

Delegated Report

Planning Ref: 25/00106/TPO
Applicant: Mrs Claire Bradbury
Ward: Newbold Verdon With Desford & Peckleton

**Site: 28 Spinney Drive, Botcheston, Leicester, Leicestershire,
LE9 9FG**



**Hinckley & Bosworth
Borough Council**

Proposal: Pine tree - Fell due to damage caused by roots

1. Recommendations

- 1.1. Refuse consent subject to reasons at the end of this report

2. Planning Application Description

- 2.1 The application seeks planning consent for the following works at 28 Spinney Drive, Botcheston, Leicester, Leicestershire, LE9 9FG
- Pine tree - Fell due to damage caused by roots

3. Description of the Site and the Surrounding Area

- 3.1. The application site relates to a single storey semi-detached bungalow situated outside of the settlement boundary of Botcheston, with the National Forest and Charnwood Forest catchment area.
- 3.2. The tree affected by the proposed work is protected by the Hinckley and Bosworth (Botcheston (Polebrook House) (No.1) Tree Preservation Order 1987

4. Relevant Planning History

07/00612/FUL

- REPLACEMENT OF EXISTING CONSERVATORY (RETROSPECTIVE APPLICATION)
- PER
- 21.08.2007

17/00916/TPO

- Fell 1x Corsican pine
- TPOREF
- 31.10.2017

20/00787/TPO

- Remove lowest four limbs from Pine (T9)
- TPOPER
- 29.09.2020

23/01098/TPO

- (T1) - Canadian Pine tree - Fell

- REFTPO
- 09.01.2024

92/00455/4

- ERECTION OF CONSERVATORY
- PER
- 17.06.1992

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. Desford Parish Council

“The Parish Council discussed this application last night and resolved to object to the felling of a mature tree which was in situ before the conservatory was built. They asked whether planning permission was granted for the conservatory?
Council asked that the HBBC tree officer attend to inspect the tree.”

HBBC Arboricultural Officer

Thank you for the attached information in the form of the Structural Engineer report. The tree in question is a Corsican Pine (Pinus nigra).

It appears the property could be subject to tree related subsidence however the information provide is not wholly adequate in the support of this.

No water level monitoring has been undertaken at the site, this is required to ascertain that the soil medium is being adversely altered by the water uptake of the Early-Mature tree. This is usually undertaken over the summer months, yielding valuable evidence.

It is also mentioned that roots were detected during the auger bored trial pits, there is no evidence here to support that they do in fact belong to the tree (usually provided in the form of lab results) and there is no mention about the size or significance of these roots. Minor fibrous roots would arguably add stability to the soil medium surrounding the property.

Given the significant landscape and amenity importance of the tree in question the aforementioned information would need to be provided to fulfil the requirements of making an informed decision if the tree is permitted to be felled.

Due to the fact the tree predates the property and the structure would have been erected within the key rooting area, it would be likely that there was some removal of some minor tree roots which would typically encourage them to haemorrhage in the opposite direction from the structure, this could be the cause of the mentioned road damage which is suspected and not confirmed to be caused by the tree at this time.

Monitoring of the repointed/resealed areas of the property in the form of photographs could strengthen the case of tree related subsidence.

The felling of the tree could also cause significant heave of the soil medium which would cause the opposite problem to that which is being claimed.

7. Policy

7.1. Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design

7.2. National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)

7.3. 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 tree 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. The tree is located to the side of the application dwelling between number 28 Spinney Drive and 26 Spinney Drive. It holds a prominent position adjacent to the highway and contributes significantly to the character and appearance of the streetscene.

8.5. The HBBC Arboricultural Officer has assessed the Pine tree (T1) and confirms it holds significant landscape and amenity value. He has concluded that the proposed supporting evidence for the felling of the tree is inadequate and therefore does not justify the removal of the tree.

8.6. The Local Planning Authority therefore deems the proposed works as unacceptable in terms of the impact upon the amenity of the area.

Whether the application is justified

- 8.7. There have been two applications submitted in recent years (17/00916/TPO and 23/01098/TPO) requesting to fell the Canadian Pine tree (T1), both were refused due to the significant impact that the removal would have upon the amenity of the area.
- 8.8. The HBBC Arboricultural officer conducted an additional site visit at the request of the applicant on 7 May 2025. He has advised that the following would need to be provided in order to prove with certainty that the Corsican Pine tree (*Pinus nigra*) is causing tree related damage (in the form of subsidence)
- A subsidence report from a structural engineer, including information of the foundations and their respective depths.
 - Lab root analysis, with sufficient evidence confirming roots which are woody and not fibrous belonging to the relevant species (*Pinaceae*).
 - Water level monitoring survey undertaken over the summer months (using two or more trial pits).
 - An Arboriculturist's subsidence report (desirable but not essential).
- 8.9. In addition to the above, the Arboricultural officer has also offered an alternative proposal, recommending decompaction of the rooting area via air spade and installation of root barriers near the property in order to eliminate any future likelihood of damage to the whilst still ensuring the tree is retained.
- 8.10. The proposed felling of the Pine Tree is therefore considered to be unacceptable due to lack of information as per the HBBC Arboricultural Officer's recommendations.
- 8.11. By virtue of the above it is considered that the work would have a significant impact upon public amenity and is therefore not 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. Overall the proposed works would have a significant, negative impact upon the overall character, appearance and visual amenity of the area and would result in potential harm to a protected tree without adequate justification. The proposal is therefore contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 136 of the National Planning Policy Framework.

11. Recommendation

- 11.1. **Refused subject to the reasons at the end of this report**

11.2. Reasons

The proposed works would have a significant, negative impact upon the overall character, appearance and visual amenity of the area and would result in unnecessary harm to a protected tree without adequate justification. The proposal is therefore contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 136 of the National Planning Policy Framework (2024).