

Delegated Report

Planning Ref: 24/01110/TPO
Applicant: Mrs Kelly Benz
Ward: Burbage



Hinckley & Bosworth
Borough Council

Site: 7 Park Close, Burbage, Hinckley, LE10 2FS

Proposal: T1 - Oak tree - Remove lowest limb to the south, raise crown to 5m and thin the remaining crown by 10% maintaining a healthy balanced crown

1. Recommendations

- 1.1. Grant **consent** subject to the conditions detailed below

2. Planning Application Description

- 2.1 The application seeks planning consent for the following works at 7 Park Close, Burbage, Hinckley, LE10 2FS

- **T1 - Oak tree - Remove lowest limb to the south, raise crown to 5m and thin the remaining crown by 10% maintaining a healthy balanced crown**

3. Description of the Site and the Surrounding Area

- 3.1. The application site relates to a residential dwelling within the settlement boundary of Burbage. The Oak tree (T1) is located in the rear garden of 7 Park Close.
- 3.2. The tree is protected by The Borough Council of Hinckley and Bosworth (Hollyhurst, 69 Hinckley Road, Burbage LE10 2AF (No 9) Tree Preservation Order 2017 (17/00009/TPORD)

4. Relevant Planning History

None Relevant

5. Publicity

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

6. Consultation

Burbage Parish Council

“Burbage Parish Council raises no objections to this application and would support the recommendation of the Borough Tree Officer in relation to any permitted work. However, Members wish it to be noted that the lack of clear photographic and/or diagrammatic supporting information indicating the proposed work did not allow for full and detailed consideration of the application”.

7. Policy

7.1. Core Strategy (2009):

- Policy 4: Development in Burbage

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. Burbage Neighbourhood Plan 2015 – 2026 (BNP) (2021):

- Policy 1: Settlement Boundary
- Policy 2: Design and Layout
- Policy 12: Important Trees

7.4. National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)

7.5. 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 tree is subject to a tree preservation order and is/are therefore considered to have a high level of amenity value.

8.3. Paragraph 136 of the National Planning Policy Framework (NPPF) (2024) states that existing trees make an important contribution to the character and quality of urban environments and should be retained wherever possible.

8.4. Policy 12 of the Burbage Neighbourhood Plan seeks to ensure that development proposals that damage or result in the loss of a tree or trees protected with a tree preservation order (TPO) or a tree or trees of significant amenity value and with important arboricultural, landscape or ecological significance, will only be permitted in exceptional circumstances.

8.5. The Oak tree (T1) is located in the rear garden of 7 Park Close. The tree pre-dates the residential development on Park Close and as such holds a prominent position. It is visible from Park Close, the adjacent highway on Hinckley Road and

the car park to the rear of the property.

- 8.6. The Local Planning Authority have assessed the proposed works and can conclude that the works will not have an adverse impact upon the amenity of the area. The proposed works will not result in the damage or loss of a protected tree and therefore also complies with Policy 12 of the Burbage Neighbourhood Plan.
- 8.7. 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

- 8.8. The work proposed has been assessed and has been considered to be necessary in order to aid future maintenance and ensure that the lifespan of the tree is preserved.
- 8.9. By virtue of the above it is considered that the work would not have a significant impact upon public amenity and is therefore acceptable.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

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 acceptable. The works would not result in the loss of a protected tree or have an adverse impact upon the character, appearance or visual amenity of the surrounding area. 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 consent** subject to the planning conditions detailed below

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 (2024).

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 Oak Tree (T1) shall be restricted to the removal of the lowest limb to the south, the raising of the crown to 5m and thinning the remaining crown by 10%.

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 (2024).

Notes to Applicant:

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.

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.

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 we recommend that it be surveyed for bats before any work is carried out.

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. We therefore recommend that work to trees is done outside the nesting season - i.e. between the end of August and beginning March. If work 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 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.