

Delegated Report

Planning Reference 25/01204/TPO

Applicant Mr Russell James

Ward Barlestone, Nailstone, and Osbaston

Application Site Smithy Farm, Hinckley Road, Nailstone



Hinckley & Bosworth
Borough Council

Proposal X17 Lombardy Poplar Trees - Crown reduction to a height of approximately 12 metres above ground level due to one of the tree groups falling in recent bad weather

Case Officer Rudi Simpson (Technical Planning Assists)

1. Recommendations

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

2. Planning Application Description

2.1. This application seeks consent for the crown reduction of 17 protected Lombardy Poplars to a height of 12 metres above ground level at Smithy Farm, Hinckley Road, Nailstone. The proposed works are due to one of the trees falling in recent bad weather.

3. Description of the Site and the Surrounding Area

3.1. The application relates to 17 protected Lombardy Poplars (G1) that are situated within, and to the north of, Smithy Farm in a key open space within the Nailstone Conservation Area. The tree(s) affected by the proposed work are protected under The Borough Council of Hinckley and Bosworth (Smithy Farm, Hinckley Road, Nailstone) (No.9) Tree Preservation Order 2023 (23/00009/TPORD).

3.2. Smithy Farm is located to the west of Nailstone in the designated open countryside and is identified within the Nailstone Conservation Area Appraisal (2015) as a key unlisted building. The application site which is immediately adjacent to Hinckley Road (A447)'s confluence with Ibstock Road (A447) to the north, Barton Lane to the west and Main Street to the east. The protected trees within the application site extend along Smith Farm's northern boundary adjacent to Barton Lane.

4. Relevant Planning History

4.1 23/00930/TCA

- (G1) - Reduce the row of poplar trees by half
- Tree Preservation Order
- 03.11.2023

5. Publicity

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

6. Consultation

- 6.1 The Council's Arboricultural Officer considered that there was justification for reducing of the tree group to approximately 12m alongside the removal of ivy from all stems and the removal of root suckers so the individual trees can be correctly identified and managed. Following this reduction, the Arboricultural Officer recommended a routine maintenance cycle every two to three years to remove regenerative growth/shoots as growth adjacent to the apex is likely to develop weakly unionised growth.

- 6.2 No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):

- No relevant policies.

- 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
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets

- 7.3 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- National Design Guide (2019)
- Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. The key issues in respect of this application are the impact of the proposal upon the amenity of the area, and whether the proposed works are justified

- 8.2 Paragraph 136 of the NPPF highlights that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change.

- 8.3 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.4 Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment and heritage assets. Development proposals should ensure the significance of a conservation area is preserved and enhanced.
- 8.5 The affected trees are subject to group Tree Preservation Order 23/00009/TPORD and are sited within a key open space within the Nailstone Conservation Area that is visually prominent from the surrounding public highways. Given the above, the protected trees are considered to play an important part for the character and the appearance of the local area.
- 8.6 This application was submitted following the recent failure of one of the trees within the group. Following a spate of bad weather one of the trees was uprooted which resulted in the fallen tree landing on a nearby neighbouring property, causing significant damage to the outbuilding and obstructing the highway.
- 8.7 Following this, a five-day notice was originally submitted in order to fell the remaining trees on site. This notice was refused following an inspection by the Council's Arboricultural Officer who recommended an alternative proposal to reduce the height of the protected trees to a height of 12 metres above ground level.
- 8.8 The proposed works within this application accord with the previous recommendations of the Arboricultural Officer. The Arboricultural Officer has confirmed as part of this current application that the proposed works would be justified in these site-specific circumstances.
- 8.9 The proposed works are considered to be necessary in order to maintain public safety and prevent further failure within the tree group. The proposed works are also considered to represent responsible tree management, which would ensure that the character and appearance of the Conservation Area and the surrounding area are preserved. In conjunction with the professional advice of the Arboricultural Officer, it is therefore considered that the proposed works are suitable as long as they are carried out in accordance with BS 3998:2010.
- 8.10 By virtue of the above it is considered that the proposed works would preserve the character, appearance, and thus significance of the Nailstone Conservation Area, and respect the character of the surrounding area in these site-specific circumstances. The proposed works would therefore comply with Policies DM10, DM11, and DM12 of the SADMP.

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.

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 and therefore in accordance with Policies DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024), subject to the imposition of appropriate conditions.

11. Recommendation

11.1 **Grant consent** subject to conditions at the end of this report:

11.2 Conditions and Reasons

- 1. The works to which this consent relates shall be completed within two years from the date of this consent.

Reason: To ensure that works are appropriate to the condition of the tree(s) at the time they are undertaken in accordance with the provision of the Town and Country Planning (Tree Preservation) Regulations 2012.

2. 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 adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024).

3. The proposed works to the Lombardy Poplars shall be restricted to a crown reduction of approximately 12 metres above ground level only. This shall be carried out every 2-3 years in order to remove any regenerative growth.

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 Development Plan Document (2016) and Paragraph 136 of the National Planning Policy Framework (2024).

a. **Notes to Applicant(s)**

1. The Applicant is advised that the consent hereby granted is only 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.
2. In accordance with the professional advice of the Council's Arboricultural Officer the proposed works should be undertaken alongside the removal of ivy from all stems and the removal of root suckers so the individual trees can be correctly identified and managed in the interests of responsible tree management.
3. 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.
4. 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, the affected tree(s) should be surveyed for bats before any work is carried out.

5. 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. All works to trees should therefore be done outside the nesting season (i.e. between the end of August and beginning March), unless carefully checked beforehand by a suitably qualified person. If nesting birds are present, work must be postponed until the young have left the nest.
6. 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.