

Delegated Report

Planning Ref: 24/01094/TPO

Applicant: Mr Tom Prime

Ward: Barlestone, Nailstone And Osbaston



**Hinckley & Bosworth
Borough Council**

Site: Land Adj 22 Bosworth Road, Barlestone Nuneaton

Proposal:

- Cherry (T1) full tree removal to allow for a new fence**
- Cherry (T2) cut overhanging branches back to fence line**
- Cherry (T3) cut overhanging branches back to fence line**
- Oak (T4) cut overhanging branches back to fence line**
- Oak (T5) cut overhanging branches back to fence line**
- Oak (T6) cut overhanging branches back to fence line**
- Oak (T7) cut overhanging branches back to fence line**
- Oak (T8) cut overhanging branches back to fence line**
- Oak (T9) cut overhanging branches back to fence line**
- Ash (T10) cut overhanging branches back to fence line**
- Ash (T11) cut overhanging branches back to fence line**
- Oak (T12) cut overhanging branches back to fence line**
- Oak (T13) cut overhanging branches back to fence line**
- Ash (T14) cut overhanging branches back to fence line**

1. Recommendations

1.1. Grant consent subject to the conditions

2. Planning Application Description

2.1 The application seeks planning consent for the following works at 22 Bosworth Road, Barlestone Nuneaton

- Cherry (T1) full tree removal to allow for a new fence
- Cherry (T2) cut overhanging branches back to fence line
- Cherry (T3) cut overhanging branches back to fence line
- Oak (T4) cut overhanging branches back to fence line
- Oak (T5) cut overhanging branches back to fence line
- Oak (T6) cut overhanging branches back to fence line
- Oak (T7) cut overhanging branches back to fence line
- Oak (T8) cut overhanging branches back to fence line
- Oak (T9) cut overhanging branches back to fence line
- Ash (T10) cut overhanging branches back to fence line
- Ash (T11) cut overhanging branches back to fence line
- Oak (T12) cut overhanging branches back to fence line
- Oak (T13) cut overhanging branches back to fence line
- Ash (T14) cut overhanging branches back to fence line

3. Description of the Site and the Surrounding Area

3.1. The application site relates to a small woodland spinney owned by Barlestone Parish Council. However the application has been submitted by the occupant of

the neighbouring dwelling 22 Bosworth Road who wishes to manage the trees that are impacting his property boundary.

- 3.2. The trees are protected under the Hinckley and Bosworth Barleston (Bosworth Road) Tree Preservation Order (No2) 1988 (88/00001/TPORD)

4. Relevant Planning History

98/00866/TPO

- LOPPING AND TRIMMING OF VARIOUS TREES
- TPOPER
- 28.10.1998

5. Publicity

- 5.1. None Relevant

6. Consultation

- 6.1. Barlestone Parish Council

“The Parish Council have agreed to the application but no work must be carried out until the electricity cables for the Christmas Lights have been removed in January.”

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. Barlestone Neighbourhood Plan (2022):

- Policy ENV4: Important Open Spaces
- Policy ENV7: Notable Trees, Woodland, and Hedges

- 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 trees are subject to a tree preservation order and are 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 Barlestone Neighbourhood Plan recognises the application site for the significant contribution it makes to the area's setting and character. It states "any proposals which result in the loss of trees and hedgerow should be accompanied by an Arboricultural Survey to assess the quality of the tree and or hedgerow. Where the loss of any features identified in figure 11 is unavoidable the principles of mitigation and biodiversity net gain should be applied in accordance with paragraph 32 of the NPPF".
- 8.5. The spinney is owned by Barlestone Parish Council and comprises of over 60 species of tree including Alder, Ash, Beech, Cherry, Horse Chestnut, Lime, Maple, Quickthorn, Oak Sorbus and Willow.
- 8.6. The Cherry (T1) is situated on the property boundary of 22 Bosworth Road and is causing damage to the fence line. As a result the applicant has requested the removal of the tree in order prevent the fence from deteriorating further.
- 8.7. Due to its position and the vast amount of trees within the spinney the Cherry (T1) is shielded from the highway on Barton Road. The proposed felling of Cherry (T1) will therefore not have a negative impact upon the public amenity of the area providing that a replacement tree is planted in order to mitigate the loss of the Cherry (T1).
- 8.8. The proposed works to trees T2 - T14 are considered to be reasonable and would not detrimentally impact the amenity value of the trees and their contribution to the character of the area.
- 8.9. The Local Planning Authority therefore deems the amended proposed works as suitable as long as carried out in accordance with BS 3998:2010.

Whether the application is justified

- 8.10. The work proposed to Cherry (T1) has been assessed and is considered to be justified due to its limited visibility from the highway and the number remaining trees within spinney.
- 8.11. The works to the other trees (T2 - T14) will provide adequate clearance to the neighbouring dwelling (22 Bosworth Road).
- 8.12. A replanting condition has been implemented.
- 8.13. Barlestone Parish Council (the land owners) are satisfied that adequate justification has been provided and support the work proposed.

- 8.14. By virtue of the above it is considered that the work would not 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 acceptable. The Local Planning Authority is satisfied that the proposed works to the trees is reasonable and that the works will ensure that amenity of the area is retained. The proposal is, therefore in accordance with policy DM10 of the SADMP 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 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 (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 shall be restricted to the removal of the Cherry (T1)

The proposed works to Cherry (T2) shall be restricted to the removal of overhanging branches back to fence line

The proposed works to Cherry (T3) shall be restricted to the removal of overhanging branches back to fence line

The proposed works to Oak (T4) shall be restricted to the removal of overhanging branches back to fence line

The proposed works to Oak (T5) shall be restricted to the removal of overhanging branches back to fence line

The proposed works to Oak (T6) shall be restricted to the removal of overhanging branches back to fence line

The proposed works to Oak (T7) shall be restricted to the removal of overhanging branches back to fence line

The proposed works to Oak (T8) shall be restricted to the removal of overhanging branches back to fence line

The proposed works to Oak (T9) shall be restricted to the removal of overhanging branches back to fence line

The proposed works to Ash (T10) shall be restricted to the removal of overhanging branches back to fence line

The proposed works to Ash (T11) shall be restricted to the removal of overhanging branches back to fence line

The proposed works to Oak (T12) shall be restricted to the removal of overhanging branches back to fence line

The proposed works to Oak (T13) shall be restricted to the removal of overhanging branches back to fence line

The proposed works to Ash (T14) shall be restricted to the removal of overhanging branches back to fence line

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 (2024).

4. Within one month of the removal of the Cherry (T1) details of a replacement tree, including its location shall be submitted to and approved in writing by the Local Planning Authority. The replacement tree shall be planted in

accordance with the approved details during the next available planting season (October to March).

Reason: To ensure that replacement trees are planted on site in the interests of protecting the amenity of the area in accordance with Policy DM10 of the adopted Site Allocations and Policies Development Plan Document (2016) and paragraph 136 of the NPPF (2024).

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.

This permission does not affect any private property rights and does not authorise the applicant to carry out work on land outside of their control. The applicant is therefore required to obtain the landowners consent prior to commencing any works.

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.