Tree Work Application Decision Notices

Mrs J Dyson
4, Woodlea Avenue
Marsh
Huddersfield
HD3 4EF

For: Mrs J Dyson

TOWN AND COUNTRY PLANNING ACT 1990
Town & Country Planning (Tree Preservation)(England) Regulations 2012

NOTICE OF REFUSAL OF CONSENT TO FELL AND/OR PRUNE

Application Number: 2019/91594

In pursuance of its powers under the above mentioned Act and Regulations and the Tree Preservation Order made by the Kirklees Metropolitan Council (hereinafter called 'the Council') as Local Planning Authority and pursuant to the application submitted to the Council on 14-May-2019:-

THE COUNCIL HEREBY **REFUSES** TO CONSENT TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No:03/79

At: 4, Woodlea Avenue, Marsh, Huddersfield, HD3 4EF

Removal of 7 trees in rear garden due to; the loss of sunlight to the garden; the negative effect on native species due to shade and aphids attracting non-native ladybirds; the limited carbon capture of old trees as opposed to young trees; the horse chestnut has not produced conkers for 5 years and an adjacent tree was diseased with Horse Chestnut Leaf Miner; Sap fall, leaves and seasonal detritus cause problems with the roof, guttering and drains and prevents use of garden; the roots of the trees mean the garden is not level and cannot be used or enjoyed; a young lime tree is supressed by the surrounding sycamore; the trees will not be missed due to adjacent trees or woodland; proposed replacement with 5 new trees.

The **REASONS** for the Council's decision to refuse to grant consent are:

1. These trees are a prominent landscape feature in the locality and as such contribute significantly to public amenity.
2. Light loss would not be justification for the loss of these trees and the public amenity they provide.

3. Seasonal detritus associated with trees can be a nuisance, however the occurrence of detritus and the associated effort in clearing it is not in itself a reason to justify felling of seven trees that are a significant visual amenity.
4. Taking into account the public amenity the trees provide, the desire to grow specific plants in a garden would not be justification for the removal of these trees.
5. Sycamore trees do produce a sticky substance known as honeydew upon which mold grows resulting in a sooty like substance. However, this is a normal biological function associated with some trees and rarely justifies the removal of protected trees.
6. There is no evidence to suggest that aphids on sycamore trees attract non-native over native ladybirds to any significant degree or that by felling these trees will in any way alter the spread or success of Harlequin Ladybirds.
7. The carbon capture and storage of a mature tree (0.65 tonnes/yr carbon) far exceeds that of a young tree (0.003 tonnes/yr carbon). In addition once felled the carbon stored in the mature trees will be released thus negating any carbon stored by replacement trees.
8. As a legal charge on the land the presence of a protected tree shows during the land searches prior to purchasing a property. This is to allow any potential buyer the opportunity to consider the constraints, long term implications and maintenance requirements of living in close proximity to mature protected trees. With this in mind the issues described should have been a material consideration prior to purchasing this property
9. Notwithstanding that replacement planting could be required by condition, replacement trees would take a considerable amount of time to reach the stature of that which currently exists.

1.

Should you wish to initiate an appeal, you should do so within 28 days of receipt of the notice. Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at https://www.gov.uk/planning-inspectorate. Further information on the Planning Appeal process can be found online at the Planning Inspectorates website https://www.gov.uk/government/organisations/planning-inspectorate.

2.

Subject to the provision of the Tree Preservation Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under the Order or of any grant of any such consent subject to conditions shall, if he/she makes a claim within the time and in the manner prescribed by the Order, be entitled to recover from the Council compensation in respect of such loss or damage, provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any tree the subject of a certificate in accordance with Article 5 of the Order

In assessing compensation so payable, account shall be taken of:

a) Any compensation or contribution which has been paid whether to the claimant or any other person in respect of the same trees under the terms of the said or any other Tree Preservation Order under section 29 of the Town and Country Planning Act1962, or under section 203 of the Town and Country Planning Act 1990, or under the terms of any Interim Preservation Order made under section 8 of the Town and Country Planning (Interim Department) Act 1943, or any

compensation which has been paid or could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1932; and

b) Any injurious affection to any land of the owner which would result from the felling of trees subject of the claim.

A claim for compensation under the Order shall be in writing and shall be made by serving it on the Council, such service to be effected by delivering the claim at the offices of the Council addressed to the proper Officer thereof or by sending it by prepaid post so addressed, within 12 months from the date of the decision of the Council, or of the Secretary of State against the decision of the Council from the date of the decision of the Secretary of State on the appeal.

Any questions or disputed compensation will be determined in accordance with the provisions of section 179 of the Act (or as amended).

Dated: 04-Jul-2019

Signed:



Karl Battersby
Strategic Director Economy and Infrastructure

If you have any questions about the above decision then please contact the application's Case Officer Nick Goddard quoting application number 2019/91594 via one of the following methods:

Call: 01484 414909

E-mail: trees.planning@kirklees.gov.uk

Write to: Trees Section
Investment and Regeneration
PO Box B93
Civic Centre III
Off Market Street
Huddersfield
HD1 2JR

Guidance Notes
Choosing a Tree Work Contractor
(Tree Surgeon)

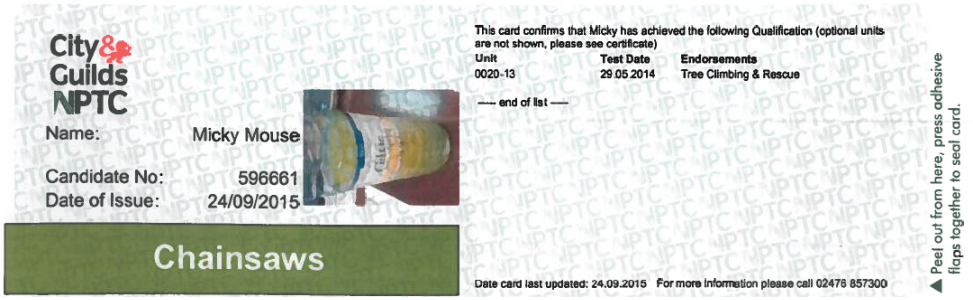
The Council does not approve or promote any private contractors, nor does it affiliate itself with any specific companies. If any company says they are Council approved or trained you should seek clarification as to which Council it is referring to and if you are not satisfied check with the authority concerned.

There are schemes running which produce a directory of approved contractors and companies. The Arboriculture Association (www.trees.org.uk) and Trust Mark (www.trustmark.org.uk) are examples of such schemes.

If you are looking for a company or contractor to carry out tree work, tree pruning, felling etc. you should consider the following:

- City and Guilds/NPTC Qualifications (National Proficiency Test Council). The company should be able to produce certificates and a photo ID card (See example ID card below) to show that they have the relevant qualifications for the operations they are intending to carry out. There are separate qualifications for using a chain saw, felling different sized trees, climbing trees, operating a chain saw in a tree etc. It is the individuals who hold the qualification, so unless they are undertaking training, employees need to be qualified for the tasks they do.

  Example City and Guilds/ NPTC Photo ID card:



(Sample ID card provided by City and Guilds September 2015, the appearance of cards issued before this date may vary slightly but are still valid)

- The company should be able to show you certificates of insurance for public liability and where the company has employees, employee liability as well.

- The company must work to the British Standard for Tree Work, BS 3998 and should be able to quote this if you ask them what the British Standard is. If you propose to carry out work to a protected tree with consent from the Council, this will be a condition of the approval.

- Ask for a written quotation, a reputable firm will be willing to do this. It would be advisable to get quotes from several different companies.

- Membership of an arboricultural organisation does not necessarily guarantee a contractor's level of competency, which will depend on the organisations terms of membership. However it does indicate that they are keeping up to date with industry changes. Examples would be the Arboricultural Association or the International Society of Arboriculture.

- The company should be able to show you copies of Health and Safety documents for their work type, risk assessments, inspection records for their climbing and rigging equipment (where applicable) etc. This will indicate that they are compliant with national Health and Safety requirements.

If you are seeking advice on a tree's health or safety, you are advised to look for:

- A company which holds professional indemnity insurance. This gives a degree of security should there be an adverse incident as a result of their comments.

- A formal qualification in arboriculture, forestry, horticulture etc would give an indication that they have the required technical knowledge about tree biology and mechanics to be able to advise you correctly. There are many different formal qualifications available examples of a few would be: National Vocational Qualifications (NVQ), Diploma or a Degree.

- A person who holds LANTRA Professional Tree Inspector. This shows that the individual has passed an assessment to show that their tree inspection skills are in line with the national standard. Holders of this award will be able to show a photo ID card.

If you are engaging an arboricultural consultant to produce a tree report for example, as a minimum they should hold the above mentioned insurance and a formal qualification.

Useful contacts:
www.kirklees.gov.uk/trees www.trees.org.uk www.trustmark.org.uk www.isa-arboriculture.org.uk

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