

South Hams District Council
Town and Country Planning
(Tree Preservation) (England) Regulations 2012

Tree Preservation Order: REFUSAL of CONSENT

Application No: 3098/21/TPO

Proposed works: T1: Sitka Spruce - Fell to provide space for construction vehicle access.

Location: Marhaba, Beadon Road, Salcombe, TQ8 8LU

Applicant/Agent:

Aspect Tree Consultancy Ltd
Unit F, Kach Business Park
Pottery Rd
Bovey Tracey
TQ13 9TZ

Applicant:

Warren
c/o agent

With reference to your application under the Tree Preservation Order for the operations detailed above following your application received on 9 August 2021.

In pursuance of its powers under the above mentioned Act and Regulations, the South Hams District Council **Hereby REFUSE Consent** for the following reasons:

1. In light of the amenity value of the tree(s) and the significant impact that the proposed works will have on this amenity value, the Council refuses consent having given due consideration to the reasons put forward in support of the application. The Council does not consider that the reasons put forward outweigh the impact the proposed works will have on the amenity value of the tree(s).
2. No arboricultural or professional justification has been submitted to support the application to confirm that the subject tree/s is likely to be structurally unsafe or dangerous and in need of management works. From a visual inspection carried out at ground level only, there did not appear to be any obvious or significant signs of decay that would allow a decision of approval against appropriately protected tree/s.
3. The applicant for the associated development has confirmed through previous submissions that the approved planning consent can be enacted without the requirement for tree felling. The felling of T1 based upon the reasons given will be harmful to the public visual amenities of the local and wider landscape.

You have a right of appeal against this decision.

It is important that you read the notes overleaf.

Dated this 1 October 2021

(Application Ref: 3098/21/TPO)

Patrick Whymer

Head of Development Management Practice
for and on behalf of the Council

Your Right of Appeal

If you are aggrieved by the Council's decision to refuse consent or to grant consent subject to conditions, you can appeal to the Secretary of State. If you wish to appeal, you must do so in writing to:

The Planning Inspectorate
Environment Team
Room 3/25
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Your appeal must be received by The Planning Inspectorate **within 28 days** from the date you receive this decision. The Secretary of State has discretion to allow a longer period. Further information can be found online at: <https://www.gov.uk/appeal-decision-about-tree-order>.

Informative notes:

- 1 This decision is made under Part VIII of the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (Tree Preservation) (England) Regulations 2012, and without prejudice to any other controls that may be in force, including those that relate to land ownership. It does not give you an automatic right to carry out works on, or above, somebody else's land.
- 2 It is an offence under the Wildlife and Countryside Act 1981 to disturb roosting bats or nesting birds. It is advisable to consult your tree surgeon/consultant to agree an acceptable time for carrying out any work. Wildlife and habitat controls are administered by Natural England.
- 3 A visual amenity assessment of the tree(s) was conducted from ground level, and the decision deals with the officer's site observations together with the relevant issues that have been raised. The only trees that the officer assessed were those detailed on the tree work application and the assessment specifically considered the proposed works in relation to amenity and the trees' health. The responsibility rests with the tree owner to have their trees inspected on a regular basis to address their duty of care. Inspections should be carried out by an independent arboriculturalist as the Local Planning Authority do not provide this service.
- 4 If you suffer any loss or damage which is caused or incurred in consequence of a refusal of consent, or a grant of consent subject to conditions, you may be entitled to recover from the Council compensation in respect of such loss or damage. If you wish to make a claim you must do so within 12 months from the date of this decision (or, if you appeal to the Secretary of State, within 12 months from the date of his decision). Claims should be submitted in writing to Development Management Case Management, South Hams District Council or West Devon Borough Council.
- 5 Most applications for tree works are now submitted online via the Planning Portal. Tree works applications are covered by Planning Applications online, available here: https://www.planningportal.co.uk/info/200232/planning_applications.

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