

**Consultation Response from KC,  
Trees**

**2023/92966 Land to the rear of, 271, Cliffe Lane, Gomersal, Cleckheaton, BD19 4SB**

**Demolition of existing dwelling and erection of 87 dwellings including formation of a new access from Cliffe Lane, landscaping, public open space and all associated infrastructure and engineering works**

**Date Responded: 22/11/2023**

**Responding Officer: D. Atkinson**

**Responding Ref: 08/19**

Thank you for the consultation and I apologise for the late reply.

The proposed development site is constrained by a number of trees that are protected by a Tree Preservation Order. The order is 08/19.

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.

The majority of the trees are around the edge of the site and appear to be retained with only minor encroachment into their Root Protection Areas (RPAs). With new sloping down to the edge of them/just encroaching.

However, T34's RPA appears to be encroached upon as a result of ground level change. The Arb Impact Assessment (AIA) (ARB/CP/307) comments that the encroachment is around the edge and minor. However, drawing 0603-5 P4 and 0603-3 P4 shows contouring right up to the stem of the tree, sloping down from it.

Please can we have clarification on what is being shown and proposed?

For a high amenity tree that is/going to be a focal point within the site. Ideally the RPA should be treated as sacrosanct and structures to address levels be kept outside the RPA.

The other area of interest is around trees N10 to N15. Comments regarding the access and hard surfaces being retained and overlaid is agreed with. However, the position of the substation and the teaching required to install it isn't acceptable and it needs to be relocated.

The size and extent of the rooting systems of the trees in the vicinity of it will be unknown/based on educated guess until digging starts. For trees that are of high and moderate amenity and in a prominent location next to the site entrance if an alternative position is possible away from the trees. Then that would be the preferred position from a tree's perspective.

There are concerns about plots 2 and 8, having their gardens dominated by the neighbouring retained trees.

The proposal would also lead to overshadowing of the dwelling/garden space causing future occupants to remove or at least prune the trees. Although diffuse daylight and sunlight availability to rooms, windows and garden would be within the guidelines if it was quantified. It should be noted that shading from trees does not need to have a significant effect on living conditions for future occupants to seek their removal/remedial works to try and address it.

The reply to this will be that any such works would require consent from the Council as trees are TPO'd, but when exercising that control in the future, the Council would have to take into account the existing situation including the presence of the proposed dwelling.

So, the best way to protect these trees in the longer term is here within the design/layout of the site.

Overall, there is a holding objection to the proposed from a arboriculture perspective. This is because the proposed is conflicting with adopted Kirklees Council Local Plan LP33.