



Tree Work Application Decision Notices

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Denby Dale
Huddersfield
HD88QD

For: Andrew Lawton

**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: 2021/91099

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 17-Mar-2021:-

THE COUNCIL HEREBY **REFUSES** TO CONSENT TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No:18/85/A1

At: 9, Church Lane, South Crosland, Huddersfield, HD4 7DB

Remove and replace T1 and T2.

Tree numbering on the plan and report differ from each other, T1 and T2 being the wrong way round on one of these. Note this decision is based upon the tree closest to Church Lane being T2 and the other being T1.

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

1. These trees are a part of a prominent landscape feature in the locality and as such contribute significantly to public amenity and the setting of the graveyard, consequently the grounds for their removal must be weighed against the amenity they provide.

2. It is not specified on what basis the submitted report has estimated the trees' age however using Mitchell's rule, applying 2cm girth growth per year, both Elms are over 36 years old, and the Council considers them to be protected by TPO 18/85.
3. The pruning wounds noted were occluding well and did not show any sign of adverse decay. There was no evidence or suggestion of this within the submitted report and therefore this is considered immaterial to the decision.
4. The epicormic growth on the main stems is likely as a result of the past pruning and is a natural response to allow the tree to recover lost photosynthetic area and is not necessarily a sign that a tree is in decline.
5. There were no signs of Dutch Elm disease in the canopies and no evidence mentioned in the submitted report. Some Wych Elm trees have shown resistance to Dutch Elm disease and it may be that these two trees are able to survive any infection, either that or they have not been exposed to it. The potential of dying back without any evidence that they will, is not sufficient reason in and of itself to remove protected trees.
6. Notwithstanding that replacement planting could be required by condition, a replacement tree would take a considerable amount of time to reach the stature of that which currently exists. The replacement of these trees would not be possible elsewhere on the same boundary without being in a similar situation/location as the existing trees and would therefore experience the same issues described.
7. There was no evidence from an appropriate expert submitted with the application to show the trees are causing damage to the nearby wall though it should be noted there is approximately 1.5m between the trees and the wall so should repairs be necessary alternative construction methods should be explored to enable the trees and the wall to co-exist.
8. It should be noted that Ivy is not protected and when I visited had been removed, suggesting management is taking place to maintain the trees and that the trees are not likely to be swamped by Ivy in the foreseeable future.

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 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
- 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: 12-May-2021

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 Nick Goddard quoting application number 2021/91099 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

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.