

**DEVELOPMENT & REGULATORY
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Mr D John
2 Maylands Avenue
Breaston
Derbyshire
DE72 3EE

TOWN AND COUNTRY PLANNING ACT 1990

**APPLICATION FOR WORKS TO TREES PROTECTED BY A TREE PRESERVATION ORDER
REMOVAL OF HORSE CHESTNUT TREE AND STUMP**

at 2 MAYLANDS AVENUE, BREASTON, DERBYSHIRE, DE72 3EE FOR MR D JOHN

TREE/0908/1042 submitted on 26th September 2008

Erewash Borough Council having considered an application for the above works hereby in pursuance of their powers under the above-mentioned Act

REFUSE CONSENT

Reason (s) for Refusal:

- 1 *Notwithstanding the submitted information insufficient information has been submitted to justify the reasons for the removal of the horse chestnut tree.*

Date 14th November 2008

Signed _____

Development Manager

ATTENTION IS CALLED TO THE NOTES OVERLEAF

Notes to Applicant

Your attention is drawn to the rights of Appeal set out on the attached sheet.

RIGHTS OF APPEAL

If the applicant is aggrieved by the decision of the Borough Council to refuse consent, then he or she may appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 within twenty eight days of date of this notice.

Appeal forms can be obtained from The Environment Appeals Team, The Planning Inspectorate, Trees and Hedges, Room 4/04 Kite Wing, Temple Quay House, 2 The Square, Bristol, BS1 6PN, telephone 0117 372 6382 or 8812, e mail: environment.appeals@pins.gsi.gov.uk

COMPENSATION

If you suffer any loss or damage as a result of this refusal of consent, you may be entitled to recover from the Council compensation. 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 made in writing to [name and address of relevant officer of the Council].

TREE APPLICATION ASSESSMENT FORM

TREE/0908/1042

ADDRESS:

2 Maylands Avenue
Breaston
Derbyshire

DESCRIPTION

REMOVAL OF TREE AND STUMP OF HORSE CHESTNUT TREE

SITE AND SURROUNDINGS

The application site is flat and comprises part of the rear garden area of No.2 Mayland's Avenue, Breaston. The main dwelling is located on the corner of Wilsthorpe Road and Mayland's Avenue and comprises a two storey detached house with a detached garage to the rear, an enclosed front garden, and hardstanding to the rear and side. The dwelling house fronts on to Wilsthorpe Road, with the rear garden extending northwards along Mayland's Avenue

Immediately to the north of the site is the adjoining side garden area of No.4 Mayland's Avenue. To the east is the adjoining rear garden area of No.71 Wilsthorpe Road. At present, the application site is primarily laid to lawn, with shrub and border planting. In the far north western corner of the site is a horse chestnut which is the subject of a Tree Preservation Order (TPO) which abuts the side boundary with Mayland's Avenue.

The surrounding area is predominantly residential and contains a number of services within close proximity of the site, including a bus service to the larger towns of Nottingham and Derby and the local shopping centre which contains a number of retail outlets and café's.

APPLICATION DETAILS

Permission is sought to remove a horse chestnut tree and its stump at 2 Maylands Avenue which is subject to a tree preservation order. The tree is located to the rear of the garden on the north western boundary. Removal of the tree is sought as the tree is causing damage to the public highway and to a neighbours wall and concern is expressed by the occupiers of 2 Maylands Avenue in relation to public liability issues and future damage to public sewers, gas and water mains.

CONSULTATIONS

Advertised on the planning weekly list.

Tree consultant at Derby City– Objects due to insufficient information being submitted.

REPRESENTATIONS

A site notice was displayed at the site and the following representation has been received from one nearby resident:

- The tree should not be removed
- The top of the tree with its canopy adds to the street scene
- It is healthy and imposing;
- It fits in well with the surrounding mixture of property and garden styles
- It provides a habitat for wildlife
- It helps to keep our air clean and fresh
- Children are entertained by the tree everyday, not just the conkers but the size of the tree and its leaves plus the wildlife it supports
- It would be a crime against nature and the villagers of Breaston if the tree were removed
- The tree should not be removed just because someone wants to build on the land, or because a child once climbed the tree or because the pavement is lifting.

CONSIDERATIONS

In response to the application to fell the tree at 2 Maylands Avenue the tree consultant offered the following:

'I would recommend refusal to fell the tree as insufficient supporting evidence has been provided to substantiate the reasons for the application.

The owner of the tree would be able to carry out root pruning to address the issues with the footpath and would be able to do this without consent as it would be classed as an actionable nuisance and therefore would be appropriate under the exemptions.

They would however be allowed to carry out the minimum amount of works to remove the actionable nuisance and any works done over and above that or which is not necessary could, possibly mean that prosecution could be taken if such works were to cause damage to the tree.

If the root pruning required to remove the nuisance was such that it did have a significant detrimental effect on the tree an application to remove the tree with supporting information such as Arboricultural reports, photographic evidence, or ideally an Arboricultural Officer should be notified to observe the extent of root pruning that has been required to address the nuisance, during the time when works are being carried out, this would be advisable in any case to ensure any works carried out are agreed to be necessary to prevent any possibility of prosecution.

If very extensive pruning is required which affected the stability of the tree it could also be appropriate to remove the tree without an application under the Highways Act, if the tree is made immediately dangerous, I do not however consider this likely.'

Accordingly the application to fell the horse chestnut tree at 2 Maylands Avenue is refused for the reasons given above.

RECOMMENDATION

REFUSE

REASON

1. Notwithstanding the submitted information insufficient information has been submitted to justify the reasons for the removal of the horse chestnut tree.

Officer: Valerie Glew
Signed:

Date: 13/11/08
Checked By:
Date: