

# 25/00073/TORDER

**Objector** Mr and Mrs Ahlawat and Mrs Sian Hacker

**Location** 7 Manor Park, Ruddington.

**Objection** To the Ruddington No.1 Tree Preservation Order 2025

**Ward** Ruddington

## THE SITE AND SURROUNDINGS

1. The tree is located in the front garden of 7 Manor Park, a characterful large semi-detached Victorian property located in Ruddington conservation area. The tree is growing in close proximity to the adjacent property, 7A Manor Park, which was constructed in the late 1970's. Manor Park has a distinct character with crushed stone pavements, stone boundary walls, individually designed large properties and a number of large mature trees. The tree in question is a Lime tree, a native species, the tree has developed a columnar shape with a canopy which is much taller than it is wider.

## DETAILS OF THE TREE PRESERVATION ORDER

2. An initial Tree Preservation Order (TPO) was made following a conservation area tree notice to fell it on the grounds that it overhung the neighbouring house causing concern to the owner despite annual pruning. The tree was considered by the owner to be dying and now dangerous. A large branch had fallen onto the drive and they were concerned 3 other branches were about to fall off.
3. The TPO was made on the 7<sup>th</sup> November 2024. Under the Town and Country Planning (Tree Preservation) (England) Regulations 2012 the Order takes effect provisionally and needs to be confirmed within 6 months of the date it was made. The Council has a duty to consider all objections and representations that have been made. The 6-month deadline lapsed as the April Planning Committee was cancelled and the TPO needed to be confirmed before the May Planning Committee. As such, the original was allowed to lapse and a second TPO was made on 7<sup>th</sup> May 2025. A further consultation period was undertaken on the new TPO. The objections to the original TPO were confirmed by the objectors to be considered again for the second TPO. No further objections have been received.

## SITE HISTORY

4. The Council allowed the tree to be crown lifted over the drive in 2014 and 2022.

## CONSULTATIONS

5. Ward Members were consulted and sought clarification that it was the intention of the tree owner to fell it.

## **OBJECTION**

6. Objections to the TPO have been received from the owners of the tree and their neighbour at 7A.
7. The owners object on the following grounds:
  - Large branches frequently fall from the tree causing damage to the garage roof below and the neighbour's roof, as well as creating an unacceptable health and safety hazard for the family, neighbour's and passers-by
  - Two large branches over 6ft in length fell recently, multiple branches have fallen on a regular basis since the property was purchased in 2020, causing damage to vehicles and cracking roof tiles, this is despite maintenance carried out by a qualified arborist at considerable expense
  - The TPO was made after the 6-week conservation area notice period and a tree surgeon was booked in to implement the work
  - If the TPO is confirmed further legal advice will be taken and clarification will be sought over the financial and legal liability created by the imposition of the TPO.
8. The Neighbour at 7A objects to the TPO for the following reasons:
  - They have lived in the property for 30 years and the tree haunts them every time there are strong winds. It is only a matter of time before significant branches fall on to the roof causing catastrophic or even fatal damage as their elderly mother lives in the annex and sleeps below the tree. Branches break off regularly breaking tiles causing water ingress which is compounded by the gutters being full due to access restrictions to this side of the house
  - Human life should be given preference over wildlife and the tree
  - They have small children who play under the tree
  - A decade ago, a large branch fell and demolished the tree owner's garage which explains why the garage is now a new build.

## **APPRAISAL**

9. Whilst the tree is closer to the neighbouring property than is ideal, it is fully mature and certainly pre-dates the neighbouring house and has been growing alongside the building for many decades. When making the TPO the Council was aware that a branch had been shed but did not consider that this indicated the tree was dying. Following the conservation area tree notice the canopy of the tree was inspected and it appeared in good health with no obvious areas of dead or missing foliage or disease, nor any signs of significant deadwood. Trees will periodically shed dead branches and this can be managed through appropriate inspections and routine maintenance. The removal of deadwood is an exemption that applies to both conservation areas and TPO's, meaning it can be removed at any time without the need to seek the Council's permission.
10. The TPO was made due to the distinct character of the area and it was considered that felling should be a last resort. It is considered that arboricultural advice should be taken to justify work and consider if pruning could allow the

retention of the tree. Officers did not believe the level of branch loss indicated a tree in terminal decline and that it did not warrant felling. When considering the conservation area tree notice, Officers either had to make a TPO to protect the tree or simply allow its removal without the ability to condition a replacement.

11. It is clear that the tree causes concern to both the tree owner and their neighbours due to its size and close proximity to the house. In light of this it would be considered reasonable at the very least to allow some form of pruning to the tree to reduce its canopy size and the risk of failure. Limes are a type of tree that can tolerate larger scale reductions and are quick to regenerate, although such work may then need to be repeated on a cyclical basis every few years, such work is often found on the street trees managed by Nottinghamshire County Council in West Bridgford. A TPO allows applications to be made to both prune and remove trees, they also have the added advantage over a conservation area tree notice in that conditions can be used to secure appropriate replacement planting which would be important to help secure the long-term character of the area.
12. The TPO was made after the 6-week conservation area tree notice, whilst the Council aims to make a decision within 6 weeks a TPO can be made at any time.
13. If the Tree Preservation Order is confirmed the owner will remain responsible for taking reasonable care to maintain it, the liability for the tree does not pass to the Council. However, there are certain circumstances where the Council could be liable to pay compensation for loss, or damage suffered as a result of either refusing consent or imposing conditions following a TPO application to work on a protected tree. In such circumstances the authority's liability is limited. No claim can be made before an application for consent to undertake work on a protected tree and a claim would need to be made within 12 months of the authority's decision or an appeal decision. No claim is payable in relation to any item that was not reasonably foreseeable within the documentation submitted as part of an application. Finally, no compensation is due to a person who failed to take reasonable steps to avert or mitigate loss or damage which was reasonably foreseeable, for example by not removing deadwood. In short this means tree owners still need to take responsibility for trees, applications need to specify the risk and this needs to be readily foreseeable rather than being a far off or general concern.
14. The committee needs to decide whether or not the TPO should be confirmed and made permanent, this would result in the owners needing to make applications to prune or fell the tree and would allow conditions to be imposed to plant a replacement if removal was granted. If the committee decide that it would not be appropriate to confirm the TPO then the most appropriate course of action would be to revoke the TPO to enable the owners to work on the tree at the earliest opportunity.

## **RECOMMENDATION**

It is RECOMMENDED that the Ruddington No.1 Tree Preservation 2025 is confirmed.