

Delegated Report

Planning Ref: 24/00615/TPO

Applicant: Mrs Cally-Ann

Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: Street Record Footpath From Castle Close To Numbers 1 To 19 Earl Shilton

Proposal: T8 - Willow - Re-pollard, T12 - Lombardy Poplar - Remove hanging branch, T16 - Lombardy Poplar - Fell to ground level, T24 - Hawthorn - Fell to ground level, T29 - Cherry - Reduction by 1.00-2.00 metres, T68 - Cedar - Remove hanging branches

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 below works at Queen Elizabeth II Hall Field Park, Earl Shilton;

- T8 - Willow - Re-pollard;
- T12 - Lombardy Poplar - Remove hanging branch;
- T16 - Lombardy Poplar - Fell to ground level;
- T24 - Hawthorn - Fell to ground level;
- T29 - Cherry - Reduction by 1.00-2.00 metres;
- T68 - Cedar - Remove hanging branches.

3. Description of the site and surrounding area

3.1. The application site relates to an open space and recreation facility to the south of Castle Close, situated within the settlement boundary of Earl Shilton.

3.2. The Willow tree (T8) is situated directly adjacent to the east of 5 Castle Close, the Lombardy Poplar trees (T12, T16 & T24) are situated directly adjacent to the south of Church Street, the Cherry tree (T29) is situated directly adjacent to the north of George Foster Close and the Cedar tree (T68) is situated directly adjacent to the north-east of Old Hall Field House, High Street.

3.3. Within the site boundary sits Earl Shilton Motte and Bailey Castle, a Scheduled Monument (Entry No. 1010302) and to the east of the site sits St Simon and St Jude's Church, a Grade II* Listed Building (Entry No. 1074259).

3.4. The trees subject to the application are protected under the HINCKLEY AND BOSWORTH (LAND AT HALL FIELD, EARL SHILTON) (No.2) TREE PRESERVATION ORDER 1999 (Reference; 99/00011/TPORD). The order protects various types of trees at Queen Elizabeth II Hall Field Park, Earl Shilton.

4. Relevant planning history

00/01047/TPO

- WORKS TO TREES INVOLVING GENERAL MAINTENANCE
- TPOPER

- 15.11.2000

98/00881/FUL

- ERECTION OF PLAY EQUIPMENT (PROVIDING 2 GOAL POSTS WITH BASKETBALL HOOPS)
- PER
- 03.03.1999

05/01048/TPO

- POLLARDING OF 31 LIME TREES
- TPOPER
- 13.10.2005

12/00055/TPO

- WORKS TO TREES (RETROSPECTIVE)
- TPOPER
- 25.04.2012

18/00167/TPO

- T1-T4 Horse Chestnut, T1 and T3 Remove branches affected by fruiting fungal body, Felling of T2 and T4
- T5 Malus- Fell
- T6 Cedar- Remove damaged branches
- T7 Cedar- Crown lift to 2.5 metres, remove broken and hanging branches, clean branch stub
- TPOPER
- 12.04.2018

19/00132/TPO

- Works to trees
- TPOREF
- 28.03.2019

19/00831/HOU

- Re-modelling of existing dwelling including conversion of garage to living accommodation, ground and first floor extensions, decking area, new roof, windows and 7 dormer windows
- PER
- 29.01.2020

20/00806/TPO

- Works to Wild Cherry, 2x Willows, and fell Bird Cherry
- TPOPER
- 05.10.2020

20/00959/TPO

- Crown lift x3 Lime trees on north side to provide approx. 1.5 metre clearance from neighbouring property
- PERTPO
- 11.11.2020

21/01246/TPO

- Re-pollarding of 28 Limes to previous pollard
- WDN
- 06.04.2022

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. Earl Shilton Town Council;

- No objections.

7. Policy

- 7.1. Core Strategy (2009)

- None relevant.

- 7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets

- 7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- 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 Willow trees (T8), Lombardy Poplar trees (T12 & T16), Hawthorn tree (T24), Cherry tree (T29) and Cedar tree (T68) are subject to a tree preservation order and are therefore considered to have a high level of amenity value.
- 8.3 Policy DM11 of the SADMP requires all development on sites located within the setting of an ancient monument to preserve and enhance the historic environment throughout the borough.
- 8.4 Policy DM12 of the SADMP requires that all development which adversely affect a scheduled monument or its setting should be wholly exceptional and accompanied by clear and convincing justification. It also requires that all development affecting the setting of listed buildings to only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting.
- 8.5 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.
- 8.6 The Willow tree (T8) is situated directly adjacent to the east of 5 Castle Close, the Lombardy Poplar trees (T12, T16 & T24) are situated directly adjacent to the south of Church Street, the Cherry tree (T29) is situated directly adjacent to the north of George Foster Close and the Cedar tree (T68) is situated directly adjacent to the north-east of Old Hall Field House, High Street.
- 8.7 The Local Planning Authority have assessed the proposed works and can conclude that the works will not have a negative impact upon the amenity of the area as long as the replacement planting of the Lombardy Poplar tree (T16) and the Hawthorn tree (T24) are carried out in accordance with the implemented replacement planting condition.
- 8.8 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

- 8.9 The Local Planning Authority is required to consider the public benefit of proposed work to the protected trees.
- 8.10 The proposed works to the Willow tree (T8), the Lombardy Poplar tree (T12), the Cherry tree (T29) and the Cedar tree (T68) are general maintenance works required to preserve the health of the trees.
- 8.11 The proposed felling to the Lombardy Poplar tree (T16) is required due to the tree being confirmed dead and the proposed felling of the Hawthorn tree (T24) is required due to decay being present within the stem.
- 8.12 A replanting condition has been imposed.
- 8.13 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:-

- (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 The Willow trees (T8), Lombardy Poplar trees (T12 & T16), Hawthorn tree (T24), Cherry tree (T29) and Cedar tree (T68) 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, DM11 and DM12 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:

- 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 shall be restricted to the below works only;

- T8 - Willow - Re-pollard;
- T12 - Lombardy Poplar - Remove hanging branch;
- T16 - Lombardy Poplar - Fell to ground level;
- T24 - Hawthorn - Fell to ground level;

- T29 - Cherry - Reduction by 1.00-2.00 metres;
- T68 - Cedar - Remove hanging branches.

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.

4. Within one month of the removal of the trees; details of trees, including their location, to replace the Lombardy Poplar tree (T16) and the Hawthorn tree (T24); shall be submitted to and approved in writing by the Local Planning Authority. The replacement trees shall be planted in accordance with the approved details in 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 and the surrounding area of the Listed Building and Ancient Monument, as in accordance with Policy DM10, DM11 and DM12 of the adopted Site Allocations and Policies Development Plan Document (2016).

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.