



**TREE PRESERVATION ORDER (TPO) APPEAL
FORM
TOWN AND COUNTRY PLANNING ACT 1990
(AS AMENDED) SECTION 78**

For official use only
Date Received
Appeal Ref

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 our Diversity Help Line on 0117 372 8939.

PLEASE PRINT CLEARLY IN CAPITALS USING BLACK INK

Name	MR. BRYAN BIRKETT.		
Address	4 ALBA CLOSE. SILICA LODGE.		
	SCUNTHORPE NORTH Lincs.		
Postcode	DN17 2XD.		
Daytime Tel	01724 340627.	Fax	
Email	julie-birkett4@ntlworld.com.		
I prefer to be contacted by: Email <input type="checkbox"/> Post <input checked="" type="checkbox"/>			

Name			
Organisation			
Address			
Postcode			
Daytime Tel		Fax	
Email			
I prefer to be contacted by: Email <input type="checkbox"/> Post <input type="checkbox"/>			

DEVELOPMENT CONTROL SECTION
13 JUL 2009

C. APPEAL SITE

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

4 ALBA CLOSE. SILICA LODGE, SCUNTHORPE.
NORTH Lincs DN17 2XD.

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: NORTH LINCOLNSHIRE

Council Reference: PA/2009/0224

Full title of tree preservation order (if known): Common Plantation Scunthorpe order 1967

Date of Council's decision (if applicable): 26/6/09

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)
- The direction issued by the local authority requiring the replanting of woodland
- Condition(s) attached to the consent
- An article 5 certificate issued by the Council, eg that the appeal tree has an outstanding or special amenity value, or that the Council's decision is in the interests of good forestry
- The Council's refusal to agree a matter that required their agreement under the terms of a condition of consent (TPOs made on or after 2 August 1999)

I am appealing against North Lincolnshire Council's refusal of permission to fell a Scots Pine tree that is causing damage to my property.

While I appreciate the points made in section 1 of the refusal of consent letter, it at no time takes into account the considerable damage the tree is causing to my property. My wife has already tripped and fallen on the very uneven surface of the drive, where the block paving has been lifted by the tree roots. I am very concerned for the safety of people using my driveway.

The tree is the end one of a line of 5 trees, 4 of which are on a neighbour's property. Its removal would not disrupt the line of trees by leaving a gap, and would not significantly cause any loss of visual amenity. There are several other large mature trees in Alba Close.

The council recommends removal of the tree roots and installing a root barrier, as mentioned in paragraph 7 of the tree survey and report. In section 8 of the report it states that this can not be achieved as this 'would encroach on the neighbouring drive to the west, potentially implying future potential damage in this area.'

Due to the size and location of the tree roots they lay very close to the surface, (Please see enclosed photos) it would be very hard to install a barrier high enough to prevent a reoccurrence of the problem in the future.

Section 10 of the report states that, 'though there might be adequate rootable area available, the layout of the area would be inappropriate; felling the tree would unfortunately seem to be the only remaining option.'

The council asked for me to submit technical evidence from an appropriate expert. I provided them with a tree survey and report compiled by Mr. M. Hudson, NDF, Arborist and Chartered Forester (Enclosed). Who was recommended by the council themselves, and then they seem to have completely disregard his findings and recommendations.

If permission for the tree to be felled is granted I would be prepared to undertake replanting. Baring in mind that reason for the damage was caused by tree roots I was thinking of a small Acer or Conifer.

I chose to live in Alba Close as I enjoy the woodland character of the area. The council seem to regard this area as still being forestry and not as a housing estate. A balance has to be struck between the needs of conservation and the needs of the people living in the area.

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. If you are alleging that a tree is dangerous you may consider enclosing a report by a tree expert in support of your 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 J or on a separate sheet if necessary

Please see separate sheet.

FAST TRACK 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

ENCLOSURE 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
- 2. A copy of the Council's decision (if one was issued)
- 3. A copy of the tree preservation order

1	<input type="checkbox"/>
2	<input type="checkbox"/>
3	<input type="checkbox"/>

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 Inspectorate's website/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

9 - 7 - 09 [REDACTED]

Date

9 - 7 - 09

Name (in capitals)

MR. BRYAN BIRKETT

On behalf of (if applicable)

[REDACTED]

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 our website at "Privacy Statement":

Please send the completed form and supporting documents to:

The Environment Appeals Team
Trees and Hedges
Room 4/04 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Telephone: 0117 372 8812

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.

1

2

3



The Planning Inspectorate

Environment Team
Room 4/04, Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line 0117-372-8727
Switchboard 0117-372-8000
Fax No 0117-372-6241

e-mail: environment.appeals@pins.gsi.gov.uk
<http://www.planning-inspectorate.gov.uk>

Mr C Horton
North Lincolnshire Council
Church Square House
PO Box 42
Scunthorpe
N Lincs
DN15 6XQ

Your Ref: PA/2009/0224

Our Ref: APP/TPO/Y2003/718

Date: 20 July 2009

Dear Mr Horton

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED), SECTION 78
APPLICATION FOR CONSENT TO CARRY OUT WORKS TO PROTECTED TREES
APPELLANT: MR B BIRKETT
SITE: 4 ALBA CLOSE, SILICA LODGE, SCUNTHORPE, NORTH Lincs DN17
2XD**

We have received the above-cited appeal against your decision on an application to fell a pine tree protected by a tree preservation order. The appellant will have sent a copy of the notice of appeal to you.

I am the case officer for the appeal and can be reached on the above telephone number, or you may write to me at the address at the top of this letter. When contacting me in respect of the appeal please quote the reference number APP/TPO/Y2003/718 as shown above.



You will note that the appellant has opted for the fast track procedure. We will assume that your Council is happy to proceed via the fast track procedure **unless** you indicate otherwise when submitting the preliminary information to us in response to this letter.

In accordance with regulation 13 of SI 2008 No. 2260 please submit copies of the application for consent together with the decision ~~(where one has been issued)~~. I would be grateful if you could respond **within 10 days from the date of this letter**.

**HIGHWAYS AND PLANNING
ENVIRONMENT TEAM**

*Check decision letter
application for
tree report
on 22 July 2009.*

No. DATE 21 JUL 2009

	Response Required	Date Responded
CH	 	

**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999 (AS
AMENDED)**

TREE PRESERVATION ORDER APPEAL QUESTIONNAIRE

This appeal is being processed under the Fast Track regulations. Please complete this questionnaire and return it to the Planning Inspectorate by 25 August 2009

Please send a copy of this form to the Appellant

1. Details of the Appeal

Appellant's name and address:	Mr B Birkett, 4 Alba Close, Silica Lodge, Scunthorpe, North Lincs DN17 2XD
Details of appeal:	Refusal of consent to fell a pine tree
Our reference:	APP/TPO/Y2003/718

2. Background information

Questions:

	Yes	No
(a) Is the appeal tree/ are the appeal trees located in a conservation area?		✓
(b) Is the appeal site subject to a separate live planning application or appeal to the secretary of state?		✓
If yes, please give details of conservation area/planning application		

Copies of the following are enclosed:

Item	Yes	No	Already submitted
(c) The tree preservation order (TPO)	✓		
(d) A plan/map showing the location of the relevant TPO tree(s)	✓		
(e) Evidence that the order was confirmed	✓		
(f) An up-to-date plan/map of the area showing the site and major roads	✓		
(g) An up-to-date map of the Conservation Area showing the site marked (if applicable)	—	—	—
(h) The council officers or committee's report on the application (if any)			✓
(i) Third party representations	✓		

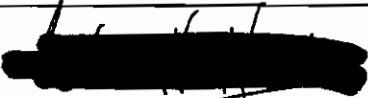
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3. Conditions

Please set out any conditions you would like the Inspector to consider when determining the appeal particularly in respect of applications for consent to fell.

4. Copy to appellant

Please tick this box to confirm a copy of this questionnaire and background papers have been sent to the appellant

Name:	COLIN HOKKA	Date:	31 JUL 09
Signature:		Tel:	01224 297398



The Planning Inspectorate

Environment Team
Room 4/04, Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line 0117-372-8727
Switchboard 0117-372-8000
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e-mail: environment.appeals@pins.gsi.gov.uk
<http://www.planning-inspectorate.gov.uk>

Mr C Horton
North Lincolnshire Council
Church Square House
PO Box 42
Scunthorpe
N Lincs
DN15 6XQ

Your Ref: PA/2009/0224

Our Ref: APP/TPO/Y2003/718

Date: 28 July 2009

Dear Mr Horton

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED), SECTION 78
APPLICATION FOR CONSENT TO CARRY OUT WORKS TO PROTECTED TREES
APPELLANT: MR B BIRKETT
SITE: 4 ALBA CLOSE, SILICA LODGE, SCUNTHORPE, NORTH Lincs DN17
2XD**

Thank you for submitting the preliminary information in response to the letter dated 20 July 2009.

As the case officer for this appeal I can be reached on the above telephone number, or you may write to me at the address at the top of this letter. When contacting me in respect of the appeal please quote reference APP/TPO/Y2003/718 as shown above.

Please complete the enclosed questionnaire and return it to me **within 4 weeks from the date of this letter**. Please also copy the completed questionnaire to the appellant.

Once I have received the questionnaire and associated documents I will undertake a final validation of the file. If everything is in order I will contact you and the appellant, and where appropriate, the owner of the tree(s) to give notice of the Inspector's site visit.

Finally, if you are able to resolve this dispute with the appellant at any time during the appeal process before the site visit, please let me know. This would enable the withdrawal of the appeal and a consequent saving of time and public resources.



Enquiries to: Colin Horton
Direct Dial: 01724 297398
E-mail: Colin.Horton@Northlincs.gov.uk

Our Ref: PA/2009/0224

Date: 22 July 2009

Kevin Gordon
The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Dear Kevin,

Further to your letter APP-TPO-Y2003-718, please find enclosed;

- Decision letter.
- Application for consent.
- Tree report commissioned by the applicant.

Yours sincerely,

Colin Horton
Tree Officer
Environment Team



Geoff Pople
Head of Highways and Planning Services
North Lincolnshire Council
Church Square House
P.O.Box 42
Scunthorpe
North Lincolnshire, DN15 6XQ

34 Lakeside Drive
Silica Lodge
Scunthorpe
North Lincolnshire
DN17 2AQ

Mike Welton
Head of Planning
Highways and Planning Directorate
North Lincolnshire Council
Church Square House
P O Box 42
Scunthorpe DN15 6XQ

1 p.m. 2009

C Horton

30th April 2009

Dear Mr Welton,

Application No PA/2009/0224

Thank you for your letter of the 16th April 2009 and for the chance to comment on (another) attempt to fell a very good specimen of tree.

I, and my wife, are very much opposed to the proposal.


I have read the file and note what I consider to be feeble reasons for the proposal. The reasons are something of a frequent occurrence when one chooses to live in an area such as Silica Lodge with trees around but which give the estate it's unique and lovely character. If a tree were felled every time a drain became blocked or the driveway lifted a bit due to tree roots, there would soon not be many trees left around here.

We have had such hiccups in the past but do not apply to have such a splendid specimen such as the pine tree in the garden at 4 Alba Close removed. We get on and clear the drains and sort the path/drive out.

We do hope that you accept that the pine trees in Alba Close, and we have several in our garden, give the close a bit of its individuality and that if you were to permit this proposed application to fell there would very likely be others from residents with similar feeble reasons, (oh the pine needles are a pest!). There are enough trees lost due to natural reasons without wilful felling.

Please refuse this application.

Yours truly


Ian Hutchison



The Planning Inspectorate

SCANNED

Environment Team
Room 4/04, Kite Wing
Temple Quay House
2, The Square
Temple Quay
BRISTOL BS1 6PN

Direct Line 0117-372-6366
Switchboard 0117-372-8000
Fax No 0117-372-6241

e-mail: environment.appeals@pins.gsi.gov.uk
Website: <http://www.planning-inspectorate.gov.uk>

Mr C Horton
North Lincolnshire Council
Church Square House
PO Box 42
Scunthorpe
N Lincs
DN15 6XQ

Your Ref: PA/2009/0224

Our Ref: APP/TPO/Y2003/718

Date: 10th August 2009

Dear Mr Horton

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED), SECTION 78
APPLICATION TO CARRY OUT WORK ON PROTECTED TREES
APPELLANT: MR B BIRKETT
SITE AT: 4 ALBA CLOSE, SILICA LODGE, SCUNTHORPE, NORTH Lincs
DN17 2XD**

SITE INSPECTION ARRANGEMENTS

I am writing to inform you that arrangements have been made for Inspector Mick Boddy, an inspector appointed by the Secretary of State, to conduct a site inspection in connection with the above appeal. The arrangements are set out below.

Date: 15th September 2009

Time: 9.30 a.m.

Meeting point: Outside the entrance to 4 Alba Close, Silica Lodge

The Inspector will expect to be accompanied by of a member of the local authority and the appellant or the appellant's representative. If you cannot attend personally, you should arrange for someone to attend in your place. This is to allow access to the site and affected property. If this is not possible for extraordinary reasons you must let me know immediately.

If any party fails to arrive at the site visit, the Inspector will determine the most suitable course of action, which could mean that he will conduct the visit unaccompanied. In other circumstances, the visit might have to be aborted.



Please bear in mind that no discussion about the merits of the appeal is allowed during the inspection and that the inspector will not accept any written representations. The inspector may, however, ask questions during his/her visit to clarify factual information. Additionally, the inspector may wish to take photographs of the appeal tree(s) and surroundings.

After the site visit has taken place the Inspector will write a decision which will take into account all of the written evidence and the observations made during the site visit. A copy of the decision will be sent to you as soon as it is ready for issue.

Yours sincerely



Mrs Sally Brain
Environment Appeals Administration

**HIGHWAYS AND PLANNING
ENVIRONMENT TEAM**

No. 15392 DATE 11 AUG 2009

Initial	Response Required	Date Responded
CH	25 AUG 09	



The Planning Inspectorate

Environment Appeals Team Direct Line 0117-372-8192
Room 4/04, Kite Wing Switchboard 0117-372-8000
Temple Quay House Fax No 0117-372-6241
2 The Square
Temple Quay
Bristol BS1 6PN

e-mail: environment.appeals@pins.gsi.gov.uk
<http://www.planning-inspectorate.gov.uk>

SCANNED

Mr C Horton
North Lincolnshire Council
Church Square House
PO Box 42
Scunthorpe
N Lincs
DN15 6XQ

Your Ref: PA/2009/0224

Our Ref: APP/TPO/Y2003/718

Date: 28 September 2009

Dear Mr Horton

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED), SECTION 78
APPLICATION FOR CONSENT TO CARRY OUT WORKS TO PROTECTED TREES
APPELLANT: MR B BIRKETT
SITE: 4 ALBA CLOSE, SILICA LODGE, SCUNTHORPE, NORTH Lincs DN17 2XD

I enclose a copy of our Inspector's decision on the above appeal following the site visit on 15 September 2009.

The appeal decision is final unless it is quashed following a successful challenge in the High Court on a point of law (see enclosed leaflet). If the challenge is successful the decision may be quashed but the case will probably be returned to the Secretary of State for re-determination. However, if it is to be re-determined, it does not necessarily follow that the original decision on the appeal will be reversed.

An application under Section 288 of the Town & Country Planning Act 1990 must be made to the High Court promptly and in any event within 6 weeks of the decision in question. This is an absolute time limit that cannot be extended by the Court.

A challenge must be made on one or both of the following grounds:

- (1) the decision is not within the powers of the Town and Country Planning Act 1990;
- (2) any of the relevant statutory requirements have not been complied with.

A decision will not be overturned by the Court merely because someone does not agree with an Inspector's judgment. It would need to be shown that a serious mistake was made by the Inspector when reaching his or her decision or, that the site visit was not handled correctly, or that the appeal procedures were not carried



INVESTOR IN PEOPLE



out properly. Even if a mistake has been made, the Court may decide not to quash the decision if it is decided that the interests of the person who has sought to challenge the decision have not been prejudiced.

If you have any complaints or questions about a decision, or about the way we have handled the appeal write to:

Quality Assurance Unit
The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Phone No. 0117 372 8252

Fax No. 0117 372 8139

Email: complaints@pins.gsi.gov.uk

The Quality Assurance Unit will investigate your complaint and will endeavour to reply within three weeks.

Yours sincerely

Lee Richards

Mr Lee Richards
Environment Appeals Administration

Enc

**HIGHWAYS AND PLANNING
ENVIRONMENT TEAM**

15485 DATE 01 OCT 2009

Response Required	Date Responded
CH	





Appeal Decision

Site visit made on 15 September 2009

by **Mick Boddy F Arbor A FICFor CEnv**

an Arboricultural Inspector appointed by the Secretary
of State for Communities and Local Government

The Planning Inspectorate
4/09 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date:

28 SEP 2009

Appeal Ref: APP/TPO/Y2003/718

Two Oaks, 4 Alba Close, Silica Lodge, Scunthorpe, North Lincolnshire, DN17 2XD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent for the felling of a Scots pine tree protected by a Tree Preservation Order.
- The appeal is made by Mr B Birkett against the decision of North Lincolnshire Council.
- The application ref: PA/2009/0224, dated 16 November 2008, was refused by notice dated 26 June 2009.
- The relevant Tree Preservation Order (TPO) is the Borough of Scunthorpe Tree Preservation (Common Plantation, Scunthorpe) Order 1967, which was confirmed on 24th January 1968.

Decision

1. I allow the appeal and grant consent for the removal of a Scots pine growing within the front garden of Two Oaks, 4 Alba Close, Silica Lodge, Scunthorpe, in accordance with the application ref: PA/2009/0224, subject to the following condition:
 - (i) The work for which consent is hereby granted shall be implemented within two years of the date of this decision.

Main Issues

2. I consider that the main issues in this case are:
 - (i) Whether the proposed removal of the tree would erode the woodland character of this part of the estate and be detrimental to the visual amenities of the area.
 - (ii) Whether or not there are sufficient grounds for the felling of the tree.

Reasons

The impact of the proposed removal of the tree

3. The pine is a mature specimen growing within the lawned area of the front garden to the left side of the entrance drive. It is a relatively attractive but unexceptional specimen and one of several similar pines on the frontages of the properties to the northern side of the circular island at the head of the cul de sac.

4. Dense, predominantly broadleaved tree cover in the rear garden provides a wooded backdrop to the property.
5. The development of the area has been sympathetically undertaken to preserve its woodland character, of which Scots pine is a major component. The appeal pine is visible from the road to the front of the property and from Lakeside Drive to the south-west. However, longer views of the pine are either partially or fully screened by tree cover from the majority of the other directions, particularly by the dense mixed species grouping on the circular island at the head of the cul de sac.
6. In relation to this first issue, whilst any tree loss from such a landscape will diminish the woodland character to some extent, I consider that the impact of the removal of this pine will have a limited detrimental impact on the visual amenities of the area.

Grounds put forward for felling the pine

Damage to drains

7. The original application refers to the tree causing damage to drains. As no evidence had been submitted in relation to this, I sought clarification from Mr Birkett as to the extent and nature of the problem, who explained that this related more to a concern about the proximity of the tree to the surface water drain running parallel to the front of the house rather than an actual incidence of root ingress.

Damage to the entrance drive

8. The principal reason for the proposed removal of the tree is that the surface of the brick pavior entrance drive has been extensively disrupted by the roots of the pine. The extent and nature of this damage is clearly documented in the arboricultural report commissioned by Mr Birkett.
9. Upon examination of the disrupted areas, the paviers were found to be bedded on a solid sand & cement base which had been lifted by the development of the tree roots immediately below.
10. Whilst a temporary solution would be to cut out the relevant sections of root, this may have a detrimental impact on the tree as the edge of drive is only 3.7 metres from the base of the pine at the closest point. Furthermore, the roots would be likely to grow back beneath the drive over time causing a reoccurrence of the problem. It would be possible to prevent the roots regenerating beneath the drive by installing a root barrier around the north-western edge or, alternatively, encourage them to develop at a deeper level by installing a root deflector. However, in either case the installation would be both disruptive and expensive.
11. With regards to this second issue, I find that the problems being caused by the tree outweigh the benefits that would be derived from its ongoing retention. Although measures are available that would facilitate its long-term retention, I consider these would be disproportionately disruptive and costly and therefore conclude that the removal of the pine tree is justified.

Other Matters

12. A letter opposing the proposed removal of the pine tree was submitted by a nearby resident, Mr Hutchinson, although this does not raise any additional issues.

Conditions

13. I have imposed a condition requiring that the pine be removed within two years of the date of this decision, to give the Council the opportunity to re-assess the situation in the event of the works not being carried out within this period.

14. As there is already an established ornamental maple growing in the front garden, close to the appeal tree, I do not consider replacement planting is necessary in this situation.

Conclusions

15. In view of my decisions on the main issues, I have concluded that the appeal should be allowed and therefore grant consent for the removal of the pine tree.

Mick Boddy

Arboricultural Inspector



The Planning Inspectorate

v7.2

An Executive Agency in the Department for Communities
& Local Government and the Welsh Assembly Government

Our Complaints Procedures

Introduction

We can:

- review your complaint and identify any areas where our service has not met the high standards we set ourselves.
- correct some minor slips and errors provided we are notified within the relevant High Court challenge period (see below).

We cannot:

- change the Inspector's decision.
- re-open the appeal once the decision has been issued.
- resolve any issues you may have with the local planning authority about the planning system or the implementation of a planning permission.; we can only deal with planning appeal decisions.

The **High Court** is the only authority that can ask for the Inspector's decision to be reconsidered. Applications to the High Court must be made within 6 weeks from the date of the decision letter for planning appeals, and in most instances 28 days for enforcement appeals.

Complaints

We try hard to ensure that everyone who uses the appeal system is satisfied with the service they receive from us. Planning appeals often raise strong feelings and it is inevitable that there will be at least one party who will be disappointed with the outcome of an appeal. This often leads to a complaint, either about the decision itself or the way in which the appeal was handled.

Sometimes complaints arise due to misunderstandings about how the appeal system works. When this happens we will try to explain things as clearly as possible. Sometimes the appellant, the council or a local resident may have difficulty accepting a decision simply because they disagree with it. Although we cannot re-open an appeal to re-consider its merits or add to what the Inspector has said, we will answer any queries about the decision as fully as we can.

Sometimes a complaint is not one we can deal with (for example, complaints about how the council dealt with another similar application), in which case we will explain why and suggest who may be able to deal with the complaint instead.

How we investigate complaints

Inspectors have no further direct involvement in the case once their decision is issued and it is the job of our Quality Assurance Unit to investigate complaints about decisions or an Inspector's conduct. We appreciate that many of our customers will not be experts on the planning system and for some, it will be their one and only experience of it. We also realise that your opinions are important and may be strongly-held. The Quality Assurance Unit works independently of all of our casework teams. It ensures that all complaints are investigated thoroughly and impartially, and that we reply in clear,

straightforward language, avoiding jargon and complicated legal terms.

We aim to give a full reply within three weeks wherever possible. To assist our investigations we may need to ask the Inspector or other staff for comments. This helps us to gain as full a picture as possible so that we are better able to decide whether an error has been made. If this is likely to delay our full reply we will quickly let you know.

What we will do if we have made a mistake

Although we aim to give the best service possible, there will unfortunately be times when things go wrong. If a mistake has been made we will write to you explaining what has happened and offer our apologies. The Inspector concerned will be told that the complaint has been upheld.

We also look to see if lessons can be learned from the mistake, such as whether our procedures can be improved upon. Training may also be given so that similar errors can be avoided in future.

Who checks our work?

The Government has said that 99% of our decisions should be free from error. An independent body called the Advisory Panel on Standards (APOS) monitors this and regularly examines the way we deal with complaints. We must satisfy it that our procedures are fair, thorough and prompt.



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Taking it further

If you are not satisfied with the way we have dealt with your complaint you can contact the Parliamentary Commissioner for Administration (often referred to as The Ombudsman), who can investigate complaints of maladministration against Government Departments or their Executive Agencies. If you decide to go to the Ombudsman you must do so through an MP. Again, the Ombudsman cannot change the decision.

Frequently asked questions

"Can the decision be reviewed if a mistake has happened?" – Although we can rectify minor slips, we cannot reconsider the evidence the Inspector took into account or the reasoning in the decision or change the decision reached. This can only be done following a successful High Court challenge. The enclosed High Court leaflet explains more about this.

"So what is the point of complaining?" – We are keen to learn from our mistakes and try to make sure they do not happen again. Complaints are therefore one way of helping us improve the appeals system.

"Why did an appeal succeed when local residents were all against it?" – Local views are important but they are likely to be more persuasive if based on planning reasons, rather than a basic like or dislike of the proposal. Inspectors have to make up their own minds on all of the evidence whether these views justify refusing planning permission.

"What do the terms 'Allowed' and 'Dismissed' mean on the decision?" – 'Allowed' means that Planning Permission has been granted, 'Dismissed' means that it has not. In enforcement appeals (s.174), 'Upheld' means that the Inspector has rejected the grounds of appeal and the enforcement notice must be complied with; 'Quashed' means that the Inspector has agreed with the grounds of appeal and cancelled the enforcement notice.

"How can Inspectors know about local feeling or issues if they don't live in the area?" – Using Inspectors who do not live locally ensures that they have no personal interest in any local issues or any ties with the council or its policies. However, Inspectors will be aware of local views from the representations people have made on the appeal.

"I wrote to you with my views, why didn't the Inspector mention this?" – Inspectors must give reasons for their decision and take into account all views submitted but it is not necessary to list every bit of evidence.

"Why did my appeal fail when similar appeals nearby succeeded?" – Although two cases may be similar, there will always be some aspect of a proposal which is unique. Each case must be decided on its own particular merits.

"I've just lost my appeal, is there anything else I can do to get my permission?" – Perhaps you could change some aspect of your proposal to increase its acceptability. For example, if the Inspector thought your extension would look out of place, could it be re-designed to be more in keeping with its surroundings? If so, you can submit a revised application to the council. Talking to its planning officer about this might help you explore your options.

"What can I do if someone is ignoring a planning condition?" – We cannot intervene as it is the council's responsibility to ensure conditions are complied with. You could contact the council as it has discretionary powers to take action if a condition is being ignored.

Further information

Each year we publish our Annual Report and Accounts, setting out details of our performance against the targets set for us by Ministers and how we have spent the funds the Government gives us for our work. We publish full statistics of the number of cases dealt with during the preceding year on our website, together with other useful information (see 'Contacting us'). You can also obtain booklets which give details about the appeal process by telephoning our enquiries number.

You can find the latest Advisory Panel on Standards report either by visiting our website or at www.apos.gov.uk

Contacting us

Complaints & Queries in England
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The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square, Temple Quay
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Phone: 0117 372 8252
E-mail: complaints@pins.gsi.gov.uk

Website www.planning-inspectorate.gov.uk

Enquiries

Phone: 0117 372 6372
E-mail: enquiries@pins.gsi.gov.uk

Complaints & Queries in Wales

The Planning Inspectorate
Room 1-004
Cathays Park
Cardiff CF1 3NQ

Phone: 0292 082 3866
E-mail: Wales@pins.gsi.gov.uk

The Parliamentary & Health Service Ombudsman

Millbank Tower, Millbank
London SW1P 4QP

Helpline: 0845 0154033
Website: www.ombudsman.org.uk
E-mail: phso.enquiries@ombudsman.org.uk

Please see Wales leaflet for information on how to contact the Wales Public Services Ombudsman.



The Planning Inspectorate

v5.3 CDT

An Executive Agency in the Department for Communities
& Local Government and the National Assembly for Wales

Challenging the Decision in the High Court

Challenging the decision

Appeal decisions, by the Secretary of State and Inspectors, are legal documents and, with the exception of very minor slips, we cannot amend or change them once they have been issued. Therefore a decision is final and cannot be reconsidered unless it is successfully challenged in the High Court. If a challenge is successful, we will consider the decision afresh.

Grounds for challenging the decision

A decision cannot be challenged merely because someone disagrees with the judgement of the person making it. For a challenge to be successful you would have to show that the decision misinterpreted the law or, for instance, that the inquiry, hearing, site visit or other appeal procedures were not carried out properly, leading to, say, unfair treatment. If a mistake has been made and the Court considers it might have affected the outcome of the appeal it will return the case to us for re-consideration.

Different appeal types

High Court challenges proceed under different legislation depending on the type of appeal and the period allowed for making a challenge varies accordingly. Some important differences are explained below:

Challenges to planning & Tree Preservation Order (TPO) appeal decisions

These are normally applications under Section 288 of the Town & Country Planning Act 1990 to quash decisions into appeals for planning permission (including enforcement appeals allowed under ground (a), deemed application decisions or lawful development certificate appeal decisions). For listed building or conservation area consent appeal decisions, challenges are made under Section 63 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Challenges must be received by the Administrative Court within 42 days (6 weeks) of the date of the decision - this period cannot be extended. A challenge against a Tree Replacement Notice (TRN) appeal must be received by the Administrative Court within 28 days of the date of the decision, unless the court extends this period.

Challenges to enforcement appeal decisions

Enforcement appeal decisions under all grounds [see our booklet 'Making Your Enforcement Appeal'] can be challenged under Section 289 of the Town & Country Planning Act 1990. Listed building or conservation area enforcement appeal decisions can be challenged under Section 65 of the Planning (Listed Buildings and Conservation Areas) Act 1990. To challenge an enforcement decision under Section 289 or Section 65 you must first get the permission of the Court. However, if the Court does not consider that there is an arguable case, it can refuse permission. **Applications for permission to make a challenge must be received by the Administrative Court within 28 days of the date of the decision, unless the Court extends this period.**

Important Note - This leaflet is intended for guidance only. Because High Court challenges can involve complicated legal proceedings, you may wish to consider taking legal advice from a qualified person such as a solicitor if you intend to proceed or are unsure about any of the guidance in this leaflet. Further information is available from the Administrative Court (see overleaf).

Frequently asked questions

"Who can make a challenge?" - In planning cases, anyone aggrieved by the decision may do so. This can include third parties as well as appellants and councils. In enforcement cases, a challenge can only be made by the appellant, the council or other people with a legal interest in the land - other aggrieved people must apply promptly for judicial review by the Courts (the Administrative Court can tell you more about how to do this - see Further Information).

"How much is it likely to cost me?" - An administrative charge is made by the Court for processing your challenge (the Administrative Court should be able to give you advice on current fees - see 'Further information'). The legal costs involved in preparing and presenting your case in Court can be considerable though, and if the challenge fails you will usually have to pay our costs as well as your own. However, if the challenge is successful we will normally meet your reasonable legal costs.

"How long will it take?" - This can vary considerably. Although many challenges are decided within six months, some can take longer.

"Do I need to get legal advice?" - You do not have to be legally represented in Court but it is normal to do so, as you may have to deal with complex points of law made by our own legal representative.

"Will a successful challenge reverse the decision?" - Not necessarily. The Court can only require us to reconsider the case and the same decision may be reached again but for different or expanded reasons.

"What can I do if my challenge fails?" - The decision is final. Although it may be possible to take the case to the Court of Appeal, a compelling argument would have to be put to the Court for the judge to grant permission for you to do this.

Contacting us

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2 The Square
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Phone: 0117 372 8962

Website

www.planning-inspectorate.gov.uk

General Enquiries

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E-mail: enquiries@pins.gsi.gov.uk

Complaints

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E-mail: complaints@pins.gsi.gov.uk

Cardiff Office

The Planning Inspectorate
Room 1-004
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Cardiff CF1 3NQ

Phone: 0292 082 3866

E-mail: Wales@pins.gsi.gov.uk

The Parliamentary & Health Service Ombudsman

Millbank Tower, Millbank
London SW1P 4QP

Helpline: 0845 0154033

Website: www.ombudsman.org.uk

Email: phso.enquiries@ombudsman.org.uk

Inspection of appeal documents

We normally keep appeal files for one year after the decision is issued, after which they are destroyed. You can inspect appeal documents at our Bristol offices by contacting us on our General Enquiries number to make an appointment (see 'Contacting us'). We will then ensure that the file is obtained from our storage facility and is ready for you to view. Alternatively, if visiting Bristol would involve a long or difficult journey it may be more convenient to arrange to view your local planning authority's copy of the file, which should be similar to our own.

Council on tribunals

If you have any comments on appeal procedures you can contact the Council on Tribunals, 81 Chancery Lane, London WC2A 1BQ. Telephone 020 7855 5200; website: <http://www.council-on-tribunals.gov.uk/>. However, it cannot become involved with the merits of individual appeals or change an appeal decision.



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