Tree Work Application Decision Notices

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

For: Earthswood Country Park, Countrywide Park Homes Ltd

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

NOTICE OF CONSENT TO FELL AND/OR PRUNE

Application Number: 2022/93597

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 07-Nov-2022:-

THE COUNCIL HEREBY **CONSENTS** TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No. DD1/51/W3

At: Earthswood Country Park, Earthswood Country Park, Bank End Lane, Clayton West, HD8 9ZA

Tree numbers used are as per the application

Tree no. T1 – Fell and replace dead tree
Tree no. T2 – Crown clean, removing any dead, crossing or hazardous branches, stubs or broken branches whilst maintaining the tree's structural integrity and natural form.

Sycamore, as discussed with site manager
Prune to reduce branches back to a suitable side branch to give 2m clearance from the adjacent cabin, reducing secondary branches as necessary to achieve clearance.

Please note work to reduce tree no. T2 has been refused in separate notice below.

SUBJECT TO THE FOLLOWING **CONDITIONS:**

1. This consent is valid for a period of two years and all tree operations carried out pursuant to this notice, including the replacement tree planting described in condition (2) must be completed within two years of the date of this notice.
   Reason: To safeguard future tree cover and amenity and to accord with the requirements of the Town and Country Planning (Tree Preservation)(England) Regulations 2012

2. That within two years of the date of this notice, the felled tree(s) be replaced by 1x Oak, 1.5-2m in height when planted, located within 1-2m of the original tree(s) and sourced and planted in accordance with BS8545.
   Reason: To safeguard future tree cover and amenity. To ensure that the planting is carried out in accordance with good arboricultural practice.

3. That all tree work, in pursuance of this notice, shall be carried out in accordance with British Standard 3998: 2010 Tree Work- Recommendations, including tree work safety and planning and that arisings shall not be burned on site.
   Reason: To safeguard future tree cover and amenity. To ensure that tree work is carried out in accordance with good arboricultural practice. To protect the long term viability of the tree(s)

4. Within 2 months of the replacement tree(s) described in condition (2) being planted, written and/or photographic evidence shall be provided to the Local Planning Authority to demonstrate that the required replacement trees have been planted in accordance with the conditions of this decision notice.
   Reason: To safeguard future tree cover and amenity.

5. That all replacement tree(s) described in condition (2) which are damaged, die, removed, uprooted or destroyed within 5 years of planting, be replaced by a new tree(s) of the same species, size and at the same place, as condition 2, to the satisfaction of the Local Planning Authority.
   Reason: To safeguard future tree cover and amenity.

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
ii) 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 Highways team, visit our website for more details: https://www.kirklees.gov.uk/beta/transport-roads-and-parking/kirklees-council-permit-scheme.aspx

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 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).

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.
ii. To ensure the continued health of the tree(s).
iii. In the interest of appropriate arboricultural management.
iv. In the interest of public and/or personal safety.

Dated: 20-Dec-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 2022/93597 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

Tree Work Application Decision Notices

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

For: Earthswood Country Park, Countrywide Park Homes Ltd

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: 2022/93597

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 07-Nov-2022:-

THE COUNCIL HEREBY **REFUSES** TO CONSENT TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No.DD1/51/W3

At: Earthswood Country Park, Earthswood Country Park, Bank End Lane, Clayton West, HD8 9ZA

T2 Oak – Reduce aware from properties to give 2-3m clearance and crown lift to 4m

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

1. The tree is an integral part of a group and the pruning proposed would have a detrimental effect on its long term health and viability which would also affect the composition and the amenity the group/woodland provides.
2. The branches of the tree are clear of the adjacent cabin by 2-3m and no further branch removal is necessary to maintain suitable clearance at the time of the application. Accordingly, it is not an appropriate pruning operation.
3. The adjacent plot was empty at the time of the application and the branches of the tree appeared to be sufficiently clear to allow the installation of a cabin to the west

of the tree. The pruning proposed is excessive and would be detrimental to the health and appearance of the tree.

4. The proposed works may promote infection and decay, adversely affecting the tree's long term health.
5. Consent for pruning operations which may alleviate the issues has been issued separately.
6. Falling branches are a safety hazard. However, in the absence of a systematic tree survey, and on the basis of what I have seen, I am not persuaded that the regular cleaning out of deadwood would fail to reduce the risk of such incidents to a safe level.

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

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

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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: 20-Dec-2022

Signed: 

David Shepherd
Strategic Director Growth and Regeneration

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Call: 01484 414909

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

Write to: Trees Section
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.