

**Consultation Response from KC,
Trees**

2023/92200 Former Petrol Station, North Road, Kirkburton, Huddersfield, HD8 0RL

Erection of single storey retail unit with associated parking area and modification to existing site access and egress (within a Conservation Area)

Date Responded: 18/09/2023

Responding Officer: D. Atkinson

Responding Ref: 15/15/w1

Thank you for the consultation.

The site is heavily constrained by existing trees that are protected. Trees at site are protected by Tree Preservation Order (15/15/w1) and are within the Kirkburton Conservation Area.

A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the:

- cutting down
- topping
- lopping
- uprooting
- wilful damage
- wilful destruction

of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed. In the Secretary of State's view, cutting roots is also a prohibited activity and requires the authority's consent.

Trees in a conservation area that are not protected by an Order are protected by the provisions in section 211 of the Town and Country Planning Act 1990. These provisions require people to notify the local planning authority, using a 'section 211 notice', 6 weeks before carrying out certain work on such trees, unless an exception applies. The work may go ahead before the end of the 6 week period if the local planning authority gives consent. This notice period gives the authority an opportunity to consider whether to make an Order on the tree.

Trees in a conservation area that are already protected by a Tree Preservation Order are subject to the normal procedures and controls for any tree covered by such an Order.

A tree survey should be undertaken by an arboriculturist to record information about the trees on or adjacent to a site. The results of the tree survey, including material constraints arising from existing trees that merit retention, should be used (along with any other relevant baseline data) to inform feasibility studies and design options. For this reason, the tree survey should be completed and made available to designers prior to and/or independently of any specific proposals for development.

Under the UK planning system, local authorities have a statutory duty to consider the protection and planting of trees when granting planning permission for proposed development. The potential effect of development on trees, whether statutorily protected (e.g. by a tree preservation order or by their inclusion within a conservation area) or not, is a material consideration that is taken into account in dealing with planning applications.

The nature and level of detail of information required to enable a local planning authority to properly consider the implications and effects of development proposals varies between stages and in relation to what is proposed.

However, now there appears to be no tree information provided about the site and as a result trees aren't able to make worthwhile comments on the application at the moment.

As a result, there is a holding objection to the proposal from an arboricultural perspective as it is conflicting with Policy LP33. This is because the proposal hasn't demonstrated that it has followed the guidance in British Standard BS 5837 Trees in relation to design, demolition and construction that outlines how to successfully take account of and retain suitable trees in proximity to development.

Because there are protected trees that could affect or be affected by, the planning application, the council may require a tree survey and Arboriculture Impact Assessment (AIA) following the guidance in BS5837:2012 to be carried out and submitted in support of the application.