

## Delegated Report

**Planning Ref: 24/01129/TPO**

**Applicant: Leicestershire County Council**

**Ward: Cadeby, Carlton, Market Bosworth & Shackerstone**



**Hinckley & Bosworth  
Borough Council**

**Site: The Market Bosworth School, Back Lane, Market Bosworth, Nuneaton, Leicestershire**

**Proposal:**     **T39 Silver birch - Reduce main leader to below area of damage/decay**  
                      **T40 Silver birch - Prune out over extended lateral branch**  
                      **T47 Silver birch - Prune out poorly formed over extended lateral branch**  
                      **in adjacent tree**

**Reason for the works is to address concerns re falling branches and defects as the trees are situated over a bus bay and footpath**

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### **1. Recommendations**

#### **1.1. Grant consent subject to the conditions**

### **2. Planning Application Description**

2.1 The application seeks planning consent for the following works at The Market Bosworth School, Back Lane, Market Bosworth, Nuneaton, Leicestershire

- T39 Silver birch - Reduce main leader to below area of damage/decay
- T40 Silver birch - Prune out over extended lateral branch
- T47 Silver birch - Prune out poorly formed over extended lateral branch in adjacent tree

### **3. Description of the Site and the Surrounding Area**

3.1. The application site relates to a secondary school located in the town of Market Bosworth. The school was established in 1969, as a comprehensive school for pupils aged 11 and 14. The school buildings are a range of architectural styles and ages, but are generally single or two storey. An enclosed multi use sports, playing fields and car parking area lies to the north-west of the main school building.

3.2. The trees are protected by The Borough Council of Hinckley and Bosworth (The Market Bosworth School, Back Lane, Market Bosworth (23/00004/TPORD)

### **4. Relevant Planning History**

#### **22/00504/TPO**

- T2 - Oak: The selective pruning of secondary branches back to adequate growth points (by appox. 2-3m), would be sufficient to clear the overhang of the footpath and school building, also alleviating weight in the main supporting limbs. T4 - Horse Chestnut: Minor pruning works required to clear low-hanging branches extending over the footpath.
- PERTPO

- 20.07.2022

### **23/00352/TCA**

- Please see the submitted application form - (T10, T16, T25, T29, T32, T36, T41)
- TORDER
- 08.06.2023

### **24/00595/TPO**

- T17 - Dogwood - Crown reduction to suitable growth points at building and roofline only, to give a clearance from building. T19 - Japanese Maple - Crown reduction to suitable growth points at building and roofline only, to give a clearance from building.
- PERTPO
- 09.08.2024

### **24/00730/TPO**

- T9 - Lime tree - Crown lift tree by 2.00 metres.
- PERTPO
- 16.09.2024

## **5. Publicity**

- 5.1. None relevant

## **6. Consultation**

- 6.1. Market Bosworth Parish Council

Market Bosworth Parish Council has no objections to this planning application but if it is found that any trees need to be removed then they should be replaced.

### The Market Bosworth Society

The Market Bosworth Society supports the proposed works and encourages similar works which will enhance or protect trees within the Conservation Area. We would remind the Planning Officer that should it be necessary to remove any trees they must be replaced and a condition must be added to confirm this.

## **7. Policy**

- 7.1. Core Strategy (2009)
- Policy 7: Key Rural Centres
  - Policy 11: Key Rural Centres Stand Alone
- 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. Market Bosworth Neighbourhood Plan 2014 – 2026 (MBNP) (2015):
- Policy CE4: 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 trees are subject to a tree preservation order and 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 CE4 of the Market Bosworth Neighbourhood Plan seeks to ensure that mature trees are protected wherever possible. Development that will result in the loss of or damage to Protected Trees will not be permitted unless a satisfactory scheme for the replacement of lost trees or mitigation of any damage to the landscape is agreed
- 8.5. The three Birch trees (indicated as G1 on the preservation order) are located to the north of the application site and sit adjacent to the public footpath and bus stop.
- 8.6. The works to the trees and considered to be appropriate. The proposed works are minor and would not result in the loss of a protected tree.
- 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 is considered to be justified. T39 is showing signs of decay and has stress cracks and T40 and T47 have over extending lateral limbs. The proposed works will provide adequate clearance above the public footpath and bus stop and are therefore deemed necessary to maintain public safety.
- 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 to be necessary. 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

### **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.

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 Silver Birch (T39) shall be restricted to the reduction of the main leader to below the area of damage/decay

The proposed works to the Silver Birch (T40) shall be restricted to the pruning of the overextended lateral branch

The proposed works to the Silver Birch (T47) shall be restricted to the pruning of the overextended lateral branch in the adjacent tree

**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.

**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.