

Delegated Report

Planning Ref: 23/00584/TPO
Applicant: Mrs Marion Sugg
Ward: Barwell



Hinckley & Bosworth
Borough Council

Site: 10 Cumberland Way Barwell Leicester

Proposal: (T1) - Oak tree - Reduce overhang back to boundary line

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 full planning consent to reduce the overhang of the Oak tree (T1) back to the boundary line at 10 Cumberland Way, Barwell.

3. Description of the site and surrounding area

- 3.1. The application site relates to a two-storey detached dwelling situated, within the settlement boundary of Barwell. It features dark red bricks, cream render and dark wooden detailing to the walls, brown tiles to the roof and brown windows and doors. To the front of the dwelling sits a double garage with a hipped roof which features red tiles to the roof differing from those used on the main dwellinghouse.
- 3.2. No.12 is situated just off of Cumberland Way and forms a line of four houses. All which are uniform in design, finish and scale.
- 3.3. The Oak tree (T1) is situated to the western (front) boundary of no.12. It is highly viewable from a public vantage point from Cumberland Way. It is protected by the Hinckley and Bosworth Tree Preservation Order reference 86/00002/TPORD.

4. Relevant planning history

04/01296/TPO

- REMOVAL OF OAK TREE
- TPOREF
- 17.01.2005

07/01051/TPO

- WORKS TO TREE
- TPOPER
- 26.10.2007

5. Publicity

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

6. Consultation

- 6.1. No objections have been received from the following consultees;
- The HBBC Arboricultural Officer
 - Barwell Parish Council

7. Policy

- 7.1. Core Strategy (2009)
- Policy 3: Development in Barwell
- 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) (2021)
 - 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 Oak tree is subject to a tree preservation order and is therefore considered to have a high level of amenity value.
- 8.3. The Oak tree (T1) is situated to the western (front) boundary of no.12. by virtue the tree is highly viewable from a public vantage point from Cumberland Way.
- 8.4. An identical application for works to the said Oak tree was approved in 2007, since then the overhang of the tree has significantly grown. By virtue it is considered that the proposed works should to be repeated to the same points as previously approved.
- 8.5. The proposed works have been assessed by the HBBC Arboricultural Officer and have been deemed acceptable and would not have a significant impact upon the amenity of the area due to the works being minor and necessary.
- 8.6. By virtue of the proposed being in accordance with policies DM1 and DM10 of the SADMP the proposed works are deemed acceptable as long as carried out in accordance with BS 3998:2010.

Whether the application is justified

- 8.7. The Local Planning Authority is required to consider the public benefit of proposed work to the protected tree. The proposed works to the Oak tree are considered to

be justified. The tree at current is overhanging into the rear garden of 10 Cumberland Way (the applicant). The proposed reduction in the overhang will ensure clearance from the applicants dwelling.

- 8.8 It is therefore considered that the proposed work is 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 proposed works to the Oak tree (T1) are considered reasonable. The HBBC Tree Officer is satisfied that the works proposed to the tree is necessary due to the tree significantly overhanging into the neighbouring property. The proposal is in accordance with policies DM1 and 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 131 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 to the Oak tree (T1) shall be restricted to the reduction in the overhang back to the boundary line of 10 Cumberland Way, Barwell 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 131 of the NPPF.

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.
- The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside of their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.