

Delegated Report

Planning Reference 26/00481/TPO

Applicant Mr Nunn

Ward Newbold Verdon with Desford and Peckleton



Application Site Shady Trees, 19 Station Road, Desford

Proposal T1 Horse Chestnut

Work: Remove and replace with a *Aesculus x carnea* 14/16 adjacent to the removed tree

Reason: Extensive decay, tree will not be able to correct the damage. High risk of failure

Case Officer Rudi Simpson (Technical Planning Assistant)

1. Recommendations

1.1. **Grant consent** subject to conditions at the end of this Report:

2. Planning Application Description

2.1. This application seeks consent for the removal of a protected Horse Chestnut Tree ('T1') at Shady Trees, 19 Station Road, Desford. The felled tree is proposed to be replaced with a 14/16 Red Horse-Chestnut Tree (*aesculus x carnea*) adjacent to the removed tree. The Applicant has stated that the proposed works are required because the protected tree suffers from extensive decay and has a high risk of failure.

3. Description of the Site and the Surrounding Area

3.1. This application relates to a Horse Chestnut tree located within the grounds of the residential dwelling Shady Trees, 19 Station Road in Desford. The tree affected by the proposed work is protected by the Hinckley and Bosworth Borough Council Desford (19 Station Road) Tree Preservation Order 1997 (97/00001/TPORD).

4. Relevant Planning History

4.1 There is no relevant planning history within this application that would be applicable to the current application.

5. Publicity

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

6. Consultation

- 6.1 The Council's Arboricultural Officer acknowledged the need for the removal of the tree and supported the proposed replacement planting specification. No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):

- No relevant policies.

- 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 Desford Neighbourhood Plan 2018 – 2036 (DNP) (2021)

- No relevant policies.

- 7.4 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- National Design Guide (2019)
- Planning Practice Guidance (PPG)

8. Appraisal

- 8.1 The key issues in respect of this application are the impact of the proposal upon the amenity of the area, and whether the proposed works are justified

- 8.2 Paragraph 136 of the NPPF highlights that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change.

- 8.3 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.

- 8.4 The affected tree is subject to a Tree Preservation Order and is therefore considered to have a high level of amenity value. The Horse Chestnut tree (T1) is situated to the front of the application dwelling in the area identified as G2 on the Tree Preservation Order. Though largely screened from public vantage point due to the number of trees located within the grounds of the property, the protected tree it is still considered to provide a positive contribution to the character and the appearance of the local area.

- 8.5 The Council's Arboricultural Officer assessed the application and raised no objections to the proposed works and supported the proposed replacement planting specification. It is therefore considered that the proposed works would be suitable as long as they are carried out in accordance with BS 3998:2010, subject to a planning condition to secure the proposed tree planting in order to mitigate the impact of the loss of the protected tree. By virtue of the above, it is considered that the proposed work would not have a significant impact upon public amenity and would therefore accord 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.

- 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 would be considered to be acceptable and therefore in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024), subject to the imposition of appropriate conditions.

11. Recommendation

11.1 Grant consent subject to conditions at the end of this Report:

11.2 Conditions and Reasons

1. The works to which this consent relates shall be completed within two years from the date of this consent.

Reason: To ensure that works are appropriate to the condition of the tree(s) at the time they are undertaken in accordance with the provision of the Town and Country Planning (Tree Preservation) Regulations 2012.

2. 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 adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024).

3. The proposed works shall be restricted to the removal of the Horse Chestnut (T1).

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 Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024).

4. Within one month of the removal of the Horse Chestnut (T1); the replacement Aesculus x carnea shall be planted in accordance with the approved details during the next available planting season (October to March).

Reason: To ensure that a replacement tree is planted on site in the interests of protecting the amenity of the area in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024).

a. Notes to Applicant(s)

1. The Applicant is advised that the consent hereby granted is only 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.

2. 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.
3. 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, the affected tree(s) should be surveyed for bats before any work is carried out.
4. 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. All works to trees should therefore done outside the nesting season (i.e. between the end of August and beginning March), unless carefully checked beforehand by a suitably qualified person. If nesting birds are present, work must be postponed until the young have left the nest.
5. 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.