



Tree Work Application Decision Notices

Liam Peaker,
Peaker Tree Services
Glen Dene
Holmfirth Road
New Mill
Holmfirth
HD9 7LF

For: Joseph Walker

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: 2022/93348

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 10-Oct-2022:-

THE COUNCIL HEREBY **REFUSES** TO CONSENT TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No.20/22

At: 44, Town Gate, Highburton, Huddersfield, HD8 0QP

T1, Sycamore – Remove due to outgrown location, in very close proximity to two adjacent buildings causing building damage

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 and the character of the Conservation Area consequently the grounds for its removal must be weighed against the amenity it

provides. A new TPO was served to protect this tree following the submission of a Section 211 application to remove the tree from the Conservation Area.

2. There was no information submitted with the application regarding alternative construction solutions that would allow the trees and structures to co-exist. The garage is a lightweight structure on a slab foundation that has been built too close to the tree to withstand its continued growth. Repair or reconstruction costs required with or without the tree have not been provided to enable an assessment to be made against the value of the tree.
3. There was no evidence provided that the main building of the house was suffering from vegetation related subsidence. The report submitted suggests there is no evidence of movement in the house itself and in section 9.1 states there is no evidence of recent or on-going foundation movement. Vegetation related subsidence is a complex matter with many variables and it is not therefore possible to predict the risk of a tree causing structural damage merely by considering its size and proximity to a property. Accordingly, I do not consider the unsubstantiated risk of future structural damage occurring warrants the removal of this tree.
4. 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
5. Concerns were expressed about the safety of future residents because trees such as these could cause damage and or personal injury if they failed, but that can be said of any tree and is rarely, if ever, a reason to justify removal of a healthy protected tree. 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.

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: 29-Nov-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 2022/93348 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
