



Tree Work Application Decision Notices

James Royston
The Media Centre
Huddersfield
HD1 1RL

For: Roberts

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: 2022/90437

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 09-Feb-2022:-

THE COUNCIL HEREBY **REFUSES** TO CONSENT TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No: 40a/96/t8

At: 297, Huddersfield Road, Thongsbridge, Holmfirth, HD9 3UA

T1 Horse chestnut- Fell, due to alleged damage to adjacent dry stone retaining wall and garage wall and concerns about the tree's condition.

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

1. This tree is a prominent landscape feature in the locality and as such contributes significantly to public amenity, consequently the grounds for its removal must be weighed against the amenity it provides.
2. The tree is in apparent good health and shows no signs of obvious major defect which would make it a threat to person or property.
3. There was no evidence from an appropriate expert submitted with the application to show the wall cannot be repaired while retaining the tree. There was no information

submitted with the application regarding alternative construction solutions that would allow the trees and structures to co-exist.

4. The felling proposed is excessive and disproportionate to the potential problems experienced. Insufficient evidence was provided with the application to definitively show the tree is contributing to the alleged damage or potential subsidence to the garage wall of which the foundations are at a considerably lower elevation.
5. The adjacent retaining wall is of a dry-stone construction of which its integrity relies heavily on the size of stone used and bond achieved when built. The visual appearance of cracks within this wall appears to be exacerbated by poor construction rather than significant movement caused by the tree. No evidence has been provided to justify why the wall cannot be repaired.
6. The evidence supplied within the structural engineers report namely 'Photo 2, 3 & 5' detail 'Lateral distortion and bow to the head of the wall' and 'Distortion, lateral movement and fracture of existing dry-stone retaining and boundary wall' clearly show that there is a distinct bulge from failure of the poorly constructed wall to withstand the pressure of the earth behind it at a point which is lower down from the adjacent tree and has resulted with no contribution from the tree at all.
7. The observations stated within the arboricultural report which determine the tree as potentially hazardous did not offer enough evidence to justify its removal. The 'large cavity at approximately 2 m above ground' is an old pruning wound to which the tree appears to be responding to well, the 'bark stretching on the tension side' was not apparent and during my site inspection no evidence of abnormal bark growth was noted and the 'severe lean' described was not deemed to be a cause for concern. Moreover, the tree is mature and has been growing at this location for many years; it is adapted to its normal wind environment and no signs of root plate movement or other signs of potential failure were evident.
8. Notwithstanding that replacement planting could be required by condition regardless of ownership, a replacement tree 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 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: 07-Apr-2022

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 2022/90437 via one of the following methods:

Call: 01484 414909

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

Write to: Kirklees Council
Planning and Development Service
PO Box 1720
Huddersfield
HD1 9EL

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.