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

Tree Work Application Decision Notices

Mr C Batten,
Down to Earth Tree
Water House Farm
Shaw Lane
Holmfirth
HD9 2PY

For: Mr P Brady

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: 2023/91980

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 26-Jun-2023:-

THE COUNCIL HEREBY **REFUSES** TO CONSENT TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No. 17/94/g1
At: 113, Westgate, Almondbury, Huddersfield, HD5 8XQ

Remove ash tree to rear of garage due to fears that it could fall

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. 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

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to a point that justifies its removal at this time. If the tree does significantly decline in the future, the council would be happy to reconsider another application which gives evidence of this.

3. 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.

4. The size of the tree and proximity to the building is not a justified reason for removal.

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 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

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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: 14-Aug-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 Matthew Moss quoting application number 2023/91980 via one of the following methods:

Call: 01484 414909

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

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