



# Cavanagh v Witley Parish Council & D Kevin Shepherd (2017)



## Legal Case Study: Cavanagh -v- Witley Parish Council & D Kevin Shepherd (2017)

On 3 January 2012, Mr Cavanagh (The Claimant) was driving public bus along the A283 Petworth Road in Witley, Surrey, when a mature lime tree fell across the road hitting the vehicle and causing him severe injuries. The responsibility for the tree rested with Witley Parish Council (The First Defendant) who operated a three-yearly inspection regime leading up to the incident. The Second Defendant was a tree and forestry contractor, Mr Shepherd, who inspected the tree about three years before the failure. The experts agreed that the tree failed due to severe and extensive decay in the root system, with high winds being a contributory factor. At the time of failure, the tree had a significant fungal bracket of the genus *Ganoderma* at its base, but on the side furthest from the road.

The case was heard in the High Court in December 2016 and the judgment handed down in February 2017 (Case No: HQ14 P05328) in favour of the Claimant. The judge found that a three-year inspection regime was inadequate and that a reasonable inspection frequency should have been every two years.

The tree experts were Dr Dealga O'Callaghan (The Claimant), Jeremy Barrell (The First Defendant), and Simon Holmes (The Second Defendant).



### Current status:

There is a request for an appeal to be allowed currently under consideration and further commentary would be inappropriate until that process is completed.

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