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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 5000.

PLEASE PRINT CLEARLY IN CAPITALS USING BLACK INK

A. APPELLANT

Name [REDACTED]

Address 75 Hursley Road, Chandlers Ford

Postcode SO53 2FS

Daytime Tel [REDACTED]

Email [REDACTED]

I prefer to be contacted by: Email

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

C. APPEAL SITE

Address where the appeal tree is (trees are) located: 75 Hursley Road, Chandlers Ford

Do you own the site: Yes

D. COUNCIL/DECISION

Council: Eastleigh Borough Council

Council Contact Name: Nicholas Parker

Telephone Number: none given

Full title of tree preservation order (if known): TPO 58-H. Protected as T50

Date of Council's decision (if applicable): 8/9/25

E. APPEAL

Please tick only the relevant boxes.

I am appealing against:

The Council's refusal of consent

F. GROUNDS OF APPEAL

While I acknowledge the Council's intention to preserve mature native trees under T10, I respectfully submit that the refusal does not fully account for technical, safety and proportionality considerations in line with best practice standards.

1. Public Amenity vs Private Harm

The oak is set within a private residential garden. While described as a tree of "significant amenity", its contribution to wider public visual amenity is limited due to it being a single tree, whereas the direct impact on the dwelling is substantial and continuous. In line with the National Planning Policy Framework (NPPF) principle of balancing public benefit against private harm, I submit that the private burden of retaining T50 outweighs its marginal contribution to public amenity.

2. Seasonal Nuisance: Beyond Normal Maintenance

The decision characterises acorn and leaf-fall as "seasonal issues". However, given the specimen's size and proximity, the scale of debris deposition exceeds ordinary maintenance thresholds and presents technical risks:

- Slip hazard: Accumulation on paved areas and driveways constitutes a foreseeable hazard under the Occupiers' Liability Act 1957.
- Water ingress and property damage: Gutters and downpipes experience rapid blockage, leading to overflow and damp penetration.
- Pest attraction: Decomposing acorns increase vermin activity.

BS 3998:2010 (Tree Work – Recommendations) recognises that nuisance, obstruction and hazard can form valid grounds for removal where mitigation is not sustainable. In this case, repeated clearance does not adequately address the risks posed.

3. Shading and Light Obstruction

It is noted that permission was recently granted for a crown reduction of 2m and crown lift to 4m – however that was only received 7 hours beforehand. While this may provide temporary mitigation, BS 3998 cautions against excessive or cyclical reductions which can:

- Weaken tree vitality by reducing photosynthetic capacity.
- Lead to rapid, vigorous regrowth, necessitating further repeat intervention.
- Increase risk of structural failure through poorly attached regrowth.

Thus, reliance on repetitive crown work is not sustainable long-term management. The shading impact, including obstruction of natural light to habitable rooms (contrary to BRE 209 guidelines for site layout planning and daylight), will inevitably recur.

4. Proximity to Utilities and Root Risk

The refusal downplays the impact of utilities running adjacent to and beneath T50. However:

- Root ingress presents a foreseeable risk to underground services, including drains and supply lines.
 - Root disturbance during statutory undertakers' works risks destabilising the tree, increasing liability for both the authority and utility provider.
 - Minor pruning of canopy spread does nothing to mitigate below-ground conflict, which is a material concern under BS 5837:2012 (Trees in Relation to Design, Demolition and Construction).
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5. Duty of Care & Liability

Retention of T50 transfers the management burden and liability for risk almost wholly onto the homeowner. The tree's size, proximity to structures, and interaction with utilities increases the probability of foreseeable claims under common law nuisance and negligence. Local authorities, when refusing consent, must consider whether they are imposing an unreasonable duty of care on the occupier, especially where technical risks cannot be adequately managed by pruning alone.

F. GROUNDS OF APPEAL (cont)

6. Justifications for felling are "too trivial" (loss of light, acorns, sap, wasps)

- Loss of light: The oak significantly shades habitable rooms. The BRE guidance document *Site Layout Planning for Daylight and Sunlight* (BR209) sets standards for daylight access. Where overshadowing materially impacts habitable space, this is a legitimate planning consideration. To dismiss light loss as "trivial" is inconsistent with both BRE guidance and case precedent where shading has been considered harmful.
- Acorn/leaf fall: The scale of deposition from a mature oak of this size exceeds ordinary seasonal nuisance. The detritus presents:
 - Slip hazards (Occupiers' Liability Act 1957).
 - Regular gutter/drain blockage, leading to property damage.
 - Vermin attraction, which is a recognised environmental health concern.These are not trivial matters but foreseeable hazards, acknowledged in BS 3998:2010 as valid grounds for management or removal.
- Sap/wasps: While oaks do not produce excessive honeydew, the canopy does support high insect populations, which in turn attract wasps. This is not merely "natural environment"; where such activity presents health/safety issues in a domestic setting, it must be considered. During peak sap times, my car can have up to 20 wasps on the exterior eating the sap.

7. "The oak was here before the house – responsibility lies with the owner"

- The fact that a tree predates nearby development does not absolve the planning authority of its responsibility to consider proportionate management.
- Case law (*Delaware Mansions v Westminster City Council* [2001]) established that even where trees predate buildings, owners can still be liable for damage caused by roots.
- The Council must consider whether retention imposes an unreasonable and disproportionate duty of care on the occupier.
- Following this logic, no houseowner should be allowed to extend their property as they made the choice to buy a house of that size.

8. Amenity and biodiversity value outweigh all other factors

- While oak is a high biodiversity species, amenity under TPO regulations must be public amenity – i.e. benefit visible and appreciable by the public. T50 is set within private curtilage with limited public visibility, meaning its contribution to public amenity is far lower than suggested.
- Local biodiversity will not be materially harmed by removal of a single specimen, as the area contains extensive oak populations (e.g. Hiltingbury Lakes and surrounding woodland).
- This is a single oak tree, which does not provide a biodiverse habitat.
- BS 3998 recognises that removal of individual specimens may be appropriate where the harm to occupants outweighs the marginal wider benefits.

9. "If this application succeeds, no tree can be protected"

- This is a mischaracterisation. Each TPO application must be considered on its own merits, balancing public amenity against private harm.
- Granting consent here would not set a precedent that trivialises TPO protection. Instead, it would demonstrate that the Council is applying the correct balancing test under both the Town and Country Planning Act 1990 and DETR Guidance (Tree Preservation Orders: A Guide to the Law and Good Practice, 2000).

Conclusion

The decision to refuse consent places disproportionate weight on public amenity without adequate consideration of:

- Technical standards (BS 3998, BS 5837).
- Sustainable management principles (avoidance of repeated intrusive pruning).
- Health, safety and property risks beyond normal seasonal maintenance.
- The homeowner's duty of care under statute and common law.

For these reasons, I respectfully request that the refusal be reconsidered, and consent to fell T50 be granted in order to resolve these technical and legal concerns in a sustainable manner.

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

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

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

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

No

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 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:

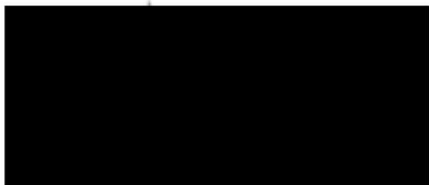
- a) the Planning Inspectorate may use the information I have given for official purposes in connection with the processing of my appeal.
- b) details from this form, including my name, the site description and reasons for making this appeal may appear on the Appeals Casework Portal.

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 13/09/2025

Name (in capitals)



On behalf of (if applicable)

For more information about how we process your personal information please see "A Guide for Appellants (Tree Preservation Orders- consents for works)".

Please send the completed form and supporting documents to:

Trees and Hedges
Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Telephone: 0303 444 5000

or e-mail it to: treeandhedgeappeals@planninginspectorate.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