

Application Reference: 2025/0931

Site Address: 8 Rose Tree Court, Cudworth

Introduction:

This application seeks permission to ‘remove deadwood from mature ash tree and reduce back to provide 2m clearance from the property within TPO 23/2009’

Relevant Site Characteristics

The light red coloured bungalow is located within a small residential estate in Cudworth. There is a relatively tall Ash tree located in their rear garden, which is protected by a Tree Preservation Order.

Relevant Site History

Application	Description	Status
2013/0137	Remove deadwood, crown lift to 3 metres and crown thin by 10% Ash, Lime , Beech and Hawthorne Trees T1-T13 within TPO 23/2009.	Approved with conditions
2011/1113	Crown lift and prune 6 Ash Trees and 1 Lime Tree within 23/2009	Approved with conditions
2008/1331	Erection of 19 Dwellings	Approved with conditions

Detailed description of Proposed Works

The proposed works would remove deadwood from the mature ash tree, and reduce the tree to provide 2m clearance from the property.

Relevant policies

The Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Primarily the aim of making a TPO is to protect the amenity value of the tree or trees. Local Planning Authorities (LPAs) may make a TPO if it appears to them to be: 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

The Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. Normally trees should be visible from a public place e.g., road or footpath for a TPO to be made but the courts have decided that trees should be protected for “pleasure, protection and shade they provide.” Taking this into account trees should be considered for other aspects of amenity that they provide other than visual amenity.

Government advice and guidance available on the administration of TPOs, is: - ‘Tree Preservation Orders: A Guide to the law and Good Practice’ 2000.

The guidance states that ‘LPAs must include in their plans land use and development policies designed to secure the conservation of natural beauty and amenity of the land. Plans should not, however, include policies which are unrelated to the development or use of land. They

should not therefore include the LPA's policies for deciding applications for consent under a TPO; but they should include policies on measures that the LPA will take, when dealing with applications to develop land, to protect trees and other natural features and provide for new tree planting and landscaping.'

In deciding an application, LPAs are not required to have regard to the development plan. Section 54A of the Act, therefore, does not apply to the LPA's decision, which means that there is no general duty on the LPA to make their decision in accordance with the development plan.

Consultations

The application has been advertised in accordance with Article 15 of the Town and Country Planning Development Management Procedure (England) Order 2015.

Any neighbour sharing a boundary with the site has been sent written notification and the application has been advertised on the Council website.

One neighbour objection was received. This is discussed in more detail in the assessment section of the report.

Forestry Officer: Approve with Conditions

Planning Assessment

Principle

In line with good practice, the aim of making a TPO is to protect the amenity value of the tree or trees. In considering TPO applications the LPA is advised:

- (1) to assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area, and
- (2) in the light of their assessment at (1) above, to consider whether or not the proposal is justified, having regard to the reasons put forward in support of it. The tree subject to this application is prominent and provides significant amenity value.

Assessment

The Council's Tree Officer briefly inspected the trees and has made the following assessment of the tree and proposed works:

The tree is a large early mature Ash located within the grounds of the Cudworth Centre and overhanging 8 Rose Tree Court. The tree forms part of a wider linear group and as such has high amenity value.

The works proposed are to remove the deadwood from the tree which is exempt from needing permission and to prune the tree to provide 2m clearance from the dwelling. Having spoken to the agent they confirmed that the works are as written and will provide 2m clearance above the roof and from the rear elevation. The works as proposed are as limited as possible whilst eliminating the proximity issues I understand the resident is facing. These works are proportionate to deal with the issues experienced and will not

prove detrimental to the tree. Therefore there is no objection to the works from an arboricultural perspective.

The objection from a notified neighbour raised concerns over the funding of the proposed works. Having reviewed the objection, it was not considered as a material planning consideration but instead a civil issue between the objector and the property company highlighted within their objection.

RECOMMENDATION: Approve with Conditions

Justification

It has not been necessary to make contact with the applicant to request amendments to the proposal during the consideration of the application, as it was deemed acceptable.

STATEMENT OF COMPLIANCE WITH ARTICLE 35 OF THE TOWN AND COUNTRY DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2015

Due regard has been given to Article 8 and Protocol 1 of Article 1 of the European Convention for Human Rights Act 1998 when considering objections, the determination of the application and the resulting recommendation. it is considered that the recommendation will not interfere with the applicant's and/or any objector's right to respect for his private and family life, his home and his correspondence.