



GOVERNMENT OFFICE
FOR EASTERN REGION

Handwritten initials: D, B, JF

Mr W E Delahunty
21A Melsted Road
HEMEL HEMPSTEAD
Herts HP1 1SX

PLANNING DEPARTMENT					
DACORUM BOROUGH COUNCIL					
Ref					Att
		D.P.	D.C.	P.C.	Asst. Dir.
- 7 SEP 1998					
Copied to Eut. Asst. Dir. - 8/9/98					

Planning & Transport Division
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Our Ref: E1/A1910/5/4/7

4 September 1998

Handwritten: 4/01487/97 TPO

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990
THE BOROUGH OF HEMEL HEMPSTEAD TREE PRESERVATION (NO. 1)
ORDER 1954 - THIRD SCHEDULE
APPEAL AGAINST REFUSAL OF CONSENT TO FELL ONE PINE TREE ON
LAND IN FRONT OF 21A MELSTED ROAD, HEMEL HEMPSTEAD,
HERTFORDSHIRE

1. I am directed by the Secretary of State for the Environment, Transport and the Regions to refer to your appeal, made under the Third Schedule of the above-mentioned Order, against the decision of Dacorum Borough Council to refuse consent for the felling of one pine tree, included within Group G16 of the Order and situated on land in front of 21A Melsted Road, Hemel Hempstead, Hertfordshire.

2. The Secretary of State has carefully considered your representations, together with those of the Council and five local residents. An Inspecting Officer visited the site on 23 June 1998. A copy of his report is appended to this letter. In considering the report, the Secretary of State has read "Melstead Road" as "Melsted Road", and in paragraph 2, line 11, "well tree" has been read as "well treed".

3. You appealed on the grounds that the tree had caused subsidence damage to your maisonette. A Loss Adjusters' report had concluded that the tree could be a contributory factor and that its removal could eliminate the risk. There was evidence that pine tree roots extended under the foundations of the property. Further subsidence could occur. Root infiltration had been found in the foul drainage system. The area was not sparsely treed. The appeal tree had been reduced in the past, presumably to prevent damage to property. It contained deadwood and a broken branch. Permission had been given for the removal of an adjacent tree because it had been a threat to properties.

4. In their statement, the Council argued that, despite a lack of maintenance, the tree was of considerable amenity value. That value was reinforced by the sparse tree cover in Melsted Road. The adjacent tree had been removed because it had been a poor specimen and leaned severely. The damage to your property had been described as "aesthetic" and was of long standing. Other properties in Melsted Road were also apparently suffering from subsidence, without influence from nearby trees. No details of crack monitoring showing seasonal movement and tree influence had been submitted. The foundations of the property had not been constructed in line with current requirements and "made ground" had been found to a depth in excess of 750 mm. The tree's maturity indicated that its water uptake had remained static for some time. Pine only had a moderate need for water. Root infiltration of the drains only indicated previous damage. Deadwooding could be carried out without the need for formal consent and would not be detrimental to the tree's amenity value.

5. The Secretary of State has given careful consideration to all the arguments for and against the appeal proposal, and to the Inspecting Officer's appraisal and conclusion. He agrees with the Inspecting Officer that the tree has a high amenity value. He has given that amenity value considerable weight in determining your appeal. Consequently, good reasons need to be shown to exist to justify felling.

6. The Inspecting Officer was of the opinion that the root found beneath the foundations of the front bay did not provide confirmation that the tree was causing desiccation of any underlying clay. The front bay was at the likely limit of the root spread of the tree and the external cracks on the rear elevation of your property were very substantially beyond the likely root spread of the tree. The Secretary of State sees no reason to disagree with the Inspecting Officer. He also agrees, for the reasons given in paragraph 10 of the report, that the incidence of cracking in the houses along Melsted Road strongly suggested that the cause of the cracking had little, if anything, to do with the trees in the road. These findings weigh significantly against removing the tree. The Secretary of State has drawn no conclusions on the cause of the cracking, however you may wish to note the Inspecting Officer's view that the available evidence tended to support the first conclusion reached in the McLaren Toplis report that the movement was probably thermal in origin.

7. The Secretary of State accepts that the appeal tree is unlikely to have a greater potential influence upon your dwelling in the future. He also accepts that there was a possibility of heave if the tree were removed. These factors also point against allowing your appeal. The Inspecting Officer took the view that the tree was well separated from the foul drains and too distant to be likely to have any effect upon them. The Secretary of State agrees. He also agrees that the deadwood and detached dead branch could easily be removed by appropriate tree surgery and did not provide justification for the felling of the tree. In the circumstances, the Secretary of State is satisfied that good reasons have not been shown to exist which would justify the tree's removal.

8. For the reasons given above, the Secretary of State agrees with the Inspecting Officer's appraisal, except in so far as it relates to his comments in paragraph 10, and conclusion. Accordingly, he hereby dismisses your appeal.

9. A separate note is enclosed setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by the making of an application to the High Court.

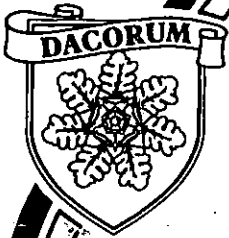
10. A copy of this letter has been sent to Dacorum Borough Council and the five local residents who made representations on your appeal.

Yours faithfully

Andrew N Hayes

ANDREW N HAYES

Authorised by the Secretary of State
to sign in that behalf



PLANNING

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TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/01487/97/TPO TPO FILE NUMBER: 1 OF 1954

21A, MELSTED ROAD, HEMEL HEMPSTEAD, HERTS, HP1 1SX
WORKS TO TREE

Your application for works to a tree protected by a Tree Preservation Order dated 20 September 1997 and received on 20 October 1997 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 18 November 1997

18 NOV 1997
4/01487/97/TPO

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/01487/97/TPO

Date of Decision: 18 November 1997

. The loss of the Pine tree, which is protected by a Tree Preservation Order, will be detrimental to the amenity of the area. In the circumstances, the local planning authority is not satisfied that the evidence submitted provides sufficient justification to remove this important protected tree.

NORTH-SATE
DOCUMENT STAMPED
TO ENSURE DETECTION
BY SCANNER