



Knowle, Dorridge and Bentley Heath  
Neighbourhood Forum  
FAO: Jane Aykryod  
Chair of KDBH Neighbourhood Forum

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Date: Tuesday 16<sup>th</sup> March 2021

Dear Jane,

**REF: Trees at Lansdowne/ Arden Cross Proposed Triangle Site**

As promised, I am writing in response to the letter you sent my colleague, David Wigfield on 2<sup>nd</sup> March 2021.

I recognise that your letter has three themes:-

1. The Five Day Notification Process
2. Lansdowne trees: Evidence
3. Request for TPOs on the Arden Triangle Site.

In my role as Group Leader for Development Management, I am able to respond to points one and two above. As you rightly point out however, requests for a TPO designation on the Arden Triangle Site would be considered by my colleagues in Planning Policy. I have therefore asked that my colleague Gary Palmer responds to you directly on this point. Gary and his team are working very hard this week on the Solihull Local Plan Review, which is hoped to be submitted to the Planning Inspector in the coming days. For this reason, I suspect there will be a slight delay in Gary getting back to you.

1. The Five Day Notification Process

The Town and Country Planning (Tree Preservation) (England) Regulations 2012 provides the statutory framework around works to trees designated by a Tree Preservation Order. As you know, certain exemptions are set out in the Regulations that allow works to safeguarded trees to take place without the need for consent from the Local Planning Authority. This is dealt with by way of submission of a five day notice by the landowner or its agent.

The 2012 Regulations have updated its predecessor of 1999 and sought to consolidate advice on the administration of making a Tree Preservation Order as well as (amongst other things) advice on exemptions for consent to works. Most notably, the 'dead, dying or dangerous' reference of the 1999 Regulations is now altered, and the 2012 regulations omits the word 'dying' from exceptions, but it does go onto include a new exemption which is to remove dead branches from a living tree. As has been pointed out by Mr Wigfield, whilst notification of works is required, there is no statutory duty for a local planning authority to respond.

Procedure around 5 day notices is an aspect of the team that I am mindful needs updating, and certainly, your letter has highlighted this. In response, I can share with you that our new Head of Service, Mark Andrews, has been keen to resource a bespoke Tree Officer who would work within our service area. A business case to support this is currently live. On the assumption that the business case can be supported, it is hoped that recruitment can take place for a new tree officer post, with the role being focused around TPO and S211 applications (Works to trees in conservation areas); the making of new Tree Preservation Orders as well as the consideration of 5 day notices. I believe that should this business case be approved and successful recruitment takes place then significant benefits will be reaped for both the team and Solihull constituents alike.

In view of the above, it is proposed to create a new email address that would be specific to tree issues, so bypassing the planning inbox where all general planning related enquiries are sent. A separate email account will allow swift receipt of emails without the need for any hand-offs, i.e. filtering of all planning emails and forwarding of notifications to a relevant officer. I believe this will do much to gain additional assessment time. Similarly, having a professional tree officer receive and consider the notices will ensure that scrutiny is robust. The 5 day notices and response can then be added to the original TPO file for safekeeping and transparency. Similarly, the need for replacement tree planting can also be monitored from here. I am mindful however, that even with such improved service delivery, just 5 days provides very little time.

Thank you for the offer of KDBH forum members being willing to make a site visit to any tree in question within your jurisdiction boundary. I concur with Mr Wigfield however in politely declining this offer, sorry that this comes as a disappointment to you. In my mind, the request is made to the local planning authority and to introduce other bodies into the process could make transparency over decision making difficult and complicated and thereby open to challenge. Added to this of course is the actual time limits associated with the applications, so as to limit the risk of accident from any dead or dying tree, and therefore by its very nature are extremely tight,.

I hope the above narrative provides some reassurance that process around 5 day notices is being reviewed and updated.

## 2. Lansdowne trees: Evidence

The 2012 Regulations require that written notification is provided to a local planning authority, but is silent on what supporting information should be provided. In this case, you will recall from Mr Wigfield's correspondence that a notice was issued to

the local planning authority via a qualified tree surgeon. This, taken with existing tree surveys that were on file provide the necessary reassurance that the works proposed were necessary. Certainly, the position of these trees, near to the Warwick Road could legitimately cause serious harm to pedestrians and motorists if the tree were to fall.

I'm mindful of your comments relating to the photos shared by the applicant, subsequent to the felling of these trees. However, following the event of felling, the site has been visited by a SMBC tree officer who assessed the physical evidence on ground. As shared by Mr Wigfield, this visit confirmed that physical evidence on site concurred with the written evidence submitted. He advised that the photographs show that the Horse Chestnut and one of the Pines were either dead standing or near dead, and the remains of the third tree still on site at the time of the visit consisted of extensive deadwood, strongly indicating that the same applied to that one also. Whilst none of the 3 cut stumps had wood decay evident on the cut surfaces, the relevant statutory exemption is not limited to the removal of trees with a basal fungal infection, and any dead standing or seriously moribund tree would potentially fit the remit. For these reasons I have no reason to doubt that the trees were removed lawfully.

In terms of replacement planting, the Council has already written to the land owner reminding and requiring that replacement tree planting is necessary to replace the two TPO'd trees which grew within the G2 group at Lansdowne. They have responded to agree replacement planting. The Council's tree officer will be advising on appropriate details. These trees will have to be of the same species, Horse Chestnut and Pine, and shall be planted as near as possible to where the original trees were felled. The planting season is now drawing to a close (it's approximately October to March), but given the wet weather we have had recently planting should be able to go ahead now, and there seems a willingness to act swiftly on behalf of the landowner. Written confirmation and photos have been requested to evidence the replacement planting once it has been carried out, and on receipt this will be added to the file.

I'm sure you appreciate that replacement planting need not take place for the felled trees that had no TPO designation.

### Conclusion

Thank you once again for your comments shared, and certainly your concerns have been taken very seriously by the department. Going forward, internal process for dealing with 5 day notices will be more streamlined, with results of notices clearly logged. This new procedure will be reflected on the TPO pages of the Council website. Matters around any additional TPO designations at the Arden Triangle site will be responded to by Gary Palmer, Planning Policy Manager.

I hope the above has provided you with some reassurance.

Yours Sincerely,

A handwritten signature in black ink, appearing to read "K. Allen". The signature is written in a cursive, slightly slanted style.

Kim Allen  
Group Leader – Development Management  
Planning and Infrastructure Directorate