pseudoplatanus* - Fell, basal defect and concerns about future structural integrity. Replant with *Sorbus aucuparia* 175/200cm within 10m of T5.

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 to fell two protected Ash trees (*Fraxinus excelsior*) ('T1' and 'T2'), one Horse Chestnut tree (*Aesculus hippocastanum*) ('T4'), and one protected Sycamore tree (*Acer pseudoplatanus*) ('T5') and to pollard one protected Sycamore tree (*Acer pseudoplatanus*) ('T3') at approximately 35ft at Rotherwood, Station Road Desford.

2.2. The protected Horse Chestnut and Sycamore trees T4 and T5 are proposed to be felled due to basal defects and concerns regarding their future structural integrity and are proposed to be replaced with a 175cm to 200cm English Oak (*Quercus robur*) and Rowan (*Sorbus aucuparia*) trees respectively within 10m of each respective tree.

- 2.3. The protected Ash trees T1 and T2 are proposed to be felled due to their low amenity value, T1's heavy bias towards structure, and T2's poor form. Both trees are proposed to be replaced 175cm to 200cm Common Beech trees (*Fagus sylvatica*) within 10m of the respective trees.

3. Description of the Site and the Surrounding Area

- 3.1. The application site relates to 5 trees located within the rear grounds of the residential property, Rotherwood, which is to the east of Station Road and to the north of Desford in the designated open countryside. The trees affected by the proposed work are protected by the Hinckley and Bosworth (Land off Woodgate Road, Burbage) Tree Preservation Order (93/00002/TPORD).

4. Relevant Planning History

- 4.1 **24/01137/TPO** Permitted (determined: 12.02.2025)
G1 6no. Gleditsia triacanthos - Pollard at approximately 15-20ft
T1 Acer psuedoplatanus - Pollard at trifurcation approximately 30ft
- 4.2 **23/00188/TPO** Permitted (determined: 14.04.2023)
T1 – (Chestnut) – Fell, T2 – (Silver Birch) – Crown reduction by approx.. 2-3m in height, T3 – (Silver Birch) – Crown reductio by approx.. 2-3m in height
- 4.3 **20/00287/TPO** Pertmitted (determined: 13.05.2020)
Crown lift to 3x Sycamore, 2x Lime, 2x Chestnut, and Gelditsia
- 4.4 **17/01000/TPO** Permitted (determined: 13.11.2017)
T1 Sycamore - Remove 1no. low branch over driveway and cut ivy.
T2 Beech - Raise canopy over driveway by removing 3no. low limbs.
T3 Gleditsia - Remove 2no leaders.
T4 Gleditsia - Remove lowest limb.
T5 Gleditsia - Remove large low limb over lawn.
T6 Silver Birch - Crown lift to 4 metres above ground level and clean out dead branches.
T7 Beech - Remove 2no. low limbs.
T8 Chestnut - Remove 2no low limbs.
T9 Chestnut - Crown lift to 4 metres above ground level.
T10 Chestnut - Lift canopy to 4 metres above ground level and remove the large, low limb over the lawn.
T11 Sycamore - Raise canopy by removing 3-4 low limbs.
T12 Walnut - Lift canopy to 6 metres above ground level over shrubbery by removal of secondary branches.
T13 Beech - Lift canopy by 1-2 metres by removal of minor growth only.
T14 Chestnut - Remove large low limb over footpath.
T15 Chestnut - Remove large low limb over footpath.
T16 Sycamore - Remove large low limb over footpath.

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| 4.5 | 17/00462/TPO
Felling of 2no. Horse Chestnut Trees | Refused | (determined: 07.07.2017) |
| 4.6 | 10/00002/TPO
Removal of three sycamores (Group TPO Order) | Split Decision | (determined: 13.04.2010) |
| 4.7 | 09/00758/TPO
Removal of three sycamores (Group TPO Order) | Split Decision | (determined: 07.01.2010) |
| 4.8 | 08/01099/TPO
Works to trees | Permitted | (determined: 08.01.2009) |

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 raised no objections to the proposed works and supported the proposed replanting specifications. 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 DM4: Safeguarding the Countryside and Settlement Separation
 - 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 ('TPO') and are therefore considered to have a high level of amenity value. The trees (T1-T5) are situated to the east of the site and are protected by an area TPO that covers numerous species of tree. Due to the vast number of trees located within the site, the trees (T1-T5) have limited visibility from the highway or any public vantage point, however this does not detract from the valuable contribution they make to the character and amenity of the surrounding area.
- 8.4 T1, T2, T4 and T5 are proposed to be removed due to their poor condition. The Council's Arboricultural Officer has assessed the application and would support the proposed works. Given the valuable contribution the trees make to the surrounding area, a replanting condition is considered expedient to mitigate any long-term adverse impact upon the overall amenity of the site. The Council's Arboricultural Officer has confirmed that the proposed replacement planting strategy would be accepted. It is therefore considered that the proposed works are 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 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), 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).

3. The proposed works to the Ash trees (*Fraxinus excelsior*) (T1 and T2) and to the protected Horse Chestnut (*Aesculus hippocastanum*) (T4) and Sycamore tree (*Acer pseudoplatanus*) (T5) shall be restricted to felling only.

The proposed works to the Sycamore tree (*Acer pseudoplatanus*) (T3) shall be restricted to Pollarding at approx. 25ft.

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).

4. The replacement trees shall be 175cm to 200cm and planted within 10 metres of each respective felled tree during the next available planting season (October to March): in accordance with the approved details below
 - Ash trees (*Fraxinus excelsior*) T1 and T2 to be replanted as Common Beech trees (*Fagus sylvatica*)
 - Horse Chestnut tree (*Aesculus hippocastanum*) T4 to be replanted as an English Oak tree (*Quercus robur*)
 - Sycamore tree (*Acer pseudoplatanus*) T5 to be replanted as a Rowan tree (*Sorbus aucuparia*).

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

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 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.