



Tree Work Application Decision Notices

Robert Wylie
The Old Vicarage
Springfield Terrace
Cleckheaton
BD19 6EH

For: Robert Wylie

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

NOTICE OF CONSENT TO FELL AND/OR PRUNE

Application Number: 2023/90005

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 04-Jan-2023:-

THE COUNCIL HEREBY **CONSENTS** TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No: 03/23

At: The Vicarage, Springfield Terrace, Scholes, Cleckheaton, BD19 6EH

Tree no. T2 – Ash

Clean out crown removing any dead, dangerous, hazardous or split branches and stubs; while maintaining the tree's structural integrity and natural form.

Please note a copy of the application documents can be viewed on line using the planning application search facility on the Council's web page: www.kirklees.gov.uk/trees

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, 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 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)

Notes to Applicant Regarding 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 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).

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

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

Dated: 10-Feb-2023

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 2023/90005 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



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For: Robert Wylie

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: 2023/90005

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 04-Jan-2023:-

THE COUNCIL HEREBY **REFUSES** TO CONSENT TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No. 03/23

At: The Vicarage, Springfield Terrace, Scholes, Cleckheaton, BD19 6EH

Ash – reduce to 10m in height for safety reasons due to significant hollow area in the main trunk and a weakness at the lower bifurcation of two main stems

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 the pruning proposed must be weighed against the amenity it provides. A new TPO, no 03/23, was served to protect the amenity value this tree and others nearby provide.
2. There was not enough evidence submitted with the application to definitively show the tree's main union is weakened by its form. The union is a non-shape optimised union however there is little sign of included bark and expansion on the union joints. The presence of soil in the tight crack of the union is not necessarily representative of decay forming and no evidence of decay at the union was provided. Should

additional evidence come to light the Council would be happy to consider a new application supported by this. Specifically, it may be advisable that the tree's main union be subject to a detailed decay detection inspection to ascertain if there is a significant structural defect present.

3. Ash dieback is a significant threat to the health of Ash trees throughout Kirklees however the current advice from the Arb Association and Forest Research Institute is not to remove trees if they appear to be resistant and do not present unmanageable risks. The tree did not appear significantly affected by Ash dieback and no evidence of its decline has been provided to justify the reduction proposed. The build up of internal dead wood within the canopy is attributable to the natural processes of the species and can be easily managed through regularly cleaning of the crown.
4. Trees such as these could cause damage and or personal injury if they or part of them failed but that can be said of any tree and is rarely, if ever, a reason to justify significant pruning works such as those proposed to 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 stress or reaction growth was present at the union of the main stems.
5. Reducing the height and canopy of the tree will spoil the shape and form of the tree which would diminish the public amenity the tree provides in the setting of the property and to the wider Conservation Area.
6. The pruning proposed would be a significant reduction of the height and canopy which would result in the majority of growth points being removed, introducing many pruning wounds throughout the canopy. The age of the tree makes it unsuited to react to such extensive pruning and is likely to adversely affect its future viability.
7. It is not uncommon for twigs and branch wood to become dislodged in high winds, but that does not usually constitute a serious hazard, nor would it designate the tree as 'dangerous'. It could be alleviated by maintenance of the trees which would include crown cleaning as has been consented separately.

Notes to Applicant Regarding Decision

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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 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: 10-Feb-2023

Signed:



David Shepherd
Strategic Director Growth and Regeneration

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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.