

Tel: (0118) 974 6000
Email: development.control@wokingham.gov.uk
Date: 11th December 2024
My ref: SCD/TPO/1822/2021 (NOT APPROVED)/242631



WOKINGHAM BOROUGH COUNCIL

Mr John Hunt
Pike Smith & Kemp Rural & Commercial Ltd
The Old Dairy
Hyde Farm
Marlow Road
Maidenhead
SL6 6PQ

Place and Growth
Development Management Team
P.O. Box 157
Shute End, Wokingham
Berkshire RG40 1WR
Tel: (0118) 974 6000

Dear Mr Hunt,

TREE PRESERVATION ORDER NUMBER: 1822/2021 (NOT APPROVED)
APPLICATION NUMBER: 242631
LOCATION: 1 HILL HOUSE COTTAGES MILLEY LAN HARE HATCH RG10 9TH

I am writing to you regarding your application to carry out works to two protected tree(s), which was received and validated on the 16th October 2024 and following the Council's arboricultural consultant's site visit on 28th November 2024.

At the meeting on the 28th November 2024, Mr. Nash advised our consultant that he did not wish to carry out a reduction of the trees' canopies – the only work he was seeking permission to do was to remove the epicormic shoots on the trunk.

However, because the application proposed a significant reduction of both trees, for the avoidance of any doubt I can confirm Wokingham Borough Council **REFUSES CONSENT**, to the following work being carried out to tree(s) included in the above-mentioned Tree Preservation Orders (TPO):

Proposed Tree Works to T1 & T2 of TPO 1822/2021 (NOT APPROVED):

T3, Lime (T1 on TPO)

- Crown reduction from 25m height to 20m in height and from 6m to 4m radial canopy spread;
- crown lift to 5m above driveway; remove all epicormic growth up to canopy height.

T4, Lime (T2 on TPO)

- Crown reduction from 25m height to 20m in height and from 7m to 5m radial canopy spread
- Crown lift to 7m above driveway; remove all epicormic growth up to canopy height.

Reasons stated for works:

The specification for works was as per an Arboricultural Method Statement by Apical Arbor dated October 2024. The author was Philip Bridger, Arboricultural Consultant who notes a number of professional bodies and accreditations on the report, none of which has our consultant been able to verify. This is an Arboricultural Method Statement which relates to planning and not a health and safety survey.

The report notes that the Limes are lapsed pollards, prominent trees and in good health and concludes with a recommendation for a canopy reduction. No evidence has been provided to demonstrate a need to undertake the proposed works.

Reasons stated for refusal:

When looking to undertake works to a protected tree it is the responsibility of the applicant to supply adequate proof with the TPO application, in the form of 'written arboricultural advice or other diagnostic information from an appropriate expert.' To date, no detailed arboricultural information has been submitted to demonstrate that the tree is dangerous or diseased or that the work is in the interests of health and safety.

The TPO is intended to ensure only appropriate works are undertaken to important trees in the Borough with the consent of the Borough Council and in accordance with accepted standards of arboricultural good practice. This is to maintain the health and wider visual amenity of significant trees.

The proposed reduction equates to a reduction of each tree by around 1/5 in height and 1/3 of the canopy width. The proposed reduction work would create multiple pruning cuts which would act as entry points for decay pathogens. The loss of branch tips and photosynthetic foliage area reduces the tree's stored energy and can bring about a decline in tree health.

I note that the 'no' box has been ticked in section 6 of the TPO application form with regard to concern about the condition of the tree, from which I have concluded that the safety of the tree is not in question.

It is noted that the two Lime trees in question are lapsed pollards and, therefore, some careful management of the trees may be required. However, the Council has concluded that the proposed works as outlined (above) in the application, would be excessive and harmful to the health and wider visual amenity of the trees. No evidence has been submitted to demonstrate the works are necessary for health and safety reasons. In view of this the application is refused.

Advisory: It would be prudent to carry out a climbing inspection to assess for decay in the topping points. This assessment could be used to prescribe appropriate pruning works to manage the forms of the trees if necessary. Any future applications submitted providing clear evidence and justification for additional tree works, will be considered on their merits.

Due to the reasons stated above your application has been refused.

However, I can confirm that Wokingham Borough Council **consents, with conditions**, to the following lesser work being carried out to the tree(s) included in the aforementioned Tree Preservation Order (TPO):

Approved Tree Works to Trees Subject of TPO 1822/2021 (NOT APPROVED):

T3, Lime (T1 on TPO)

- Remove epicormic growth on trunk up to 6m above ground level.

T4, Lime (T2 on TPO)

- Remove epicormic growth on trunk up to 4m above ground level.

Officer comments:

The removal of epicormic growth should be undertaken with hand tools only (secateurs and hand saw) to prevent harm to tree bark. Epicormic growth will be retained on the higher trunk and in the crown to help sustain tree health.

The consent is granted subject to the following conditions:

1. The above works must be completed before **11th December 2025** and in the event of the works not being completed by that date, further consent will be required.
2. Work must be carried out in accordance with British Standard 3998 – 2010 ‘Tree work - Recommendations’. Pruning operations should strictly adhere to the aforementioned British Standard, with specific attention to be made to Section 7.
3. Climbing spikes shall not be used whilst undertaking any form of works on living trees (to be retained).

Reasons for conditions 1-3.....

1. To ensure that our records remain accurate.
2. To ensure the health, safety and visual amenity of the tree(s) and ensure works are undertaken in accordance with recognised arboricultural good practice.
3. Climbing spikes can cause damage to trees.

Permitted Development:

At the meeting between you and our consultant, Sarah Duckworth, the proposed new garage which Mr. Nash wishes to construct under permitted development was discussed. Mr Nash has unfortunately received erroneous advice that if the roots cut were under 2.5cm diameter, then cutting them would be acceptable under the TPO. This is not the case.

The guidelines state that a Tree Preservation Order prohibits the:

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

of trees without the local planning authority's written consent, and thus 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 regardless of size.

The BS:5837 2012 'Trees in relation to design, demolition and construction' is the industry standard when it comes to building near trees. It gives a means for calculating a tree's root protection area (RPA). Any development within the RPA which is likely to cut roots requires permission under the TPO.

The default position in British Standard 5837 (2012) is given in paragraph 5.3.1. It states that no structures should be built in the Root Protection Area (RPA) of trees to be retained:

5.3 Proximity of structures to trees

5.3.1 *The default position should be that structures (see 3.10) are located outside the RPAs of trees to be retained. However, where there is an overriding justification for construction within the RPA, technical solutions might be available that prevent damage to the tree(s) (see Clause 7). If operations within the RPA are proposed, the project arboriculturist should:*

- a) demonstrate that the tree(s) can remain viable and that the area lost to encroachment can be compensated for elsewhere, contiguous with its RPA;*
- b) propose a series of mitigation measures to improve the soil environment that is used by the tree for growth.*

The British Standard defines 'structures' at paragraph 3.10 which states:

3.10 structure

manufactured object, such as a building, carriageway, path, wall, service run, and built or excavated earthwork

With this in mind, the development as proposed cannot be constructed in this location using traditional trench foundations or in any way which affects the existing ground levels or conditions (including activities that would result in soil compaction) within the RPA. The preferred option would therefore be to construct a smaller garage outside the RPA of the trees where it would not require permission under the TPO. It should be noted that offsetting of the RPA may be required to take account of hard structures such as buildings, roads, etc as

detailed in BS 5837. It should also be noted that offsetting of RPAs into land not under the ownership of the applicant has not been supported at appeal by the Planning Inspectorate.

I trust this information is of use to you.

Informative:

If you are aggrieved by the refusal of works or any of the conditions attached to your consent, you may appeal to The Planning Inspectorate (PINS). The appeal must be submitted online. You cannot currently apply by post.

For more information go to:

<https://www.gov.uk/government/publications/tree-preservation-order-appeal-form>

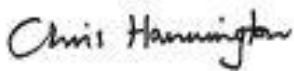
Telephone: 0303 444 5570 or e-mail it to: treeandhedgeappeals@planninginspectorate.gov.uk

Your appeal should be received within one month of receipt of this decision or any such longer period as the Planning Inspectorate may allow.

You are advised that this letter is in respect of the **Tree Preservation Order only** and it does not imply that consent would be forthcoming from the owner of the tree(s) or any such other persons from whom consent would be required. Pruning beyond your boundary will require the consent of the neighbouring landowner.

If we can be of any further assistance, please contact the Tree and Landscape Officer via email to: development.control@wokingham.gov.uk

Yours sincerely,



Chris Hannington
Trees and Landscape Team Manager

cc. Mr Daniel Nash, 1 Hill House Cottages Milley Lan Hare Hatch RG10 9TH

PTO - Your attention is drawn to the following information:

Bird Nesting Season and Presence of Bat Roosts

In accordance with the Wildlife and Countryside Act (1981) and Countryside Rights of Way Act (2000), consideration must be given to the timing and type of tree work operations, to avoid causing disturbance to any nesting birds or bat roosts that may be present within the tree(s).

The Act makes it an offence (subject to exceptions) to intentionally kill, injure, or take, possess, or trade in any wild animal listed, and prohibits interference with places used for shelter or protection, or intentionally disturbing animals occupying such places.

It is advised that all non-urgent major tree work and hedge cutting operations are undertaken at a time to avoid disturbing nesting birds during the breeding season (to which the bird nesting season is considered to be from March to July). Where bats are suspected to be present, it is recommended that advice first be sought from a licenced bat specialist and if appropriate, the relevant licence(s) be obtained before any major tree work or hedge cutting commences.

Further information can be found at the following:

DEFRA (Department for the Environment Food and Rural Affairs)
Tel: 08459 33 55 77 or by email at helpline@defra.gsi.gov.uk
Website: www.defra.gov.uk/

Natural England
Tel: 0845 600 3078 or by email at enquiries@naturalengland.org.uk
Website: www.naturalengland.org.uk

Bat Conservation Trust
Tel: 0845 1300 228 or by email at enquiries@bats.org.uk
Website: www.bats.org.uk

Forestry Act 1967 and Felling Licences

If it proposed to fell a tree or trees greater than 5 cubic metres or sell more than 2 cubic metres of timber in any calendar quarter, a Felling Licence from the Forestry Authority may be required.

Please note that Felling Licences are not required to remove trees from domestic (residential) gardens. Where you are the landowner of large pieces of land with numerous trees, clarification from the Forestry Commission may be required as to whether a Felling licence is needed.

For more information on Felling Licences, please speak to the Woodland Officer at the Forestry Commission on 01296 696543

Further Information can be found on the Forestry Commission Website:
www.forestry.gov.uk