



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 DAVID MYERS

Address 11 THE ORCHARD
URCHFONT
DEVIZES
WILTSHIRE

Postcode SN10 4QX

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:

11 THE ORCHARD, URCHFONT, DEVIZES, WILTSHIRE, SN10 4QX

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: WILTSHIRE COUNCIL

Council Contact Name: DAVID WYATT

Telephone Number: 0300 456 0100 Ext: 16762

Full title of tree preservation order (if known): TPO378

Date of Council's decision (if applicable): 17th JULY 2018

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:

Over the years, we've planted 12 trees in the back garden and one in the front.
There still remains the trees which were here when we came just over 11 years ago.

I believe this to be a sufficient number for a garden of this size.

Size:

F. GROUNDS OF APPEAL (cont)

The property is a small bungalow, in a development of similar dwellings. Within the rear garden, there is a Scots Pine tree, planted by a previous owner of the property. It is overbearing, with a spread of some 10 meters in a garden which is around 13 meters wide at that point, reducing both the light available to other plants and trees within the garden and the amount of rain which reaches them.

It is subject to a TPO, granted nearly 17 years ago, when the tree would have been substantially smaller. I do not understand why it should have warranted this protection, when other trees around evidently weren't treated similarly, but am told by a neighbour who was here at the time, that the then tree officer, who was new, wanted to make her mark!

It is certainly not a tree suitable for a domestic garden, as is obvious from the following quotes:

Woodland Trust:

It thrives in heathland and is widely planted for timber, but is also found in abundance in the Caledonian Forest in the Scottish Highlands. Scots Pine timber is one of the strongest softwoods available, and is widely used in the construction industry and in joinery. It is used in the manufacture of telegraph poles, pit props, gate posts and fencing.

Forestry Commission:

The fact that it is a good timber tree resulted in big plantations in the drier south-eastern parts of England e.g. Thetford Forest and the New Forest. It is a popular tree for planting on open and poor industrial sites because it can survive on poor soils.

On 30th May 2018, following receipt of my latest application, the Planning Officer sent a very aggressive email, telling me that if I did not withdraw it, he would refuse it, 'for the same reasons [as before]'.

I regarded this as bullying, an abuse of position, and smacking of prejudice. He was blatantly adopting the 'I've-already-made-a-decision-and-am-not-prepared-to-reconsider-this-even-if-there-are-new-arguments' approach, and had no intention of considering this new application.

As the only justification for refusal, the Council has said "No significant changes to the previous application, 17/05683/TPO ... have been received", which is untrue, there being no similarities between the two applications whatsoever, suggesting the Planning Officer has either not read the latest application or has decided to ignore its content and carry-out his threat of 30th May 2018.

The previous application was based solely on 'the onerous task of having to pick up numerous fallen cones', with no reference to the size or suitability of the tree for its location; this application is exclusively about 'the size and species of the tree being inappropriate for a small domestic garden'; indeed, the word 'cone', does not appear in this latest application, nor do any words forming the basis of the first (other than: a, and, for, in, is, of, the, to, tree, which, within) match any in the second, so how the officer could make the comment "No significant changes to the previous application ... have been received" is completely beyond me! Simple English tells one they're not the same!

Wording of previous application:

This tree sheds a significant number of cones every year. Within the last few weeks, nearly three sacks of these have been filled and there are many more to come. Before the grass can be cut, they have to be collected by hand, which is back-breaking work for someone who is now in their seventies.

Wording of latest application:

The size and species of this tree is inappropriate for a small domestic garden. It is overbearing and, with a spread of some 10 meters in a garden which is around 13 meters wide at that point, reduces both the light available to other plants and trees within the garden and the amount of rain which reaches them.

In support, I submitted details of a selection of applications which were granted permission, including two with a TPO, two for Scots pines (at the same property), and one for FIVE trees in one go. One of those with a TPO was for EXACTLY the same reason for MY request, i.e. inappropriate size and species for its location.

- 14/10902/TPO: The Beeches, Blackboard Lane, Urchfont SN10 4RD - Western Red Cedar: Inappropriate size and species for its location.
- 17/01150/TPO: Moonacre Urchfont Devizes Wiltshire SN10 4RP - Grey Poplar tree - fell
- E/2011/1727/TCA: Larchcombe Peppercombe Lane Urchfont SN10 4QR - Fell of 1 no. Scots pine.
- 15/00255/TCA: Larchcombe Peppercombe Lane Urchfont SN10 4QR - Fell 1 Scots pine tree.
- E/2011/1461/TCA: 5 Peppercombe Close Urchfont SN10 4QS - To let more light into the garden!
- 16/12301/TCA: Larchcombe Peppercombe Lane Urchfont SN10 4QR - Sumac - Fell; Coppice Eucalyptus - Fell; Multistemmed Ash - Fell; Conifer - Fell; Hazel - Fell.
- 17/03426/TCA: Hamilton Peppercombe Close Urchfont SN10 4QS - Cypress Trees x 2 - Fell

It's obvious the precedents were not considered and it's also clear that there is no consistency or fairness in approach but one rule for some and a different rule for others.

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

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 REAR GARDEN CAN BE ACCESSED THROUGH A METAL GATE ON THE RIGHT AT THE FRONT OF THE PROPERTY.

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 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

3. A copy of an email received from the Royal Horticultural Society, concerning the suitability of such a tree tree in a domestic garden.

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.

Date 20th JULY 2018

Name (in capitals) D. MYERS

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. 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

I also submitted a comment from the Royal Horticultural Society, to which the officer responded: "that does not imply the tree to be of excessive size that warrants its removal more so intimating that the tree could be unsuitable for a small garden". They didn't 'intimate', they actually said: "Due to it's large proportions, it is not the ideal tree for the average sized domestic garden. Its evergreen canopy may also cause significant shade with dry conditions beneath". This, surely, supports the point: it's unsuitable for the location!

Even with this expert opinion, the officer still refused.

Over the years, we've planted 12 trees in the back garden and one in the front. There still remains the trees which were here when we came just over 11 years ago.

I believe this to be a sufficient number for a garden of this size.

No 'planning' reasons have been given for refusal; indeed, no reasons whatsoever relating to the substance of the application have been given. The decision has been made totally under the premise that the arguments to fell are unchanged from the previous request which, as I've already said, and evidenced, is not the case.

With absolute certainty, this application has not been considered (see the email that said it would be refused if I didn't withdraw!) and I would ask for the decision to be overturned, please.