



**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 MARSHALL CLARKE  
Address 1 KENNEDY CLOSE, PURBROOK, WATERLOOVILLE, HAMPSHIRE  
Postcode PO7 5NY  
Daytime Tel [REDACTED]  
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. It will be your responsibility to keep the appellant informed.

Name KIRSTY LOUISE MORRISON  
Organisation N/A  
Address 116 LABURNUM ROAD, WATERLOOVILLE, HAMPSHIRE  
Postcode PO7 7AX  
Daytime Tel [REDACTED]  
Email [REDACTED]

I prefer to be contacted by: ☐ Email ☐ Post ☐ or telephone

**C. APPEAL SITE**

Address where the appeal tree is (trees are) located: 2A KENNEDY CLOSE, PURBROOK,  
WATERLOOVILLE, HAMPSHIRE PO7 5NZ

Do you own the site:    Yes—————No

**If no**

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

NEIGHBOUR – THE TREE IS ENCROACHING ON THE APPELLANT’S LAND AND IS CAUSING DAMAGE/NUISANCE.

- 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:

AS ABOVE. THE NAME OF THE OWNER OF THE LAND ON WHICH THE TREE IS SITUATED IS

[REDACTED]

**D. COUNCIL/DECISION**

Council:                               HAVANT

Council Contact Name:    TOM GREGORY/SIMON ROWBERRY                               Telephone Number: 02392 474 174

Full title of tree preservation order (if known):                               TPO 1389

Date of Council’s decision (if applicable):                               19 JULY 2022

**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: N/A

Size: N/A

## F. GROUNDS OF APPEAL (cont)

THE COUNCIL'S REFUSAL OF CONSENT STATES IN THE FIRST INSTANCE THAT THE TREE IN QUESTION IS A SIGNIFICANT FEATURE OF THE LOCAL LANDSCAPE. THIS IS INCORRECT, AND THE APPELLANT FINDS IT HARD TO BELIEVE THAT THE COUNCIL COULD MAKE SUCH A STATEMENT WITHOUT HAVING VISITED OR ATTEMPTED TO VISIT THE LAND ON WHICH THE TREE IS SITUATED AND THE NEIGHBOURING LAND OF THE APPELLANT. A SITE VISIT WOULD HAVE SHOWN THAT THE TREE IS NOT VISIBLE TO THE OVERWHELMING MAJORITY OF THE COMMUNITY; IT BORDERS THE PRIVATE LAND OF [REDACTED] AND THE LAND OF THE APPELLANT. THERE ARE VARIOUS MEMBERS OF THE COMMUNITY WHO WERE AWARE OF THE APPELLANT'S APPLICATION AND CHOSE NOT TO RESPOND OR OBJECT, ON THE BASIS THAT IT DID NOT IMPACT THEM. THE APPELLANT HAS SPOKEN TO OTHER NEIGHBOURS IN THE AREA AND UNDERSTANDS THAT THEY CANNOT SEE THE TREE FROM THE ROAD OR FROM THEIR LAND.

THE REFUSAL CONSENT ALSO STATES THAT THE PROPOSED WORKS WOULD RESULT IN EXCESSIVE REDUCTION TO THE VISUAL AMENITIES OF THE LOCALITY. AGAIN, THIS IS INACCURATE AND THE APPELLANT STRUGGLES TO UNDERSTAND HOW THIS FINDING CAN BE MADE, IN CIRCUMSTANCES WHERE THE COUNCIL HAVE NOT VISITED THE RELEVANT PARCELS LAND TO VIEW THE TREE IN QUESTION. IT IS THE APPELLANT'S POSITION THAT TRIMMING THE TREE BACK TO THE BOUNDARY ON HIS LAND WILL NOT IMPACT THE VISUAL AMENITIES FOR ANYONE OTHER THAN [REDACTED], GIVEN THE LOCATION OF THE TREE.

AS SET OUT WITHIN THE INITIAL APPLICATION, THE TREE IN QUESTION IS CAUSING DAMAGE TO THE APPELLANT'S LAND. IT IS ALSO CAUSING A NUISANCE TO THE APPELLANT [REDACTED] THE EXCESSIVE DEPOSIT OF LEAVES, TWIGS, DEBRIS, WATER AND SAP WHICH CONTINUALLY FALLS ON TO THEIR LAND AS A RESULT OF THE ENCROACHING BRANCHES, WHICH ARE SIGNIFICANT.

THE APPELLANT INVITED THE COUNCIL TO VISIT HIS LAND IN ADVANCE OF ISSUING THEIR DECISION. HOWEVER, THE COUNCIL CHOSE TO IGNORE THIS REQUEST AND APPEAR TO THE AGENT TO HAVE BASED THEIR DECISION ON THE ONE OBJECTION TO THE WORKS, WHICH WAS RAISED BY [REDACTED], THE OWNER OF THE LAND ON WHICH THE TREE IS SITUATED. THIS MUST BE CONSIDERED A PROCEDURAL FAILURE. THE AGENT FOR THE APPELLANT ALSO ISSUED A RESPONSE TO THE OBJECTION RAISED BY [REDACTED] BY EMAIL TO MR TOM GREGORY ON 18 JUNE. HOWEVER, THIS WAS NOT ACKNOWLEDGED AND APPEARS TO HAVE BEEN DISREGARDED BY THE COUNCIL WHEN MAKING THEIR DECISION.

THE APPELLANT WISHES TO APPEAL THE COUNCIL'S DECISION OF 19 JULY 2022 AND INVITES THE APPEALING AUTHORITY TO VISIT BOTH HIS LAND AND THE LAND OF [REDACTED]; THIS WILL PROVIDE THE COUNCIL WITH SUFFICIENT FIRST-HAND KNOWLEDGE OF THE POSITION OF THE TREE AND DAMAGE AND NUISANCE CAUSED, TO ENABLE THEM TO FULLY CONSIDER THE APPEAL.

FOR THE AVOIDANCE OF DOUBT, THE APPELLANT SEEKS CONSENT TO TRIM THE TREE BACK TO BOUNDARY OR TO A SUFFICIENT EXTENT TO PREVENT OR MINIMISE ONGOING DAMAGE OR NUISANCE TO HIS LAND.

THE AGENT FOR THE APPELLANT ENCLOSES COPIES OF CORRESPONDENCE WITH THE COUNCIL IN RELATION TO THE INITIAL APPLICATION, WHICH THE APPELLANT HOPES WILL BE OF SOME ASSISTANCE IN CONSIDERING THIS APPEAL.

### **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:

WHILE THE APPELLANT IS WILLING TO ALLOW AN INSPECTOR TO VISIT THE LAND UNACCOMPANIED, THE TREE IS SITUATED ON [REDACTED] LAND AND BORDERS THAT LAND AND THE APPELLANT'S LAND. BOTH OF THESE PARCELS OF LAND ARE PRIVATELY OWNED AND THE INSPECTOR WILL THEREFORE NEED TO CONTACT BOTH [REDACTED] AND THE APPELLANT IN ADVANCE TO ARRANGE ACCESS.

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:

PLEASE SEE ABOVE.

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:

N/A

## 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 |
|-----------------------------------------|---|

THIS IS NOT AVAILABLE.

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):

APP/21/01309

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

## J. CONFIRMATION

## DECLARATION

**1. I understand that:**

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

By signing this form I am agreeing to the above use of the information I have provided.

**2. I have completed all sections of the appeal form and confirm that the details are correct to the best of my knowledge.**

**3. I have sent a copy of this appeal form and enclosures to the Council.**

Signature



Date

10.08.2022

Name (in capitals)

KIRSTY LOUISE MORRISON

On behalf of (if applicable) MARSHALL CLARKE

**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

N/A