

Delegated Report

Planning Ref: 24/01103/TPO
Applicant: Mr Brian Rigby
Ward: Barwell



Hinckley & Bosworth
Borough Council

Site: 112 Kirkby Road, Barwell, Leicester, Leicestershire, LE9 8FN

Proposal: T4 - Horse Chestnut Tree - Additional branch to be removed following works approved under 24/00707/TPO

1. Recommendations

- 1.1. Grant consent subject to the conditions at the end of this report

2. Planning Application Description

- 2.1. The application seeks planning consent for the following works to the Horse Chestnut Tree (T4) at 112 Kirkby Road, Barwell
- Addition branch to be removed following works approved under 24/00707/TPO

3. Description of the Site and the Surrounding Area

- 3.1. The application site relates to a detached residential bungalow situated within the settlement boundary of Barwell. The dwelling is afforded shared access to the north-east of Kirkby Road which serves the properties 110, 110A and 112.
- 3.2. The surrounding area is predominantly residential in nature. A sports facility is situated to the east which hosts various activities such as bowling, cricket and football and to the west of the site sits a cemetery and recreational grounds.
- 3.3. The Horse Chestnut tree (T4) is situated to the west of the site and is protected by the HINCKLEY AND BOSWORTH BOROUGH COUNCIL BARWELL (126 KIRKBY ROAD) TREE PRESERVATION ORDER 1992 (Reference; 92/00001/TPORD).

4. Relevant Planning History

99/00678/TPO

- Trimming of one Horse Chestnut Tree
- TPOPER
- 10.09.1999

09/00892/TPO

- Works to Horse Chestnut (T4 ON TPO ORDER)
- TPOPER
- 11.01.2010

24/00707/TPO

- Remove one south facing branch over dwelling and one north facing branch over neighbours dwelling, lower branches to be trimmed to allow vehicle access to dwelling and pruning of branches in the high crown.
- PERTPO
- 16.09.2024

5. Publicity

- 5.1 The application has been publicised by sending out letters to local residents.
- 5.2 One letter of support has been received which has been summarised below
- Concerns that the tree has potential to cause an accident and poses a danger to both people and property if the works are not permitted.

6. Consultation

- 6.1. Barwell Parish Council;

“No objections providing the work is carried out by a professional arborist.”

7. Policy

- 7.1 Core Strategy (2009):
- Policy 3: Development in Barwell
- 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
- 7.3 National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (2024)
 - 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 Horse Chestnut tree (T4) 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) states that existing trees make an important contribution to the character and quality of urban environments and should be retained wherever possible.
- 8.4 Consent was recently granted for the removal of two branches, the pruning of the lower branches and those within the upper crown of the Horse Chestnut tree (T4) under planning application 24/00707/TPO. This application seeks consent for the removal of one additional branch as an addendum to the previously approved works.
- 8.5 The tree is situated to the west of the site and is highly visible from the adjacent highway on Kirkby Road. The proposed works would not result in the loss or damage to a protected tree and would not have an adverse impact upon the character, appearance or visual amenity of the surrounding area.
- 8.6 The Local Planning Authority therefore deems the proposed works to be suitable as long as carried out in accordance with BS 3998:2010.

Whether the application is justified

- 8.7 The work proposed has been assessed and has been considered to be justified. The additional work to the Horse Chestnut tree (T4) is required in order to provide adequate clearance and maintain access to the application site and neighbouring dwellings.
- 8.8 By virtue of the above 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: -

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 necessary. The proposal is, therefore in accordance with policy DM10 of the SADMP and paragraph 136 of the NPPF. As a result, the application should be approved with conditions set out below.

11. Recommendation

- 11.1 **Grant consent** subject to the planning conditions

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 to the Horse Chestnut tree (T4) shall be restricted to the removal of one additional branch.

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.

Notes to Applicant:

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 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 we recommend that it be surveyed for bats before any work is carried out.

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. We therefore recommend that work to trees is done outside the nesting season - i.e. between the end of August and beginning March. If work 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 if 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.