

## Delegated Report

**Planning Ref: 24/00901/TPO**

**Applicant: Mr Ian Carvell**

**Ward: Burbage Sketchley & Stretton**

**Site: 40 Britannia Road Burbage Hinckley**



Hinckley & Bosworth  
Borough Council

**Proposal: T1 - Sycamore tree - Remove to ground level.**

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### **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 remove the Sycamore tree (T1) to ground level at 40 Britannia Road, Burbage.

### **3. Description of the site and surrounding area**

- 3.1. The application site relates to a detached two-storey dwelling situated within the settlement boundary of Burbage. The dwelling comprises the use of red brick to the walls, brown tiles to the roof and off-white uPVC to the windows. The site can be accessed from the south of Britannia Road via a track situated between 38 and 44 Britannia Road.
- 3.2. The Sycamore tree (T1) is situated to the north-east of the site. Adjacent to the tree sits the public right of way U65 from Britannia Road, Burbage to join footpath U66 north of Burbage Fields. The tree is protected by the BOROUGH COUNCIL OF HINCKLEY AND BOSWORTH (BURBAGE (42 BRITANNIA ROAD) TREE PRESERVATION ORDER (NO.1) 1989 (Reference; 89/00002/TPORD).

### **4. Relevant planning history**

#### **01/01024/FUL**

- CONVERSION OF EXISTING STABLES TO FORM A RESIDENTIAL ANNEXE
- PER
- 01.11.2001

#### **02/00667/TPO**

- WORKS TO SEVEN SYCAMORE TREES
- TPOPER
- 26.06.2002

#### **07/00587/TPO**

- WORKS TO TREES
- TPOPER
- 12.07.2007

**07/00906/TPO**

- REMOVAL OF ONE SYCAMORE
- TPOPER
- 03.08.2007

**24/00328/TPO**

- G1 - (Group consisting six Sycamore, one Hornbeam and one Beech) - Reduce by a third of their height and remove overhang branches over the property.
- PERTPO
- 31.05.2024

**90/01262/4**

- ERECTION OF ONE DETACHED DWELLING
- PER
- 18.12.1990

**87/00110/4**

- ERECTION OF BUNGALOW OUTLINE
- OUT
- 24.03.1987

**90/00012/4**

- ERECTION OF DETACHED BUNGALOW
- APRREM
- 20.02.1990

**5. Publicity**

5.1. The application has been publicised by sending out letters to local residents. One comment of support has been received which has been summarized below;

- The falling branches, leaves and seeds are dangerous and a nuisance.

**6. Consultation**

6.1. Burbage Parish Council;

*“Burbage Parish Council would support the advice of the Borough Tree Officer in relation to the proposed work. It would not object to the removal of the tree but would wish to see a suitable replacement planted.”*

6.2. LCC Highways;

***“Background***

*The Local Highway Authority (LHA) has been consulted on an application for tree works to fell one Sycamore tree to ground level at 40 Britannia Road, Burbage.*

*The tree location marked on the aerial photo with the application is located next to the route of public footpath U65. Public footpaths are a category of public highway and so, by law, they should be open and available for the public to go back and forth at all times. The LHA appreciates the need for tree works to ensure the safety of surrounding properties and the safety of the public using the right of way.*

*If the tree works require the footpath to be closed for significant periods, as the route is a public highway, it requires a Temporary Traffic Regulation Order (TTRO) or Notice as for a road closure.*

*The application form and guidance notes are online at <https://www.leicestershire.gov.uk/roads-and-travel/road-maintenance/roadworks-closures-and-diversions>. The team responsible for closures can be contacted at [networkmanagement@leics.gov.uk](mailto:networkmanagement@leics.gov.uk). A pre-planned five-day closure by notice (TTRN) may be sufficient and has a shorter application timescale and lower cost than the full TTRO.*

*There is an alternative, if the work can be done safely whilst the footpath is closed briefly for no more than 15 minutes at a time, and with an hour between such closures. The official code of practice 'Safety at street works and road works' page 73 see online at:*

*<https://www.gov.uk/government/publications/safety-at-street-works-and-road-works>*

*allows such short duration closures subject to use of the prescribed design of signs and if all the other requirements are strictly observed.*

### **Informative**

*If TPO Permission is granted, the following notes should be drawn to the applicant's attention:*

- a) Prior to construction, measures should be taken to ensure that users of the Public Right(s) of Way are not exposed to any elements of danger associated with construction works.*
- b) The Public Right(s) of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.*
- c) The Public Right(s) of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.*
- d) If the contractor requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to [networkmanagement@leics.gov.uk](mailto:networkmanagement@leics.gov.uk) at least 12 weeks before the temporary diversion is required.*
- e) Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the works, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.*
- f) No new gates, stiles, fences or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the*

*written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.”*

6.3. Ramblers Association;

**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 Sycamore 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

8.5 The application seeks consent to remove the Sycamore tree (T1) to ground level at 40 Britannia Road, Burbage. The Sycamore tree (T1) is situated to the north-east of the site. Adjacent to the tree sits the public right of way U65 from Britannia Road, Burbage to join footpath U66 north of Burbage Fields.

- 8.6 As public footpaths are a category of public highway by law, they should be open and available for the public to go back and forth at all times, however it has been acknowledged by the Leicestershire Highways Authority that tree works are required to ensure the safety of surrounding properties and the safety of the public using the right of way. Therefore, a set of informative has been set out within section 11.3. of this report.
- 8.7 The Local Planning Authority have assessed the proposal and can conclude that the proposed works are considered to be acceptable. The proposal does include the felling of a protected tree, however by way of the submitted evidence the Local Planning Authority consider the felling to be appropriate. The felling will have a negative impact upon the amenity of the area due to its amenity value, however as long as replacement planting is carried out in accordance with the implemented replacement planting condition, to mitigate for the loss of the Sycamore tree (T1) the impact will be minimal.
- 8.8 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 felling of the Sycamore tree (T1) is required as the tree has multiple large decay wounds at the base of the stem, which is a considerable safety concern as it is situated within close proximity to a public footpath and residential dwellings.
- 8.10 A replanting condition has been implemented.
- 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 felling of the Sycamore tree (T1) is 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, Paragraph 136 of the NPPF and Policy 12 of the Burbage Neighbourhood Plan. 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, Paragraph 136 of the NPPF and Policy 12 of the Burbage Neighbourhood Plan.

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 Sycamore tree (T1) to ground level 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, Paragraph 136 of the NPPF and Policy 12 of the Burbage Neighbourhood Plan.

4. Within one month of the removal of the tree; details of tree, including its location, to replace Sycamore tree (T1) shall be submitted to and approved in writing by the Local Planning Authority. The replacement trees shall be planted in accordance with the approved details in 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 Site Allocations and Development Management Policies DPD, Paragraph 136 of the NPPF and Policy 12 of the Burbage Neighbourhood Plan.

### **11.3 Notes to applicant**

- a) Prior to construction, measures should be taken to ensure that users of the Public Right(s) of Way are not exposed to any elements of danger associated with construction works.

- b) The Public Right(s) of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.
- c) The Public Right(s) of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
- d) If the contractor requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to [networkmanagement@leics.gov.uk](mailto:networkmanagement@leics.gov.uk) at least 12 weeks before the temporary diversion is required.
- e) Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the works, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
- f) No new gates, stiles, fences or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.