

Delegated Report

Planning Ref: 24/00619/TPO

Applicant: Mr Chenery

Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: 32 Northumberland Avenue Market Bosworth Nuneaton

Proposal: T1 - Oak - Reduce spread by approx 2.00 metres from tips on all sides to narrow the form. Raise to clear roof of property to give 3.00 metres clearance from roof to foliage. Remove dead branches. Raise canopy to 5.50 metres above the road.

1. Recommendations

1.1. Grant consent subject to:

- Planning conditions outlined at the end of this report.

2. Planning application description

2.1. The application seeks consent to conduct the following works to the Oak tree (T1) at 32 Northumberland Avenue, Market Bosworth;

- Reduction in the spread by approximately 2.00 metres from the tips on all sides;
- The raising of the canopy by 3.00 metres from the roof to foliage
- The raising of the canopy to 5.50 metres above the road;
- The removal of dead branches.

3. Description of the site and surrounding area

- 3.1.** The application site relates to a detached dormer bungalow situated within the settlement boundary of Market Bosworth. The site is an appreciable distance from the Market Bosworth Conservation Area (CA) and is separated from it by areas of modern housing. However, it is clear from paragraph 3.0 of the Conservation Area Appraisal (CAA) that the setting of Market Bosworth is comprised of a ridge top settlement approached through woodland, pasture, and traditional parkland and this setting makes a substantial contribution to its significance.
- 3.2.** The existing property, no.32 Northumberland Avenue, is situated on a shared driveway at the end of Northumberland Avenue. The dwelling on the application site is finished in a dark brick, brown concrete tiles, and uPVC windows and doors.
- 3.3.** The application site was built after and under separate planning permissions to the remainder of the properties on Northumberland Avenue. As a result of the later construction, the application site is not so much read in the street scene with the properties along Northumberland Avenue, but more so with properties along Shenton Lane by virtue of its design and orientation.
- 3.4.** The majority of properties along Northumberland Avenue are two storey semi-detached dwellings, with one bungalow. The dwellings along Northumberland Avenue are of all of brick construction, with sporadic uses of render and mock Tudor effects. The application of render can be found at neighbouring 64 Shenton Lane, as well as the new build properties at nos. 50, 48 and 46 on Shenton Lane.
- 3.5.** The Oak tree (T1) is situated within the grounds of 32 Northumberland Avenue, Market Bosworth to the south-east of the application dwelling. The tree is protected

by the Hinckley and Bosworth Tree Preservation Orders 86/00003/TPORD, and 84/00002/TPORD.

- 3.6. An application for works to the Oak tree (T1) was refused in April 2024. The application sought consent for a full crown reduction to approximately 12.00 meters above ground level, removal of branches overhanging property and removal of dead limbs (23/01231/TPO).

4. Relevant planning history

18/00016/FTTREE

- T1 Oak - Fell and replace
- T2 Beech - Remove 2 damaged lower limbs
- T3 Lime - Prune encroaching canopy back by 3-4m
- DISMIS
- 12.04.2019**01/00815/TPO**
- WORKS TO ONE OAK TREE
- TPOPER
- 11.09.2001

04/01196/TPO

- WORKS TO TREE
- TPOPER
- 10.11.2004

09/00549/TPO

- WORKS TO OAK TREE (T4 ON TPO)
- TPOPER
- 07.10.2009

15/00923/TPO

- Works to oak tree
- TPOPER
- 13.10.2015

18/00211/TPO

- T1 Oak - Fell and replace
- T2 Beech - Remove 2 damaged lower limbs
- T3 Lime - Prune encroaching canopy back by 3-4m
- NONDET
- 24.05.2018

19/01103/HOU

- Single storey side extension, and extension above garage
- REF

- 10.01.2020

20/00141/HOU

- Single storey rear extension and front canopy extension
- PER
- 19.08.2020

20/01329/DISCON

- Application to discharge conditions 4 (Tree Protection Plan), 5 (No-dig Construction Method Statement) attached to planning permission 20/00141/HOU
- DISCHA
- 01.03.2021

21/00481/NMA

- Non material amendment to planning permission 20/00141/HOU to lower the ground floor slab of extension, and extend the ground floor balcony, and amend plinth material
- PERNMA
- 03.06.2021

21/00501/NMA

- Non material amendment to planning permission 20/00141/HOU to change the roof tile
- PERNMA
- 20.07.2021

23/01231/TPO

- Oak tree (T1) - A full crown reduction to approximately 12 meters above ground level, removal of branches overhanging property and removal of dead limbs. Copper Beech tree (T2) - Removal of a single limb overhanging our glass balcony.
- REFTPO
- 04.04.2024

5. Publicity

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

6. Consultation

- 6.1. Market Bosworth Parish Council;

"The Parish Council objects to this planning application. In the absence of an arboreal report the proposed works seem excessive. It would be more appropriate to clear the property by 1.5m rather than 3m and to raise the canopy to 4-4.5m rather than 5.5m otherwise the street scene on approach to the Conservation Area

along Shenton Lane will be drastically altered. The Parish Council is once again disappointed that no arboreal report has been submitted to accompany this application.”

6.2. Market Bosworth Society:

“The Market Bosworth Society objected to the previous application seeking permission for works to this tree. Once again we note that the proposed works are not supported by an arboreal report. The condition of the tree does not demonstrate that work is required. We are concerned that such drastic works as proposed will have a detrimental effect upon the health of the tree and the street scene. Shenton Lane is an important entry to the Market Bosworth Conservation Area and as such must be protected.

Whilst we object to these works as proposed we would consider that a crown raise to a maximum of 4.5 metres above the road and maximum 1m differential from the property would be reasonable. A condition would be that the works must be completed by a fully qualified arborist and that the maximums stated above are not exceeded under any circumstances.”

6.3. Bosworth Vision Group:

- No objections have been received.

7. Policy

7.1. Market Bosworth Neighbourhood Plan 2014-2026

- Policy CE4: Trees

7.2. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 11: Key Rural Centres Stand Alone

7.3. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- 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 Oak tree is subject to a group 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) (2023) seeks to ensure that existing trees that make an important contribution to the character and quality of urban environments are 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 Oak tree (T1) is situated within the grounds of 32 Northumberland Avenue, Market Bosworth to the south-east of the application dwelling.
- 8.6 The Oak tree (T1) is highly visible from both Northumberland Avenue and Shenton Lane. Shenton Lane has a rural/countryside character on the approach to the centre of Market Bosworth which contributes to the setting of the Market Bosworth. Despite the presence of housing on one side of the lane such as the application site, the trees are important features creating a verdant and attractive approach to Market Bosworth.
- 8.7 The site is an appreciable distance from the Market Bosworth Conservation Area (CA) and is separated from it by areas of modern housing. However, it is clear from paragraph 3.0 of the Conservation Area Appraisal (CAA) that the setting of Market Bosworth is comprised of a ridge top settlement approached through woodland, pasture, and traditional parkland and this setting makes a substantial contribution to its significance. Moreover, at section 4.0 the CAA specifically sets out how important the entrances are to the setting of the town. 'The countryside around the settlement and its relationship to the roads is a major factor in the appreciation of the character of the village and its Conservation Area'. The approach from the south via Shenton Lane is specifically referred to as contributing to the setting of the town. Therefore, it is apparent from the CAA that all entrances to the town, including that from Shenton Lane, are important in defining the significance and character of the CA.
- 8.8 The CAA recognises that this approach is through countryside with 'clumps of trees and shrubs'. The CAA acknowledges the short length of housing on the northern side of the lane before entering the settlement proper adjacent to the new cemetery where the application site lies but nothing in the CAA detracts from the overall sense of Shenton Lane, on its approach to the CA, being predominantly rural/countryside in character.
- 8.9 An application (23/01231/TPO) for a full crown reduction to approximately 12.00 meters above ground level, removal of branches overhanging property and removal of dead limbs to the Oak tree (T1) was refused in April 2024, as the works would have been unnecessary and highly damaging towards both towards the Oak tree and the amenity of the area without satisfactory justification being provided for the works.
- 8.10 The Local Planning Authority have assessed the revised works to the Oak tree (T1) and deem the works as appropriate. The proposed works would not have an adverse impact upon the character, appearance or visual amenity of the area or surrounding Conservation Area. Adequate justification has been provided by the agent, a qualified arborist for the proposed works.

- 8.11 Concerns have been raised by Market Bosworth Parish Council and The Market Bosworth Society in regards to the absence of an arboricultural report within the submission. The Local Planning Authority would like to note that the proposal does not meet the threshold for an arboricultural report, as the agent does not have any concerns that the tree is an immediate threat or contributing to subsidence damage. The application and extent of works have been supported by a qualified arborist.
- 8.12 By virtue of the above, the proposed works will not result in the damage of loss of a protected tree and therefore will preserve the amenity of Shenton Lane and the surrounding area. The Local Planning Authority therefore deems the revised proposed works as suitable as long as carried out in accordance with BS 3998:2010.

Whether the application is justified

- 8.13 The Local Planning Authority is required to consider the public benefit of proposed works to protected trees. The proposed works to the Oak tree (T1) are considered necessary in order to control the spread of tree whilst allowing the height to increase to manage the overhang of the tree over the application dwelling and providing light to the rear garden around the canopy, to clear the roof, so that greater wind movement helps to reduce moss and detritus build up on roof and to prevent conflict with large vehicles using the road.
- 8.14 It is therefore considered that the proposed work is justified, in accordance with Policy DM10 of the SADMP

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) 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.

10. Conclusion

- 10.1. In conclusion the proposed works to Oak tree (T1) are considered to be acceptable. The Local Planning Authority is satisfied that the proposed works to the trees are necessary and that the works will ensure that amenity of the area is retained. The proposal is therefore in accordance with Policy DM10 of the SADMP, Policy CE4 of the Market Bosworth 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:

- Planning conditions outlined at the end of this report

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 Oak tree (T1); shall be restricted to the reduction in spread by approximately 2.00 metres from the tips on all sides, the raising of the canopy by 3.00 metres from the roof to foliage, the raising of the canopy to 5.50 metres above the road and removal of dead branches only as demonstrated in the submitted application form and photo document.

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.

11.3 Notes to applicant

- It is a criminal offence to damage or destroy a bat roost. Therefore, if the tree is mature and has hollow cavities and / or is covered with ivy, or has suitable places in which bats might roost, we recommend that it be surveyed for bats before any work is carried out to the tree. All birds, their nests and eggs are protected by the Wildlife and Countryside Act. We recommend that work to trees is done outside the bird-nesting season - i.e between the end of August and beginning March. If work to the tree 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 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.
- It is necessary, when carrying out works to tree(s) to be aware of the WILDLIFE AND COUNTRYSIDE ACT, 1981, whereby it is an offence for any person who intentionally takes, damages or destroys the nest of any wild bird, while the nest is in use or being built, or takes or destroys any eggs of such

wild bird. The times when birds are nesting is generally between the months of March to September inclusive.

- You are advised that if a tree in a conservation area is removed, uprooted or destroyed the landowner is placed under a duty to plant another tree of an appropriate size and species at the same place as soon as he or she reasonably can.
- The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside of their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.