

## **The felling of trees within the faculty jurisdiction (1)**

In *Re St Andrew Sonning* [2023] ECC Oxf 6:, Hodge Ch. stated:”

[8]. The felling of trees within the faculty jurisdiction

I have recently considered the law relating to the felling of trees growing within land that is subject to the faculty jurisdiction in my judgment in *Re St Nicholas Kingsey* [2023] ECC Oxf 5; but, for convenience, I repeat it here.

[9]. List A of the FJR lists those matters which may be undertaken without a faculty, and without the need for any consultation, subject to any specified conditions. The relevant part relating to the felling of trees without a faculty or the need for consultation is item A.8 (1), which permits:

(1) The felling, lopping or topping of a tree the diameter of any stem of which does not exceed 75 millimetres (measured over the bark at a height of 1.5 metres above ground level)

The specified conditions relating to A.8 (1) are:

The works do not relate to any tree in respect of which a tree preservation order is in force or which is in a conservation area Regard is had to guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards

[10]. List B of the FJR lists those works which may be carried out without a faculty if the archdeacon has been consulted on the proposal and has given notice in writing that it may be undertaken without a faculty (together with any conditions added by the archdeacon).

The relevant part relating to the felling of trees without a faculty is item B.7 (2). This permits the archdeacon to give consent to:

(2) The felling of a tree – (a) that is dying or dead; or (b) that has become dangerous The specified conditions relating to B.7(2) are: In the case of any tree in respect of which a tree preservation order is in force or which is in a conservation area, section 206 of the Town and Country Planning Act 1990 (which provides for the planting of replacement trees) is complied with Regard is had to the guidance issued by the Church Buildings Council as to the planting, felling, lopping and topping of trees in churchyards

Beyond the situations prescribed in Lists A.8 (1) and B.7 (2), the felling of a tree in a churchyard requires a faculty. Once a tree has been felled, only a faculty may serve to regularise the position for the future: an archdeacon’s notice is no longer an available alternative.”