



**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 VANESSA BRABAZON

Address 9 WAVERLEY COURT  
NETLEY ABBEY  
SOUTHAMPTON  
HAMPSHIRE

Postcode SO31 5AS

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: 9 WAVERLEY COURT  
NETLEY ABBEY, SOUTHAMPTON, SO31 5AS

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: NICHOLAS PARKER Telephone Number: 023 8068 8000

Full title of tree preservation order (if known): TREE PRESERVATION ORDER NO. 50 - LAND AT  
NETLEY LODGE AND WAVERLEY AVENUE, NETLEY

Date of Council's decision (if applicable): 20/12/2024 (NB: LABELLED AS NO. 53 ON THE MAP)

### E. APPEAL

Please tick only the relevant boxes.

#### I am appealing against:

- |                                                                                                                  |                                     |
|------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| The Council's refusal of consent                                                                                 | <input checked="" type="checkbox"/> |
| The Council's failure to issue a decision (deemed refusal of consent)                                            | <input type="checkbox"/>            |
| Condition(s) attached to the consent                                                                             | <input type="checkbox"/>            |
| The Council's refusal to agree a matter that required their agreement under the terms of a condition of consent. | <input type="checkbox"/>            |

### 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:**

ONE SLOTS PINE

**Size:**

2.5 m HEIGHT

## F. GROUNDS OF APPEAL (cont)

This appeal relates to Eastleigh Borough Council's (EBC's) refusal to allow the felling of the Monterey Pine T2, despite a report from Arboricultural Consultant Kim Gifford, which recommends its complete removal on the grounds of Health and Safety. Moreover, its removal is recommended to happen at the same time as the felling of Monterey Pine T1, which has been approved by EBC in the same application.

There are three matters to consider here, one of which has already been resolved:

- 1) T1 is diseased and needs to be removed. EBC has consented to this.
- 2) T2 shows signs of disease and leans heavily and dangerously over at least one house (possibly two). It should also be removed. Consent to this has been refused.
- 3) T2 will be weakened when T1 is felled: not only should T2 be removed, but this removal should happen at the same time as the removal of T1. This argument has been acknowledged and countered by EBC, but I dispute the points they make in their decision.

By accepting the part of the guidance relating to T1, but not the guidance relating to T2, I believe EBC is acting negligently. I would like them to be prepared to accept liability for any damage to persons and property caused by both T2 and T1, as the felling of T1 is being held up by my need to make this appeal, and I have legitimate concerns as to what will happen to T2 once T1 has gone.

You have the report by Kim Gifford of Gifford Tree Services which I submitted to EBC as part of my application. I quote the relevant section relating to T2 to support my appeal:

'T2 Monterey Pine: this specimen heavily leans extensively towards and over the house. The large bark wound is on the tensile side close to the 'fulcrum' of T2 point of potential failure.

In view of these findings for both specimen it is appropriate to recommend complete removal of both T1 and T2 on the grounds of health and safety... Both specimen have grown up as a pair, historically when T1 is removed T2 would be exposed to new wind stresses leaving it in a high risk of collapse. Therefore, it is further appropriate to recommend that both trees are removed at the same time on the grounds of health and safety.'

I will now address EBC's comments in its decision relating to T2, starting with those relating to safety.

'Bark damage in places appears to be caused by mechanical impact rather than disease or pathogens'. However the damage was caused does not change the fact that damage exists and that through this bark wound disease has entered the tree, close to the fulcrum point of potential failure. This is evidenced in the report from the Arboricultural Consultant. The EBC report does not reference this.

'The tree has a natural lean'. I would argue that a lean is a lean, whether natural or not. As the tree has grown, the proportion of it that leans over the house has increased. The risk of falling limbs and cones has therefore increased.

'Considering the prevailing south-west wind vector and position of T1 in relation to T2 it is unlikely that the removal of T1 will have a large impact on T2 in terms of shelter provision'

There are several contentious remarks in this statement:

'Prevailing south-west wind vector'. Climate change means that storms, winds and rains are more frequent and can be heavier now than in the past. Who knows what the climate will bring in the future and how wind vectors might be affected?

'It is unlikely': this is not reassuring: if something is unlikely, it is still possible. But even less reassuring is EBC's use of the word 'large'. The report could have said: 'it is unlikely that the removal of T1 will have any impact on T2. By choosing the word 'large' over 'any', the report is acknowledging that some impact is likely. Given the

**Please continue at section K or on a separate sheet if necessary** CONTINUED ON NEXT

PAGE

(4)

size of T2 and its proximity to the house, any impact, even small, could have very serious, possibly fatal, consequences.

'The tree has lost some limbs in the past'. This is surely an indicator that the tree is likely to lose limbs in the future. At this point it is relevant to mention the fate of the Monterey Pine which stood in front of 8 Waverley Court until 2012, when a small limb fell on that house and caused considerable damage to the house and fear to the neighbours who were asleep at the time. A photo of the damage caused was included in my application to EBC, but has not been acknowledged in their reply. That particular Monterey Pine was smaller than T2, and no sign of disease was present in the limb that fell. Both our neighbours and ourselves live in fear that the likelihood of something similar happening to T2 will be greatly increased once the protection of T1 has gone. It is also worth pointing out that the lean of T2 over our house seems to have increased since it has become the end of a row of four trees, rather than fourth in a row of five.

The Council references the Picus test showing 85% solid wood within the stem and says the tree 'appears to be in good health'. At this point I would like to take issue with its proximity to the house, as indicated in the plan I submitted. Its base is only 5 metres from our front door. I am not satisfied with the word 'appears', nor the percentage of solid wood. No house would get planning permission today to be built so close to such a large tree, even if the tree were 100% healthy.

This brings me on to the Amenity aspect of the Council's case for retaining T2. Here, some background is necessary:

Numbers 7, 9, 9. 10 and 11 Waverley Court were built in the early 1980's (our house was 1982-3). The decision to retain the five Monterey Pines was made over forty years ago when the trees were smaller and in good health. They must have been a splendid sight and yes, they would have provided high public amenity. The situation today is different:

- 1) One of the original five trees has been felled having caused considerable damage to property and shock to the residents of the house on which a limb fell.
- 2) A second of the original five is diseased and will be felled: permission for this has already been granted and as responsible house owners we would like to begin this process as soon as possible.

T2 will be left isolated on both sides. Leaving aside the danger that this isolation presents, surely the public amenity value of T2 will be greatly reduced. It will be seen in isolation from a few surrounding roads (not 'many', as EBC suggests: it is shielded from view by a large tree in a property in Waverley Avenue). It will be an isolated tree, leaning heavily over houses, between a young cypress oak and a very young Scots pine. The only wildlife it currently attracts is pigeons, which are not a protected species. It is my opinion that two Scots pines planted at the same time in the place of T1 and T2 will provide far greater public amenity going forward. They will grow and mature together and as a pair of trees, will complement each other and remain standing together for many years to come. Their presence in the place of T1 and T2 will also greatly enhance the emotional wellbeing of ourselves, as residents of 9 Waverley Court, and many of our neighbours (certainly our neighbours in no. 8 Waverley Court).

I have been a big supporter of both T1 and T2 since we moved to the house in 2010. We have cared for the trees regularly and been responsible stewards of them. Removing them will be a big financial outlay so it is not something I would choose to do unnecessarily. But with the evidence from the Picus Testing and Mr Gifford's report in general we must accept that both of them need to go - and soon. As I mentioned at the beginning of this appeal, if EBC's decision relating to T2 is not overturned, I will hold the Council liable for any damage caused in future by either of the trees as they are no longer safe. If EBC continues to support general public Amenity over specific personal Health and Safety they will have to be responsible for any consequences.

CONTINUED FROM PREVIOUS PAGE (SECTION F)

**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:

THE SITE IS COMPLETELY OPEN - THERE IS NOTHING  
THE INSPECTOR NEEDS TO KNOW.

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:

THE INSPECTOR MAY WISH TO WEAR A HARD HAT  
AS PINE CONES DO FALL UNEXPECTEDLY FROM THE TREES

**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/24/98509

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

2 ☒

3. TREE REPORT BY ARBORICULTURAL CONSULTANT  
KIM GIFFORD (SUBMITTED WITH MY APPLICATION)

4. EBC TREE OFFICER REPORT

5. RELEVANT PAGES OF TREE PRESERVATION ORDER & MAP

6. SKETCH PLAN OF TREES CONCERNED }  
7. PHOTOS (TWO) } SUBMITTED WITH  
MY APPLICATION

**J. CONFIRMATION**

**DECLARATION**

**1. I understand that:**

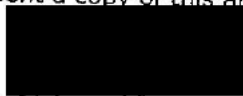
- a) the Planning Inspectorate may use the information I have given for official purposes in connection with the processing of my appeal.
- b) details from this form, including my name, the site description and reasons for making this appeal may appear on the Appeals Casework Portal.

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

15/01/2025

Name (in capitals) VANESSA BRABAZON

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](mailto: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