

Delegated Report

Planning Ref: 24/00886/TPO
Applicant: Mrs Sian Whiteley
Ward: Hinckley Clarendon



Hinckley & Bosworth
Borough Council

Site: 8 Lawton Close, Hinckley, Leicestershire, LE10 0YG

Proposal: T1 - Ash - Remove branches overhanging adjacent property, prune back to border and remove dead branches, T2 - Ash - Crown lift by 4 metres, prune back to border and remove dead branches, T3 - Ash - Prune back to border and remove dead branches and those overhanging adjacent property

1. Recommendations

- 1.1. Grant consent subject to the conditions at the end of this report

2. Planning Application Description

- 2.1. The application seeks planning consent for the following works at 8 Lawton Close, Hinckley, Leicestershire, LE10 0YG;
- T1 - Ash - Remove branches overhanging adjacent property, prune back to border and remove dead branches
 - T2 - Ash - Crown lift by 4 metres, prune back to border and remove dead branches
 - T3 - Ash - Prune back to border and remove dead branches and those overhanging adjacent property

3. Description of the Site and the Surrounding Area

- 3.1. The application site is a residential dwelling situated within the settlement boundary of Hinckley. The Ash trees are situated to the rear of the site and are clearly visible from the public highway on Brascote Road.
- 3.2. The trees are protected under the Hinckley and Bosworth Tree Preservation Order reference 76/00003/TPORD

4. Relevant Planning History

11/00366/TPO

- Works to three Ash Trees
- TPOPER
- 22.07.2011

14/00588/TPO

- Removal of 6 Ash trees (Trees 1-4 and 6-7) and works to two Ash trees (Tree 5 and 8)

- WDN
- 11.07.2014

14/00694/TPO

- Works to four Ash trees
- TPOPER
- 20.08.2014

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. None relevant

7. Policy

- 7.1 Core Strategy (2009):
- Policy 1: Development in Hinckley
- 7.2 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)
- 7.4 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

- 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 Ash Trees are subject to a 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) (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 are situated within the rear garden of 8 Lawton Close and overhang the footpath between Lawton Close and Brascote Road. The trees are clearly visible from Brascote Road, however the suggested works are considered reasonable and would not have adverse impact upon the amenity of the area by virtue of the submitted justification.
- 8.5 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

- 8.6 The work proposed has been assessed and has been considered to be justified. The proposed works will ensure that adequate clearance is provided above the public footpath and neighbouring dwellings.
- 8.7 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: -

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 necessary and will continue to ensure that the life span of the tree is preserved. The proposal is, therefore in accordance with policy DM10 of the SADMP 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 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.

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 Ash tree (T1) shall be restricted to the removal of branches overhanging the adjacent property, pruning back to the border and the removal dead branches.

The proposed works to the Ash tree (T2) shall be restricted to Crown lifting by 4 metres, pruning back to border and removal dead branches.

The proposed works to the Ash tree (T3) shall be restricted to the removal of branches overhanging the adjacent property, pruning back to the border and the removal dead 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.

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.

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.