

Bus driver left with horrific injuries after 80-foot tree collapsed on cab in Witley to sue parish council for £500,000

Andrew Cavanagh was in a coma for seven days following the incident in January 2012 after suffering multiple horrific injuries



A bus driver, who was left in a coma for seven days after [an 80-foot tree crashed down on his cab](#) in [Witley](#) , is suing the parish council and a tree surgeon for [£500,000 damages](#) .

Andrew Cavanagh, 57, escaped with his life when the giant lime tree collapsed and landed on his bus in January 2012.

After he was cut free from the cab, Mr Cavanagh, of [Haslemere](#) , was placed in intensive care for 13 days after the accident in the village near [Godalming](#) .

He was left with a brain injury, numerous fractures to his face and body, and subsequently lost the use of his right hand.

Mr Cavanagh is now suing tree owner, Witley Parish Council, and tree surgeon David Kevin Shepherd for [£500,000 in damages](#) at the [High Court](#) .



An 80-foot lime tree fell on Mr Cavanagh's bus cab (Image: Chris Whiteoak)

His lawyers claim the council failed to satisfactorily check whether Mr Shepherd, who had been contracted to inspect the tree in 2006 and 2009, was competent.

Paul Bleasdale QC, representing Mr Cavanagh, said the council's duty was to arrange for a “suitably qualified person” to inspect trees which might be hazardous.

The tree which fell was large, mature and near a bus shelter on a main road, and was therefore “obviously a high risk category tree”, he said.

The destruction which ensued when root decay caused it to fall in strong winds, hitting the bus and a house opposite, showed just how great the risk was, he said.

But Mr Bleasdale said the council had not done enough to ensure it was properly inspected, resulting in Mr Shepherd, who was not qualified to assess hazard trees, being contracted to survey its trees.

“The decision to engage Mr Shepherd in both 2006 and 2009 appears to have been driven by price rather than experience,” said Mr Bleasdale.

“Mr Shepherd was manifestly not qualified to meet the detailed brief set out in the council's tender.”



Mr Cavanagh is seeking £500,000 damages following the accident in 2012 (Image: Chris Whiteoak)

Although he was an experienced tree surgeon and forestry contractor, he did not have specific qualifications for inspecting dangerous trees, said the QC.

"Mr Cavanagh's case is that the council should not have engaged Mr Shepherd to do these observations," he continued. "It was outside of his skill set."

'Competent contractor'

For the council, Michael Pooles QC said it had selected an "apparently competent contractor" when it engaged Mr Shepherd.

Only a person with a "working knowledge of trees" is required for an initial inspection and Mr Shepherd had done work for the council over many years.

Mr Shepherd had worked in the industry for over 40 years and took over his family tree surgery business in 1994, the court heard.

When he reported back to the council following his 2009 survey, he had entered the words "no works" alongside the Witley tree, judge Sir Alistair MacDuff was told.

The council took that to mean no works were necessary, but defending his involvement, Mr Shepherd told the court it meant he had not assessed the tree at all.



The council said Mr Shepherd was an 'apparently competent contractor' (Image: Chris Whiteoak)

He had never been given maps which he had asked the council for and so had not surveyed all the trees it wanted him to – and the council was fully aware of that.

His barrister, George Woodhead, said: “He made it clear that he would not survey areas for which no maps were provided. That was the agreement.

“He persistently sought maps from the council's staff, both over the telephone and in person. He cannot be criticised for want of trying to obtain the missing maps.”

Mr Bleasdale said had the tree not been inspected, the council should have chased it up and made sure it was.

The lime tree was such a hazard that three-yearly inspection was insufficient and more than a “quick visual check” was necessary.