

Tree Preservation Order Notice of Decision



District Council

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To: Mr Neil Edmondson - Network Rail
North Union House
Christian Road
Preston
PR1 8NB

Application Ref: 19/0236

Town and Country Planning Act 1990

Town and Country Planning (Trees) Regulations 1999, 2008 and 2012

Tree Preservation Order Application To Carry Out Works To Protected Trees

I refer to your application dated 22 March 2019 to carry out work to a tree(s) protected within the above Order at East Side Of St Michael's Churchyard (Adjacent Railway Line) Shap Penrith:

1) T1, T3, T4, T7 Lime trees - Pollard at 5-6m; 2) T2 Sycamore, T6 Maple and Group 5 consisting of Elms - Fell trees; Tree Preservation Order No 3, 1978, St Michael's Church, Shap (Group 1 of TPO); Reason: Risk to rail infrastructure.

Appraisal: This application has been submitted by Network Rail in respect of trees that are on adjacent land within St Michael's Church to address their concerns about risk to the rail infrastructure. Considering the potential consequences of a branch or tree failure onto the railway the Council accepts that remedial work is appropriate, however, the proposed pollarding of the mature trees and felling sycamore T2 is considered excessive and inappropriate. The Council has no objection to the removal of the smaller trees and these are not protected within the TPO although permission will still be required from the tree owner.

DECISION: In pursuance of their powers under the above Act and Regulations, Eden District Council, as local planning authority, hereby REFUSE permission for the tree work proposal described in your application and on the plans and drawings attached thereto. The reason(s) for this decision are:

1. The felling of T2 and the pollarding of trees T1, T3, T4 and T7 is considered excessive work that would be detrimental to the amenity of the area.
2. A new application containing individually specified crown reduction pruning proposals, that meets with the standards and guidance set out in British Standard 3998, Arboricultural Association published advice and International Society of Arboriculture guidance, would be considered acceptable and is likely to be granted approval.

Your Right of Appeal

If you disagree with the decision of the Council or the attachment of any conditions you can appeal to the Secretary of State for the Environment via the Planning Inspectorate. All appeals must be made in writing within 28 days from the date you receive the Council's decision. The Secretary of State has the discretion to allow a longer period.

www.eden.gov.uk Oliver Shimell LLB
Assistant Director Planning and Economic Development



Appeals are handled by the Planning Inspectorate (PINS). The 1999 Regulations have been amended so that as from 1 October 2008 a fasttrack appeal procedure replaces the previous handling of appeals through the submission of written representations. In practice most cases will therefore be dealt with on the basis of the original application and its supporting information, the decision of the LPA and the reasons they gave when making that decision. The inspector may, however, ask for further information. Either party may if they wish have the appeal dealt with at a hearing or public local inquiry.

When giving notice of appeal to PINS, the appellant must at the same time send a copy of that notice to the Council that made the original decision.

Appeals should be sent in writing to:

The Planning Inspectorate, The Environment Appeals Team, Trees and Hedges,
Room 3/25 Hawk Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol
BS1 6PN

Tel: 0303 444 5000

e-mail: environment.appeals@pins.gsi.gov.uk

Web: www.planning-inspectorate.gov.uk/pins/appeals/tree_preservation/index.htm

Compensation

If you suffer any loss or damage as a direct consequence of the decision made by the Council, or by the attachment of any conditions, you may be entitled to recover from the Council compensation in respect of such loss or damage. If you wish to make a claim you must do so within 12 months from the date of this decision. Claims should be submitted in writing to: Head of Planning Services, Eden District Council, Mansion House, Penrith CA11 7YG.



Oliver Shimell LLB

Assistant Director Planning and Economic Development

Date of Decision: 23 May 2019