

Consultation Response from KC,
Trees

2023/93114 23, Oldroyd Way, Dewsbury, WF13 2JJ

Erection of two storey side, front and rear extensions, replacement garage and associated alterations following demolition of existing conservatory and garage

Date Responded: 14/12/2023

Responding Officer: D. Atkinson

Responding Ref: 06/92

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

The proposed development site is heavily constrained by established trees that are protected by Tree Preservation Order 06/92.

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.

From the information provided it is foreseeable that the demolition, construction, and design of the proposed will impact on the protected trees and once occupied vice-versa.

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.

At a full planning application stage, the Local Authority require the following as a minimum with regards to trees from a reputable and experience Arboriculturist following the guidance in BS5837:2012:

- Tree survey (in the absence of pre-application discussions);
- Tree retention/removal plan;
- Retained trees and RPAs shown on proposed layout; and
- Arboricultural impact assessment

This information hasn't been provided with the application and as result KC trees aren't able to make a detailed assessment of the proposal.

With the above likely to be carried out by the project arboriculturist after a detailed design/proposal, the project arboriculturist should undertake the tree survey at site independently of any specific proposals for development.

Tree surveys undertaken after a detailed design has been prepared can identify significant conflicts: in such cases, the nature of and need for the proposed development should be set against the quality and values of affected trees. The extent to which the design can be modified to accommodate those trees meriting retention should be carefully considered.

Overall, the proposal is conflicting with the adopted Kirklees Council Local Plan Policy LP24(i) and LP33. This is because it appears to have not properly considered the protected trees at site. Where proposed development is subject to planning control which is the case here, a tree survey following

the guidance in BS5837:2012 should've been regarded as an important part of the evidence base underpinning the design.

Accordingly, as the question maybe asked, local planning authorities should not rely on planning conditions to secure a tree survey, as by this stage in the formal planning process its findings might not be capable of influencing design, potentially resulting in uncontrolled arboricultural impacts.