

Delegated Report

Planning Reference 25/01187/TPO

Applicant Dinta Chauhan, Dioceses of Leicester

Ward Burbage, St Catherines & Lash Hill

Size The Rectory, New Road, Burbage



Hinckley & Bosworth
Borough Council

Proposal T1 – Ash tree pollard to 25-30 feet from ground level as suffering from Ash dieback

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 to pollard a protected Ash tree (T1) down to 25 to 30 feet from ground level at The Rectory, New Road, Burbage. The proposed works are with the intention of promoting new growth for the tree.

3. Description of the Site and the Surrounding Area

3.1. This application relates to an Ash tree to the east of, but within the historic core of, Burbage. The tree affected by the proposed work is protected by the Borough Council of Hinckley and Bosworth (Land at the Rectory, New Road, Burbage) Tree Preservation order 2018 (18/00001/TPORD). The Ash tree is located in the rear garden of, and to the west of, The Rectory within a designated Key Space within the Burbage Conservation Area. Beyond Grove Road to the north and New Road to the east, the application site is predominantly residential in character. Moat House Care Home is located to the south of the site.

4. Relevant Planning History

4.1 Approval for works to several trees within the wider application site have been sought from the Local Planning Authority prior to the affected tree within this application being subject to a Tree Preservation Order in 2018. Only two applications for works to trees in conservation areas have been submitted since 2018, which are not applicable to the tree affected by this current proposal.

5. Publicity

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

5.2 One letter of support was received from a member of the public due to safety concerns with the existing state of the tree, and its current negative visual impact on the character of the surrounding area.

5.3 No further responses have been received.

6. Consultation

6.1 Burbage Parish Council raised no objections to the proposal and welcomed efforts to preserve rather than remove the tree.

6.2 Although the Council's Arboricultural Officer highlighted that pollarding was not considered to represent industry best practice, the proposed intervention would be supported on the basis of foreseeable structural failure within the crown of the tree.

6.3 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
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets

7.3 Burbage Neighbourhood Plan 2015 – 2026 (BNP) (2021):

- Policy 2: Design and Layout
- Policy 12: Important Trees

7.4 National Planning Policies and Guidance:

- The Town and Country Planning (Tree Preservation) (England) Regulations 2012
- 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 Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment and heritage assets. Development proposals should ensure the significance of a conservation area is preserved and enhanced.
- 8.5 Policy 12 of the Burbage Neighbourhood Plans recognises that trees are important visually and form part of the landscape character of the village. The policy states 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.
- 8.6 The affected tree is subject to a Tree Preservation Order and is therefore considered to provide a positive contribution to the character and appearance of the local area. The Ash tree is located in the rear garden of the application dwelling. Due to its size and prominent position, the affected tree is highly visible from both Grove Road and Love Lane.
- 8.7 The tree is currently suffering from Ash dieback and whilst pollarding is not generally favoured as a practice, in this instance the proposed works would be considered to be acceptable in order to provide stability and prevent any future failure. The Council's Arboricultural Officer has assessed the application and supports the proposal to pollard the Ash tree. It is therefore considered that the proposed works are suitable as long as they are carried out in accordance with BS 3998:2010.
- 8.8 Due to the vast number of trees within the vicinity the proposed work will not have a significant detrimental impact upon the visual amenity of the area.
- 8.9 By virtue of the above it is considered that the work would not have a significant impact upon public amenity and is therefore acceptable 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.

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 are 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 to the Ash tree (T1) shall be restricted to pollarding to approximately 25-30 meters above ground level 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 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 the 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.