

NORTH LINCOLNSHIRE COUNCIL



**CONSENT TO CUT DOWN OR CARRY
OUT WORK ON TREES PROTECTED
BY A TREE PRESERVATION ORDER**

APPLICATION NO: PA/2009/0284
Tree Preservation Order: Riddings Order 1 1988
Applicant: Ms Katharine Ellis
Address/Agent: Mr C Willis
Aspen Tree Services
Stoneleigh
Gainsborough Road
Scotter
GAINSBOROUGH
DN21 3JD

I refer to your application received as valid on 09/03/2009 to:

Carry out works to a Cherry tree at 28 Searby Road, Scunthorpe

The application has been considered and consent has been granted subject, in the interests of visual amenity, to the following conditions:

1.
All work shall be carried out in accordance with BS3998:1989 'Tree Work'.

Reason

To ensure the work is carried out to an appropriate standard.

2.

Work shall be limited to pruning to provide 1.0 metre clearance of telephone lines.

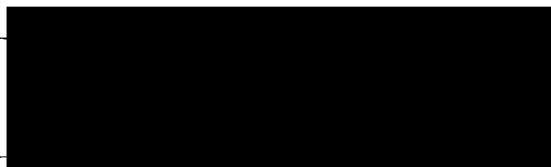
Reason

To define the extent of the work permitted in the interests of good arboricultural practice.

Dated: 29/04/09

Signed:

M.W.



M Welton
Head of Planning

This decision (based on the plans and information submitted with and contained in the application) has, where appropriate, been considered against and meets the provisions of the following policy/policies contained in:

- | | |
|--|------|
| 1. North Lincolnshire Local Plan: | LC12 |
| 2. Regional Spatial Strategy for Yorkshire and the Humber: | None |

Any person responsible for carrying out the works authorised by this notice is advised to engage the services of a qualified contractor in order to ensure an acceptable level of competence and that appropriate public liability insurance arrangements are in place.

Protected Species and Tree Works

When carrying out tree works, it is important to ensure that a competent person checks for signs of nesting birds and bats. If signs are found, protective measures should be taken, to avoid an offence being committed.

Nesting birds

Birds may nest in the branches, twigs, holes and covering ivy or other climbing plants on trees. Therefore tree works including felling, lopping, pruning, dead wood removal and ivy removal may affect nesting birds, if carried out in the breeding season (generally from late February to August).

It is an offence under Section 1 of the Wildlife and Countryside Act of 1981(WCA 1981) to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. The WCA 1981 also provides that all wild birds and their eggs are protected and cannot be killed or taken except under licence.

Bats

Bats may roost or rest in trees- in cracks, crevices, woodpecker holes, cavities, under ivy and even under loose flaps of bark. Therefore tree works including felling, lopping, pruning, dead wood removal and ivy removal may affect bats at any time of year.

All species of bat and their breeding sites or resting places (roosts) are protected under Regulation 39 of the Conservation (Natural Habitats) Regulations 1994 and Section 9 of the Wildlife and Countryside Act 1981. It is an offence for anyone intentionally to kill, injure or handle a bat, to possess a bat (whether live or dead), disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not.

On 21 August 2007 an amendment to the Conservation (Natural Habitats &c.) Regulations 1994 came into force. The Conservation (Natural Habitats &c.) (Amendment) Regulations 2007 have a variety of consequences for the protection of European Protected Species and for Natural England's licensing processes. The amendment removed the "incidental result defence" which applied to acts which could constitute an offence but were the incidental result of an otherwise lawful activity and could not reasonably have been avoided. Therefore, it is no longer possible to argue that bats were not considered or checked for in a project. However, the requirement for licensing has been relaxed, so that licences are no longer required for trivial acts of disturbance.

Licences can be sought from Natural England where an offence would otherwise be committed. However, licences can only be granted for preserving public health or public safety or other imperative reasons of overriding public interest.

YOUR RIGHTS OF APPEAL

If you are aggrieved by the Council's decision to grant consent subject to conditions, you can appeal to the Planning Inspectorate. If you want to appeal, you must do so by writing to the Planning Inspectorate, Environment Team, 4/04 Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN within 28 days from the date you receive this decision. The Planning Inspectorate has a discretion to allow a longer period.

COMPENSATION

If you suffer any loss or damage which is caused or incurred in consequence of this conditional consent, you are 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 (or, if you appeal to the Planning Inspectorate within 12 months from the date of his decision). Claims should be submitted in writing to the Head of Planning, Development Control Team, North Lincolnshire Council, Church Square House, PO Box 42, SCUNTHORPE, DN15 6XQ.