

Delegated Report

Planning Ref: 24/00201/TPO

Applicant: Mr Evans

Ward: Hinckley DeMontfort

**Site: Land To The Rear Of 2 Hangmans Lane Hinckley
Leicestershire**



Hinckley & Bosworth
Borough Council

Proposal: (G1) - Remove to ground level the Willow trees and Ash tree in the group G1 and plant replacements (T11) - Remove Willow tree to ground level and plant a replacement.

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 for the below works at Land to the rear of 2 Hangmans Lane, Hinckley;

- Willow trees and Ash tree (G1) – Remove to ground level;
- Willow tree (T11) – Remove to ground level.

3. Description of the site and surrounding area

3.1. The application site relates to an unoccupied area of Greenland to the rear of 2 Hangmans Lane, Hinckley, situated within the settlement boundary of Hinckley. The site can be accessed via Ashby Road to the south-east of Hangmans Lane. Hangmans Lane hosts five residential plots and a Sports Club to the top of the site.

3.2. Notwithstanding that the application referred to the Ash tree as being part of the Hinckley and Bosworth Tree Preservation Order reference 76/00004/TPORD, the tree is in fact protected by the Hinckley and Bosworth Tree Preservation Order reference 02/00004/TPORD. Please see the below;

- The Willow tree (T11) is protected by the Hinckley and Bosworth Tree Preservation Order reference 76/00004/TPORD.
- The Willow trees and Ash tree (G1) are protected by the Hinckley and Bosworth Tree Preservation Order reference 02/00004/TPORD.

3.3. On the 25th January 2024 the Local Planning Authority granted the tidying and topping of the Willows within G1 following storm damage and the loss of a singular Willow tree under a five days' notice application.

3.4. At time of determination there was an active application at the site for the proposed erection of one new dwelling and associated access and landscaping (reference; 24/00285/FUL).

4. Relevant planning history

17/00018/TREE

- Removal of group of crack willow trees
- DISMIS

- 01.03.2018

07/00657/FUL

- ERECTION OF SINGLE STOREY DWELLING
- REF
- 31.07.2007

17/00259/TPO

- Removal of group of crack willow trees
- TPOREF
- 08.05.2017

17/01288/TPO

- T1 Lime, Crown lifting over the highway to 5.1m including the removal of epicormic or lower trunk shoots
- TPOPER
- 09.02.2018

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. One letter of objection has been received which is summarised below;

- The loss of the trees will lead to drainage concerns
- Concerns regarding the removal of the Ash tree (G1) and Willow tree (T11)

6. Consultation

6.1. None relevant.

7. Policy

7.1. Core Strategy (2009)

- Policy 1: Development in Hinckley

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

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

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 and Ash tree (G1) and Willow tree (T11) are subject to a tree preservation order and therefore is considered to contribute towards a high level of amenity value
- 3.5. The group of Willow trees (G1) are situated to the north-west of the site. The group is highly viewable from a public vantage point from Hangmans Lane, are particularly viewable from the adjacent playing field of the Ashby Road Sports Club and are also viewable from more distant vantage points. The group consist of roughly six main stems in two clumps which come together to form one canopy.
- 3.6. An application was refused in 2017 by delegated decision and dismissed by appeal for the removal of the Willow trees (G1) as at the time the removal of such substantial trees would have left a very significant gap, and would have resulted in the removal of the majority of the trees covered by this TPO.
- 3.7. The appeal decision (APP/TPO/K2420/6192) stated the following; *"It would take some time for any replacement trees to fill the gap, and overall I consider that the loss of these trees would result in significant harm being caused to the character and appearance of the area. Therefore, any reasons given to justify removal need to be convincing."*
- 8.3 Notwithstanding the above, even though the Local Planning Authority note that it would take some time for replacement trees at the site to develop such amenity value as the existing protected trees and would result in the loss of all of the trees at the site the Local Planning Authority are satisfied that expertise justification has been provided to support the loss of the Willow trees (G1).
- 8.4 The Ash tree (G1) is situated to the south-west of the site and hosts a low visibility. The Local Planning Authority have, considered the proposed works as reasonable.
- 8.5 The Willow tree (T11) is situated to the south of the site and hosts a moderate public visibility. The Local Planning Authority have, however considered the proposed works as reasonable.
- 8.6 The proposed works would unarguably detract significantly from the amenity value of the area, however the Local Planning Authority deem the impact unavoidable due to the trees poor health. A condition has been implemented for the replacement planting at the site as in accordance with the submitted Replacement Planting Plan as received by the Local Planning Authority on the 9th May 2024.
- 8.7 By virtue of the above the Local Planning Authority deems the proposed works are suitable as long as carried out in accordance with BS 3998:2010.

Whether the application is justified

- 8.8 Works to the Willow trees, Ash tree (G1) and Willow tree (T11) are considered to be justified following the reasoning outlined within the submitted Schedule of Works.
- 8.9 The group of Willow trees (G1) have an over-extended structural makeup with heavy end branch weight that leaves them vulnerable to failing on a frequent basis.

Two main stems failed from the central group in recent stormy weather, works to make the trees safe were approved under a 5 day notice in January of this year.

- 8.10 The Schedule of Works also concludes that there is a vertical stress fracture identified through a central stem of the main group and there are significant tension and torsional stresses on all the remaining stems as they blow about in the wind. There is a pattern of branch failure within the species generally and at the site. A number of the stems are attached to one another by potentially fragile included bark unions, which occur in the forks of acutely angled stems. The strength of these unions is compromised by wood fibres not fusing at the point of bark to bark contact. There is an increased likelihood of failure here as a result.
- 8.11 Wind moves branches around in different directions in an uncoordinated way. This movement acts to lessen the shock on the overall canopy; it is sometimes called mass damping. The recent loss of two complete stems has resulted in a change to the makeup of the canopy which will open it up to wind gusts it was previously sheltered from increasing wind loading on branches and escalating considerably the risk of boughs failing.
- 8.12 Crown reduction pruning would not be feasible in terms of managing the trees in the long-term. It would result in decay and vigorous re-growth at the points of pruning which would be difficult and potentially hazardous to manage by re-pruning. Further, crack willow trees do not lend themselves well to pruning in that they do not efficiently defend themselves from decay. The wounds expected to occur because of pruning would most likely lead to rot in the stems with extensive shoot growth arising at and around the points of injury.
- 8.13 The Ash tree (G1) has a profound asymmetric form as a result of its proximity to the much larger crack willow trees within the group. The Ash tree appears to be dying back possibly as a result of ash dieback disease, due to this there is a minimal chance of the Ash recovering. The Ash tree will become fragile as it dies and breaks up onto the adjacent driveway. The recommendations outlined within the Schedule of Works list remedial works would reduce or minimise hazards on trees that pose a risk to high target areas such as the adjacent highways and public rights of way.
- 8.14 The Willow tree (T11) has a very unbalanced exposed form due to its proximity to a Willow tree which was recently removed in January of this year under a 5 day notice due to storm damage. Several substantial boughs were also removed under the 5 day notice as they had broken in the recent storms. The Schedule of Works also concludes that stress fractures are also evident throughout the branch framework. Notwithstanding that the Willow tree could possibly be maintained in the short term by pruning, this would leave it unsightly and vulnerable to pathogen ingress and decay. Further to the above, there is a foreseeable risk of the tree breaking up further because of its exposed form and collapsing completely onto the adjacent accessway, therefore the proposed works to the Willow tree (T11) are considered to be justified.
- 8.15 The application is therefore considered to be 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 works to the Willow trees, Ash tree (G1) and Willow tree (T11) are considered reasonable due to the works being necessary. The proposal is in accordance with policy DM10 of the SADMP. 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 felling of Willow trees and Ash tree (G1) and Willow tree (T11) only.

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. Following the removal of the trees, replacement trees shall be planted in the next available planting season (October to March) as in accordance with the replacement tree plan as received by the Local Planning Authority on the 9th May

2024. If any of the trees proposed within the replacement planting plan are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as maybe specified in writing by the Local Planning Authority.

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).

11.3 Notes to applicant

- a.) 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.
- b.) 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.
- c.) 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.