

## Delegated Report

**Planning Ref: 24/00735/TPO**

**Applicant: Mr Harry Doe**

**Ward: Earl Shilton**



Hinckley & Bosworth  
Borough Council

**Site: 2 Lady Byron Court Earl Shilton Leicestershire**

**Proposal: T1 - Chilean Pine - Remove lower dead branches, T2 - Sycamore - Lift crown to 3.00 metres in height from ground level and remove basal growth. T3 - Acacia - Cut to ground, T9 - Pine - Cut to ground.**

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### **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 conduct the below works at 2 Lady Byron Court, Earl Shilton;

- Pine tree (T1) - Remove lower dead branches;
- Sycamore tree (T2) - Lift crown to 3.00 metres in height from ground level and remove basal growth;
- Acacia tree (T3) - Cut to ground;
- Pine tree (T9) - Cut to ground.

### **3. Description of the site and surrounding area**

#### **3.1.** The application site relates to a residential building constructed in the late 2000's, situated within the settlement boundary of Earl Shilton.

#### **3.2.** The Sycamore tree (T2), Acacia tree (T3) and Pine tree (T9) are situated to the north of the site and sit directly adjacent to the highway to the west, High Street. The Pine tree (T1) is situated to the south-east of the site, adjacent to the existing single storey outbuilding. The trees are all predominantly viewable from the adjacent highways, Lady Byron Court and High Street and therefore hold a significant amenity value.

#### **3.3.** The trees are covered by the Hinckley and Bosworth, Earl Shilton (R/O Weavers Close Junior School, Off High Street) Tree Preservation Order 1993 (Reference; 93/00004/TPORD).

### **4. Relevant planning history**

- None relevant.

### **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. Earl Shilton Town Council;**

*“Members reviewed the paperwork provided to show the works intended and discussed in matter in detail.*

*Resolved: Members agreed that the application should have a full and professional arboricultural report provided before the application can be considered by Members. The Town Clerk will request this from HBBC.”*

## **7. Policy**

### **7.1. Core Strategy (2009)**

- None relevant.

### **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 Pine tree (T1), Sycamore tree (T2), Acacia tree (T3) and Pine tree (T9) are subject to a group tree preservation order and are therefore 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 The Local Planning Authority have assessed the proposal and can conclude that the proposed works are considered to be acceptable. The proposal does include the felling of Acacia tree (T3) and Pine tree (T9), however by way of the submitted evidence consider the felling's to be appropriate. The felling's will not have a negative impact upon the amenity of the area as long as replacement planting is carried out in accordance with the implemented replacement planting condition, to mitigate for the loss of the Acacia tree (T3) and Pine tree (T9).

- 8.5 Earl Shilton Town Council have requested a “*full and professional arboricultural report*”, nevertheless the Local Planning Authority are satisfied that adequate justification and evidence has been provided in order to determine the application.
- 8.6 Authority therefore deems the amended 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 proposed felling of the Pine tree (T1) is considered justified as the tree is heavily crown biased to the east of the site which extends over the shared car park, a detailed inspection of the base of the tree has also revealed cavities at 0.50 metres -1.50 metres and missing bark shows large dead sections at the same height.
- 8.9 The proposed works to the Pine tree (T2) are justified for routine maintenance.
- 8.10 The proposed works to the Sycamore tree (T3) are justified to increase the level of light to the north of Lady Byron’s Court and to provide clearance over the adjacent footpath for pedestrians.
- 8.11 The proposed felling of the Acacia tree (T4) is justified as the stem of tree at base is hollow with minimal wall thickness. A detailed inspection has concluded that the base of the tree has depth of approximately 0.75 metres and a diameter of approximately 0.85 metres.
- 8.12 A replanting condition has been implemented.
- 8.13 It is therefore considered that the proposed works are justified, in accordance with Policy DM10 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.

**10. Conclusion**

- 10.1. In conclusion the proposed works to the Chilean Pine tree (T1), Sycamore tree (T2), Acacia tree (T3) and Pine tree (T9) 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 to the Chilean Pine tree (T1) shall be restricted to the removal of the lower dead branches. The proposed works to the Sycamore tree (T2) shall be restricted to the crown lift to 3.00 metres in height from ground level and remove basal growth. The proposed works to the Acacia tree (T3) and the Pine tree (T9) shall be restricted to the cutting to ground level 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.

4. Within one month of the removal of the trees; details of trees, including their location, to replace the Acacia tree (T3) and Pine tree (T9) shall be submitted to and approved in writing by the Local Planning Authority. The replacement trees shall be planted in accordance with the approved details in the next available planting season (October to March).

**Reason:** To ensure that replacement trees are planted on site in the interests of protecting the amenity of the conservation area in accordance with Policy DM10 of the adopted Site Allocations and Policies Development Plan Document (2016).

### **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 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.