

Eton College
c/o Charles Russel Llp
5 Fleet Place
London
EC4M 74D

3rd March 2021

Dear Sir/Madam,

Formal Warning: Alleged Illegal Felling - Land lying North-East of Solent View Road, Seaview, Isle of Wight (Title deed IW78879).

I am informed that during the month of September 2020 you felled or authorised the felling of trees on the above property. This work was undertaken without a licence to fell trees. Section 9 of the Forestry Act 1967 (as amended) sets out the exemptions to the need for a felling licence; however, none of these appear to the Forestry Commission to have been engaged at the time of the felling.

Having considered all the circumstances, it has been decided that no further action should be taken by the Forestry Commission on this occasion, but I am writing to advise you of the consequences of any tree felling that is considered a breach of the Forestry Act.

It is an offence under section 17 of the Forestry Act to fell more than five cubic metres of timber in a calendar quarter (or two cubic metres if the timber is sold) without a licence authorising the tree felling, or any other exemption to the need for a licence applying.

The Forestry Commission takes a serious view of any offence committed under the Forestry Act in relation to felling without a licence. Where there has been a breach of these requirements the Forestry Act provides us with powers to refer the matter for criminal investigation and prosecution by a Magistrate and/or to issue a Notice requiring the land to be restocked with trees.

Any persons involved in unlicensed tree felling can be prosecuted, whether they authorise the works or carry them out themselves. Persons successfully prosecuted for illegal tree felling are liable to a fine of either £2,500 or twice the value of the timber felled, whichever is the greater. This will soon be increased to an unlimited value fine, when the Environment Bill currently passing through Parliament is enacted. Such a prosecution

may then also allow for the Proceeds of Crime Act 2002 to be applied in relation to any financial gain made on the land in question as a result of the illegal activity. For example, the Forestry Commission would be minded to consider development of land that has been illegally felled, and the profits from the sale of that development, to be such a proceed of crime.

Environmental Impact Assessment

Felling trees without replanting may also constitute Deforestation under the Environmental Impact Assessment (EIA) (Forestry) (England and Wales) Regulations 1999, as amended. If we discover you have carried out work that would have required our consent under the EIA Regulations we may issue you with an Enforcement Notice. This will require you to do one or more of the following:

- Stop work.
- Apply to the Forestry Commission for consent for the works.
- Restore the land to its condition before any work in relation to the relevant project was carried out.
- Where consent has been granted: carry out work to secure compliance with the conditions of consent.
- Remove or alleviate any damage to the environment that has been caused by the work, for instance through restocking with trees or soil restoration.

Cross-compliance

Compliance with the Forestry Act and EIA Regulations are both cross-compliance requirements for land managers in receipt of payments under the Basic Payment Scheme and the tree felling is a breach of the required Good Agricultural Environment Conditions (GEAC) we are required to refer the case to the Rural Payments Agency (RPA) for further consideration. This may lead to an inspection and/or possibly a financial penalty. The decision on any action taken is made by RPA but we will notify them of the facts of this case so they account of them in their decision making.

The Timber and Timber Products (Placing on the Market) Regulations 2013

Placing illegally felled timber on the market may also constitute an offense under the Timber and Timber Products (Placing on the Market) Regulations 2013. A breach of these regulations can lead to the seizure of timber brought to market. Conviction of an offense under these regulations can also lead to an unlimited fine and/or a term of imprisonment.

Whilst the Commission is taking no further action in respect of the felling at this time, I wish to clarify that this decision relates solely to any enforcement action or proceedings initiated by or on behalf of the Forestry Commission and solely in relation to the works undertaken at the above site at the time of writing this letter. Nothing in this letter should be taken to in anyway reflect the decisions or actions of other public bodies who may be conducting investigations or initiating proceedings in relation to regulatory controls other than those set out within the Forestry Act 1967 and Environmental Impact Assessment (EIA) (Forestry) (England and Wales) Regulations 1999.

A copy of the booklet – “Tree Felling: Getting Permission” – can be found online at:
www.gov.uk/government/publications/tree-felling-getting-permission.gov.uk.

If you contemplate any further tree felling and are in doubt as to the need for a felling licence or the requirements for EIA consent you are strongly recommended to consult this office for advice.

Yours faithfully,

A large black rectangular redaction box covering the signature area.A small black rectangular redaction box covering the name.

Regulations Manager

E-mail: @forestrycommission.gov.uk