

ILKLEY URBAN DISTRICT COUNCIL

133

TOWN AND COUNTRY PLANNING ACT, 1947

TREE PRESERVATION ORDER

WHEREAS the County Council of the West Riding of Yorkshire being the Local Planning Authority under the Town and Country Planning Act, 1947 (hereinafter called the Act), for the Administrative County of the West Riding of Yorkshire have entered into an Agreement with the Ilkley Urban District Council relating to the delegation of functions under Part III of that Act and

WHEREAS the aforesaid Agreement authorises the Ilkley Urban District Council to exercise (inter alia) and with the consent of the West Riding County Council the powers upon the Local Planning Authority under the Act relating to the making of Tree Preservation Orders and under the terms of Section 28 thereof.

AND WHEREAS it appears to us the Council of the Ilkley Urban District that it is expedient to provide as hereinafter mentioned for the preservation of certain groups of trees, trees in parkland areas, and woodland areas.

NOW THEREFORE with the consent of the County Council of the West Riding of Yorkshire and in pursuance of the powers contained in Section 28 of the Act and subject to the provisions of Section 13 of the Forestry Act, 1951.

WE THE COUNCIL HEREBY MAKE THE FOLLOWING ORDER:-

1. In this Order "owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years: a lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more: and a mortgagee in possession,

2. Subject to the exemptions specified in the Second Schedule to this Order, no person shall, except with the consent of the Authority cut down, top, lop or wilfully destroy, or cause or permit the cutting down, topping, lopping or wilful destruction of

- (a) any of the trees contained in the groups of trees specified in the First Schedule hereto, shown edged red and numbered G1 to G28 inclusive on the map marked "Ilkley Urban District Council Tree Preservation Order" and deposited for inspection at the offices of the Clerk of the Council at the Town Hall, Ilkley.
- (b) any of the trees comprised within the parkland areas specified in the First Schedule hereto and within the outer edge of the area shown edged purple and numbered P1 to P8 inclusive on the said map,
- (c) any of the trees comprised in the woodland areas specified in the First Schedule hereto, shown coloured green and numbered W1 to W19 inclusive on the said map,

which map as amplified by the twelve maps attached thereto shall prevail where any ambiguity arises between it and the specification



in the First Schedule to the Order.

3. An application for consent made to the authority under paragraph 2 of this Order shall be in writing stating the reasons for making the application, and shall specify the trees to which the application relates, and the operations for the carrying out of which consent is required, and where necessary for the identification of such trees shall be accompanied by a map or plan of a size or on a scale sufficient for the purpose.

4. (1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent.

Provided that where the application relates to any woodland area specified in the First Schedule to this Order, the authority shall grant consent in accordance with the principles of good forestry except where, in the opinion of the authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area.

(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any directions as to replanting of woodland areas, and any compensation awarded in consequence of such decision; and every such register shall be available for inspection by the public at all reasonable hours.

5. Where an application for consent under this Order relates to felling any part of a woodland area, the authority, having regard to the need for bringing the amenity and forestry aspects of the woodland area into a proper relation, may draw up a plan of forestry operations for the woodland area, and incorporate it in the decision on the application, and such plan may include provisions deferring felling for a specified period or periods.

6. Where the authority refuse consent under this Order or grant such consent subject to conditions, they may, when refusing or granting consent, certify in respect of any trees for which they have so refused or granted consent, that they are satisfied that

- (a) the refusal or condition is in the interests of good forestry; or
- (b) in the case of a woodland area, it has an outstanding amenity value in relation to the woodland character of the area; or
- (c) in the case of trees other than trees comprised in woodlands, the trees have an outstanding amenity value; or
- (d) there is a special amenity served by the trees other than amenity in relation to the woodland character of the neighbourhood.

7. (1) Where any part of a woodland area is felled in accordance with consent granted under this Order, the owner of the land on which the woodland is situated shall subject to



any directions that may be given by the authority replant that part:-

Provided that

(a) where the Minister of Housing and Local Government (hereinafter called "the Minister") considers it expedient to dispense with any such requirement as to replanting he may at any time do so to such extent as he may think fit upon representation being made to him for the purpose by either the authority or the owner,

(b) where any part of a woodland area is so felled for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act, it shall not be necessary to replant that part.

(2) where consent is granted under this Order to fell any part of a woodland area, the authority may give directions to the owner of the land on which the woodland is situated as to the manner in which that part should be replanted and any such directions may include requirements as to

- (a) species;
- (b) planting distances;
- (c) the erection and maintenance of fencing necessary for protection of the replanting;
- (d) the preparation of ground, draining, removal of brushwood, lop and top; and
- (e) protective measures against fire.

8. The provisions set out in the Third Schedule to this Order, being the provisions of Part III of the Act as adapted and modified for the purposes of this Order, shall apply in relation to any application made to the Authority for consent under the Order and to any decision of the authority thereon.

9. Subject to the provisions of this Order, any person who has suffered damage, or has incurred expenditure in consequence of any refusal of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim within the time limited for the purpose by this Order, be entitled to recover from the authority compensation in respect of such damage or expenditure.

Provided that no compensation shall be payable in respect of damage suffered or expenditure incurred by reason of such refusal or grant of consent

- (a) in the case of any trees within the parkland areas or groups of trees, specified in the Fourth Schedule to this Order;
- (b) in the case of any trees the subject of a certificate in accordance with paragraph 6 of this Order.

10. In assessing compensation payable under the last preceding paragraph, account shall be taken of



- (a) any compensation of contribution which has been paid in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 28 of the Town and Country Planning Act, 1947, or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Development) Act, 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act, 1932, and
- (b) any injurious affection to any land of the owner which would result from the felling of the trees, the subject of the claim,

and regard shall be had to any plan of forestry operations drawn up under paragraph 5 of this Order.

11. A claim under this Order for compensation shall be made by serving on the authority a notice in writing stating the grounds of the claim and the amount claimed, within six months of the date of the decision of the authority, or of the Minister, as the case may be, or where an appeal has been made to the Minister against the decision of the authority, of the date of the decision of the Minister on the appeal.

12. Any question of disputed compensation payable in accordance with the terms of this Order shall be determined in accordance with the provisions of Section 110 of the Act.

GIVEN under the Common Seal of the Ilkley Urban District Council the fourth day of February in the year One Thousand Nine Hundred and Fifty Three.

SEALED with the COMMON SEAL )  
of the Ilkley Urban District )  
Council pursuant to Resolution )  
of the Council of the 4th )  
February, 1953, in the presence )  
of ) (L.S.)

ERIC WOLFE  
Chairman

B.E. TOWNEND  
Clerk



21st May, 1953

P.1134

The Minister of Housing and Local Government in exercise of the powers conferred upon him by the proviso to subsection (4) of Section 28 of the Town and Country Planning Act, 1947, hereby confirms the above Order provisionally.

(L.S.)

GIVEN under the official seal of the Minister of Housing and Local Government this twenty-first day of May, nineteen hundred and fifty-three

W.M. FOX

Assistant Secretary  
Ministry of Housing and Local Government.

20th July, 1953

P.1251

The Minister of Housing and Local Government in exercise of the powers conferred upon him by subsection (3) of Section 28 of the Town and Country Planning Act, 1947, hereby confirms the above Order, subject to the modifications shown in red thereon.

GIVEN under the official seal of the Minister of Housing and Local Government this twentieth day of July, nineteen hundred and fifty three

(L.S.)

L.R. MANSELL

Assistant Secretary,  
Ministry of Housing and Local Government.



FIRST SCHEDULE

No. on Map.	Description of Woodland Areas	Situation
W.1	Mixed Deciduous	East part Austby Gill and Spring Wood.
W.2	Mixed Deciduous	Owler Park and Springs Bottom.
W.3	Mixed Coniferous and Deciduous	Crabtree Gill.
W.4	Mixed Coniferous and Deciduous	Greenwood Wood.
W.5	Mixed Deciduous	Fish Wood.
W.6	Mixed Coniferous and Deciduous	North-West and South-East enclosures Briery Wood.
W.7	Mixed Deciduous	Hudson's Wood.
W.8	Mixed Deciduous	Spring Wood.
W.9	Mixed Coniferous and Deciduous	South-East Riversdale Road House.
W.10	Mixed Deciduous	Simon's Ridding.
W.11	Mixed Deciduous	Catton Wood.
W.12	Mixed Deciduous	Stead Hall Wood.
W.13	Mixed Coniferous and Deciduous	West of Scalebor Park.
W.14	Mixed Coniferous and Deciduous	Robin Hole.
W.15	Mixed Coniferous and Deciduous	Moor House, Burley.
W.16	Mixed Coniferous and Deciduous	Rough Hole.
W.17	Mixed Deciduous	Milner Wood, South of Railway.
W.18	Mixed Coniferous and Deciduous	Ben Rhydding.
W.19	Mixed Deciduous	South of High Wood.
<u>Description of Parkland Areas</u>		
P.1	Mixed Coniferous and Deciduous	South of Greenwood Wood.
P.2	Mixed Deciduous	Greystone Manor, North East.
P.3	Mixed Deciduous	Greystone Manor, South West.
P.4	Mixed Coniferous and Deciduous	Between Catton Wood, Stead Hall Wood and Scalebor Park.
P.5	Mixed Deciduous	Moor House, Burley.
P.6	Mixed Deciduous	South-West of Burley House.



No. on Map.	Description of Parkland Areas	Situation
P.7	Mixed Deciduous	Chevin Grange.
P.8	Mixed Deciduous	Menston Hall.
<u>Description of Groups of Trees</u>		
G.1	Mixed Deciduous	South of Blow Bank.
G.2	Mixed Deciduous	South of Greenwood Wood and Railway.
G.3	Mixed Coniferous and Deciduous	North of Hebers Mount.
G.4	Mixed Deciduous	South-East Wheatley Grange.
G.5	Mixed Deciduous	Cock Busk.
G.6	Mixed Deciduous	Jerry Holme, North-West Greystone Manor.
G.7	Mixed Deciduous	East of the Lodge, Burley Holme.
G.8	Mixed Deciduous	West of Holme Lodge.
G.9	Mixed Deciduous	North of Stead Hall Farm.
G.10	Mixed Deciduous	North-East and East of Stead Hall Farm.
G.11	Mixed Deciduous	North-East Plane Tree Cottage
G.12	Mixed Deciduous	Hollin Wood.
G.13	Mixed Deciduous	South-West Highfield House.
G.14	Mixed Deciduous	North-West of Field Head.
G.15	Mixed Deciduous	North-West, Mill House.
G.16	Mixed Deciduous	North-East Middle Hill.
G.17	Mixed Deciduous	Moor Lane, East of "Moorland".
G.18	Mixed Deciduous	South of "Gynesta".
G.19	Mixed Deciduous	West of "Hill Top".
G.20	Mixed Deciduous	Mankinghole.
G.21	Mixed Deciduous	Derry Hill Delph (Disused)
G.22	Mixed Deciduous	East side Derry Hill Road.
G.23	Mixed Deciduous	East of Derry Hill.
G.24	Mixed Deciduous	Clarence Drive.



No. on Map.	Description of Groups of Trees	Situation
G.25	Mixed Deciduous	South-East of "Brookleigh".
G.26	Mixed Deciduous	West of Halstead Lodge.
G.27	Mixed Deciduous	South-West Fox and Hounds Inn.
G.28	Mixed Deciduous	North-West of "Brooklands".

#### SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority.

- (1) to the cutting down, topping or lopping, of any tree that is dying or dead or has become dangerous.
- (2) to the cutting down, topping or lopping of any tree,
  - (a) in compliance with an obligation imposed by or under an Act of Parliament;
  - (b) in pursuance of the power conferred on the Postmaster General by virtue of Section 5 of the Telegraph (Construction) Act, 1908;
  - (c) in pursuance of the powers conferred by Section 24 of the Regulation of Railways Act, 1868;
  - (d) for the purpose of preventing or abating a nuisance;
  - (e) in the case of a statutory undertaker where the land on which the trees are situated, is operational land as defined by the Act and where works on such land cannot otherwise be carried out; or where the cutting down topping or lopping is for the purpose of securing safety in the operation of the undertaking.

#### THIRD SCHEDULE

Provisions of Part III of the Act as adapted and modified to apply to this Order.

Reference of applications to the Minister.

15. (1) The Minister may give directions to the Authority requiring that any application for consent under the Order, or all such applications of any class specified in the directions, shall be referred to the Minister instead of being dealt with by the authority, and any such application shall be so referred accordingly.

(2) Where any application for consent under the Order is referred to the Minister under this Section, the provisions of paragraphs 4 to 7 of the Order shall apply in relation to the determination of the application by the Minister as they apply in relation to the determination of such applications by the authority.



Provided that before determining any such application the Minister shall, if either the applicant or the authority so desire, afford to them an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.

(3) The decision of the Minister on all applications referred to him under this section shall be final.

Appeals  
to the  
Minister.

16. (1) Where application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions or where any certificate or direction is given by the authority then if the applicant is aggrieved by their decision on the application, or by any such certificate or if the person directed is aggrieved by the direction the applicant or that person, as the case may be, may, by notice in writing served within 28 days from the receipt of notification of their decision, certificate or direction, or such longer period as the Minister may allow, appeal to the Minister.

(2) When an appeal is brought under this section from a decision certificate or direction of the authority, the Minister may allow or dismiss the appeal or may reverse or vary any part of the decision of the authority, whether or not the appeal relates to that part, or may vary any certificate or direction, and may deal with the application as if it has been made to him in the first instance, and the provisions of the last foregoing section shall apply, subject to any necessary modifications in relation to the determination of any application by the Minister on appeal under this section as they apply in relation to the determination by the Minister of an application referred to him under that section.

(3) Unless within two months from the date of receipt of an application for consent under the Order, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either -

- (a) give notice to the applicant of their decision on the application, or
- (b) give notice to him that the application has been referred to the Minister in accordance with the directions given by him under the last foregoing section.

the provisions of subsection (1) of this section shall apply in relation to the application as if the consent to which it relates had been refused by the authority, and as if notification of their decision had been received by the applicant at the expiration of the said period of two months or the extended period agreed upon as aforesaid, as the case may be.



Revocation  
or modification  
of consent  
under the Order

21. (1) Subject to the provisions of this section, if it appears to the authority that it is expedient that any consent under the Order granted on an application made in that behalf should be revoked or modified, they may by order revoke or modify the consent to such extent as appears to them to be expedient as aforesaid:

Provided that no such Order shall take effect unless it is confirmed by the Minister, and the Minister may confirm any order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.

(2) Where an authority submit an Order to the Minister for his confirmation under this Section, that authority shall furnish the Minister with a statement of their reasons for making the Order and shall serve notice of the making of the Order on the owner of the land, and on any other person who in their opinion will be affected by the Order, and if within the period of 28 days from the service thereof any person on whom the notice is served so requires, the Minister shall, before confirming the Order, afford to him and to the authority an opportunity of appearing before and being heard by a person appointed by the Minister for that purpose.

(3) The power conferred by this section to revoke or modify a consent may be exercised at any time before the operations for which consent has been given have been completed.

Provided that the revocation or modification of consent shall not affect so much of those operations as has been carried out before the date on which the Order was confirmed as aforesaid.

(4) Where a notice has been served in accordance with the provisions of subsection (2) of this Section, no operations or further operations as the case may be in pursuance of the consent granted, shall be carried out pending the decision of the Minister under subsection (1) of this Section.

Supplementary  
provisions  
as to  
revocation  
and modification.

22. (1) Where any person is affected by an Order under the last foregoing Section, revoking or modifying a consent as confirmed by the Minister, or where any person is affected by a notice served on him under subsection (2) of the foregoing section when the Order is not confirmed, then, if on a claim made to the authority within two months of the date of the Minister's decision, it is shown that he has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, or stay of operations, as the case may be, or has otherwise suffered loss or damage which is directly attributable to the revocation or modification, or stay of operations, the authority shall pay to that person compensation in respect of that expenditure, loss or damage;

(2) For the purposes of this section any expenditure incurred on matters preparatory to acting on the consent shall be deemed to be included in the expenditure incurred in carrying out that work,



but except as aforesaid, no compensation shall be paid under this section in respect of any work carried out before the grant of consent which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of the depreciation in value of any interest in land) arising out of anything done or omitted to be done before the grant of that consent.

FOURTH SCHEDULE

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