

Delegated Report

Planning Ref: 24/00698/TPO

Applicant: Mr Mark Patrick

Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: 44 Cardinal Drive Burbage Leicestershire

Proposal: T1 - Lime tree - 9.00 metre reduction and a crown lift, and thinning out branches to help tree growth.

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 to conduct a 9.00 metre crown reduction and lift, as well as the thinning out of the branches to the Lime tree (T1) at 44 Cardinal Drive, Burbage.

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 application dwelling forms part of a residential development which was granted consent in August 2011, under application 10/00518/OUT for the development of up to 375 dwellings including the addition of employment facilities.
- 3.2. The Lime tree (T1) is situated to the north-east of the site and is protected under G1 of THE BOROUGH COUNCIL OF HINCKLEY & BOSWORTH (Land at Johnsons Apparelmaster site off Rugby Road, Burbage) TREE PRESERVATION ORDER 2009 (Reference; 09/00004/TPORD).
- 3.3. Upon submission the application sought consent to fell Lime trees (T2-T3), nevertheless by virtue of the condition of the trees consent was granted under a 5 day notice. (24/10108/FDTREE).

4. Relevant planning history

18/00820/TPO

- Works to trees - reducing height, crown lifting, thinning branches
- TPOPER
- 19.11.2018

21/00413/TPO

- Crown lift and reduction to lime trees
- TPOPER
- 23.06.2021

5. Publicity

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

6. Consultation

6.1. Burbage Parish Council:

“Burbage Parish Council would support the recommendation of the Borough tree officer but can see no reason to carry out such works to a healthy tree.”

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) (2023)
- 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 Lime tree (T1) is subject to a group 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) (2023) 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.

- 8.5 The application seeks consent to conduct a 9.00 metre crown reduction and lift, as well as the thinning out of the branches to the Lime tree (T1) at 44 Cardinal Drive, Burbage. The Lime tree (T1) is situated to the north-east of the site and is only partially viewable from the adjacent highway, Cardinal Drive.
- 8.6 Following comments as received from Burbage Parish Council, the case officer has sought comments from the HBBC Green Spaces Tree Officer, who has deemed the proposed works as appropriate.
- 8.7 The Local Planning Authority therefore considered the works to be appropriate, by way of the submitted evidence. The works will not result in the loss of a protected tree and along with its low public visibility will not have a negative impact upon the amenity of the area.
- 8.8 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

- 8.9 The Local Planning Authority is required to consider the public benefit of proposed works to protected trees. The proposed works to the Lime tree (T1) are required as it would be unreasonable for the Local Planning Authority to expect this species of tree be allowed to grow to mature size in such a small garden. The pruning work is appropriate for the location, garden size and the tree's declining vigour as identified in the upper canopy in the submitted photograph.
- 8.10 A replanting condition is not considered to be expedient in this case, due to the recent removal of two Limes directly adjacent to the tree, which were in a significantly poor condition. A replacement tree would likely fail, due to the high possibility of poor soil conditions.
- 8.11 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:-
 - (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 Lime 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 therefore in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD, Policy 1 and 12 of the Burbage Neighbourhood Plan 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:

- 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 Policy DM10 of the Site Allocations and Development Management Policies DPD, Policy 1 and 12 of the Burbage Neighbourhood Plan 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 Lime tree (T1); shall be restricted a 9.00 metre reduction and a crown lift, and thinning out of branches to help tree growth 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 Policy DM10 of the Site Allocations and Development Management Policies DPD, Policy 1 and 12 of the Burbage Neighbourhood Plan and paragraph 136 of the NPPF.

11.3 Notes to applicant

- 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.
- 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 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.
- 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.