



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: Howard Marks
Address: 21 Jasmine Road
Hedge End
Hampshire
Postcode: SO30 4SX
Daytime Tel: Fax:
Email: [REDACTED]
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.

Name: Mr Kevin Cloud
Organisation: Technical Arboriculture Limited
Address: 1 Chase Farm Close,
Waltham Chase,
Hampshire,
Postcode: SO32 2UB
Daytime Tel: [REDACTED] Fax:
Email: [REDACTED]
I prefer to be contacted by: Email: ☒ Post: ☐

C. APPEAL SITE

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

public land (Eastleigh Borough Council ownership)
adjacent to applicant's property

Do you own the site: Yes: ☐ No: ☒

If no:

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

Eastleigh Borough Council, Eastleigh House, Upper Market Street, Eastleigh SO50 9YN

D. COUNCIL/DECISION

Council: Eastleigh Borough Council

Council Contact Name: Nicholas Parker, Planning Manager

Telephone Number: 023 5068 8000

Full title of tree preservation order (if known): not known

Date of Council's decision (if applicable): 2nd December 2024

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

If you choose the recommended Fast Track appeal procedure 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.

You should provide at least one reason for each of the boxes you have ticked in section E. Explain why you think the Council's decision is wrong and should be overturned. The decision on your appeal will take into account the contribution that the tree(s) make to the amenity of the area and the reasons set in support of your application/appeal. Please bear in mind that allegations of maladministration or complaints about the time taken by the Council to issue a decision on the application are unlikely to affect the outcome of the appeal, since such matters are not relevant to the merits of the proposal. If appealing against a refusal of consent to fell a tree or against a condition or direction requiring replacement planting you should indicate the species and size of any tree/s you would be prepared to plant if the appeal were to be allowed.

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

Reason for appeal

The appeal is submitted in response to Eastleigh Borough Council's REFUSAL of consent to prune a mature oak (T001 of application).

Background

The appellant is supportive of trees within the landscape and enjoys living in an area where trees form an important part of the quality of the surroundings. The appellant has lived in proximity to the appeal tree for over 35 years, at various times successfully applying to the council for minor pruning works to shorten crown extent over his garden. In recent years the extent of growth has increased along with the size of the tree, whilst at the same time tree works consents issued to prune the tree have been more restrictive in the amounts to be removed.

The appellant does not seek to remove the tree. The appellant is seeking a reasonable degree of pruning so that he can continue to enjoy his property and garden.

Tree location and context

Please refer to the location plan at appendix one.

21 Jasmine Road is a semi detached dwelling. Whilst the frontage of the dwelling is on the northeast side of the property looking to Jasmine Road, the rear face of the property looks to the southeast with the garden abutting a small public path between rear gardens of Jasmine Road and those to rear of properties in Dowds Close.

The appeal tree is located on the southern side of the public path lying due south of the central part of the appellant's garden.

Details of tree subject of appeal

The appeal tree is a mature oak.

A full assessment of the trees condition was provided as supporting evidence with the original application and is thus included with the appeal documentation.

The tree is a large mature specimen which does provide a high degree of landscape value. The tree is in good health and by its size and location does have a close spatial relationship with nearby gardens, most notably 21 Jasmine Road (the appellant's address) and 3 Dowd Close (recently consented and actioned tree works – see below)

As a result the height and spread of the tree does present a degree of apprehension from local residents, together with a requirement to manage overhang to gardens.

Continues at supplementary sheet K (pages 7 - 9)

G. PROCEDURE

Appeals dealt with by written representations (Fast Track) procedures 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

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:

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. Don't worry 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 ☒

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) ☒

3. A copy of neighbour comments x 6 ☒

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 Planning 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: 20th December 2024

Name (in capitals): K J CLOUD

On behalf of (if applicable):

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. More about the Planning Inspectorate's data protection policy can be found on the Planning Portal at <http://www.planningportal.gov.uk/planning/appeals/online/about/privacystatement>

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.

- 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 K1

Continued from section F

Details of tree subject of appeal (continued)

The tree has recently been subject to crown reduction on the south side to alleviate issues of crown overhang and extension at 3 Dowd Close. Whilst the property boundary of 3 Dowd Close is somewhat closer to the tree than 21 Jasmine Road, the distance from the tree to the dwelling is greater (14.5m to 21 Jasmine Road, 17.5m to 3 Dowd Close).

The proposed tree works

The tree works application subject of this appeal sought to selectively reduce the crown of the oak by two to three metres on the north side coupled with a proposed three to four metre selective crown reduction on the east and west sides. The assessment was that such work would result in a maximum prune wound diameter of 75mm for any cuts made. The term "selective" was used to ensure that the only branches pruned were to reduce the crown dimensions to those specified – 7.5 metres to the north, 6 metres to the east, 8 metres to the south and 7 metres to the west.

The type and extent of proposed works conforms with guiding principles of *British Standard 3998:2010 - Tree work recommendations* in terms of the size and quantum of prune wounds.

The local planning authority reason for refusal

The local planning authority (LPA) provided the following reasons for refusal:

"The proposed crown reduction works on 1no. Oak (T1) is considered unjustified and will be of detriment to the health and appearance of the tree. The works would thus result in an adverse impact upon the visual amenity, ecology and wildlife and screening of the surrounding area".

The application process

Planning Practice guidance on *Tree Preservation Orders and trees in conservation areas* (formerly *Tree Preservation Orders: a guide to the law and good practice* (now archived)) states that:

"In considering an application, the local planning authority should assess the impact of the proposal on the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it".

Impact on local visual amenity

As stated, the proposed works accord with the guiding principles of *British Standard 3998:2010 - Tree work recommendations* and accompanying – of relevance being paragraph 7.2.4, table 1 and table B.1 which states that crown reduction is "often appropriate" in the following situations:

- "To maintain health or longevity by means of good structural integrity.
- To protect people or property from tree failure.
- To manage light and shade".

The proposed work will have negligible impact on visual amenity, long-term health and retention of the tree. The quantum of proposed work and size of pruning wounds is minor.

Relevant planning history

The local planning authority recently consented work to the same oak tree where it previously overhung 3 Dowds Close (planning reference T/22/93921).

The work consented comprised a crown reduction of three to four metres with a limit of prune cut to 75mm diameter.

Continues on page 8

K. SUPPLEMENTARY SHEET K1

Continued from page 7

Rebuttal

The council's reasons for refusal hinges on the proposed work being "*unjustified*" and "*of detriment to the health and appearance of the tree*".

The works proposed seek to increase the spatial separation between the tree and the appellant's garden and property in order to allow the appellant reasonable enjoyment of that space.

As stated above, crown reduction is considered by BS3998 to be "*often appropriate*" in the following situations:

- "*To maintain health or longevity by means of good structural integrity.*"
- "*To protect people or property from tree failure.*"
- "*To manage light and shade*".

Furthermore, the quantum of pruning has been carefully considered to ensure the tree can continue to thrive and that prune would size is kept within the guiding principles of BS3998.

In every respect this mirrors the previous application and subsequent consent issued for the same tree with identical reasons for tree works at 3 Dowds Close.

As stated the application (T/22/93921) sought to reduce the crown by three to four metres – the appeal proposed works are no greater.

The local planning authority tree officer, in considering application T/22/93921, limited prune wound diameter to no greater than 75mm - the appeal proposed works state the same upper limit. With part of the proposed works being a lesser length reduction the wound size may be expected to be less.

The given reason for the works as stated in T/22/93921 was "*To allow more light into properties and rear garden*". The local planning authority acknowledged and accepted this justification, albeit that 3 Dowds Close is to the south of the tree where one could argue the shade arc of the tree does not fall; by contrast the bulk of shade arc falls on properties to the north of the tree with the appellant's property reasonably assessed as being highly impacted.

Given the similarity of the two applications, it is difficult to understand why the former (T/22/93921) was deemed by the local planning authority to be justified and of negligible impact to amenity or tree health, whereas the same authority deem an almost identical set of tree works to the same tree for the same reason to be unjustified and excessive.

I do not consider that the combined set of tree works (T/22/93921 + the appeal tree works) would place the total quantum of pruning outside of the realm of good practice highlighted by BS3998.

Public consultation

Prior to the submission of the planning application, the appellant sought the opinions of neighbouring residents with regard to the removal of the tree. The responses were submitted with the application.

This exercise resulted in overwhelming support from the following properties:

- 17 Jasmine Road.
- 19 Jasmine Road.
- 23 Jasmine Road.
- 2 Dowds Close.
- 3 Dowds Close.
- 4 Dowds Close.

The above properties represent the majority of those with a clear view of the tree from their land, in effect those that may be considered stakeholders.

Continues on page 9

K. SUPPLEMENTARY SHEET K1

Continued from page 7

Conclusion

The proposed works seek to provide better spatial separation and provide reasonable garden amenity to 21 Jasmine Road.

This can be achieved by relatively minor tree works as stated and subject of this appeal.

In considering the nature and quantum of tree pruning, it has been demonstrated that guidance contained in *British Standard 3998:2010 - Tree work recommendations* has been followed.

The proposed works are not dissimilar to work previously consented by the same authority to the same tree. The addition of these works, following on from consent T/22/93921, will not adversely impact the tree as the total combined pruning cuts of both would still fall within the guidance of BS3998.

The proposed works will not be detrimental to the health of the tree. The limited amount of pruning is not likely to adversely impact upon visual amenity, wildlife, ecology or screening as it amounts to a relatively small portion of the tree to be removed.

The works mirror that of T/22/93921 in terms of maximum length of reduction and maximum size of pruning cut. The reason and justification is also similar. The local planning authority tree officer previously found T/22/93921 to be acceptable yet finds the appeal proposal excessive and unjustified.

Given the above I consider the council's reason for refusal unfounded.

I therefore respectfully request that the appeal is allowed.

Appendix one – Tree location (white circle), appellant dwelling and garden (red oblong), 3 Dowds Close (orange oblong).

