

THIS ORDER SUPPERSEEDS THE ORDER SENT ON THE 31st OF MARCH 2023

IN THE HIGH COURT OF JUSTICE

CO/975/2023

KING'S BENCH DIVISION

PLANNING COURT

BEFORE SIR ROSS CRANSTON (sitting as a High Court Judge)

Friday, 24 March 2023

BETWEEN:

THE KING

(on the application of ALISON WHITE)

Claimant

- and -

PLYMOUTH CITY COUNCIL

Defendant



ORDER

UPON HEARING Mr Richard Harwood KC for the Claimant and Mr Ranjit Bhoose KC and Mr Wayne Beglan of Counsel for the Defendant

IT IS ORDERED THAT:

1. The Order of Mr Justice Freedman dated 15th March 2023 is varied so that paragraph (1) reads:

“Trees not felled

(a) the Defendant must not whether by themselves or by instructing or encouraging any other person, fell or carry out any preliminary works for the felling of any of the remaining trees at Armada Way, Plymouth, Devon until further order;

(b) The Defendant shall file and serve a plan showing those trees which [it considers] are within the scope of the undertaking by 4pm on Wednesday 29th March 2023;

Felled trees (and their branches)

(c) The Defendant shall obtain and share with the Claimant, an expert opinion on what and how any removals of felled trees and branches should take place, along with an ecologist report (including bird survey) on the effect of such removals;

(d) The Defendant must not whether by themselves or by instructing or encouraging any other person, carry out any removal of felled trees or branches except in accordance with the expert’s opinion and ecologist’s report and without:

- i. first having obtained the views of the Claimant (which view is to be given or withheld within 48 hours’ (not including weekends or public holidays) supply of the expert’s opinion and ecologist’s report), in advance of any removal works;
- ii. allowing the removal works to be attended by an expert appointed by the Claimant, that expert to be permitted supervised access to the site, in compliance with the Construction (Design and Management) Regulations 2015;

(e) The Defendant must immediately cease any such removal works in paragraph ~~(f)~~ (d) if the Claimant’s expert or solicitor concludes that the works are not being carried out in accordance with the Defendant’s expert’s methodology in paragraphs (c) or as revised following the consultation in (d)i above.

Tree stumps from felled trees

(~~f~~) The Defendant shall:

- i. obtain and share with the Claimant an expert opinion on the merits of removing or retaining the tree stumps and damage to the environment (if any) on removing the tree stumps (of any trees felled on the evening of 14 March 2023) along with an ecologist report on the effect of such removals;
 - ii. obtain the views of the Claimant (which view is to be given or withheld within 48 hours (not including weekends or public holidays), in advance of any removal works;
 - iii. not carry out any removal works except in accordance with the Defendant's expert opinion and ecologist's report and having taken the comments of the Claimant and any expert instructed by her into account in deciding whether or not to remove those stumps, and how they are to be removed.
2. The Defendant shall file and serve a witness statement from Mr Barnard by 4pm on Friday 31 March 2023 explaining the circumstances whereby the Defendant's instruction to stop the works in compliance with the injunction was not given until 1.03 am on 15 March 2023.
3. Costs in the case.
4. Liberty to apply on 72 hours' written notice.

BY THE COURT

DATED: 24th March 2023