

Delegated Report

Planning Ref: 25/00450/TPO
Applicant: Mallory Park Estate Glover
Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: Mallory Park, Church Road, Kirkby Mallory, LE9 7QE

Proposal: Works to trees (G1 and G2) - Crown raise to 5.2m to allow vehicles to access.

Case Officer: Jack Playle (Technical Planning Assistant)

1. Recommendations

- 1.1. Grant consent subject to the conditions.

2. Application Description

- 2.1 The application seeks consent for the following works at Mallory Park, Church Road, Kirkby Mallory, LE9 7QE.
- Works to trees (G1 and G2) - Crown raise to 5.2m to allow vehicles to access.

3. Description of the Site and the Surrounding Area

- 3.1. The application site relates to trees located on Church Road within the settlement boundary of Kirkby Mallory.
- 3.2. The tree(s) affected by the proposed are situated to the east of Church Street and are located on either side. The trees are protected under G7 of the Hinckley and Bosworth Kirkby Mallory (Mallory Park) Tree Preservation Order 1995 (95/00006/TPO) which protects Lawsons Cypress, Prunus, Multi-stemmed Sycamores, Silver Birch and Goat Willow and are protected under G1 Tree Preservation Order (No 1) 1989 (89/00012/TPO) which protects Ash, Elm, Holly, Limes and Sycamores.

4. Relevant Planning History

20/00985/TPO

- Fell 2x Sycamores and Holly, with works to 2x Sycamores and 4x Limes
- TPOPER
- 04.12.2020

15/00855/TPO

- Works to trees
- WDN
- 01/09/2015

5. Publicity

5.1. The application has been publicised by sending out letters to local residents.

- South Lodge, 62 Church Road, Kirkby Mallory, Leicester
- Suomi, 49 Church Road, Kirkby Mallory, Leicester
- 45 Church Road, Kirkby Mallory, Leicester
- The Stables, 47 Church Road, Kirkby Mallory, Leicester
- Peckleton Village Hall, 71 Main Street, Peckleton, Leicester

5.2. No comments have been received.

6. Consultation

6.1. Kirkby Mallory Peckleton Stapleton Parish Council:

“Kirkby Mallory, Peckleton and Stapleton Parish Council have no comments or objections to make on this application.”

HBBC Arboricultural Officer:

“I am wholly satisfied there is justification for these works to be undertaken to the Trees at Mallory Park, Church Road Kirkby Mallory, LE9 7QE. It is common practice to crown lift trees over the highway to this level. As always, works must be in accordance with the relevant British Standard (3998:2010).”

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 trees are 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 trees (G1 and G2) are situated on either side of Church Road that leads up to the entrance of Mallory Park. Due to the size and the position of the trees, they contribute positively to the character and appearance of the area and neighbouring properties.
- 8.5. The crowns of the trees overhangs parts of the entrance to Mallory Park as well as dwellings located on either side of Church Road. The HBBC Arboricultural officer has assessed the works and has concluded that the works to crown lift the trees to 5.2m above the highway is common practice to help with vehicle access.
- 8.6. The Local Planning Authority therefore deems the proposed works as 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 is considered to be justified. The works are considered necessary to allow vehicle access around the site.
- 8.8. 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 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 to trees G1 and G2 shall be restricted to crown lifting by 5.2 metres property to comply with the relevant British Standard for Tree works (BS3998:2010).

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).

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.