



Tree Work Application Decision Notices

David Barber
8, St Michael's Gardens
Emley
Huddersfield
HD8 9TH

For: David Barber

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

NOTICE OF CONSENT TO FELL AND/OR PRUNE

Application Number: 2020/92812

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 26-Aug-2020:-

THE COUNCIL HEREBY **CONSENTS** TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO 11/81 G3 +G4

At: St Michael The Archangels Church, Church Street, Emley, Huddersfield, HD8 9RP

All trees located along the Church boundary with St Michael's Gardens:

As required:

Crown lift removing small diameter branches only (less than 15 cm) to give 4-5 metres ground clearance, from the ground level of the trees. Clean out crown removing any dead, dangerous, hazardous or split branches and stubs; while maintaining the tree's structural integrity and natural form. If then required, prune to reduce branches back to a suitable side branch to give 2m clearance from the fabric of adjacent structures.

Please note consent to fell trees has not been given. See separate refusal notice.

SUBJECT TO THE FOLLOWING **CONDITIONS:**

- 1) That ALL tree operations outlined in this notice be carried out within ONE year of the date of this notice. If for any reason such works are not completed within this period a new application must be made to the Council.
- 2) That all tree work shall be carried out in accordance with British Standard 3998: 2010 *Tree Work- Recommendations*.
- 3) That branchwood shall not be burned on site.

Notes to Applicant in Relation to Decision

1.

Any conditions you will find detailed therein are mandatory and enforceable under the Town and Country Planning Act 1990. You are deemed to have accepted them as stated if you either:

- i) Carry out works, or
- i) Fail to appeal within 28 days of receipt of the notice

2.

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>.

3.

Road & Street Works Act 1991: It is possible that part or all of the consented works may present a safety risk to the public. IT IS IMPERATIVE that before any works commence advice on sign requirements and /or traffic control is sought from our NRASWA Officers (Sean Fisher: 01484 225 426)

4.

Under section 1 and 9 of the Wildlife & Countryside Act 1981 (as amended): it is an offence to intentionally disturb or destroy any bird nest whilst it is in use or being built; or, to recklessly or intentionally damage or destroy a bat roost or, to cause disturbance or harm to bats.

5.

In no way does the Council accept any liability for damage to property or persons caused as a result of the work here authorised. Tree surgery can be very dangerous and the Council recommends strongly that a competent tree surgeon using appropriate safety equipment and with appropriate public liability insurance is employed.

6.

Consent for the tree work specified in this Notice relates only to the Town and Country Planning Act 1990 and is in principle only. If the work to be undertaken

relates to trees growing on land owned by a third party, permission must be obtained from that third party before undertaking any work which requires access onto or over their land.

7.

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 Act 1962, 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
- a) 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).

THE REASONS FOR THE COUNCIL'S DECISION TO **GRANT** CONSENT SUBJECT TO THE **CONDITIONS** SPECIFIED ABOVE ARE:

- i. To ensure future tree cover and amenity.
- i. To ensure the continued health of the tree(s).
- ii. To prevent or abate a nuisance.

Dated: 15-Oct-2020

Signed:



David Shepherd
Strategic Director Growth and Regeneration

If you have any questions about the above decision then please contact the application's Case Officer Joe Robertson quoting application number 2020/92812 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



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HD8 9TH

For: David Barber

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: 2020/92812

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 26-Aug-2020:-

THE COUNCIL HEREBY **REFUSES** TO CONSENT TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO 11/81 G3 +G4

At: St Michael The Archangels Church, Church Street, Emley, Huddersfield, HD8 9RP

Fell and replace six Sycamore trees as identified in the application. The trees have little amenity value due to there only being a distant view of them from Church Street, the trees are not close to the church path and located behind the church so not viable by the congregation on entering.

A tree report was produced on behalf of the church which included sections on the following points:

- Concerns about the even age of the trees and the them dying at the same time, To persevere a degree of continuity into the long term a range of age fomr young to mature specimens. To achieve this a scheme of periodic removal and replacement should be developed to replenish tree possibly on a 5 to 10 year basis.
- Concerns about the lack of species diversity and threat of species specific pest and diseases. If a new disease reached the UK shores infecting Sycamores, then a high percentage of St Michael's trees would be threatened.

- The report concluded that it is recommended that any new planting that is carried out on site should include a wider range of species, in suitable area within adequate space to develop.

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

1. These trees form part of a linear group which is a prominent feature in the locality, being visible from approaches up and down Church Street, from St Michael's Gardens and the junction of school Lane. The tree group forms an important landscape feature, being visible across the wider area. Notably from public vantage points along Westfield Lane (approximately 1 mile away) and Clough Road (approximately 0.5 miles away). The trees provide a valuable contribution to the setting of the grade 1 listed church and the group is an important feature of the wider village. Therefore, these trees provided significant public amenity. See enclosed photos.
2. These trees all have many decades, well in excess of 50 years, to go before they begin to reach late maturity. On that basis, their age and concerns that they will all die at the same time, would not be justified reasons for the loss of these trees and the resulting loss of the current, and future, public amenity that the trees provide.
3. There is no evidence of a disease that would be detrimental to the Sycamore species, or to show that some percentage of the Sycamore population would not be resistant to any such disease if this type of infection does appear in the future. By way of example, in relation to the current Ash Die back infection which has spread nationally. The industry advice is to not fell Ash trees until they become a health and safety hazard as a result of the infection because some Ash trees will have natural immunity. Therefore, premature felling will remove disease resistant trees that are crucial for the continuation of the species. For that reason, removal of healthy trees on the basis of a perceived potential disease in the future, would be against industry best practice and not a justified reason for removal.
4. The trees are an integral part of a linear group and their removal would have a detrimental effect on the composition of the group and the amenity that it provides.
5. The trees have grown together in a group and now have an integrated, shared, canopy area. Removing individuals would therefore open up areas of the remaining tree canopies to wind pressure that they have not adapted to, increasing the risk of wind throw and branch failure in adverse weather.
6. No information has been provided to set out the exact proposal for phased removal of the trees.
7. No information has been provided to show the exact replanting scheme that is proposed.
8. Given the trees are located within a 14-century church yard, with historic graves clearly all the way to the boundaries. Any excavations to plant new trees will encounter historic, cultural and social constraints. No information has been provided to show that these constraints have been considered and/or are surmountable. On that basis it is unclear if planting of trees, as proposed, is a feasible or realistic option.
9. Any newly planted trees will take many decades to reach a size and prominence that would replace the level of amenity value provided by the current trees.
10. A copy of the tree report that has been referred to in the application was not included in the supporting documents. On that basis only the text summary of sections of the report, as provided, has been included in the decision making process. From the summary text the report only appears to conclude that any ne

planting should use more diverse species and that a scheme of removal and replacement should be developed. No information has been provided to show that such a scheme has been developed.

11. The wall damage mentioned in the supporting information and as referred to in the previous, refused, application (Ref 2019/92461) has now been repaired while retaining the trees.

Notes to Applicant Regarding Decision

1.

Should you wish to initiate an appeal, you should do so within 28 days of receipt of the notice. For an application form and further information please contact The Planning Inspectorate on 0117 372 6382 or have a look on their website

www.planningportal.gov.uk/appeal

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

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- a) 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: 15-Oct-2020

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 Joe Robertson quoting application number 2020/92812 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

View from Westfield Lane

Trees

Church



View from Clough Road

Trees

Church



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

Please note that the information contained in this guidance note is for general information purposes only. The Council endeavours to keep the information accurate and up to date but makes no representations or warranties of any kind to this effect. You should note that the websites referred to in this guidance note are not under the control of the Council and their inclusion within it does not necessarily imply a recommendation or endorsement of any views expressed within them.