

Delegated Report

Planning Ref: 23/00786/TPO

Applicant: Mr Riley

Ward: Hinckley DeMontfort



Hinckley & Bosworth
Borough Council

Site: Sarum 5A Island Close Hinckley

Proposal: (T1) - Oak - Crown Reduce by 15% of the foliage this will reduce the overall size of the canopy by approximately 1.5m from tips. Raise canopy to give a clearance of 4.5m from ground level to the lowest branches. Remove dead branches. Prune to clear roof by 2m.

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 consent to conduct the below works to the Oak tree (T1) at Sarum, 5A Island Close, Hinckley;

- Reduce crown by 15% of the foliage to reduce the overall size of the canopy by approximately 1.50 metres from the tips
- Raise the canopy to give a clearance of 4.50 metres from ground level to the lowest branches
- Remove the dead branches
- Prune to clear the roof by 2.00 metres

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 Hinckley. The tree is situated to the front elevation of the dwelling and sits on the north-east boundary line of the property.

3.2. The tree was previously situated within the grounds of 78 Leicester Road until the development of the dwelling in 2008, approved under application 08/00084/FUL.

3.3. The tree is protected by the Hinckley and Bosworth Tree Preservation Order Reference 08/00003/TPORD.

4. Relevant planning history

16/00012/TPO

- Works to english oak tree
- TPOPER
- 03.03.2016

20/00754/TPO

- Prune x1 Oak tree by approx. 2 metres, raise canopy by approx. 1.5 metres (secondary branches only) and thin canopy by approx. 15%

- PER
- 28.09.2020

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. One letter of representation and one letter of objection has since been received.

5.2. The letter of representation summarises the below matters:

- Supports the proposed works to the tree
- The proposed works to the tree will not reduce the adverse effect the tree has on the neighbouring dwelling
- Struggle to maintain driveway
- Safety hazard due to falling acorns
- Limiting the reduction to 1.5m is grossly insufficient
- Tree may affect value of property if not removed
- The tree should be felled
- The tree should no longer be protected

5.3. The letter of objection summarises the below matters:

- The tree is far too big for its position
- The tree should be reduced significantly more than proposed
- In March woody debris falls on car and drive
- In September acorns fall on cars and block guttering
- In Decembers there is a vast amount of leaves falling from the tree
- Concerned that the roots of the tree will effect foundations of property
- We request is to reduce it by 25% at least with the condition that it is reviewed by the Council on a yearly basis and not left to the applicant to make a request.
- The tree should no longer be protected

6. Consultation

6.1. The HBBC Aboricultural Officer has no objections.

7. Policy

7.1. Core Strategy (2009)

- None relevant.

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
- Other matters

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 therefore considered to contribute towards a high level of amenity value.
- 8.3 The tree is situated to the front of the application dwelling, and are therefore is highly viewable from a public vantage point. The proposed works are, however considered reasonable and would not detract from the amenity value of the area. The proposed works are a repeat of those permitted under 20/00754/TPO.
- 8.4 The HBBC Arboricultural Officer has assessed the works and has considered them to be suitable as long as carried out in accordance with BS 3998:2010.

Whether the application is justified

- 8.5 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 (T1) are considered to be justified in order to prevent damage to buildings, manage within the space available for the tree, and to allow for more light through and under the canopy to reduce intensity.
- 8.6 Taking the above into consideration, the application is considered to be justified in accordance with Policy DM10 of the SADMP.

Other matters

- 8.7 Concerns have been raised that the proposed works will not reduce the adverse effects that the tree has upon the neighbouring dwellings. The Local Planning Authority can only consider the works as applied for. If a member of the public wishes to submit a further application for works to the tree an application will be welcomed by the Local Planning Authority. Please note if the works are approved consent will need to be obtained from the owner of the tree.
- 8.8 Concerns have also been raised regarding the protection of the tree. The Local Planning Authority strongly feel that the Oak tree still holds a high level of amenity value and therefore at this time do not wish to revoke the order.

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 Aboricultural Officer is satisfied that the proposed works to the tree are necessary. The proposal is in accordance with policy 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 crown reduction by 15% of the foliage to reduce the overall size of the canopy by approximately 1.50 metres from tips, the raising of the canopy to give a clearance of 4.50 metres from ground level to the lowest branches, the removal of the dead branches and pruning to clear roof by 2.00 metres 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.