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

Tree Work Application Decision Notices

Charles Cocking,
JCA Limited
JCA Limited
Unit 80 Bowers Mill
Branch Road
Barkisland
Halifax
HX4 0AD

For: Zubair Ahmed

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: 2025/90535

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 27-Feb-2025:-

THE COUNCIL HEREBY **REFUSES** TO CONSENT TO THE CARRYING OUT OF THE FOLLOWING OPERATIONS TO THE PROTECTED TREE(S) TPO No. 03/84

At: 4, Marlborough Gardens, Dewsbury, WF13 2LT

T1 Sycamore - Remove to accommodate the proposed landscaping works and to abate a nuisance/ongoing maintenance costs.
T2 Lime - Remove & replace due to condition
T7 Lime - Remove to accommodate the proposed landscaping works and to abate a nuisance/ongoing maintenance costs.
T8 Lime - Remove to accommodate the proposed landscaping works and to abate a nuisance/ongoing maintenance costs. All trees to be suitably replaced subject to condition

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The **REASONS** for the Council's decision to refuse to grant consent are:

1. As a legal charge on the land the presence of a protected tree shows during the land searches prior to purchasing a property. This is to allow any potential buyer the opportunity to consider the constraints, long term implications and maintenance requirements of living in close proximity to mature protected trees. With this in mind the issues described should have been a material consideration prior to purchasing this property.
2. Removal of a protected tree would be a material consideration when deciding a planning application and if this is required this should be discussed within the context of a full planning application as permission is not guaranteed and therefore would not be a reason to remove the tree under a TWA.
3. In your previous planning application (2021/92646) seeking permission to construct the completed extension, it was stated that:

   "Existing trees are at the bottom of the garden and not affected by the proposals."
4. There was not enough evidence submitted with the application to definitively show the tree T2 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.
5. T2 is an integral part of the overall group, and its removal would have a detrimental effect on the composition of the group and the amenity it provides.
6. It is not uncommon for twigs and branch wood to become dislodged in high winds, but that does not usually constitute a serious hazard, nor would it designate the tree as 'dangerous'. It could be alleviated by maintenance of the trees which would include crown cleaning.

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

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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).

Dated: 18-Mar-2025

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 Hazel Irving quoting application number 2025/90535 via one of the following methods:

Call: 01484 414909

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

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Write to: Kirklees Council
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