

Delegated Report

Planning Ref: 24/01008/TPO

Applicant: Mr Burke

Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: 1 Goulton Crescent Desford Leicester

Proposal: T1 - Black Pine - Fell - In decline with limited foliage, adjacent busy junction. Re-plant with half standard Scots Pine.

1. Recommendations

- 1.1. **Refuse consent** subject to the reason at the end of this report.

2. Planning application description

- 2.1. The application seeks planning consent for the felling of the Black Pine tree (T1) at 1 Goulton Crescent, Desford.
- 2.2. The application includes an application form and site location plan. Requests were made for an arboricultural report but this has not been submitted. The specification of works in the application form include felling the Black Pine which is stated to be in decline, with limited foliage and adjacent to a busy junction. The proposal includes replacement planting of a half standard Scots Pine.

3. Description of the site and surrounding area

- 3.1. The application site relates to a two-storey detached residential dwelling situated within the settlement boundary of Desford. Goulton Crescent is a residential development to the north-west of Station Road which is made up of 19 dwellings, all of a similar scale, design and finish. The development was constructed around 2010.
- 3.2. The Pine tree (T1) subject to the application is situated to the north-east of the site directly adjacent to neighbouring dwelling, 3 Goulton Crescent upon a shared grass verge. The tree is highly visible from the adjacent highways Goulton Crescent, Station Road and Barns Way and is protected by The Borough Council of Hinckley & Bosworth (Land at 33-35 Station Road, Desford) Tree Preservation Order 2008 (Reference; 08/00004/TPORD).

4. Relevant planning history

18/00019/FTTREE

- 1x Scots pine, reduce overall height by 20 feet
- Dismissed
- 27.03.2019

08/00306/FUL

- Demolition of no's 33 and 35 and erection of 19 no. dwellings with associated parking and access
- Planning Permission
- 01.07.2008

14/00344/TPO

- Work to scots pine tree
- Permit Tree Preservation Order Works
- 28.05.2014

18/00234/TPO

- 1x Scots pine, reduce overall height by 20 feet.
- Refusal of Tree Preservation Order Works
- 04.05.2018

19/00907/TPO

- Work to x1 Scots Pine
- Permit Tree Preservation Order Works
- 07.10.2019

20/01126/TPO

- Pollard False Acacia at 15ft.
- Permit Tree Preservation Order Works
- 11.01.2021

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. Desford Parish Council
 - No comments have been received.

7. Policy

- 7.1. Desford Neighbourhood Plan 2018-2036
 - Policy H1: Settlement Boundary
- 7.2. Core Strategy (2009)
 - Policy 8: Key Rural Centres Relating to Leicester
- 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) (2024)
 - 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 Black Pine tree (T1) is subject to a group tree preservation order and is therefore considered to have a high level of amenity value.
- 8.3 Policy H1 of the Desford Neighbourhood Plan seeks to ensure that development proposals within the Plan area on sites within the settlement boundary of Desford are supported where they respect the character of the area.
- 8.4 The tree is situated to the north-east of the site directly adjacent to neighbouring dwelling, 3 Goulton Crescent upon a shared grass verge. The tree is highly visible from the adjacent highways Goulton Crescent, Station Road and Barns Way by virtue of its maturity and prominent location which contributes to the setting of this area of Desford.
- 8.5 The submitted application form states that the Black Pine tree (T1) is to be felled as it is in decline with limited foliage. There does appear to be some decline in foliage to the lower branches of the tree. However, the upper parts of the tree are still in leaf and the tree therefore still contributes to amenity of the area owing to its scale and maturity.
- 8.6 Therefore the tree has a positive impact on the local area and its enjoyment by the public. Removal of the tree therefore have a detrimental impact on the character and appearance of the area. A replacement tree could over time contribute to the character of the area, however, owing to the maturity of the current tree this would take a long time to establish and fully mitigate harm.

Whether the application is justified

- 8.7 The Local Planning Authority is required to consider the public benefit of proposed work to the protected trees. The application form states that the tree is in decline and is close to a busy junction.
- 8.8 The PPG is clear that “Applicants must provide reasons for proposed work. They should demonstrate that the proposal is a proportionate solution to their concerns and meets the requirements of sound arboriculture.”
- 8.9 Despite requests no arboricultural report/evidence has been submitted with the application. There is no evidence that the tree is likely to fail or that branches have failed prior to the application. As noted above visually there seems to be some decline in the lower branches of the tree, but not to the upper parts of the tree. No evidence has been provided that felling of the tree is a proportionate solution and that other tree works such as branch removal would not meet the requirements of sound arboriculture.
- 8.10 No evidence has been put forward to justify the felling proposed –no professional arboricultural report has been submitted to provide any justification for any work. To

fell the tree with no strong, overriding evidence demonstrated runs counter to the thrust of the TPO system of making 'provision for the preservation of trees' as Section 198 of the Act says. The proposed felling of the Black Pine tree (T1) has been assessed by the Local Planning Authority and has been considered to be unnecessary as no proper justification has been provided to support the loss of the tree. Therefore, the application is recommended 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

The proposed felling of the Black Pine tree (T1) at 1 Goulton Crescent Desford would have a significant, negative impact upon the overall character, appearance and visual amenity of the area, and would result in the loss of a protected tree without proper justification. The proposal is contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016), Policy H1 of the Desford Neighbourhood Plan and paragraph 136 of the National Planning Policy Framework.

11. Recommendation

11.1 **Refuse planning consent** subject to the reason at the end of this report.

11.2 Reason

- 1. The proposed works to the Pine tree (T1) would have a significant, negative impact upon the overall character, appearance and visual amenity of the area, and would result in the loss of a protected tree without proper justification. The proposal, therefore, is contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016), Policy H1 of the Desford Neighbourhood Plan and paragraph 136 of the National Planning Policy Framework.

11.3 Notes to applicant

- a) 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.
- b) 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.