



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

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

Organisation

Address

Postcode

Daytime Tel

Email

I prefer to be contacted by: Email ☐ Post ☐

C. APPEAL SITE

Address where the appeal tree is (trees are) located:

30 Valley Road, Chandlers Ford, Eastleigh, SO53 1GP

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:

Council Contact Name: Telephone Number:

Full title of tree preservation order (if known):

Date of Council's decision (if applicable):

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:

1 Oak
2 Scots Pine

Size:

1-2 meter tall

F. GROUNDS OF APPEAL (cont)

We had applied for the felling of one Oak and two Scotts pines in spring 2006 as they were causing damage to the garages due to the roots growing under the foundations and up against the walls and due to erosion of the banks the trees grow on. Consent was granted on 08/05/2006 for the removal of the oak. Consent was granted on 28/06/2006 for removal of the two Scotts pines. It was recognized by the council that the trees pose a danger to property and life.

This work was not carried out due to financial reasons and consent lapsed. Since then the bank has suffered significant further erosion and has collapsed against the garage walls, both to the side and to the rear. Walls of the garages have also moved out at the top and the garages need rebuilding.

In 2014 we applied for reinstatement of the consent assuming that the previous reasons given for removal of the trees would be enough grounds for reinstatement of consent, however the application was refused due to "lack of evidence".

Now the bank has more or less collapsed fully and the garage walls were now acting as a retaining wall which they were not designed to do; this put the entire structure at risk of immediate collapse, we cleared the soil that was directly leaning on the walls and reinstated a retaining structure partially along the length of the rear wall. However, we had to stop due to the roots of the trees physically being in the way of the retaining structure we are reinstating and some large roots touching the garage wall. The rear corner section of the garage is still acting as a retaining wall with some large roots immediately next to it, this wall is not designed to hold this pressure and still poses a risk of failing which will result in the garage collapsing.

We commissioned a structural engineer as we wish to reinstate the garages and use them. A report was produced on 04/06/2024 detailing that the trees are causing three separate issues. The first is root growth beneath the slab causing heaving and this has resulted in walls moving out at the top and are now at significant risk of collapse.

The second issue is in order to keep the garage safe from future bank collapse a retaining structure must be completed; this however is impossible to do without damaging and removing small and large roots. As advised by an arboriculturist any damage or removal of these roots will cause significant health issues for these trees and very likely they will not only die but become unstable due to the steep bank they grow on. The third issue is due to the erosion of the steep bank they grow on, the roots are being exposed and are no longer providing an anchoring function to the trees thus the garages and any persons within the vicinity are at risk of being crushed by the trees due to their high risk of falling.

We applied for consent in June 2024 with the supporting evidence however this was refused. The officers report fails to highlight two of the issues and focuses solely on whether the trees in their opinion are the material cause of the damage. Regulation 16(1) of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 states "appropriate evidence describing any structural damage to property or in relation to tree health and safety, as applicable" which has been submitted to the council both by a structural engineer and an arboriculturist. It makes no sense to spend extra money and time in quantifying the exact damage to the garage caused by the trees as appropriate evidence has already been submitted which demonstrates they need rebuilding. Further to the above regardless of the exact material damage to the garages in order to reinstate the retaining wall the roots will be damaged and the trees will become unstable and fall.

The officer has not judged this application independently and on its own merit. Their views are prejudiced by the previous applications for development of the site to which references are made in their report. Any previous application to develop the site is not being sought and should have no bearing on this application. The officer quotes reasons for refusal of a previous application which relate to the construction of new dwellings, however this is not applicable here as we are not applying for any new dwellings. The officer has not considered the previous tree applications which relate directly to these trees and for which consent was granted and only looked at applications for development which should not apply here.

The existing garages are already in place for a very long time and need to be rebuilt like for like to be used for the benefit of the homeowner. I believe each application needs to be judged independently and the officers views should not be coloured by previous applications which were for development and not for reinstatement of garages.

The retaining wall must be completed to the side and rear of the garage not only to protect the garages but to prevent neighbouring properties gardens from collapsing at the rear of the garages. A footpath also runs to the side of the garage, this is around 3 meters higher and with the bank fast eroding without a retaining structure in place the footpath is also at risk of collapse.

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:

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:

The site is divided mainly into two portions, the garages are at the rear of the property and access is secured via a locked gate.

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:

The garages are in a state of disrepair and no one should enter them as there is a risk of collapse.

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):

T/24/97542

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 signed this appeal form and enclosures to the Council.

Signature

Date 16/08/2024

Name (in capitals) MUHAMMAD EZAD

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

In our original application form we indicated that we could not carry out any replacement planting as below

It is not feasible to plant replacement trees as there is no reasonable location close to the trees proposed to be felled where they can be replanted without causing the exact same issues, moving away from the existing locations is also not practical as the site already has a large number of mature trees with expansive root zones therefore without either impacting existing structures or existing trees which are under a TPO in a detrimental manner there is no suitable location to plant replacement trees

However if a suitable location can be found on site we are not opposed to the planting of replacement trees and if no suitable location on site can be found we are happy to donate towards the planting of trees elsewhere within the borough.

The council accepts the garages are in a poor condition with an insufficient retaining wall, it is impossible to rebuild the retaining wall without damaging the roots. This combined with the root action damage to the garages, the high risk of the trees falling and risk of collapse of the footpath and neighbouring gardens means the trees must be removed and a retaining structure built in order to protect property and life.

We have already commissioned and paid a structural engineer and arboculturist. In a simple matter of reinstating garages which will add no value to the property, it is uneconomical to undertake further explorative work/procedure to excavate and quantify damage. Common sense should prevail and we should be allowed to fell the trees and restore garages without fear of future damage by the trees or bank collapse. We understand the value and need for the trees to be retained as much as possible. However, in this situation it is a matter of demolishing the garages or sacrificing the trees which we are happy to replace somewhere else.