T/16/77827

Customer Service Centre
29 APR 2016

The Planning Inspectorate

https://www.gov.uk/government/organisations/planning-inspectorate

For official use only
Date Received
Appeal Ref

TREE PRESERVATION ORDER (TPO) APPEAL FORM
The Town and Country Planning (Tree Preservation) (England) Regulations 2012 – SI No. 605, Regulation 19

Before completing this form please read "Guide for Appellants (Tree Preservation Orders – consents for works)"

WARNING **Your appeal must reach the Planning Inspectorate within 28 days from receipt of the decision against which you are appealing.**

Appeals received after the deadline will only be accepted in exceptional circumstances.

If you need this document in large print, on audio tape, in another language or in Braille, please call 0303 444 5584.

PLEASE PRINT CLEARLY IN CAPITALS USING BLACK INK

A. APPELLANT

Name MR KURT BROWN - T.L. CAPITAL LTD.

Address

Postcode

Daytime Tel

Email

I prefer to be contacted by: Email ☐ Post ☐

B. AGENT: If acting on behalf of the appellant, you will be our main contact on all matters relating to this appeal and we will direct all queries and correspondence to you. It will be your responsibility to keep the appellant informed.

Name MR BERNIE HARVERSON

Organisation BERNIE HARVERSON - ARBORICULTURAL CONSULTANT

Address 3 FOXCOMBE COTTAGES SOUTH HARTING WEST SUSSEX

Postcode GU31 5PL

Daytime Tel

Email

I prefer to be contacted by: Email ☑ Post ☐

C. APPEAL SITE

Address where the appeal tree is (trees are) located: 5 to 9 SHAMBLEHURST LANE, HEDGE END SOUTHAMPTON

APPELLANTS DO

Do you own the site: Yes ☑ No ☐

If no

1) give details of your interest in the site (eg tenant, neighbour):

2) give the name and address (if different from the above) of the owner and/or occupier of the site. We will need to contact them to make arrangements for our Inspector to gain access to the site:

D. COUNCIL/DECISION

Council: EASTLEIGH BOROUGH COUNCIL

Council Contact Name: TREE OFFICER Telephone Number: 02380 688422

Full title of tree preservation order (if known): TPO 612

Date of Council's decision (if applicable): 14th APRIL 2016

E. APPEAL

Please tick only the relevant boxes.

I am appealing against:

The Council's refusal of consent ☑

The Council's failure to issue a decision (deemed refusal of consent) ☐

Condition(s) attached to the consent ☐

The Council's refusal to agree a matter that required their agreement under the terms of a condition of consent. ☐

F. GROUNDS OF APPEAL

Please provide at least one reason for each of the boxes you have ticked in section E. You must explain fully why you disagree with the council's decision, where one has been issued. To do this, you need to go through the reasons for the decision, and explain why you disagree. Only the reasons within the council's decision and the reasons put forward by you at application stage should be included on your appeal form. You should not introduce any new reasons for the appeal.

Your appeal should relate to the same works as those specified in your application to the council. Exceptionally we may be able to accept your appeal even if you are seeking a variation to the works originally applied for. We will only be able to do so if the changes do not materially alter the nature of the application and, if no one who should have been consulted about the proposed works would be prejudiced by our doing so. For instance, you may have originally applied for consent to crown thin a tree by reducing the percentage of leaf area by 20%, whereas on appeal you may seek a lesser reduction of 10%. However if on appeal you appear to be seeking more works than originally applied for, it is recommended that you submit a new application to the council rather than seek to amend your original application at appeal stage because the Inspector will not consider any works above those which were put forward in your application form.

Similar limitations apply in respect of the reasons you give for seeking consent, especially under the fast-track procedure where the council has no opportunity to respond to your grounds of appeal. The Inspector will only consider the matters that were before your council when the decision on your application was made. This means that if the reason you submitted on your application form was that the tree was causing overshadowing, you should not, on appeal make a claim that tree roots are causing subsidence. If you want to make a different case for the work applied for you should make a fresh application to the council.

We will also look at the original application to check that it clearly specifies the proposed work. If we decide that the works you have applied for are so vague that we cannot be sure how much work is involved, we may decide that the appeal is invalid and reject it. For example it is not sufficient to specify that you want to remove some of the lower branches, or you wish to reduce the tree by 15%. This is too vague and fails to indicate the extent of the works.

If you choose the recommended Fast Track appeal procedure (see section G) the reasons you set out below will be treated as your statement of case. It is important that you set them out in full because you will not get an opportunity to add to them later.

The decision on your appeal will take into account the contribution that the tree(s) make to the character and appearance of the area and the reasons set in support of your application/appeal. Please bear in mind that the Planning Inspectorate has no jurisdiction to resolve allegations of maladministration or complaints about the time taken by the Council to issue a decision, since such matters are not relevant to the merits of the proposal.

If you are appealing to fell a tree or against a condition requiring replacement planting please indicate the species and size of any tree(s) you would be prepared to plant if the appeal were to be allowed:

Number of trees and Species: 4 x WESTERN RED CEDARS / THUJA PLICATA

Size: 2m HEIGHT - ROOTBALLED OR CONTAINERISED

F. GROUNDS OF APPEAL (cont)

1. THESE SYCAMORES ARE GROWING IN WHAT WAS ONCE A CRAMPED ENVIRONMENT BETWEEN TWO BRICK OUTBUILDINGS WITH CONCRETE FOOTINGS - THE TREES WHICH SELF SEEDED INTO THIS LOCATION HAVE NETWORKED THEIR ROOTS OVER, AROUND AND UNDER WHAT REMAINS OF THESE FOOTINGS THUS THERE ARE CONCERNS OVER THEIR LONG TERM STABILITY AND VIABILITY AT THIS LOCATION - WHEN THIS SITE IS RE-DEVELOPED (EXTANT APPROVAL) AND LANDSCAPED THERE WILL BE AN INEVITABLE LOSS OF ROOT MATTER WHICH WILL RAISE FURTHER CONCERNS OVER VIABILITY.
2. THERE ARE FOUR TREES LISTED TO BE WITHIN TPO G1 BUT THERE ARE FIVE TREES OF THIS SPECIES WITHIN THE ZONE OUTLINED ON THE TPO PLAN - THE SUBMITTED APPLICATION MADE THIS CLEAR AND STATED THAT WE INTENDED TO REMOVE 4 OF THE 5 TREES OF WHICH 1 IS NOT A TPO'D TREE - WE WILL BE LEAVING THE LARGER AND MORE PROMINENT TREE LOCATED IN AMONGST THE LINE OF CONIFERS IN THE SOUTH-WEST CORNER OF THE SITE.
3. THE EXTANT PLANNING APPROVAL FOR THE RE-DEVELOPMENT OF THIS SITE SHOWS A COMBINATION OF HARD SURFACED CAR PARKING BAYS UNDER THE CANOPIES OF THE TREES THAT WE SEEK TO REMOVE - THUS THERE WILL BE ISSUES OF APHID DRIP DAMAGE TO THE PAINTWORK OF CARS TO CONTEND WITH AS WELL AS THE PROLIFIC SELF SEEDING CAPABILITY CAUSING ISSUES WITH THE SOFT LANDSCAPED AREAS
4. MY CLIENT (APPELLANT) WOULD RATHER SEE THREE TPO'D AND ONE NON TPO'D SYCAMORE REMOVED AND REPLACEMENT EVERGREEN TREES PLANTED IN THEIR PLACE ALONG THE REAR BOUNDARY LINE - AS SHOWN ON PLAN BH01 / 0827/Jan16 WHICH WAS SUBMITTED WITH THE APPLICATION ALONG WITH REPORT 0827.bjh.Tpop.Jan16 WHICH CONTAINED PHOTOGRAPHIC EVIDENCE TO ILLUSTRATE THE PRECARIOUS ROOTING ENVIRONMENT - THE REPLACEMENT PLANTING WOULD LINK UP WITH THE PLANTING WHICH IS TO BE UNDERTAKEN AS PART OF THE EXTANT PLANNING APPROVAL TO RE-DEVELOP THIS SITE - THUS THERE WOULD BE AN ENHANCEMENT OF THE SCREENING AND SEPARATION AT THIS LOCATION.

Please continue at section K or on a separate sheet if necessary

G. PROCEDURE – (See Section 9 of the Guide for Appellants before making your choice)

Appeals dealt with by the Fast Track procedure are usually decided more quickly than those which proceed through a hearing or a more formal local inquiry and because of this we recommend the Fast Track procedure.

However, if you or the Council ask to be heard by the Inspector we will organise a hearing which will take the form of a round table discussion. In very exceptional cases, where complex legal matters are at issue, a substantial number of third parties are involved and/or formal cross examination is warranted, we may decide to hold an inquiry.

Please tick one box only.

I wish my appeal to be decided through the Fast Track procedure ☑

I wish to appear and be heard by an Inspector ☐

H. SITE VISIT – Please note: no discussion about the merits of the case will take place during the site visit.

Are you willing for an Inspector to enter the site and conduct the visit unaccompanied?

Yes ☑ No ☐

If Yes, please give details below of anything the Inspector needs to know with regard to how to access the site:

THIS SITE WILL HAVE BEEN RE-DEVELOPED FOR RESIDENTIAL PURPOSES BY THE TIME THAT A SITE INSPECTION TAKES PLACE SO THERE WILL BE FREE ACCESS TO THE REAR OF THE SITE

If No, please outline below why this is not possible, why you need to be there or why you need to be represented during the Inspector's visit:

Are there any Health and Safety concerns that the Inspector will need to be aware of prior to the site visit?

Yes ☐ No ☑

If Yes, please detail the concerns below:

I. SUPPORTING DOCUMENTS

In support of your appeal form please send a copy of your application for consent and a copy of the Council's decision (where one has been issued).

Please tick the boxes to show which documents you are enclosing and list any other documents you are submitting in the space below. If you cannot send a copy of the tree preservation order – we will ask the Council to send a copy together with the relevant background papers.

I enclose:

1. A copy of my application for consent INCLUSIVE OF TREE LOCATION PLAN BH01/0829/JAN2016 AND REPORT 0829.bjh.TPOapp.Jan16 WHICH ACCOMPANIED THE ORIGINAL APPLICATION 1 ☑

   If you do not have a copy of your application please state the council's application reference number here (it should be stated on your decision if one was made):

   _____

2. A copy of the Council's decision (if one was issued) 2 ☑

J. CONFIRMATION

DECLARATION

1. I understand that:

a) the Planning Inspectorate may use the information I have given for official purposes in connection with the processing of my appeal.
b) details from this form, including my name, the site description and reasons for making this appeal may appear on the Appeals Casework Portal.

By signing this form I am agreeing to the above use of the information I have provided.

2. I have completed all sections of the appeal form and confirm that the details are correct to the best of my knowledge.

3. I have sent a copy of this appeal form and enclosures to the Council.

Signature

Date 26/04/2016

Name (in capitals) B. J. HARVERSON

On behalf of (if applicable) KURT BROWN - T.L. CAPITAL LTD

The gathering and subsequent processing of the personal data you give on this form accords with the terms of the Planning Inspectorate's registration under the Data Protection Act 1998. Our personal information charter can be found by following this link:
https://www.gov.uk/government/organisations/planning-inspectorate/about/personal-information-charter

Please send the completed form and supporting documents to:

The Environment Appeals Team
Trees and Hedges
Room 3/25 Hawk Wing
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Telephone: 0303 444 5584
or e-mail it to: environment.appeals@pins.gsi.gov.uk

What happens next:

1. You must send a copy of this completed form to the Council including copies of any supporting documents you send to us.
2. When we receive your appeal form we will check it against background documents supplied by the council before telling you whether your appeal is valid.
3. At the end of the appeal process we will send you the Inspector's decision, including the reasoning in writing.

K. SUPPLEMENTARY SHEET

5. THE COUNCILS REASONS FOR REFUSAL ARE :-

A. THE PROPOSED FELLING IS UNJUSTIFIED

B. IT WILL BE OF DETRIMENT TO THE HEALTH AND APPEARANCE OF THE TREES

C. THE WORKS WILL RESULT IN AN ADVERSE IMPACT UPON THE VISUAL AMENITY, ECOLOGY AND WILDLIFE, SHELTER AND SCREENING OF THE SURROUNDING AREA

OUR RESPONSE TO THIS IS :-

A. THE PROPOSALS ARE JUSTIFIED ON LONG TERM SAFETY GROUNDS IN VIEW OF THE ROOTING ENVIRONMENT AND DAMAGE DURING EXTRACTION OF EXISTING BUILDING FOOTINGS + ON ABATEMENT OF NUISANCE GROUNDS GIVEN THE APHID DRIP AND SELF SEEDING PROBLEMS ASSOCIATED WITH THIS TREE SPECIES

B. GIVEN THAT WE HAVE APPLIED FOR THE COMPLETE REMOVAL OF THESE TREES THIS REASON IS A NONSENSE

C. VISUAL AMENITY – TEMPORARY LOSS OF AMENITY WILL BE REPLACED WITH MORE SUITABLE TREES WITHIN 5 TO 10 YEARS

ECOLOGY AND WILDLIFE – UNLESS THEY ARE ADVOCATING THE PROTECTION OF APHIDS I SEE NO OTHER ECOLOGICAL OR WILDLIFE FACTOR HERE AND THIS IS JUST 'THROWING MUD AT A WALL TO SEE IF IT STICKS'

SHELTER AND SCREENING – THIS HAS BEEN ADEQUATELY CATERED FOR BY REPLACEMENT WITH 4 EVERGREEN CONIFERS - WHICH WHEN LINKED TO THE PLANTING ASSOCIATED WITH THE EXTANT PLANNING APPROVAL FOR SITE RE-DEVELOPMENT WILL ACTUALLY ENHANCE THE SHELTER AND SCREENING ALONG THIS BOUNDARY LINE