**Tree Work Application Decision Notices**

Dave Valentine
26, Botham Hall Road
Milnsbridge
Huddersfield
HD3 4RJ

**For:** Dave Valentine

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

**NOTICE OF CONSENT TO FELL AND/OR PRUNE**

**Application Number: 2023/90850**

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 20-Mar-2023:-

THE COUNCIL HEREBY **CONSENTS** TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No.19/89

**At:** 26, Botham Hall Road, Milnsbridge, Huddersfield, HD3 4RJ

Crown thin removing 10% to clean out the crown and remove any dead, dangerous, hazardous or split branches and stubs; while maintaining the tree's structural integrity and natural form.

Please note not all work has been consented (see refusal notice below) and 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 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
i) 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. To prevent or abate a nuisance.
iv. In the interest of public and/or personal safety.
v. In the interest of highway safety.
vi. To reduce the risk of structural damage.

**Dated:** 16-May-2023

**Signed:** 

**David Shepherd**
**Strategic Director Growth and Regeneration**

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If you have any questions about the above decision then please contact the application's Case Officer Matthew Moss quoting application number 2023/90850 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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Milnsbridge
Huddersfield
HD3 4RJ

**For:** Dave Valentine

**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: 2023/90850**

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 20-Mar-2023:-

THE COUNCIL HEREBY **REFUSES** TO CONSENT TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No.19/89

**At:** 26, Botham Hall Road, Milnsbridge, Huddersfield, HD3 4RJ

Fell lime tree to front of property

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. Due to its roadside location this tree contributes significantly to public amenity. 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 provided to show that the issues with falling deadwood cannot be managed through routine tree maintenance.

4. 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.

5. 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.

6. There was no evidence from an appropriate expert submitted with the application to show that the tree was dangerous as required in section 8 of the application.

7. There was not enough evidence submitted with the application to definitively show the tree poses any abnormal health and safety concerns. However, should additional evidence come to light the Council would be happy to consider a new application supported by this.

8. Consent for pruning operations which may alleviate the issues has been issued separately.

**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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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

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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:** 16-May-2023

**Signed:** 

**David Shepherd**
**Strategic Director Growth and Regeneration**

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**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.