

Delegated Report

Planning Ref: 24/01131/TPO
Applicant: Mr Sam Selwyn
Ward: Burbage St Catherines & Lash Hill



Hinckley & Bosworth
Borough Council

Site: Land Rear Of 5 - 15 The Coppice, Burbage, Leicestershire

Proposal: G9 (Common lime) - Crown lift low pendulous branches on 11no. Lime trees to achieve a 2.5 metre clearance from ground level to improve the visual appeal of the tree group

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 Land Rear Of 5 - 15 The Coppice, Burbage, Leicestershire

- G9 (Common lime) - Crown lift low pendulous branches on 11no. Lime trees to achieve a 2.5 metre clearance from ground level to improve the visual appeal of the tree group.

3. Description of the Site and the Surrounding Area

3.1. The application relates to a development site located at land to the rear of The Coppice, Burbage, Hinckley which has recently gained planning permission for the erection of 8 dwellings. The site comprises an area of predominantly grassed land that is adjoined by existing residential development to the north and west.

3.2. The trees are protected by The Borough Council of Hinckley and Bosworth (Land off Woodgate Road Burbage) Tree preservation Order (01/00003/TPORD)

4. Relevant Planning History

21/00556/FUL

- Erection of No. 8 dwellings with associated access and landscaping
- REF – subsequent appeal allowed
- 27.10.2021

24/00265/DISCON

- Application to partially discharge Condition 8 (Written Scheme of Investigation) on Appeal Decision APP/K2420/W/22/3297466 relating to application 21/00556/FUL
- PDC

- 18.04.2024

24/00818/CONDIT

- Variation of conditions 2 and 16 attached to planning application 21/00556/FUL. Amendments to design and materials.
- PER
- 21.10.2024

24/00911/DISCON

- Application to discharge conditions 3 (CEMP), 4 (Land Contamination), 6 (Gas Protection Measures), 7 (Surface Water Drainage), 8 (Archaeology), 10 (Hard and Soft Landscaping), 12 (Materials) 13 (Ecology Mitigation Measures), 15 (Waste and Recycling Collection) and 17 (External Lighting) relating to planning application 24/00818/CONDIT
- SPLDIS
- 13.12.2024

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

6.1. 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 approved work. However, the Council would request that, given the history of the site and due to the number and importance of the trees in question, any approved work be closely monitored”.

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 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 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 group of Lime Trees (G9) is positioned on the site's south western boundary. The proposed work will not impact the overall amenity value of the tree group, as the main shape of the crowns will remain intact. It is expected that the works will enhance the amenity value of the proposed residential development.
- 8.6. 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

- 8.7. The work proposed has been assessed and is considered to be justified as it would not result in the loss or damage to a protected tree.
- 8.8. 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 acceptable. The Local Planning Authority is satisfied that the works are reasonable and will ensure that amenity of the area is retained. The proposal is, therefore in accordance with policy DM10 of the SADMP, Policy 1, 2 and 12 of the Burbage Neighbourhood Plan 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 (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 Lime Trees (G9) shall be restricted to crown lifting the low pendulous branches to achieve a 2.5 metre clearance from ground level.

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.