

Delegated Report

Planning Ref: 24/00760/TPO

Applicant: Mrs Catherine Haward

Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: Barons Park Farm Desford Lane Kirby Muxloe

Proposal: T12 - Sycamore (*Acer pseudoplatanus*) - Fell

1. Recommendations

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

2. Planning application description

- 2.1. The application seeks consent to fell the Sycamore tree (T12) at Barons Park Farm, Desford.

3. Description of the site and surrounding area

- 3.1. The application site relates to an L-shaped piece of land located adjacent to the settlement boundary of Kirby Muxloe which falls within Blaby District Council. The site is formally known as a farmstead, however an application was approved in April 2022 for the conversion of 3x existing farm dwellings; Green Acres, The Cottage, The Farm House, associated outbuildings and stables, into 7x new dwellings and associated parking. (21/01491/FUL).
- 3.2. The north-west corner of the site is bound by Barons Park Care and two cottages. The northern side of the site adjoins Desford Lane. There is a small section of the western boundary of the site which adjoins agricultural fields. Public footpath S4 runs through the site from the south-west corner adjoining Desford Road.
- 3.3. The Sycamore tree (T12) is situated to the north-east of the site and abuts the boundary line of the neighbouring dwelling, The Paddocks. It is undergoing protection under The Borough Council of Hinckley and Bosworth (Barons Park Farm, Desford Lane, Kirby Muxloe) (No.10) Provisional Tree Preservation Order 2023, which also seeks to protect various other specimen at the site.

4. Relevant planning history

14/01243/OUT

- Residential development of up to 25 dwellings (Outline - Access only) (Cross boundary with Blaby District)
- APPRET
- 26.11.2015

15/01198/FUL

- Erection of an agricultural dwelling, 2x agricultural buildings and farm yard area
- PER
- 10.11.2017

15/01221/HYB

- Hybrid application for the residential development of up to 17 new dwellings including the conversion of existing barns to include:- (1) Full application for conversion of barns to 3 dwellings and (2) Outline application for the erection of up to 14 dwellings (outline - access only)
- PER
- 21.10.2019

21/00197/DISCON

- Application to partially discharge condition O8 (Written Scheme of Investigation) attached to planning permission 15/01221/HYB
- NDC
- 05.07.2021

21/01083/REM

- Approval of reserved matters (appearance, landscaping, layout & scale) of hybrid planning permission 15/01221/HYB for 10 dwellings
- APRREM
- 22.04.2022

21/01228/DISCON

- Application to discharge condition F11 (Updated Bat Survey) attached to planning permission 15/01221/HYB
- DISCHA
- 01.11.2021

21/01491/FUL

- Conversion of 3x existing farm dwellings; Green Acres, The Cottage, The Farm House, associated outbuildings and stables, into 7x new dwellings and associated parking.
- PER
- 22.04.2022

22/00581/CONDIT

- Variation of Condition 01 (Approved plans) and Condition 03 (Provision of Parking and Turning Facility) of Planning Permission ref: 21/01083/REM (Approval of reserved matters (appearance, landscaping, layout & scale) of hybrid planning permission 15/01221/HYB for 10 dwellings) dated 22/04/2022. Variation to include revisions to floor plans and elevations of Plot 10
- PER
- 26.10.2022

23/00278/DISCON

- Application to discharge condition 5 (CCTV) 6 (Cycle Storage) 7 (EV Charging) attached to planning permission 21/01491/FUL
- DISCHA

- 15.05.2023

23/00279/DISCON

- Application to discharge condition 4 (EV Charging) 5 (PRoW) 6 (CCTV) 7 (Noise Assessment) attached to planning permission 22/00581/CONDIT
- DISCHA
- 25.05.2023

23/00772/CONDIT

- Variation of Condition 01 (Approved plans) and Condition 03 (Parking and Turning Facility) of Planning Permission ref: 22/00581/CONDIT [Variation of Condition 01 (Approved plans) and Condition 03 (Provision of Parking and Turning Facility) of Planning Permission ref: 21/01083/REM (Approval of reserved matters (appearance, landscaping, layout & scale) of hybrid planning permission 15/01221/HYB for 10 dwellings) dated 22/04/2022]
- PER
- 10.11.2023

23/00773/CONDIT

- Variation of condition 2 (approved plans) and 4 (parking and turning facilities) of planning permission 21/01491/FUL. [Conversion of 3x existing farm dwellings; Green Acres, The Cottage, The Farm House, associated outbuildings and stables, into 7x new dwellings and associated parking]
- PER
- 10.11.2023

79/00377/4M

- ERECTION OF GARAGE AND PORCH
- PER
- 02.08.1979

5. Publicity

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

6. Consultation

- 6.1. Desford Parish Council:
 - No objections.

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) (2023)
 - 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 Sycamore tree (T12) is subject to a provisional group tree preservation order and therefore is considered to have a high level of amenity value.
- 8.3. Paragraph 136 of the National Planning Policy Framework (NPPF) (2023) seeks to ensure that existing trees that make an important contribution to the character and quality of urban environments are retained wherever possible.
- 8.4. 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.
- 8.5. The Sycamore tree (T12) is situated to the north-east of the site and abuts the boundary line of the neighbouring dwelling, The Paddocks. It is highly viewable from a public vantage point from Desford Lane by virtue of its maturity and prominent location. Within the submitted tree surveys submitted in support of the previous applications to develop the site the tree was described as being a category B tree; of moderate quality and value with a 20 to 40 year estimated life expectancy.
- 8.6. The applicants states that the tree is to be felled due to its proximity to a newly constructed dwelling and existing neighbouring dwelling, The Paddocks. It should be noted that the Sycamore tree was at the time deemed appropriate for retention following the development of the newly constructed dwelling; with recommendation to potentially to apply for a minor crown lift. Therefore, in light of the insufficient evidence presented as part of this application the Local Planning Authority therefore deem that works could be carried out to the tree which could alleviate the concerns outlined by the applicant, whilst also retaining a tree which is deemed to hold a high amenity value.
- 8.7. Overall the proposed felling of the Sycamore tree (T12) would have a significant, negative impact upon the overall character, appearance and visual amenity of the area and would be 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.

Whether the application is justified

- 8.8 The Local Planning Authority is required to consider the public benefit of proposed work to the protected trees. The proposed felling 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

- 10.1. The proposed felling of the Sycamore tree (T12) at Barons Park Farm, Desford Lane, Kirkby Muxloe 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

Refuse consent subject to the reason outlined at the end of this report.

11.1 Reason

- 1. The proposed works to the Sycamore tree (T12) 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 in acceptable condition 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.

11.2 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.
- 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 tree in a conservation area 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.