

NOTICE OF DECISION
TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED)

Name and Address of Agent/Applicant:

Miss Debra Whitford
The Bungalow
White Post Road
Bodicote
Oxfordshire
OX15 4BN

TPO Determination

Date Registered: 14th December 2022

Proposal: T1/T2 Lime - Fell, repair all damaged drains, replacement of felled Lime trees with new tree having a smaller root system - subject to TPO 36/2017

Location: The Bungalow, White Post Road, Bodicote, Oxfordshire, OX15 4BN

Parish(es): Bodicote

REFUSAL OF CONSENT UNDER TREE PRESERVATION ORDER(S)

The Cherwell District Council, as Local Planning Authority, hereby **REFUSES** to grant consent for the operations described in the above-mentioned application, the accompanying plans and drawings and any clarifying or amending information. **THE REASONS FOR REFUSAL ARE SET OUT IN THE ATTACHED SCHEDULE.**

Cherwell District Council
Bodicote House
Bodicote
BANBURY
OX15 4AA



David Peckford

Assistant Director – Planning and Development

Date of Decision: 9 February 2023

Checked by: Nathanael Stock

REASONS FOR REFUSAL

1. The proposed removal of the trees subject of this application would result in significant harm to the character and appearance of the area and the character and appearance of the Bodicote Conservation Area. This harm, which is less than substantial, outweighs any public benefits of the proposal, and insufficient justification has been demonstrated for their removal. The proposal is therefore contrary to Policy ESD15 of the Cherwell Local Plan 2011-2031, saved Policy C28 of the Cherwell Local Plan 1996 and Government guidance within the National Planning Policy Framework.



NOTICE OF DECISION

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

NOTES TO THE APPLICANT

REFUSAL OF CONSENT UNDER TREE PRESERVATION ORDER(S)

The Local Planning Authority has refused consent for the reasons set out in the schedule forming part of this notice of refusal. A further explanation of the reasons for the decision can be found in the planning officer's report, which can be viewed in Public Access via the council's web site.

If you wish to examine any of the development plans which set out the Local Planning Authority's policies and proposals for the development and use of land in its area, these are available for inspection on our website, or at the District Council offices, Bodicote House, Bodicote, during normal office hours.

APPEALS TO THE SECRETARY OF STATE

Where an application is made to the Authority for consent under the Order and that consent is refused by the Authority or is granted by them subject to conditions, or where any certificate or direction is given by the Authority, the applicant, if he/she is aggrieved by their decision on the application, or by any such certificate, or the person directed if he/she is aggrieved by the direction, may by notice under this provision appeal to the Secretary of State.

A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Secretary of State may allow. If you wish to appeal this decision, details of how you do so can be found via <https://www.gov.uk/appeal-decision-about-tree-order>

When an appeal is brought under this provision from a decision, certificate or direction of the Authority the Secretary of State, subject to the following provisions, may allow or dismiss the appeal or may reverse or vary any part of the decision of the Authority, whether or not the appeal relates to that part, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

Before determining such an appeal, the Secretary of State shall, if either the appellant or the Authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose. The decision of the Secretary of State on any such appeal shall be final.

COMPENSATION

Subject to the provisions 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 Authority compensation in respect of such loss or damage.

This is 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 trees the 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 198 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 Development) 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 the trees the subject of the claim.

A claim for compensation under the Order shall be in writing and shall be made by serving it on the Authority, such service to be effected by delivering the claim at the offices of the Authority addressed to the Chief Executive thereof or by sending it by prepaid post so addressed, within twelve months from the date of the decision of the Authority, or of the Secretary of State, as the case may be, or where an appeal has been made to the Secretary of State against the decision of the Authority, from the date of the decision of the Secretary of State on the appeal. Any question of disputed compensation will be determined in accordance with the provisions of Section 205 of the Act.