

Delegated Report

Planning Ref: 24/01109/TPO

Applicant: Ms Helen Baxter

Ward: Cadeby, Carlton, Market Bosworth and Shackerstone

Site: Rowan, 1 Shadows Lane, Congerstone, Nuneaton

Proposal: Crimson King Acer (T2) Fell to prevent further damage to drains



Hinckley & Bosworth
Borough Council

1. Recommendations

- 1.1. Refuse consent subject to the reasons outlined at the end of this report

2. Planning Application Description

- 2.1 The application seeks planning consent for the following works at Rowan, 1 Shadows Lane, Congerstone, Nuneaton

- Crimson King Acer (T2) Fell to prevent further damage to drains

3. Description of the Site and the Surrounding Area

- 3.1. The application site relates to a residential dwelling situated within Congerstone. The tree is located to the east of the site adjacent to Main Street.
- 3.2. The tree is protected under The Borough Council of Hinckley and Bosworth (Land at Rowan, 1 Shadow Lane, Congerstone) Tree preservation order 2003 (03/00006/TPOORD).

4. Relevant Planning History

03/00671/TPO

- CUTTING DOWN THREE TREES AND REDUCING HEIGHT OF CONIFERS
- TORDER
- 21.07.2003

03/00971/TPO

- WORKS TO TWO TREES
- TPOPER
- 15.09.2003

09/00577/TPO

- WORKS TO 1 NO. ROWAN TREE AND 1 NO. MAPLE TREE
- TPOPER
- 26.08.2009

15/01228/TPOCA

- Works to tree

- WDN
- 04.01.2016

17/00696/TPO

- 30% crown reduction of Maple tree (T2) - works limited to pruning back to the last reduction points
- TPOPER
- 18.09.2017

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. HBBC Conservation Officer

“As this tree is already covered by a Tree Preservation Order I have no comments to make on the proposal other than recommending any works are carried out in accordance with the relevant British Standards for Tree Work and are in accordance with any advice provided by the Council's Tree Officer (if they are available)”

7. Policy

7.1. Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

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

7.2 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)

7.3 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 tree is

subject to a tree preservation order and is 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 The tree is located in a prominent position adjacent to Main Street and offers a high level of amenity value to the street scene due to its size and position. Many mature trees can be found nearby that contribute significantly to the overall character of the area.
- 8.5 The Local Planning Authority is required to consider the public benefit of proposed work to the protected trees. The felling of the Crimson King Acer (T2) would have negative impact upon the overall character and appearance of the area.

Whether the application is justified

- 8.6 The work proposed has been assessed and is considered to be unacceptable. The Arboricultural Association states that whilst “tree roots can cause problems by blocking drains. They do not usually cause the initial damage to the drain and will only enter drains which are already damaged and leaking. Therefore, if drains are watertight, roots should not normally affect them”.
- 8.7 Given that the applicant has taken remedial action to repair the drainage system it is unlikely that the tree roots will continue to present a problem in the future. Furthermore the drainage report supplied by the applicant does not recommend the removal of the tree. Neither has any arboricultural justification for the removal of the tree been submitted.
- 8.8 On balance it is therefore considered that the amenity value of the tree outweighs the unlikely event of any potential damage.
- 8.9 By virtue of the above it is considered that the proposed work is not 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 Overall the proposed works would have a significant, negative impact upon the overall character, appearance and visual amenity of the area and would result in the loss of a protected tree without adequate justification. The proposal is therefore contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 136 of the National Planning Policy Framework (2024).

11. Recommendation

- 11.1 **Refuse consent subject to the reasons outlined at the end of this report**

11.2 Reasons

1 The proposed works would have a significant, negative impact upon the overall character, appearance and visual amenity of the area and would result in the loss of a protected tree without adequate justification. The proposal is therefore contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 136 of the National Planning Policy Framework (2024).