

Delegated Report

Planning Ref: 24/01132/TPO
Applicant: Mr Kenneth Scott
Ward: Markfield, Stanton & Fieldhead



Hinckley & Bosworth
Borough Council

Site: 7 The Laurels, Markfield, Leicestershire

Proposal: English Oak T1 & T2 - Take down to ground level to prevent further subsidence to conservatory

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 7 The Laurels, Markfield, Leicestershire

- **English Oak T1 & T2 - Take down to ground level to prevent further subsidence to conservatory**

3. Description of the Site and the Surrounding Area

3.1. The application site relates to a residential semi-detached bungalow situated within the settlement boundary of Markfield.

3.2. The trees is protected by The Borough Council of Hinckley and Bosworth Markfield (rear of 5-11 The Laurels) Tree Preservation Order (98/00005/TPORD)

4. Relevant Planning History

98/00661/FUL

- ERECTION OF REAR CONSERVATORY
- PER
- 21.09.1998

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. No comments have been received

7. Policy

7.1. Core Strategy (2009):

- Policy 7: Key Rural Centres
 - Policy 8: Key Rural Centres Relating to Leicester
 - Policy 20: Green Infrastructure
 - Policy 21: National Forest
 - Policy 22: Charnwood Forest
- 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. Markfield Neighbourhood Plan 2020 – 2039 (MNP) (2021):
- Policy M2: Landscape Character
 - Policy M5: 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 M5 of the Markfield Neighbourhood Plan seeks to ensure that proposals will be supported where they do not result in the unavoidable loss of trees or hedgerows.
- 8.5. The trees are located in the rear garden of the application dwelling 7 The Laurels in close proximity to the boundary of the neighbouring property (9 The Laurels). The crown of the trees is visible from the highway on The Laurels with open space to the rear.
- 8.6. Whilst the proposed felling will have an impact upon the visual amenity of the area, the application has been considered to be appropriate. Given the positive contribution that the existing trees provide to the setting, a replanting condition is considered expedient.

- 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. The trees have been found to be causing structural damage to the north-east corner of the conservatory and have the potential to cause further damage to the neighbouring property (9 The Laurels).
- 8.9. Properties in the area have reported similar issues with the neighbouring dwelling (9 The Laurels) previously being given permission to remove an Oak tree believed to be responsible for root induced clay shrinkage subsidence (19/00748/TPO).
- 8.10. Several other tree species have been identified within the garden namely, a Common Holly, Cherry Laurel, Portuguese Laurel, and Lawson's Cypress however the findings suggest that these are unlikely to be contributing to the subsidence problem.
- 8.11. Several solutions to the subsidence problem have been considered including demolition of the conservatory, underpinning the conservatory and the installation of a root barrier. However none are considered to be viable options.
- 8.12. A replanting condition has been attached.
- 8.13. By virtue of the above it is considered that the work is 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 in order to alleviate the concerns outlined by the applicant and prevent any future damage to the conservatory and the surrounding dwellings.

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 (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 shall be restricted to the felling of Oak Tree (T1) to ground level.

The proposed works shall be restricted to the felling of Oak Tree (T2) to 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).

4. Within one month of the removal of the Crimson King Acer (T2); details of a replacement tree, including its location shall be submitted to and approved in writing by the Local Planning Authority. The replacement tree shall be planted in accordance with the approved details during the next available planting season (October to March).

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