



Appeal Decision

Site visit made on 16 September 2025

by **D Cleary MTCP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 October 2025

Appeal Ref: APP/P1045/D/25/3369579

27 The Green Road, Ashbourne, Derbyshire DE6 1ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Marcus Pasmore against the decision of Derbyshire Dales District Council.
 - The application Ref is 25/00217/FUL.
 - The development proposed is described as provision of off-street parking bay with new vehicular access from The Green Road, Ashbourne.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on protected trees.

Reasons

3. The proposal seeks to provide an off-street vehicular parking area to serve the dwelling. To facilitate this an area of the front garden would need to be excavated to provide level access from the public highway. Within the front garden of the appeal site are two large trees. These are a Holly tree and Yew tree which are subject to a Tree Preservation Order¹.
4. The Tree Report (the TR)² of the Appellant consider these trees both to be category B2, which are trees of moderate quality. The Council³ consider these trees to be category A which are trees of high quality. These trees are mature specimens, with large canopies. The position and height of the trees means that they are visible for some distance along The Green Road from both directions. Notwithstanding which categorisation is correct, they clearly make a positive contribution to the overall visual amenity of the area and are of significant value. Development which would lead to the loss of these trees, or compromise their longer-term retention, would have a harmful effect on the overall character and appearance of the area.
5. The projected Root Protection Area (RPA) for these trees⁴ cover much of the front garden area. The extent of excavation works to facilitate the development would be

¹ Tree Preservation Order No.159, Trees at The Green Road, Ashbourne

² Arboricultural Impact Assessment & Arboricultural Method Statement, prepared by Outline Trees, dated May 2025

³ Consultation Response of DDDC Trees and Landscape Officer, dated 5th June 2025

⁴ Appendix B of the TR

very close to the trunks of these trees and would result in a significant incursion of their respective projected RPAs. BS 5837:2012⁵ advises that to avoid damage to tree roots, existing ground levels should be retained within the RPA; that intrusion into soil (other than for piling) within the RPA is generally not acceptable; and that topsoil within it should be retained in situ.

6. However, there are existing site constraints which could affect the extent of the actual rooting system of these trees. The front garden occupies an elevated position and is set behind a stone wall. From the street a path with steps provides pedestrian access into the site. These physical features fall within the projected RPA of both trees and are positioned close to their trunks. Furthermore, the trees are positioned close to each, as such there is an overlap of the RPAs which would add further constraint to the actual extent of the rooting systems. It is evident that the root system for both trees have been affected by these physical conditions. On my site visit I observed surface level roots on the garden to the north of the Yew tree, while such roots were not evident on the garden land on the far side of the path where excavation would occur.
7. Notwithstanding this, the depth of the path and its edging stones is understood to be approximately 250mm⁶. Therefore, it would not act as a complete barrier to roots and therefore the presence of roots in the area of excavation cannot be fully discounted. Due to the existing constraints, the area of excavation may be of greater importance to the trees. The appellant has therefore carried out soil investigation trenching to explore the presence of roots within the area of development. This has been carried out adjacent to the path and the location and length of the investigative trench appears to be a reasonable area of investigation.
8. The investigative trenching has revealed the presence of roots of varying sizes in the area, this includes one root of approximately 50mm in diameter. This is not an insignificant root. BS 5837:2012 identifies that roots which have a diameter which is greater than 25mm, are possibly essential to the tree's health and stability⁷. This indicates that the root system for at least one of the trees does encroach into the area for development. The loss of one such root may not necessarily be critical. However, the investigative trenching was not carried out to a depth where roots could realistically be considered to be present (i.e. at a depth to 600mm). The excavation required for the proposed development would be at a depth which exceeds the depth of the investigative trenching. While I note that the soil below the depth of excavation was compacted, I can not definitively rule out the presence of further significant roots below the depth of the investigative trenching.
9. In this regard, I am also particularly mindful that the RPAs are already constrained by the proximity of the trees to each other and by other physical features. This would likely heighten the importance of the area of land to be excavated. Further erosion of the rooting and soil volume so close to the trunk of these trees could lead to negative effects on their health and stability.
10. I accept that the proposed soil amelioration, in lieu of the loss of soil volume, may have some beneficial impacts for the tree(s). However, such measures are unlikely to be sufficient to mitigate against the significant loss of rooting volume. Therefore, I

⁵ 7.2.1

⁶ TR Paragraph 5.5

⁷ 7.2.3

cannot be satisfied that the incursion has been demonstrated to be justified in this instance.

11. My attention has been drawn to an appeal⁸ where the effects of a development on trees was the main issue. I do not have full details of that proposal before me. Nonetheless, in that instance, the appeal decision refers to marginal incursions into the RPA of a protected tree. While it was also not clear whether the Tree Officer of the Council had considered the arboricultural information. This appears to be materially different to the scheme before me which includes development which significantly encroaches into the RPA and the supporting documentation has clearly been reviewed by the Tree Officer of the Council. In any event, I have considered this appeal on its individual merits.
12. For the reasons given above, I consider that the development would have an unacceptable effect on protected trees. The development therefore conflicts with Policies PD1 and PD6 of the Derbyshire Dales Local Plan (2017). Together these policies, amongst other things, require that development provide for the retention of significant landscape features such as mature trees.

Conclusion

13. For the reasons given above the appeal should be dismissed.

D Cleary

INSPECTOR

⁸ 3355872