

Delegated Report

Planning Ref: 24/01064/TPO

Applicant: Mr Simpson

Ward: Barwell



**Hinckley & Bosworth
Borough Council**

Site: 26 Ashleigh Gardens, Barwell Leicestershire, LE9 8LE

Proposal: T1 Oak - Pollard at approximately 8m below tips

1. Recommendations

- 1.1. Grant consent subject to the conditions at the end of this report

2. Planning Application Description

- 2.1. The application seeks planning consent for the following works at 26 Ashleigh Gardens, Barwell Leicestershire, LE9 8LE
- T1 Oak - Pollard at approximately 8m below tips

3. Description of the Site and the Surrounding Area

- 3.1. The application site is a residential dwelling situated within the settlement boundary of Barwell. The tree is situated to the eastern boundary of the site and is visible from both Ashleigh Gardens and Farm Road contributing a high level of amenity value to the street scene due to the size and position.
- 3.2. The trees are protected under the Hinckley and Bosworth Tree Preservation Order reference 82/00002/TPORD

4. Relevant Planning History

02/00763/TPO

- WORKS TO ONE OAK TREE
- TPOPER
- 06.08.2002

15/00940/TPO

- Works to oak tree
- TPOPER
- 27.10.2015

17/00637/TPO

- Fell 1x Oak
- TPOREF
- 21.08.2017

08/00594/TPO

- WORKS TO OAK TREE.

- TPOPER
- 30.07.2008

08/00613/TPO

- REMOVAL OF OAK TREE
- TPOREF
- 21.07.2008

5. Publicity

5.1 The application has been publicised by sending out letters to local residents

5.2 One representation has been received which has been summarised below

- The neighbouring tree was cut back too much and is now no longer able to sustain any wildlife.
- If works are approved they should be done in a more restrained manner.

5.3 One objection has been received which has been summarised below

- Pollarding is not a suitable method of management for mature trees.
- It looks unsightly and can leave the tree vulnerable to pathogens and dieback.
- Properties are not affected to any large extent by loss of light as photos show.
- An Oak is a haven for up to 2,300 wildlife species, providing vital spaces to eat, shelter and breed.
- The council should take into account both a tree's visual amenity value and any wildlife it supports.
- This tree can be seen from a number of roads in the area and its proximity to the open country side.
- The same work was carried out on a neighbouring tree in November 2024 and should not be repeated.
- In Peckleton Green a similar tree was worked on last year and was done professionally and left the tree in good condition.
- The damage and destruction of the proposed works will impact both residents and wildlife negatively.

6. Consultation

6.1. Barwell Parish Council

"No objections providing the work is carried out by a professional arboriculturalist"

7. Policy

7.1 Core Strategy (2009):

- Policy 3: Development in Barwell

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)
- 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 tree is subject to a tree preservation order and is 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 The Oak tree is situated to the east of the property and the tree is clearly visible from Ashleigh Gardens and Farm Road. Whilst there is evidence that the tree has outgrown its context it continues to be of visual importance in terms of local impact and character.

8.5 Whilst the immediate result of pollarding is arguably quite drastic and in some cases could be considered unattractive, it is also important to consider the long term implications to the tree and the wider landscape and the alternatives to pollarding which can often result in complete loss of a tree. The process of pollarding can encourage the growth of new shoots from the trunk, which can result in a denser and stronger canopy.

8.6 A neighbouring tree has recently had similar works carried out and so approval would create uniformity within the street scene. Refusal would also therefore be unjustified in this particular circumstance.

8.7 It is understood that in this case, given the size of the tree and its proximity to neighbouring dwellings, the only reasonable alternative to pollarding is the removal of the tree. Given this it is considered, on balance, that the suggested works are considered acceptable with regard to the impact on amenity of the area.

8.8 The Local Planning Authority therefore deems the amended proposed works as suitable as long as they are carried out in accordance with BS 3998:2010.

Whether the application is justified

- 8.9 The proposal has been assessed and is considered to be justified. Taking into account the size of the tree canopy and its proximity to the surrounding dwellings a significant reduction is now required in order to aid future maintenance and prevent the tree from further outgrowing its location.
- 8.10 Pollarding the tree would provide a sustainable long term option for size management and is considered preferable to the removal of the tree.
- 8.11 By virtue of the above it is not considered that the work would 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 to be reasonably required and in the long term would allow some amenity value to be provided by the tree. The proposal will not result in the loss of a protected tree and, for the reasons explained above, is therefore considered to be sufficiently in accordance with Policy DM10 of the SADMP and paragraph 136 of the NPPF (2024). As a result, the application should be approved with conditions set out below.

11. Recommendation

- 11.1 Grant consent subject to the planning conditions

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 pollarding at approximately 8m below tips.

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.