

Delegated Report

Planning Ref: 24/00973/TPO

Applicant: Mr Ben Warden

Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: 46 Lutterworth Road Burbage Hinckley

Proposal: (T1) - English Oak tree - Crown lift over neighbours shared driveway to prevent damage to either vehicles or the tree itself. Lift to a height of approximately 4m on neighbour's driveway side only pruning only the secondary branches. Prune lowest limb over drive to its historic pruning point at the 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 consent for the below works to the Oak tree (T1) at 70-72 Britannia Road;

- The crown lifting by approximately 4.00 metres over the shared driveway of the neighbouring sites, 70-72 Britannia Road, pruning the secondary branches only and;
- The pruning of the lowest limb over the applicant's driveway to its historic pruning point at the boundary line only.

3. Description of the site and surrounding area

3.1. The application site relates to a two-storey detached residential dwelling, situated within the settlement boundary of Burbage. The site host two accesses one to the south-west of Lutterworth Road and one to the south-east of Britannia Road. The Oak tree of which is sited to the front of the south-east access, adjacent to the highway (Britannia Road) and is situated within number of mature trees. It is protected by The Borough Council of Hinckley and Bosworth (46 Lutterworth Road, Burbage, LE10 2DW) Tree Preservation Order (No 14) 2018 (Reference; 18/00014/TPORD).

3.2. Planning Permission was granted in 2018, for the erection of one detached dwelling and formation of associated new access at the site. This permission has since been implemented (18/00198/FUL).

4. Relevant planning history

08/00183/OUT

- RESIDENTIAL DEVELOPMENT
- OUT
- 25.04.2008

10/00989/EXT

- EXTENSION OF TIME APPLICATION FOR PLANNING PERMISSION 08/00183/OUT FOR RESIDENTIAL DEVELOPMENT
- PER
- 03.02.2011

12/00966/TPO

- WORKS TO TREES
- WDN
- 20.12.2012

13/00342/REM

- Erection of one dwelling
- WDN
- 11.07.2013

13/00614/REM

- Erection of one dwelling
- PER
- 16.09.2013

14/00347/HOU

- Formation of new vehicular access
- WDN
- 20.05.2015

16/00548/TPO

- Fell 1x maple tree
- TPOPER
- 10.10.2016

18/00198/FUL

- Erection of one detached dwelling and formation of associated new access
- PER
- 04.07.2018

19/00276/DISCON

- Application to re-discharge condition 4 attached to planning permission 18/00198/FUL
- DISCHA
- 27.03.2019

20/00426/DISCON

- Application to discharge condition 6 (landscaping scheme) attached to planning permission 18/00198/FUL
- WDN

- 22.06.2020

86/01076/4

- ERECTION OF DWELLING
- PER
- 11.12.1986

92/01011/4

- ONE DWELLING
- OUT
- 23.12.1992

81/01166/4

- ERECTION OF 4 NO DWELLINGS WITH ACCESS 3 NO HOUSES AND 1 NO BUNGALOW
- OUT
- 22.12.1981

5. Publicity

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

6. Consultation

- 6.1. Burbage Parish Council;

"Burbage Parish Council does not object to this application but wishes to make the following comments:

- *The tree is a significant specimen in its own right and an important feature in the street scene.*
- *While it is agreed that some work is required, it is felt that a more subtle approach than the works proposed would achieve the stated aim.*
- *The Council would support the recommendation of the Borough Tree Officer and would wish to ensure that any approved works be carried out by a suitably qualified arborist."*

7. Policy

- 7.1. Burbage Neighbourhood Plan 2015-2026
 - Policy 1: Settlement Boundary
 - 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

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2024)
- 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 Oak tree (T1) is subject to a tree preservation order and is therefore considered to have a high level of amenity value.
- 8.3 Paragraph 136 of the National Planning Policy Framework (NPPF) (2024) seeks to ensure that existing trees that make an important contribution to the character and quality of urban environments are retained wherever possible.
- 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.
- 2.2. The application seeks consent for the below works to the Oak tree (T1) at 70-72 Britannia Road;
- The crown lifting by approximately 4.00 metres over the shared driveway of the neighbouring sites, 70-72 Britannia Road, pruning the secondary branches only and;
 - The pruning of the lowest limb over the applicant's driveway to its historic pruning point at the boundary line only.
- 8.5 The Oak tree (T1) is sited to the front of the property, adjacent to the highway (Britannia Road) and is highly viewable from a public realm due to its forward fronting position, forming an important feature within the street scene.
- 8.6 The Local Planning Authority have assessed the proposed works and can conclude that the works will undoubtedly have a minor impact upon the amenity of the area due to the trees prominent position, however by way of the submitted justification, the retention of the protected tree and vast amount of mature trees surrounding the Oak, the Local Planning Authority consider the works to be appropriate as long as carried out in accordance with BS 3998:2010.
- 8.7 It should be noted that the comments as received from Burbage Parish Council were given considerable weight prior to the final decision being made by the case

officer. The comments were, however outweighed by the justification provided by the arborist (agent).

Whether the application is justified

- 8.8 The Local Planning Authority is required to consider the public benefit of proposed works to protected trees. The proposed works to the Oak tree (T1) are required in order to provide clearance over the application dwelling and the shared driveway of the neighbouring sites, 70-72 Britannia Road.
- 8.9 By virtue of the above it is not considered that the work is justified and 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 works to the Oak tree (T1) are considered to be acceptable. The Local Planning Authority is satisfied that the proposed works to the trees are necessary and that the works will ensure that amenity of the area is retained. The proposal is in accordance with Policies DM1 and DM10 of the SADMP, Policy 1 and 12 of the Burbage Neighbourhood Plan and paragraph 136 of the NPPF (2024). 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 Policies DM1 and DM10 of the SADMP, Policy 1 and 12 of the Burbage Neighbourhood Plan and paragraph 136 of the NPPF (2024).

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 lifting by approximately 4.00 metres over the shared driveway of the neighbouring sites, 70-72 Britannia Road, pruning the secondary branches only and the pruning of the lowest limb over the applicant's driveway to its historic pruning point at the boundary line 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 Policies DM1 and DM10 of the SADMP, Policy 1 and 12 of the Burbage Neighbourhood Plan and paragraph 136 of the NPPF (2024).

11.3 Notes to applicant

- a) 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.
- b) 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.
- c) 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.
- d) You are advised that if a tree in a conservation area is removed, uprooted or destroyed the landowner is placed under a duty to plant another tree of an appropriate size and species at the same place as soon as he or she reasonably can.