

Delegated Report

Planning Ref: 23/00306/TPO

Applicant: Mr Ben Smith

Ward: Groby



Hinckley & Bosworth
Borough Council

Site: Land At Oaks Tree Close Groby

Proposal: Please see application form

1. Recommendations

- 1.1. **Refuse Tree Preservation Order Works** subject to the reasons at the end of this report.

2. Planning application description

- 2.1. The application seeks consent to
- T0640; Oak tree – Conduct a 3 metre crown reduction and remove deadwood.
 - T0634; Ash tree - Remove central limb
 - No tag; Ash tree – Remove limb crossing tree in front
 - No tag; Multi stem Ash - Monolith to 15ft
 - No tag; Oak – Conduct a crown reduction by 30%
 - T1501; Ash tree - Monolith to 15ft
 - No tag; Ash tree - Remove leaning low limb
 - Tree in front of Nr3 Spinney Close – Reduce to 8 metres
 - No tag; Multi stem Oak tree - Reduce to below bottom of lower limb.
 - Sever Ivy to all trees and remove all self-set trees
- 2.2. Insufficient information has been provided in order to identify and assess the works of the trees.

3. Description of the site and surrounding area

- 3.1. The application site is situated to the east of Oaks Way and is situated within the settlement boundary of Groby. To the north of the site sits Oak Tree Close, and to the south of the site sits Spinney Close. Part of the site is an Open Space & Recreation Facility and the other host residential dwellings 1, 2, 3, 4 and 5 Spinney Close, Groby.
- 3.2. The trees are protected under the Hinckley and Bosworth Tree Preservation Order reference 83/00003/TPORD. A section of the land is also protected under the Leicestershire County Council Tree Preservation Order reference 71/00003/TPORD which is to be considered separately.

4. Relevant planning history

06/00582/TPO

- FELLING OF 29 TREES AND WORKS TO 131 TREES
- TPOPER
- 17.07.2006

06/00184/GDOT

- ERECTION OF 15M TELECOMMUNICATIONS MONOPOLE, ASSOCIATED EQUIPMENT CABINET AND METER CABINET
- GDOT
- 04.04.2006

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. One objection has been received highlighting the below points;

- The application states that the trees are not protected by a TPO
- The application states that the tree are situated within a conservation area
- No clear sketch plan
- Description is not clear
- No proposed replanting
- Works are excessive
- The land is a valuable wildlife corridor

6. Consultation

6.1. Groby Parish Council;

- The application form is not correct
- The submitted plan is not clear
- Concern regarding the removal of self-set trees
- Concern regarding the extent of the works
- The land is a wildlife corridor and works would have a detrimental impact upon the biodiversity of the area
- The land is situated within the ancient woodland buffer and badger settlement

6.2. HBBC Arboricultural Officer;

- The proposed works to the tree is unclear
- The plan is not specific
- The works to those identifiable are unjustified
- A report needs to be submitted by a suitably qualified arborist

6.3. HBBC Conservation Officer

- No objections

7. Policy

7.1. Core Strategy (2009)

- Policy 8: Key rural centres relating to Leicester
- Policy 21: National Forest

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

7.4. 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

7.5. 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.

8.2 The HBBC Arboricultural Officer has assessed the application and has recommended refusal. Insufficient information has been provided in order for Hinckley and Bosworth Planning Department to determine the application.

8.3 The Arboricultural Officer recommended that a report be submitted by suitably qualified arborist with all trees identified by number tag on site. However, the agent has not been receptive to the recommendation and the Council's reasoning. The proposed works to the trees would therefore be unsuitable and unacceptable works to a group of significant and protected trees.

Whether the application is justified

8.4 The work as proposed has been assessed by the HBBC Arboricultural Officer. The work proposed would have a significantly detrimental impact upon the visual amenity of the area and on the Conservation Area of Groby. The applicant has not provided sufficient information or satisfactory justification for the work. The proposed work is therefore considered unacceptable and recommended for refusal.

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. The work as described would be contrary to Policies DM10, DM11 and DM12 of the SADMP; it would have a significant impact upon the visual amenity of the protected trees and on the Conservation Area of Groby, by virtue of its excessive, unsuitable and unjustified nature. The proposed work would not be in accordance with the Tree Officer's recommendations and would therefore be unacceptable.

11. Recommendation

- 1.2. **Refuse Tree Preservation Order Works** subject to the reasons at the end of this report.

11.1 Reasons

1. Without any satisfactory justification and due to the insufficient information provided the proposed works would result in the damage/loss to protected trees. The proposed development would therefore result in a significant detrimental impact upon visual amenity, contrary to Policy DM10, DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016).

11.2 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.
- 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.