



Assessment of three trees – The Old Rectory, Epworth, including Root Protection Area requirements

**British Standard 5837:2005
Trees in relation to construction - Recommendations**

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Site: The Old Rectory, Rectory Street, Epworth, North Lincolnshire
Client: Glew and Smith, Architect and Surveyor, 20 West Parade, Lincoln, LN1 1JT
Survey date: 2 December 2009

GENERAL PROCEDURES AND GUIDANCE FOR IMPLEMENTING TREE WORK

1. Legal position -Tree Preservation Orders, Conservation Areas, Listed Buildings

As it is known there is a Tree Preservation Order (TPO) in place, consent from North Lincolnshire District Council (NLDC) is required prior to any work being undertaken on Tree 5, beech.

My opinion is that the beech has a high risk assessment and that work is required to make it safe. NLDC may not agree with this and, if work is carried out without their knowledge, it may be difficult to satisfy them at a later date that it was necessary, resulting in possible litigation.

Regarding the bay, notice of six weeks of proposed work to NLDC is necessary as it is in the grounds of a Listed Building. The intention is that if the Council wishes to make a Preservation Order it will have the opportunity.

Trees that are in the classification "dead, dying, dangerous" are exempt from TPOs. It is, however, advised that contact is made with the Council before undertaking work (unless any potential danger requires to be dealt with immediately). In such cases it is suggested that written notice of five days is given to the Council to enable them to make a site visit to confirm if the tree/s are within the exemption.

Normally, where trees in a TPO are removed, Councils require replanting on a one for one basis.

2. Felling Licences – Forestry Act 1967 (including TPOs, Conservation Areas and Listed Buildings)

Normally, where more than 5 cubic metres of timber are to be felled in a quarter year, a licence is required from the Forestry Commission at Willingham Road, Market Rasen, Lincolnshire. Of the permitted 5 cubic metres, no more than 2 cubic metres can be sold.

Although Tree 5; beech, has more than 5 cubic metres of timber, a felling licence is not required because of its condition and because trees that are in gardens/designated public open spaces are exempt from these regulations.

3. Standards of tree work, tender documents and contract specification

Tree work - Work that is to be carried out should be specified to British Standard 3998 : 1989 *Recommendations for tree work*.

Tender documents and contract specification - Regarding the preparation of a tender document and specification for work I find that information provided by the Arboricultural Association, under Guidance Notes No 8 *Standard Conditions of Contract* published in June 2008, to be most helpful. Copies can be obtained from them at "Ampfield House", Ampfield, Romsey, Hampshire, SO51 9PA, telephone 01794 368717. The cost is £30.00 per copy.

It is advised more than one price for the work is obtained.

4. Use of contractors and insurance

Tree work is inherently dangerous and it is essential that such work be carried out by fully trained, competent, and insured contractors only.

The person instructing the work should be satisfied as to the credentials and competency of any contractors used. In particular, this person is recommended to inspect the insurance documents of any contractor, before giving instructions for the work to commence, to ensure that the contractor is insured for tree work and has current public liability insurance cover to £5 million, or the amount they wish to specify.

In addition to normal methods of safety being employed by the contractor, operators should wear the correct safety climbing equipment when working off the ground. This should include the correct body harness and safety lines, so that whilst working there is nil risk of the operator falling.

Any order placed for tree work should make it clear that for safety reasons there is to be a minimum of two operatives on the site at all times when work is in progress.

5. Highway safety

Notification to the highway authority and/or police of when the work is to be carried out near the highway is advised. Road signing to the requirements of the highway authority should also be specified and required of the contractor when any orders for work are placed.

6. Types of contractor to use

The skills of a qualified tree surgeon, with adequate insurance, are required to undertake the work.

I do not know of tree surgeons local to Epworth, but some I have found to undertake satisfactory arboricultural work are:

Alan Myles, 5 Arlington Road, Newtoft, Market Rasen, LN8 3NP. Telephone 01673 885056

Paul Bavin, 22 Portrush Drive, Grantham, Lincs, NG31 9GD Telephone 01476 561986.

B & B Tree Specialists, Five Mile Lane, Washingborough, Lincoln. Telephone 01522 790313.

I have no business connection with these organisations.

7. Disposal of arisings

It is assumed that the tree surgeon will be required to remove all arisings. Thought should be given as to how they (timber, lop, top and brash) are to be removed from the site to prevent damage to structures, surfaces, e.g. drives, lawns etc.

To save cost, however, and to benefit conservation consideration could be given to having the larger pieces of timber left neatly on site as "bio-stack/s". It will be necessary to ensure that the bio-stack/s are properly constructed. Ideally the timber should be cut into lengths of no less than 2m and no more than 3m, and the timber stacked with all pieces laid in the same direction. Where bio-stack/s are in public places they should be secured down with wire hawsers to prevent disturbance.

Brash and small branches could be put through a chipper and used as garden mulch.

8. Treatment of stumps of felled trees

Stumps should normally be cut at 50-75mm above ground level. As there is access for a machine to be taken to them they could be ground out to a depth of, say, 15cm. This is probably the ideal treatment. Provision should be made to refill any depressions with good quality topsoil.

Alternatively stumps of hardwood/deciduous species can be treated with an "environmentally friendly" chemical to kill them. Should this method be decided upon Glyphosate (Roundup) is a suitable systemic liquid chemical that could be used. Roundup is applied in solution with water, and is sold at most garden centres. More than one treatment may be necessary.

Children and animals should be kept away from treated stumps for the appropriate period and other full safety recommendations used.

Use of pesticides is subject to "The Control of Pesticides Regulations 1986 (Statutory Instrument 1510, 1986). People either using or employing others to do this work are advised to make themselves fully conversant with these regulations. It is not the purpose of this paper to give full information on this subject, rather to draw attention to the position. There may be other more recent legislation on this matter of which I am not aware.

The only person I know of who provides a service to grind out stumps is:

Malcolm Fowler, Stump Busters, Garth End, Low Road, Grayingham,
Lincolnshire DN21 4ER. Telephone 01652 648864. Mobile 077831707108.

9. Duty of care – regular inspections

Owners and those responsible for trees are advised to inspect them every twelve months and to keep a record of having done so. Such an inspection is generally to assess tree condition as responsible owners. Should any problems like die-back, fungal brackets, cavities or broken limbs be noted the owners can then attend to the work. If there are serious problems the professional opinion of an arborist should be sought.

10. Disturbance of birds and bats

Birds

It is an offence under Section 1 of the Wildlife and Countryside Act 1981, to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. Trees should be inspected for the nests of birds all year round but especially between the months of March and August.

Bats

It is necessary to be satisfied that bats are not inhabiting trees as they are protected under the Conservation (Natural Habitats & c.) Regulations 1994, as amended by the Conservation (Natural Habitats & c.) (Amendment) Regulations 2007.

Under Regulation 39(1) of the Habitats Regulations, a person commits an offence if they:

- a) Deliberately capture, injure or kill a bat;
- b) Deliberately disturb a bat in a way as to be likely significantly to affect
 - (i) the ability of a significant group of bats to survive, breed or rear or nurture their young;
or
 - (ii) the local distribution or abundance of a species;
- c) Damage or destroy a breeding or a resting place of a bat.

In addition to the above legislation, bats continue to be the subject of certain provisions under Section 9 of the Wildlife and Countryside Act 1981 (as amended by the Countryside and Right of Way [CRoW] Act 2000).

This makes it an offence for a person to:

- (a) Intentionally or recklessly damage or destroy any structure or place which a bat uses for shelter or protection;
- (b) Intentionally or recklessly disturb a bat while it is occupying a structure or place which it uses for shelter or protection; or
- (c) Intentionally or recklessly obstructs access to any structure or place which a bat uses for shelter or protection.

Under the Countryside and Rights of Way Act 2000, all trees that require work, whether branch removal or felling, must be inspected to ensure that bat roosts are not present. A bat roost is interpreted as "any structure or place, which is used for shelter or protection" whether or not bats are present at the time.

If any proposed work is likely to destroy bats or their roosts, the appropriate Statutory Nature Conservation Organisation (Natural England) must be notified, and allowed a reasonable time to advise on whether proposed action should be carried out and, if so, the method to be used.

Advice may be obtainable from Colin Faulkner, Bat Ecologist and County Recorder for the Lincolnshire Bat Group, telephone 01775 766286.

One person I know of who undertakes inspections for bats is Garry C Steele, Ecologist, 'Tyto Alba', Cole Lane, Stickford, Boston, Lincolnshire, PE22 8EU. Telephone/fax: 01205 480477, e-mail: gcsteele@tiscali.co.uk.

Precautions to protect birds and bats

Prior to the contractor starting work, the person/organisation should give written instructions that the contractor should climb any part of the tree/s affected and undertake an inspection for both bats and birds so that they are not disturbed, and a decision made whether the work should proceed at that time. If bats are present work should not proceed until an assessment has been made with Natural England, Peterborough.

Should bats be found after work has begun, it should stop immediately and the matter reported to Natural England for them to advise on the position.



Arthur Arbon Tree Advisory Services Ltd
14 December 2009

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