

Delegated Report



Hinckley & Bosworth
Borough Council

Planning Ref: 25/01165/TPO
Applicant: Bosworth Hall
Ward: Cadeby, Carlton, M Bosworth & Shackerstone
Site: The Bungalow, St Peters Court, Church Street,
Market Bosworth

Proposal: T1 and T2 Silver Birch – Remove due to significant lean over the bungalow and damage to the footpath

Case Officer: Rudi Simpson (Technical Planning Assistant)

1. Recommendations

1.1. **Refuse consent** subject to reasons at the end of this report:

2. Planning Application Description

2.1. This application seeks consent for the following works at The Bungalow, St Peters Court, Church Street, Market Bosworth

- **T1 and T2 Silver Birch – Remove due to significant lean over the bungalow and damage to the footpath**

3. Description of the Site and the Surrounding Area

3.1. The application relates to two Silver Birch trees located to the north of The Bungalow, St Peters Court within the settlement boundary and conservation area of Market Bosworth.

3.2. The trees affected by the proposed work are protected by the Hinckley and Bosworth (Bosworth Hall and The Wilderness) Tree Preservation Order 87/00008/TPORD.

4. Relevant Planning History

25/00820/TPO

- T1 and T2 - multi stem silver birch trees in the rear garden of the bungalow. Remove to ground level, due to heavily leaning over property and proximity to drains
- REFTPO

- 01.12.2025

5. Publicity

- 5.1 Due to the nature of the application and the location of the trees no third-party consultation has been carried out.

6. Consultation

6.1 HBBC Arboricultural Officer

“At present, I am not satisfied that there is adequate Arboricultural justification for the proposed felling of the two Birch trees. The application refers to potential damage should the trees fail; however, it does not provide sufficient supporting evidence or a clear assessment explaining why failure is considered likely. A hypothetical “could fail” scenario, without an informed appraisal, does not provide sufficient justification for removal.”

6.2 Market Bosworth Parish Council

“Without a supporting arboreal report, and due to the fact that the plans are unclear, the Parish Council is unable to make a reasoned assessment or to comment on this application. As such the Council requests that more information be provided to support the application.”

6.3 Market Bosworth Society

Whilst the Society does regret losing two more mature trees from the green canopy above our beautiful town, we do understand the reasons for this application. Under the circumstances it is sensible to protect the adjacent property. We note that the owner is willing to replace both trees and this should, as the trees are protected anyway, be written into the consent as a condition. We wish the owner every success with the safe removal of the trees and the replacement of two more trees (which must be completed by the end of the next planting season).

- 6.4 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

7.3 Market Bosworth Neighbourhood Plan 2020 – 2039 (MBNP) (2025):

- Policy CE4: Trees and Hedgerows

- 7.4 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 Policy CE4: of the Market Bosworth Neighbourhood Plan confirms that mature trees, woodland and ancient hedgerows should be protected wherever possible. Development that will result in the loss of or damage to mature trees woodlands and hedgerows, identified and described in the evidence base document 'A Survey of Important Trees and Hedgerows in the Parish of Market Bosworth' will not be supported unless a satisfactory scheme for the replacement of lost trees, woodlands and hedgerows or mitigation of any damage to the landscape is agreed.
- 8.5 The affected trees are subject to a Tree Preservation Order and are therefore considered to have a high level of amenity value.
- 8.6 The trees (T1 and T2) are located to the north of the application dwelling and are considered to play an important part enhancing the character and the appearance of the conservation area.
- 8.7 This application raises concerns over the proximity of the trees to the property and its drains and the damage that has been caused to the nearby footpath. In situations where there is alleged property damage or concerns which effect the future safe retention of the trees, applications for works to trees are required to be supported by with diagnostic evidence or a technical survey compiled by an appropriate expert. However, there no evidence has been provided to suggest that any formal assessment or investigation has been undertaken.
- 8.8 The proposed works have been assessed by the Council's Arboricultural Officer, who carried out a site visit but was only able to gain access from the neighbouring property. Following the visit, the officer concluded that there is insufficient evidence to support the removal of the trees. Further supporting evidence was requested multiple times, however none has been provided.

- 8.9 This application is a resubmission of the previously refused application 25/00820/TPO. Our Arboricultural officer assessed the previous application and confirmed that “the presence of a lean in a tree does not, in itself, indicate a structural defect or justify removal. Trees are self-optimising organisms that adapt their growth to environmental conditions, often developing compensatory growth and root architecture to maintain stability.”
- 8.10 Without any evidence to the contrary it is therefore considered that on balance, the amenity value of the trees outweighs the unlikely event of any potential future damage.
- 8.11 The proposed works are therefore considered to be unnecessary and would have a significant and detrimental impact on the protected trees and the character and appearance of the surrounding area without adequate justification. By virtue of these factors, the proposal is contrary to, and in conflict with, Policy DM10 of the SADMP, and Paragraph 136 of the NPPF.

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 unnecessary and would have a significant and detrimental impact on the protected trees and the character and appearance of the surrounding area without adequate justification. By virtue of these factors, the proposal is contrary to, and in conflict 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).

11. Recommendation

- 11.1 **Refuse consent** subject to reasons at the end of this report:

11.2 Reasons

- 11.3 The proposed works are considered to be unnecessary and would have a significant and detrimental impact on the protected trees and the character and appearance of the surrounding area without adequate justification. By virtue of these factors, the proposal is contrary to, and in conflict 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).