



GOVERNMENT OFFICE
FOR THE NORTH EAST

Mrs M Jamieson
17 Cranwell Grove
Thornaby
STOCKTON-ON-TEES
TS17 9PQ

Citygate
Gallowgate
Newcastle upon Tyne
NE1 4WH

Tel: 0191 201 3300
Direct: 0191 202 3641
Fax: 0191 202 3744
Website: www.go-ne.gov.uk
Email: Julie.HUME@gone.gsi.gov.uk

Your Ref:
Our Ref: GONE/P/W0720/146/07/2
Date: 16 August 2007



Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990
THE STOCKTON-ON-TEES BOROUGH COUNCIL (LAND TO THE REAR OF 17
CRANWELL GROVE, THORNABY, STOCKTON-ON-TEES) TREE PRESERVATION
ORDER 1998 NO. 297
APPEAL AGAINST THE REFUSAL OF CONSENT TO FELL AN OAK TREE AT 17
CRANWELL GROVE, THORNABY, STOCKTON-ON-TEES**

1. I am directed by the Secretary of State for Communities and Local Government ("the Secretary of State") to refer to your appeal, made under the above mentioned Tree Preservation Order ("the TPO"). You appealed against the decision of Stockton-on-Tees Borough Council ("the Council") to refuse consent for the felling of an oak tree at 17 Cranwell Grove, Thornaby, Stockton-on-Tees ("the appeal tree") in the TPO.

Council's Reasons for Refusal

2. The Council, in its decision notice of 18 January 2007, refused consent on the basis that there is no clear benefit to the works that can not be mitigated by reasonable level of property maintenance and the works will be of detriment to the tree's long term health and condition and it's current and future value as a visual amenity.

Grounds of Appeal

3. You appealed on the following grounds. You have a severely disabled son and you had the garden decked out because it was always flooded and your son could not play on his swing. After the garden was decked out you found that a large number of branches and acorns were dropping from the tree and there were a lot of bird droppings and you believe that this could be dangerous to your son when he plays on the decking. Your son needs twenty four hour care and this is the only area where you can keep a watch on him

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as [symptomatic of his disabilities] he could have a fit at any time. As your son cannot talk he would not be able to tell you if he was in distress.

Inspector's Report

4. An Inspector appointed by the Secretary of State visited the site on 8 June 2007. A copy of his report is attached at Annex A to this letter.

Secretary of State's Considerations

5. The Secretary of State has taken into account the Inspector's report, your representations, those of the Council and of Ms Leah Todd, Community Nurse – Care Manager. She has considered the reasons given in support of the appeal proposal, and whether it is justified in the light of the tree's contribution to the amenity of the local area.

6. The Secretary of State agrees with the Inspector's conclusions as are more particularly set out in his report. She accepts that although the tree, overall, has a moderate visual amenity it is individually prominent from a number of public vantage points throughout the estate. The Secretary of State notes, whilst appreciating your concerns for the welfare of your son, that no medical evidence was submitted to support your contention that the acorns, albeit if eaten and indigested they might cause stomach upset and diarrhoea, cause poisoning that would reduce the effectiveness of any anticonvulsant drugs which may lead to fitting and possible choking, if remnants of acorns are in your son's mouth. She agrees with the Inspector that sweeping of the area, during what is a short seasonal fall period for acorns, would reduce available ground fall of acorns, and a potential for any problem. Whilst bird droppings can be poisonous the Secretary of State notes that the Inspector found [at the site visit] no visible evidence of significant amounts of bird waste. The Secretary of State agrees with the Inspector that given other environs of the rear amenity space, which includes a fence and timber buildings, that the removal of the appeal tree would not necessarily reduce defecation by birds, with it likely to continue from passing birds seeking these other perches. She, like the Inspector, considers that if bird excrement is considered a problem it can be tackled by prior cleaning of the decking area before its use.

7. The Secretary of State agrees with the Inspector that although the falling acorns and the bird droppings create some inconvenience, the extent of this is insufficient to justify felling a tree which makes a contribution to the amenity of the locality.

Secretary of State's Decision

8. For the reasons given above the Secretary of State hereby dismisses your appeal and this letter constitutes her decision to that effect.

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Other Matters

9. A separate note is attached setting out the circumstances in which the Secretary of State's decision can be challenged by way of an application to the High Court.

10. I am sending a copy of this letter to the Council and Ms Leah Todd, Community Nurse - Care Manager.

Yours faithfully

JULIE HUME

Authorised by the Secretary of State for Communities and Local Government to sign in that behalf.

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