

Delegated Report

Planning Ref: 24/00894/TPO

Applicant: Mr Chris Joyce

Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: 8 Summers Close Kirkby Mallory Leicester

Proposal: T1 Lime - Re-pollard back to historic main framework as done back in 2020 (20/01265/TPO)

1. Recommendations

1.1. Grant consent subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. The application seeks consent to re-pollard the Lime tree (T1) back to its historic main framework as done back in 2020 under application 20/01265/TPO at 8 Summers Close, Kirkby Mallory.

3. Description of the site and surrounding area

- 3.1. The application site relates to a two-storey late 90's detached residential dwelling situated within a cul-de sac, to the settlement boundary of Kirkby Mallory. It comprises the use of red brick to the walls with stone accents to the middle of the first floor, windows and gables, brown tiles to the pitched/hipped roof and white uPVC to the windows. To the north-west of the dwelling sits a detached pitched roof garage. The immediate highway hosts block paving stones which continue onto the site to create a pedestrian access and off-street parking provision.
- 3.2. The Lime tree (T1) is situated to the west of the site and due to its size is considerably viewable from multiple public vantage points. The tree is protected by the HINCKLEY AND BOSWORTH, KIRKBY MALLORY (KIRKBY HOUSE FARM) TREE PRESERVATION ORDER 1986 (Reference; 86/00004/TPORD).

4. Relevant planning history

02/00900/TPO

- WORKS TO TWO LIME TREES
- PER
- 30.08.2002

07/00310/TPO

- WORKS TO TREES
- TPOPER
- 13.04.2007

08/00867/FUL

- EXTENSIONS AND ALTERATIONS TO DWELLING
- PER

- 22.10.2008

09/00772/TPO

- REDUCTION IN HEIGHT OF 2 NO. LIME TREES (T3 AND T4 ON TPO)
- TPOREF
- 25.11.2009

15/00911/TPO

- Pollard T1 Lime and T2 Lime
- TPOPER
- 09.10.2015

18/01246/TPO

- Works to Lime tree
- TPOPER
- 01.02.2019

20/01265/TPO

- T1 Lime Repollard
- TPOCAP
- 15.04.2021

90/00561/4

- RESIDENTIAL DEVELOPMENT COMPRISING 13 DWELLINGS
CONVERSION OF BARN TO ONE DWELLING AND EXTENSION TO
CRICKET FIELD
- OUT
- 21.10.1991

5. Publicity

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

6. Consultation

- 6.1. Kirkby Mallory, Peckleton and Stapleton Parish Council- No comments received

7. Policy

- 7.1. Core Strategy (2009)
 - Policy 13: Rural Hamlets.
- 7.2. Site Allocations and Development Management Policies DPD (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) (2023)
- 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 Lime 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 136 of the National Policy Planning Framework (NPPF) (2023) seeks to ensure that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible.

8.4 The application seeks consent to re-pollard the Lime tree (T1) back to its historic main framework as done back in 2020 under application 20/01265/TPO at 8 Summers Close, Kirkby Mallory. The Lime tree (T1) is situated to the west of the site and due to its size is considerably viewable from multiple public vantage points.

8.5 The Local Planning Authority have assessed the proposed works and can conclude that the proposed are considered necessary in order to maintain the proportions of the tree so they are suitable for the property size. The works will therefore not have a detrimental impact upon the amenity of the area.

8.6 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

8.7 The Local Planning Authority is required to consider the public benefit of proposed works to protected trees.

8.8 The works as proposed to the Lime tree (T1) have been assessed and due to pollarding being required on a cyclical basis in order to maintain the proportions of the tree, the proposed pollarding is considered to be necessary as part of the cyclical maintenance of the tree.

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. In conclusion the proposed works to the Lime tree (T1) are considered to be acceptable. The Local Planning Authority is satisfied that the proposed works to the trees are necessary and that the works will ensure that amenity of the area is retained. The proposal is therefore in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD 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:

- Planning conditions outlined at the end of this report

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 shall be restricted to the re-pollarding of the Lime tree (T1) back to its historic main framework as done back in 2020 under application 20/01265/TPO only.

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.

11.3 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.
- 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 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.
- You are advised that if a protected tree is removed, uprooted or destroyed the landowner is placed under a duty to plant another tree of an appropriate size and species at the same place as soon as he or she reasonably can.