

Delegated Report

Planning Ref: 23/01209/TPO

Applicant: Mrs Juliette Sherwin

Ward: Burbage St Catherines & Lash Hill

Site: The Horsepool Church Street Burbage



Hinckley & Bosworth
Borough Council

Proposal: Works to tree

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. The application seeks consent to fell Ash tree (T9) at The Horsepool, Church Street, Burbage.

3. Description of the site and surrounding area

- 3.1. The application site is an area of public open space located off Church Street in Burbage. It is situated within the settlement boundary and conservation area of Burbage. The affected tree is situated to the north-east of the site and is visible from the public highway. To the north-west of the site sits Pilgrims Gate, a residential development.
- 3.2. The Ash tree is protected by the Hinckley and Bosworth Tree Preservation Order reference 89/00001/TPORD. The order protects various other species at the site.

4. Relevant planning history

00/01152/COU

- CHANGE OF USE FROM PRIVATE GARDEN TO PUBLIC OPEN SPACE
- PER
- 04.01.2001

01/00631/TPO

- WORKS TO TREES
- TPOPER
- 17.08.2001

03/00505/TPO

- WORKS TO LEYLANDII HEDGE
- TPOPER
- 04.06.2003

07/00938/TPO

- WORKS TO TREES
- TPOPER

- 06.09.2007

13/00997/TPOCA

- Removal of one Common Beech
- TPOCAP
- 17.12.2013

14/00578/TPOCA

- Crown reduction on Common Ash tree (T7)
- TPOCAP
- 21.07.2014

17/01245/TPO

- G2 - Minor works to remove overhanging branches. Shape up yew hedge at rear
- T3 - Remove lower branches to approx 1.8m above ground level
- T4 - Remove one trunk to side of path, remove lower branches to approx 1.8m above ground level
- T5 - Remove branches to fence height, clear adjacent garage and selective branch removal.
- T7 - Clean out dead wood
- T8 - Remove
- T9 - Remove lower overhanging pendulous branches and dead wood
- T10 - Remove
- G11 - Remove including Aspen tree
- TPOPER
- 22.01.2018

20/01309/TPO

- Mature Ash T7 - reduce crown by 3-4 metres. Mature Ash T9 Tree - has 30/505 of its foliage left, recommended to be felled and replaced with similar tree.
- WDN
- 15.04.2021

88/01378/4

- REMOVAL OF RAILINGS ON CHURCH STREET FRONTAGE TELECON 31 10 1988 WITH AGENT AND SMD
- REF
- 20.12.1988

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.

One objection was received questioning whether the proposal was to fell or carry out work to the trees.

6. Consultation

- 6.1. No objections have been received from the below consultees;
- Burbage Parish Council
 - The HBBC Conservation Officer
 - The HBBC Aboricultural Officer

7. Policy

- 7.1. Burbage Neighbourhood Plan 2015-2026
- Policy 1: Settlement Boundary
 - Policy 2: Design and Layout
 - Policy 12: Important Trees
- 7.2. Core Strategy (2009)
- Policy 4: Development in Burbage
- 7.3. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM10: Development and Design
 - Policy DM12: Heritage Assets
- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2021)
 - 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 Ash tree is subject to a tree preservation order and are therefore considered to have a high level of amenity value.
- 8.3. Policy DM12 of the SADMP requires all development on sites located within a conservation area to preserve and enhance its significance. The application site is located within the Burbage Conservation Area as thus forms part of this area's identified significance

- 8.4 Policy 12 of the Burbage Neighbourhood Plan seeks to ensure that development proposals that damage or result in the loss of a tree or trees protected with a tree preservation order (TPO) or a tree or trees of significant amenity value and with important arboricultural, landscape or ecological significance, will only be permitted in exceptional circumstances.
- 8.5 The Ash tree (T9) is situated to the north-east of the site and is visible from the public highway. T9 contributes significantly to the amenity value of the area, due to its prominent position on Church Road. The proposed felling is, however considered reasonable due to the trees condition subject to a planning condition being imposed for replacement planting at the site.
- 8.6 The HBBC Arboricultural Officer deems the amended proposed works as suitable as long as carried out in accordance with BS 3998:2010.

Whether the application is justified

- 8.7 The felling as proposed has been assessed by the HBBC Arboricultural Officer and has been considered necessary. The Ash tree (T9) has crown dieback from Chalara disease. In this high impact location felling is required for safety reasons by virtue 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 felling to the Ash tree (T9) is considered to be acceptable due to safety reasons. The HBBC Tree Officer is satisfied that the felling proposed to the trees are necessary and that the works will ensure that amenity of the area is retained, subject to a replanting condition be imposed. The proposal is in accordance with policy DM10 and DM12 of the SADMP and policy 12 of the Burbage Neighbourhood Plan. 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 the Ash tree (T9) 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. Within one month of the removal of the Ash tree; details of the replacement tree, including its location, to replace Ash tree (T9); shall be submitted to and approved in writing by the Local Planning Authority. The replacement tree 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 conservation area in accordance with Policy DM12 of the adopted Site Allocations and Policies Development Plan Document (2016) and policy 12 of the Burbage Neighbourhood Plan.

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.