

Delegated Report

Planning Ref: 25/00192/TPO

Applicant: Ms Helen Baxter

Ward: Cadeby, Carlton, Market Bosworth and Shackerstone



**Hinckley & Bosworth
Borough Council**

**Site: Rowan, 1 Shadows Lane, Congerstone, Nuneaton,
Leicestershire, CV13 6NF**

Proposal: Crimson King Acer (T2) Carry out crown maintenance to remove dead, diseased and damaged branches and a 1.5 metre crown reduction to reduce branches overhanging the roof. The leaves from which block the gutters due to the height and close proximity of the tree to the house. Short term a canopy reduction might stem root ingestion

1. Recommendations

- 1.1. Grant consent subject to the conditions

2. Planning Application Description

- 2.1 The application seeks planning consent at Rowan, 1 Shadows Lane, Congerstone, Nuneaton, Leicestershire, CV13 6NF

Originally this application requested the following works

- Crimson King Acer (T2) Carry out crown maintenance to remove dead, diseased and damaged branches and a 30% crown reduction to reduce branches overhanging the roof.

Following a consultation with the HBBC tree officer the description was amended to

- Crimson King Acer (T2) Carry out crown maintenance to remove dead, diseased and damaged branches and a 1.5 metre crown reduction to reduce branches overhanging the roof.

3. Description of the Site and the Surrounding Area

- 3.1. The application site relates to a residential dwelling situated within Congerstone. The tree is located to the east of the site adjacent to Main Street.
- 3.2. The tree(s) affected by the proposed work is protected by the Hinckley and Bosworth (Land at Rowan, 1 Shadow Lane, Congerstone) Tree preservation order 2003 (03/00006/TPORD)

4. Relevant Planning History

03/00671/TPO

- CUTTING DOWN THREE TREES AND REDUCING HEIGHT OF CONIFERS

- TORDER
- 21.07.2003

03/00971/TPO

- WORKS TO TWO TREES
- TPOPER
- 15.09.2003

09/00577/TPO

- WORKS TO 1 NO. ROWAN TREE AND 1 NO. MAPLE TREE
- TPOPER
- 26.08.2009

15/01228/TPOCA

- Works to tree
- WDN
- 04.01.2016

24/01109/TPO

- Crimson King Acer (T2) Fell to prevent further damage to drains
- REFTPO
- 24.01.2025

5. Publicity

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

6. Consultation

- 6.1. HBBC Tree Officer:

“I am satisfied there is a requirement for a maximum of a 1.5 metre crown reduction to be undertaken to this tree in accordance with BS3998:2010, including the removal of deadwood. This work will be auditable by the Local Planning Authority.”

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
- 7.3. 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 tree is 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 tree is located in a prominent position adjacent to Main Street and offers a high level of amenity value to the street scene due to its size and position. Many mature trees can be found nearby that contribute significantly to the overall character of the area.
- 8.5. An application requesting the felling of the Crimson King Acer (T2) was recently submitted under 24/01109/TPO. The local planning authority refused this application as it was felt that felling the tree would have a significant negative impact upon the overall character and appearance of the area.
- 8.6. The HBBC Tree Officer has recommended a crown reduction of 1.5m. This was discussed with the applicant who has agreed to the revised scope of works.
- 8.7. It is therefore felt that the works suggested within this application, subject to the proposed conditions, are reasonable and would not have a negative impact on the amenity of the area.
- 8.8. 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

- 8.9. The work proposed has been assessed and is considered to be justified. The reduction in the canopy will provide clearance over the application dwelling and reduce the debris in the gutters.
- 8.10. The works would not result in the loss or harm to a protected tree.
- 8.11. 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 the Crimson King Acer (T2) shall be restricted to a 1.5m crown reduction and the removal of dead, diseased and damaged branches.

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.