

**OFFICER'S REPORT**

<b>Application No:</b>	23/01035/TCA
<b>Location:</b>	Church of All Saints, Crouchmans Farm Road, Ulting, CM9 6QU
<b>Proposal:</b>	T12 - Ash - Fell. T13 - Ash - Reduce by 3m (back to previous cut points). Remove major deadwood over 5cm in diameter and 1m in length over churchyard.
<b>Application Expiry Date:</b>	07.12.2023
<b>Parish Council Response:</b>	No response
<b>Case Officer:</b>	C Mumford
<b>Recommendation:</b>	<b>ALLOW TO PROCEED T13, TPO SERVED T12</b>

**1. SUMMARY**

**1.1 Site Description**

- 1.1.1 The application site is situated off of Crouchmans Farm Road in Ulting, accessed by a single-track road with a public footpath and is a sizable site. It is in the countryside and within the Conservation Area. The T12 Ash tree is located to the northern boundary of the churchyard, adjacent to the church car park and T13 Ash tree is located to the southern boundary of the churchyard, adjacent to the River Chelmer.

**1.2 The Proposal**

- 1.2.1 The following works are proposed:

- T12 - Ash - Fell.
- T13 - Ash - Reduce by 3m (back to previous cut points). Remove major deadwood over 5cm in diameter and 1m in length over churchyard.

**2. RELEVANT BACKGROUND AND PLANNING HISTORY**

2.1.1

<b>Application Number</b>	<b>Description</b>	<b>Decision</b>
10/00760/TCA	T1 Lime Coppice - replace and remove and T2 & T3 Ash - 30% crown reduction	Allow To Proceed
19/01269/DD	Dangerous tree - T6 - Ash	Closed
20/00024/TCA	T3 Ash (Fraxinus excelsior) - Remove deadwood exceeding 5cm in diameter and/or greater than 1m in length over the car park. Remove hung-up, broken branch. T5 Ash (Fraxinus excelsior) - Reduce crown by 4m all around to alleviate weight. Reduce remaining lateral	Allow To Proceed

**APPENDIX 1**

	branch work in accordance with newly established top height. Remove all deadwood from the crown.	
22/00046/TCA	T12 Ash - Reduce by 5-7 metres to leave a monolith height of 10-12 metres and the lowest limbs will be removed back to the main stem.	Allow To Proceed
22/00054/TCA	T8 Oak - 3 metre whole crown reduction. Remove	Allow To Proceed

**3. CONSULTATIONS AND REPRESENTATIONS****3.1 Parish/ Town Council (summarised)**

<b>Name of Parish / Town Council</b>	<b>Comment</b>	<b>Officer Response</b>
Langford and Ulting Parish Council	No Response	Noted – application submitted by Langford and Ulting Parish Council

**3.2 External Consultees (summarised)**

<b>Name of External Consultee</b>	<b>Comment</b>	<b>Officer Response</b>
Tree Consultant (Place Services)	<p>T12 - Ash tree is situated on the grounds of Church of All Saints, Maldon, CM9 6QU. Following a desktop investigation, T12 is not visible from the public realm and so has limited visual amenity in the locality. Therefore, given the applicants request these works have been granted as the proposed works are unlikely to have a detrimental effect to the visual amenity and landscape value provided to the surrounding area, pass with no objection. Before any works came commence an ecological assessment to be carried out on T12 in accordance with The Wildlife and Countryside Act 1981.</p> <p>T13 – Ash is also situated on the grounds of Church of all Saints, Maldon, CM9 6QU. Following a desktop investigation, T13 is not visible from the public realm and has limited visual amenity in the locality. Therefore, given the applicants request to crown reduce the tree by up to 3m to suitable growing points and deadwood. These works have been considered as good general maintenance, should cause minimal damage to the tree's health, have a minimal effect of the visual amenity and</p>	<p>Noted – T12 is considered to be visible from the public realm as it sits on the boundary of the churchyard, adjacent to the car park and public footpath.</p> <p>An ecological assessment has been requested for T12 prior to commencement of works. This however cannot be conditioned as per the nature of TCA applications.</p>

**APPENDIX 1**

Name of External Consultee	Comment	Officer Response
	condition and are in accordance with BS3998:2010 Tree works Pass with no objection.	
Tree Consultant (Andrew Day)	<p>The tree survey report lacks detail in the assessment of the T12's dimensions, biomechanical reaction to the decay observed and how this could relate to management options to influence what works are prescribed to the tree in the interests of safety, wildlife and amenity. The consultee response highlighted that the assessment of the tree's amenity was made from a desktop survey and not from a site visit which implies that the condition of the tree was based on an initial report from the same organization, yet dismissed the advice of monitoring for another 18 months and agreed with the applicants request to fell it without providing a suitable arboricultural reason. no suitable reason was put forward for felling. At no point in the tree survey did it say felling was required due to the structural condition of T12. This inconstancy in the advice provided. A TEMPO assessment of the tree has found that a TPO could be considered defensible if the local authority wished to place one on the tree. This could be reviewed after discussions with the applicant and possible further investigation works.</p> <p>Having reviewed the application for the works to the other Ash identified as T13, I consider this work minor and not having any detrimental impact on its amenity or longevity. Therefore, this could be considered acceptable to allow to proceed.</p>	Andrew Day was consulted as per paragraph 4.1.5 in this report (below)

**4. MAIN CONSIDERATIONS****4.1 Impact on the Character and Appearance of the Area**

- 4.1.1 Trees can be vital to the general character of an area and can be at the heart of a particular historic or architectural interest in a site. In making a decision about whether the proposed works to trees should be allowed, the duty to preserve or enhance the special character and appearance of the conservation area is a paramount consideration (sec 72. of the Planning (Listed Buildings and Conservation Areas) Act 1990).
- 4.1.2 The T12 Ash tree is situated on the northern boundary of the application site. The public footpath also runs directly to the northern part of the application site serving as access to the church and church yard where a public carpark is also located. The track continues past the

application site heading out towards the east where it joins Crouchmans Farm Road. The T12 Ash tree is highly visible from the public footpath and car park and therefore the public realm and as such, its amenity value is significant when assessing the area and application site and its surrounding trees and foliage. Should T12 be removed as per the application request, there would be a substantial impact to the character and appearance of the conservation area.

- 4.1.3 The T13 Ash tree is situated on the southern boundary of the application site. The works proposed to T13 Ash tree, are considered good general maintenance, and would have a minimal effect on the visual amenity of the churchyard due to their positioning in the application site and the nature of the works proposed.
- 4.1.4 The applicant has provided supporting information in the form of a Tree Survey Report from Place Services. In summary, the Arboriculturist assessed that the T12 Ash tree *'is in poor structural condition with fair crown vitality'* and recommends *'Re-inspect in 18 months to determine progress of decay and regrowth. Reduce back to previous by approximately 0.5-1m, by removing epicormic growth to limit the weight on the decaying stem.'*
- 4.1.5 The Arboriculturist also assessed that the T13 Ash tree *'is in fair condition with fair crown vitality and has previously been reduced with an estimated 2 to 3m of regrowth. There is a pocket of decay present at an old pruning wound site at 1.5m on the north of the main stem'* and therefore recommends *'Reduce back to previous pruning points (approximately 2-3m) to alleviate the weight on the decaying stem. Remove major deadwood over 5cm in diameter and 1m in length over churchyard.'*
- 4.1.6 It should be noted that Place Services have carried out the independent tree survey on behalf of Langford and Ulting Parish Council, as well as providing consultation response on behalf of the Council. A potential conflict of interest has therefore arisen in this particular case. It is assumed that different officers carried out the tree survey (on behalf of the applicant) and the following consultation (on behalf of Maldon District Council) but has not been confirmed. To mitigate such a conflict Maldon District Council took a prudent course of action seeking the advice of a third party consultant.
- 4.1.6 The applicants have stated that the reason for the works, particularly the felling of T12 Ash tree, is due to the extensive works that would need to be carried out on the T12 Ash due to the decay, which in turn would present significant cost to the residents in the parish of Langford and Ulting, but this is not a criterion to be taken into account by the local planning authority.
- 4.1.7 The Tree Consultant (Place Services) has been consulted and commented that due to the limited visual amenity in the locality of both trees, the proposed works are unlikely to cause detrimental harm to the conservation area and therefore approve of the proposed works to both trees. The Tree Consultant also recommends an ecological assessment to be carried out on T12 Ash in accordance with The Wildlife and Countryside Act 1981, however The Council cannot enforce such an assessment to be carried out.
- 4.1.8 Due to the conflict as stated in paragraph 4.1.5, and the recommendation by Place Services for an ecological assessment to the Ash tree T12 before works can commence, the Council sought a third party opinion for further consultation. The Tree Consultant (Andrew Day) stated the following points in his report:
- *'My inspection of the Ash tree in question was undertaken on 6th December 2023, the weather was clear, dry, with average visibility.'*
  - *'...details provided [from the supporting information/tree report submitted with the application] are potential roost features, inspection frequency and work priority, these are based on a scoring system and indicate that the tree has potential'*

roosting features, work priority is high, meaning is needed in 30 days and the inspection frequency is 4, which states 18 months, which I am assuming means the tree should be inspected again in 18 months. Given that the observations comment on the decay as being 'Extensive' and that this has impacted on the structural integrity of the main stem, this is considered somewhat contradictory if the rational was the tree could be at risk of collapse'

- *'I would expect that an internal decay assessment would at least have been recommended to quantify this statement, especially given the tree is protected under conservation legislation and the body language of the tree indicates the tree has laid down new supporting wood. As mentioned in my assessment...around the edge of the decayed area new wood has developed in a formation referred to as 'Rams' horns that curl in, which can help contain the decay and add strength round the degraded wood'*
- *'The base of the tree up to about 4m has a notable taper, indicating new layers of sound wood are being laid around the edge of the degrading wood in an attempt to provide support and prevent flexing'*
- *'I consider the tree to have important wildlife habitat potential, and if management works can be undertaken to address the potential risk decay may have caused and retain the tree in one form or another this should be explored.'*
- *'Given my observation of the reaction wood being laid down in the form of 'Bottle Butt' shape formation of the main stem and rams horns around the cavity, it's feasible that a management option could be implemented to reduce the height to about 4m – 5m.'*
- *'A 4m – 5m radius around the tree could be maintained as an area of exclusion and annual inspections undertaken to reduce the risk of harm or damage if it were to fail.'*
- *'The site is a churchyard which is open to the public and has a footpath and vehicular access leading to it. It is adjacent to the canal as well as the footpath adjacent to this, so is in fact visible to the public realm, especially parishioners who attend the church on a regular basis.'*
- *'An important aspect is that the tree survey highlights the potential for roosting habitats, and the consultation response reflects this and states that before any works can commence an ecological assessment is carried out. However, like the other request for replanting this cannot be enforced unless the tree is protected by a TPO.'*
- *'After completing a TEMPO assessment, the resultant score achieved was that a TPO was defensible, and because an ecological assessment was asked for in the consultation response, this is the only way such an assessment can be enforced, along with the internal decay detection'*

## **5 Conclusion**

- 5.2 The proposed works to T13 Ash tree are not considered to cause detrimental harm to the character and appearance of the surrounding area, which is a conservation area. Therefore, the works proposed for T13, are allowed to proceed.
- 5.3 The Council does not consider the felling of the T12 Ash justifiable. Its reasoning is as follows:

- (i) The consultation response provided by Place Services on behalf of The Council is incorrect in its assessment that T12 Ash, subject of this application, is not visible from the public realm. The public right of way (public footpath) is adjacent to the tree in question. Therefore, the amenity value of the tree and its impact on the appearance on the local area has been incorrectly assessed.
- (ii) The consultation response provided by Place Services recommends an ecological assessment before works can commence. As a TCA application, The Council cannot condition or enforce this recommendation unless the tree is protected by a Tree Preservation Order.
- (iii) The ecological importance of the tree as a habitat to wildlife cannot be dismissed without investigation and is potentially significant. Upon inspection, a colony of bees was seen to have taken up residence in the tree and potential for roosting bats has been identified.
- (iv) The consultation response by Andrew Day has stated that an internal decay assessment should have been carried out to assess the level of decay as the tree is showing signs of growth.
- (v) The consultation response and decision to fell provided by Place Services on behalf of The Council is at odds with the recommendation provided by the applicant's own tree survey to re-inspection the tree in 18 months to determine the progress of growth and decay and provides no justifiable reasoning for approving of the felling of the T12 Ash tree, save the amenity value as per point (i).
- (vi) The applicant's justification for felling the T12 Ash tree, on the point that it would cause significant cost to the residents of Langford and Ulting, is an immaterial consideration in the assessment of this application and in planning and conservation terms.

- 5.4 It is considered that the proposed felling to T12 Ash tree would cause detrimental harm to the conservation area and the amenity value it provides would be unjustifiably lost, along with potential ecological harm that requires assessment before any works can take place. Therefore, a TEMPO assessment was carried out and it is considered that the tree is worthy of a TPO scoring 16, meaning it has definite merits to serve a TPO. Therefore, a Tree Preservation Order is served on the tree.

## **6 RECOMMENDATION**

- **T12 Ash Tree - TPO SERVED**

TPO No. 06/23 on 07/12/2023

- **T13 Ash Tree - Approve**

**Case Officer**

Signature

Date 07/12/2023

**Delegated Authority**

I, the undersigned, agree with the officer’s recommendation above after taking in to account the content of the officer’s report, plans, supporting documents, consultation responses and any and all relevant material considerations subject to any comment I have made below.

07.12.2023

Signature..... Date.....