



PLANNING

Civic Centre Marlowes
Hemel Hempstead
Herts HP1 1HH

MRS A E HEWITT
93 LONGFIELD ROAD
TRING
HERTS
HP23 4DF

TOWN AND COUNTRY PLANNING ACT 1990

APPLICATION - 4/01729/98/TPO TPO FILE NUMBER: 257

91 LONGFIELD ROAD, TRING, HERTS, HP234DF
REMOVAL OF PRESERVED TREE

Your application for works to a tree protected by a Tree Preservation Order dated 01 September 1998 and received on 30 September 1998 has been **REFUSED**, for the reasons set out overleaf.

Director of Planning

Date of Decision: 26 November 1998

REASONS FOR REFUSAL APPLICABLE TO APPLICATION: 4/01729/98/TPO

Date of Decision: 26 November 1998

1. There is insufficient justification for the removal of the Yew tree on grounds of safety. The removal of the tree would be seriously detrimental to the general character and visual amenity of the area.

GO-East



File on
4/01729/98
TPO

PLANNING DEPARTMENT			
DACORUM BOROUGH COUNCIL			
DATE	FILE	FILE	FILE
30 SEP 1999			

Mrs A E Hewitt
93 Longfield Road
TRING
Hertfordshire
HP23 4DF

GOVERNMENT OFFICE
FOR THE EAST OF ENGLAND

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29 September 1999

Our Ref: E1/A1910/5/4/10

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990
DACORUM BOROUGH COUNCIL LAND AT REAR OF 91 LONGFIELD ROAD,
TRING, HERTFORDSHIRE TREE PRESERVATION ORDER, 1994 - THIRD
SCHEDULE
APPEAL AGAINST REFUSAL OF CONSENT TO FELL ONE YEW TREE ON
LAND AT 91 LONGFIELD ROAD TRING**

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 yew tree, identified as tree T1 in the Order and situated on land at 91 Longfield Road, Tring.
2. The appeal tree is in the ownership of Mr and Mrs Cooper.
3. The Secretary of State has carefully considered your representations together with those of the Council, Mr and Mrs Cooper, and Mrs Findlow. An Inspecting Officer visited the site on 28 June 1999. A copy of his report is appended to this letter.
4. You appealed on the grounds that yew was poisonous and that therefore the appeal tree constituted a danger to your family and grandchildren. The tree overhung a play area, which consequently your grandchildren were unable to use. All the debris from the tree was toxic: eating it could be fatal. The tree was very large and neglected. The canopy was full of broken branches and was very dangerous. Its trunks leant and, if they fell, would cause considerable damage and could endanger life. Clearing up and disposing of the debris and fruit from the tree had become onerous. The only sensible course of action was for the tree to be felled and replaced with a more suitable species. You would only agree to the tree being



INVESTOR IN PEOPLE

pruned, if the Council were to give a written assurance that it would cause you and your family no harm.

5. In their statement the Council argued that the appeal tree had significant amenity value. They acknowledged that the berries, foliage and bark of yew were toxic. However, it was not accepted that the tree represented such a risk to you and your family's health and safety that felling was justified. Potentially risks to children existed, however practically they were non-existent. Many trees leant without being dangerous. No evidence was presented that the tree was dangerous. The removal of dead wood, being exempt from the provisions of the Order, was a matter for you and your neighbours to resolve. It was unclear why an application for pruning had not been made.

6. 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. His starting point in determining your appeal is an assessment of the tree's amenity value. The Inspecting Officer found that the tree was prominent from Longfield Road in the view through the gap between numbers 91 and 93 and above your neighbours' bungalow. It was also prominent in the view from nearby properties on the northwestern side of Longfield Road and the southeastern side of Beaconsfield Road. The Secretary of State accepts these findings and is satisfied that the appeal tree has a high public amenity value in what is a lightly treed part of Tring. In determining your appeal he has given the tree's amenity value considerable weight.

7. The Secretary of State considers that your appeal turns on whether your concerns over the danger posed by the tree outweigh its considerable amenity value. Parts of a yew tree are certainly poisonous, although, as the Inspecting Officer explained, the red fleshy aril (berry) is not poisonous. The seeds, leaves and wood do contain toxins, the ingestion of which can lead to death. However, the evidence of past cases of poisoning suggested that the hazard would only be realised if significant quantities of poisonous material were consumed. In addition, the seeds, unless crushed, will pass harmlessly through the body. The Secretary of State therefore accepts the Inspecting Officer's view that the risk of a person or a child being poisoned by yew is remote. He also accepts that the risk to animals can be banished by the removal of debris and foliage within reach. The Inspecting Officer considered that the risk of unintentional poisoning could be eliminated simply, other than by removal of the appeal tree. The Secretary of State appreciates that that would involve routine garden maintenance, which can appear burdensome, particularly when a large degree of debris is produced. Nevertheless, such maintenance is not considered unusual and would not normally justify a tree's removal, especially, as in this case, where it had a high amenity value.

8. The Secretary of State understands your concerns and recognises that the risk posed by a yew tree may never be totally eliminated. However, he considers, for the reasons given above, that your concerns should be given only limited weight in the determination of your appeal.

9. The Inspecting Officer found that the appeal tree was in excellent health. There was no evidence that the crown presented any risk of failure. The small amount of dead wood and

minor broken branches could be removed without affecting the health or amenity of the tree, and without needing the tree to be felled. The Secretary of State agrees. As the Council explained to you, the removal of dead wood is exempt from the provisions of the Tree Preservation Order and does not need the Council's or Secretary of State's formal consent. You would of course still need the owners' agreement to the removal of any dead wood.

10. The Secretary of State is satisfied that your concerns over the danger posed by the tree do not outweigh its amenity value. He agrees with the Inspecting Officer's conclusion that there was no evidence that the appeal tree presented any safety hazard, provided normal care is exercised. He therefore considers that the tree should be retained. You may wish to note the Inspecting Officer's comment in paragraph 7 of his report, that minor trimming would be appropriate. You may wish to give that comment further thought. Any works would require a fresh application and would be for the Council to consider in the first instance. The Secretary of State has drawn no conclusions on the merits of such work.

11. For the reasons given above, the Secretary of State agrees with the Inspecting Officer's appraisal and conclusion. Accordingly, he hereby dismisses your appeal.

12. 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.

13. Copies of this letter have been sent to Dacorum Borough Council, Mr and Mrs Cooper and Mrs Findlow.

Yours faithfully

Andrew N Hayes

ANDREW N HAYES

Authorised by the Secretary of State
to sign in that behalf

Eland House,
Bressenden Place,
LONDON,
SW1E 5DU

File Ref: E1/A1910/5/4/10

To the Right Honourable John Prescott, MP,
Secretary of State for the Environment, Transport and the Regions,

Sir,

I have been asked to advise on the appeal by Mrs A. E. Hewitt made under the third schedule of Dacorum Borough Council Land at rear of 91 Longfield Road, Tring, Hertfordshire Tree Preservation Order 1994 against the refusal of the Dacorum Borough Council to permit the felling of one yew tree on land at 91, Longfield Road, Tring and to carry out an inspection of the site on your behalf. On the 28th June 1999 I made an accompanied site visit in the presence of Mr and Mrs P. Hewitt (Appellant and her spouse), Mr D and Mrs J Cooper (owner of the tree) and Miss R. Chapman and Mr R. Kingston (Dacorum Borough Council).

- 01 This report contains a description of the appeal tree and its surroundings and my appraisal (on the basis of my observations and the written representations of the parties) of the likely impact of the proposal.

The site and surroundings:

- 02 Longfield Road is a residential road located on the western side of Tring in a lightly treed part of the town. The dwellings on Longfield Road are two storey houses except for number 91 which is a bungalow (see photograph 1). Numbers 93-99 is a recently constructed terrace. The garden of number 91 has a shed and summerhouse on the righthand side and is mainly laid to lawn (see photograph 3). The garden of number 93 has a width of 5.1m and a depth of approximately 22m. It also is mainly laid to lawn (see photograph 4).

Description of the tree:

- 03 The tree is a yew (*Taxus baccata*) and is female. It is located within the garden of number 91 approximately 0.6m from the boundary. The shed is directly beneath the canopy, with the conservatory approximately 6m from the tree and the corner of the bungalow approximately 9m away. The tree is 5.7m from the rear lefthand corner of the house of number 93. The tree is approximately 12m in height with a trunk diameter of 0.6m and a crown spread of radius between 5m and 6m. From 2m, the trunk becomes several stems, suggesting it may have been trimmed at this height in the distant past. The foliage droops down to 1m above the garden of number 91, and down to 1.8m over the garden of number 93. The crown is circa 1m off the wall of number 93 at its closest point, and 1.5m off the rear lefthand bedroom window. The crown just extends over the footprint of the rear lefthand corner of number 93 but at a height of circa 1.5m above the roof and gutter. The crown contains only a minor quantity of deadwood and the foliage is healthy.

Appraisal:

- 04 The tree is prominent from Longfield Road in the view through the gap between numbers 91 and 93 (see photograph 1) and above the bungalow. It is also prominent in the view from nearby properties on the northwestern side of Longfield Road and the southeastern side of Beaconsfield Road. It has a high public amenity value in this generally lightly treed part of Tring. The effect of the proposal would be to diminish the public amenity.
- 05 Yew contains alkaloids and other products which in sufficient quantity are poisonous to man and most beasts. Ingestion of bark, wood and foliage will release these products and can lead to death. The red fleshy aril which develops around the seed is not poisonous and is designed to be eaten as a means of dispersing the seeds. The seeds also contain alkaloids but unless crushed will pass harmlessly through the body. Crushed seeds are reported as tasting very bitter.
- 06 The risk of a person or child being poisoned is remote, as is borne out by the extract from David Lang's *The Complete Book of British Berries* and the review paper by Krenzelok et al. The risk to animals can be banished by the removal of debris and foliage within reach. Thus whilst there is a possibility of poisoning, the risk of unintentional poisoning can be eliminated simply other than by removal of the tree.
- 07 The tree is in excellent health. There is no evidence to suggest that the crown presents any risk of failure and the small stature of the tree indicates that any failure would be most unlikely to cause actual damage or injury. There is some small deadwood and minor broken branches in the crown, but these can be removed without affecting the health or amenity of the tree and without needing the tree to be felled. Minor trimming (e.g. to give a clearance of 2.5m above ground level and 1.5m off the fabric of number 93) would be appropriate.
- 08 If consent to fell is granted, a condition requiring the planting of a replacement tree would be desirable to maintain the visual amenity and tree cover of the area. The choice of species and location of planting can be left to the agreement of the parties.

Conclusion:

- 09 The tree has a high amenity value. There is no evidence to indicate that the tree presents any safety hazard provided normal care is exercised.



Keith Rushforth

BSc(For), FICFor, FARborA, MIHort
8th July 1999