

City of Bradford Metropolitan District Council

www.bradford.gov.uk

Memo

To: See Circulation below

Ref:

Date: 3 June 2010



Legal and Democratic Services

Development & Regulatory Law Team
City Hall
Bradford
West Yorkshire
BD1 1HY
DX11758 BRADFORD -1

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From: C E Barrott
Legal Officer
Development and Regulatory Law Team

Tel: (01274) 434751
Fax: (01274) 434242
My Ref: LEG/DEV/CEB/70992
Email: carole.barrott@bradford.gov.uk

TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 207 LAND TO THE NORTH OF HAREHILL ROAD, THACKLEY, BRADFORD

I write to inform you that I have recently issued a Tree Replacement Notice in respect of the above site. Please find attached a copy for your records. This notice replaces the previous notice issued on this land which was deemed "not served".

C.E. Barrott

C E Barrott

Encs

cc **The Local Land Charges Officer**
4th Floor
City Hall

The Arboriculturalist Officer
Jacob's Well – FAO SIMON KEENAN

Department of Regeneration
The Area Planning Officer
Jacobs Well

G:\DEVELOPMENT\STDS\TRN11.DOT (Revised September 2007)



Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)

**CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL
NOTICE REQUIRING THE REPLACEMENT OF TREES
TOWN AND COUNTRY PLANNING ACT 1990**

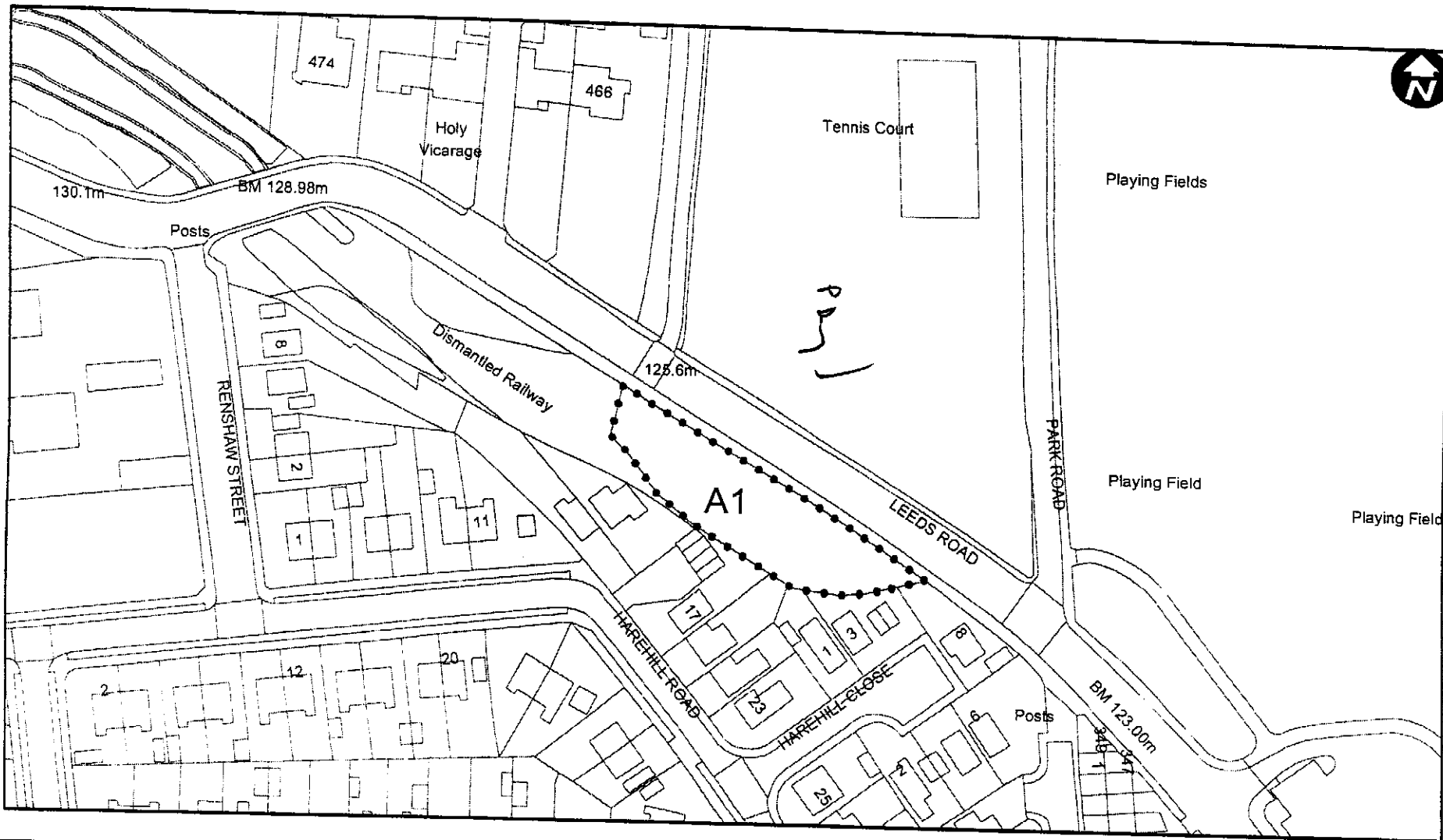
To: Andrew Jones – 12 Willow Crescent, Wrose, Bradford BD2 1 LR
Lynne Christine Armitage - 12 Willow Crescent, Wrose, Bradford BD2 1 LR
Carol Ann Crompton - 12 Willow Crescent, Wrose, Bradford BD2 1 LR
Mary Sharon Jones - 12 Willow Crescent, Wrose, Bradford BD2 1 LR

WHEREAS

- (1) You are the Owners of the land to the north of Harehill Road, Thackley, Bradford shown edged red on Plan B attached to this notice ("the land") and comprised within Title No WYK 769559 .
- (2) City of Bradford Metropolitan District Council ("the Council") are the local planning authority for the purposes of Part VIII of the Town and Country Planning Act 1990 ("the Act of 1990") in so far as it relates to Tree Preservation Orders and for the preservation of trees situated in Conservation Areas for the area in which the land is situated.
- (3) A Tree Preservation Order is in force in respect of the land namely the Land to the north of Harehill Road, Thackley, Bradford Tree Preservation Order 2005 made on 20th January 2005 and confirmed without modification on 21st April 2005 ("the Tree Preservation Order"). Plan A attached to this notice is a reproduction of the plan contained in the Tree Preservation Order.
- (4) Trees referred to in the First Schedule have been removed in breach of the provisions of Part VIII of the Act of 1990 and by virtue of Section 206 of the Act of 1990 it became the duty of the Owner of the land to plant trees of appropriate size and species at the same places as the original trees as soon as reasonably possible.
- (5) Trees referred to in the Second Schedule have been removed in accordance with a conditioned consent 05/03836/TPO dated 28th June 2005 and by virtue of Section 207 of the Act of 1990 it became the duty of the Owner of the land to plant trees of appropriate size and species and in the position as required by the said consent.
- (6) It appears to the Council that the failure to comply with the duty to replant in each case has occurred within the period of four years before the date of this notice.

NOW THEREFORE TAKE NOTICE that in exercise of their powers contained in Section 207 of the Act of 1990, the Council **HEREBY REQUIRES** you, within 28 days of this notice taking effect, to plant trees of such size and species as specified in the Third Schedule hereto and in the positions shown on the attached Plan B.

THIS NOTICE SHALL TAKE EFFECT, subject to the appeal provisions of Section



Susan Siddons

Part 1

PLAN A1

TPO No. 05/00007/A
 Land To North Of
 17 Harehill Road
 Thackley
 Bradford

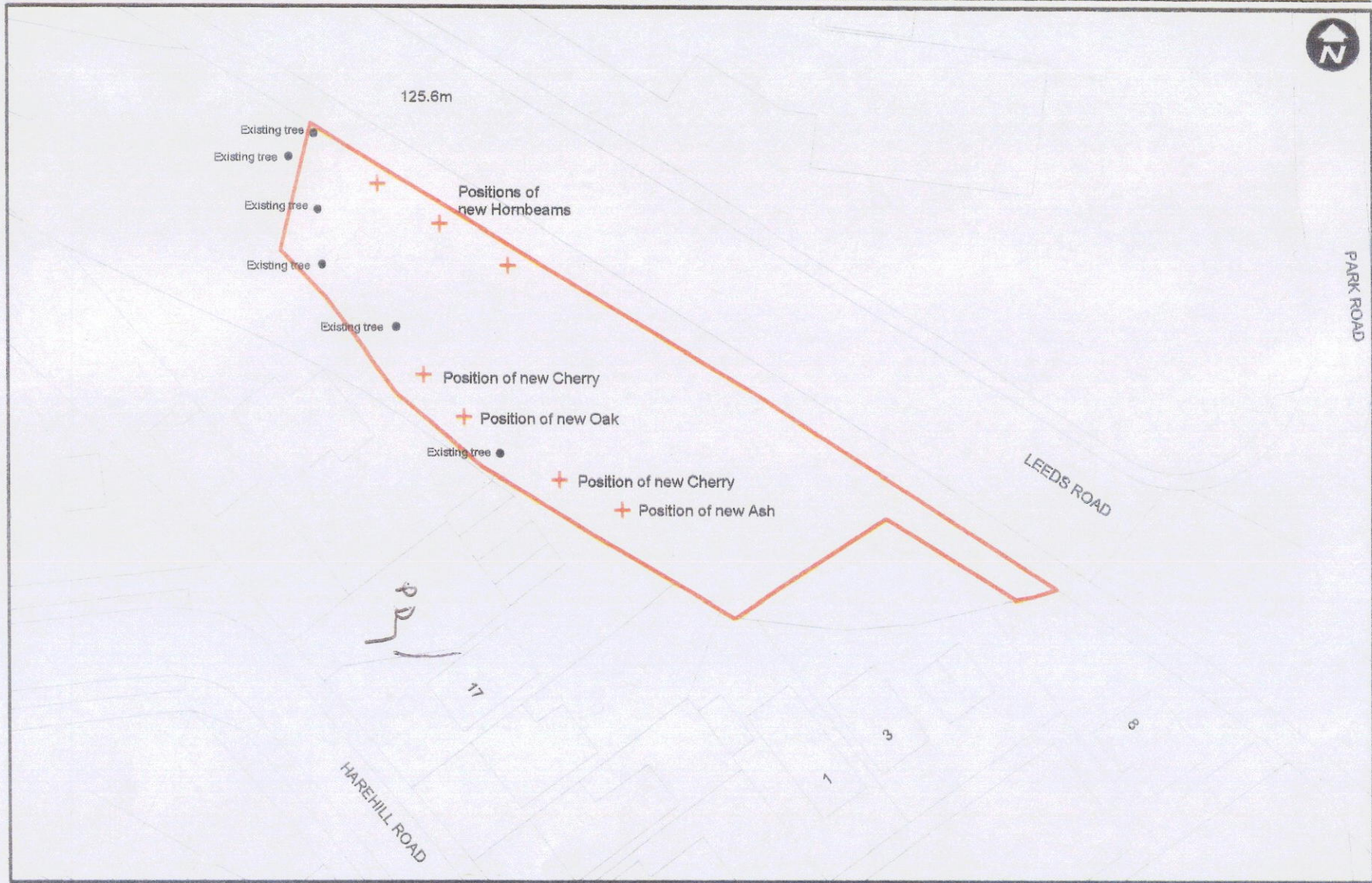
DEPARTMENT OF TRANSPORTATION
 DESIGN AND PLANNING
 Jacobs Well Bradford BD1 5RW
 Head of Service Alan Mainwaring MSc CEng MICE



OS Ref : SE 1738 Scale 1:1250
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 LA076120

January 2005

LAND TO NORTH OF 17 HAREHILL ROAD, THACKLEY



TREE REPLACEMENT
NOTICE PLAN
LAND TO NORTH OF
17 HAREHILL ROAD,
THACKLEY

DEPARTMENT OF REGENERATION
Jacobs Well
Bradford
BD1 5RW

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Scale 1:500

May 2010

Plan B

208 of the Act of 1990, on the 15th July 2010.

FIRST SCHEDULE

Three trees (Two Hawthorn and One Ash) including T9 shown on JCA Survey dated 26th May 2005 were felled without consent in or around January 2008.

SECOND SCHEDULE

Two trees (One Hawthorn and One Elder) shown as T2 and T10 on JCA Survey dated 26th May 2005 were felled with consent between 28th June 2005 and 3rd September 2005.

One tree (One Oak) shown as T7 on JCA Survey dated 26th May 2005 was felled with consent between 17th May 2007 and 17th October 2008.

One tree (One Hawthorn) shown as T6 on JCA Survey dated 26th May 2005 was felled with consent in or around January 2008.

THIRD SCHEDULE

Trees to be Planted

Size:

All trees shall have a girth size, at planting, of between 12-14cm Heavy Standard as per BS 3936 Nursery Stock rootballed, staked and tied in accordance with good arboricultural practice as follows:-

Species/Location

One Ash – Fraxinus excelsior
Two Cherry – Prunus Avium
One Oak – Quercus robur
Three Hornbeam – Carpinus betulus

All trees to be planted in the positions shown on the attached Plan A

Dated the 3rd day of June 2010

Signed P D J

Assistant Director Corporate Services (City Solicitor)
Legal and Democratic Services
City of Bradford Metropolitan District Council
City Hall
Bradford BD1 1HY

NOTE:

Your attention is drawn to the attached extracts from the Act of 1990 in respect of trees, in particular, the right of appeal under Section 208 and the provisions of Section 209 relating to the execution and cost of work required by this notice by the Council in the event of non-compliance.

A copy of the Tree Preservation Order may be inspected, during normal office hours, at The Planning Office, 3rd Floor, Jacobs Well, Bradford BD1 5JW. Alternatively, a copy is available, by post, on request at your cost.

Memo

Department of Legal and Democratic Services

To: For circulation see below

Legal Services
City Hall
Bradford
BD1 1HY



Your Ref:

From: Carole Barrott
Legal Officer
Development & Regulatory Law Team

Date: 21 April 2005

Tel: (01274) 434751
Fax: (01274) 434242
My Ref: LEG/DEV/CEB/ST/27828
Email: carole.barrott@bradford.gov.uk

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 201
LAND AT HAREHILL ROAD THACKLEY BRADFORD - TREE PRESERVATION ORDER** *05/00007/A*

The above Tree Preservation Order was confirmed on 21 April 2005. Please find attached a copy for your records.

C.E. Barrott

*x left leads read
Note 20/5/05*

C E Barrott

Enc

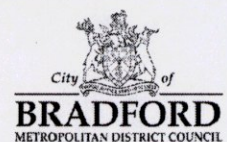
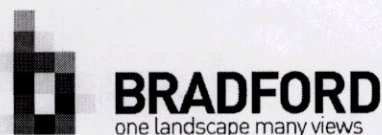
Arboricultural Technician
Development Services Tree Section
Transportation, Design and Planning
3rd Floor, Jacobs Well

Land Charges Manager
Local Land Charges Unit Team
4th Floor, City Hall

Tracy Cullen (Senior Clerk)
Transportation, Design and Planning
Development Control
3rd Floor, Jacobs Well



(27828.M3)
L:\DEV\TEMPLATE\STDS\TP17.DOT(February 2005)



TOWN AND COUNTRY PLANNING ACT 1990

THE LAND TO THE NORTH OF HAREHILL ROAD THACKLEY BRADFORD

TREE PRESERVATION ORDER 2005

CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL

The City of Bradford Metropolitan District Council, in exercise of the powers conferred on them by Sections 198, 201 and 203 of the Town and Country Planning Act 1990 hereby make the following Order:-

Citation

1. This Order may be cited as the land to the north of Harehill Road, Thackley, Bradford Tree Preservation Order 2005.

Interpretation

2. In this Order "the authority" means the City of Bradford Metropolitan District Council and unless the context otherwise requires, any reference in this Order to a numbered Section is a reference to the Section so numbered in the Town and Country Planning Act 1990.

Application of Section 201

3. The authority hereby direct that Section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 20 January 2005.

Prohibited acts in relation to trees

4. Without prejudice to Sub-Sections (6) and (7) of Section 198 (power to make tree preservation orders) and Sub-Section (3) of Section 200 (orders affecting land where Forestry Commissioners interested)], and Subject to article 5, no person shall:-

- (a) cut down top, lop, uproot, wilfully damage or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of

any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given Subject to conditions, in accordance with those conditions.

Exemptions

5. (1) Nothing in article 4 shall prevent:-
- (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary:-
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
 - (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
 - (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
 - (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or

construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or

- (g) without prejudice to Section 198 (6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.
- (2) In paragraph (1) "statutory undertaker" means any of the following:-
- (a) a person Authorised by the an enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power;
 - (b) a relevant airport operator (within the meaning of Part V of the Airports Act 1986);
 - (c) the holder of a licence under Section 6 of the Electricity Act 1989;
 - (d) a public gas transporter;
 - (e) the holder of a licence under Section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied;
 - (f) a water or sewerage undertaker;
 - (g) the Civil Aviation Authority or a body acting on behalf of that Authority;
 - (h) the Post Office.

Applications for consent under the Order

6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall:-
- (a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
 - (b) specify the work for which consent is sought; and

- (c) contain a statement of the applicant's reasons for making the application.

Application of provisions of the Town and Country Planning Act 1990

7. (1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).
- (2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting

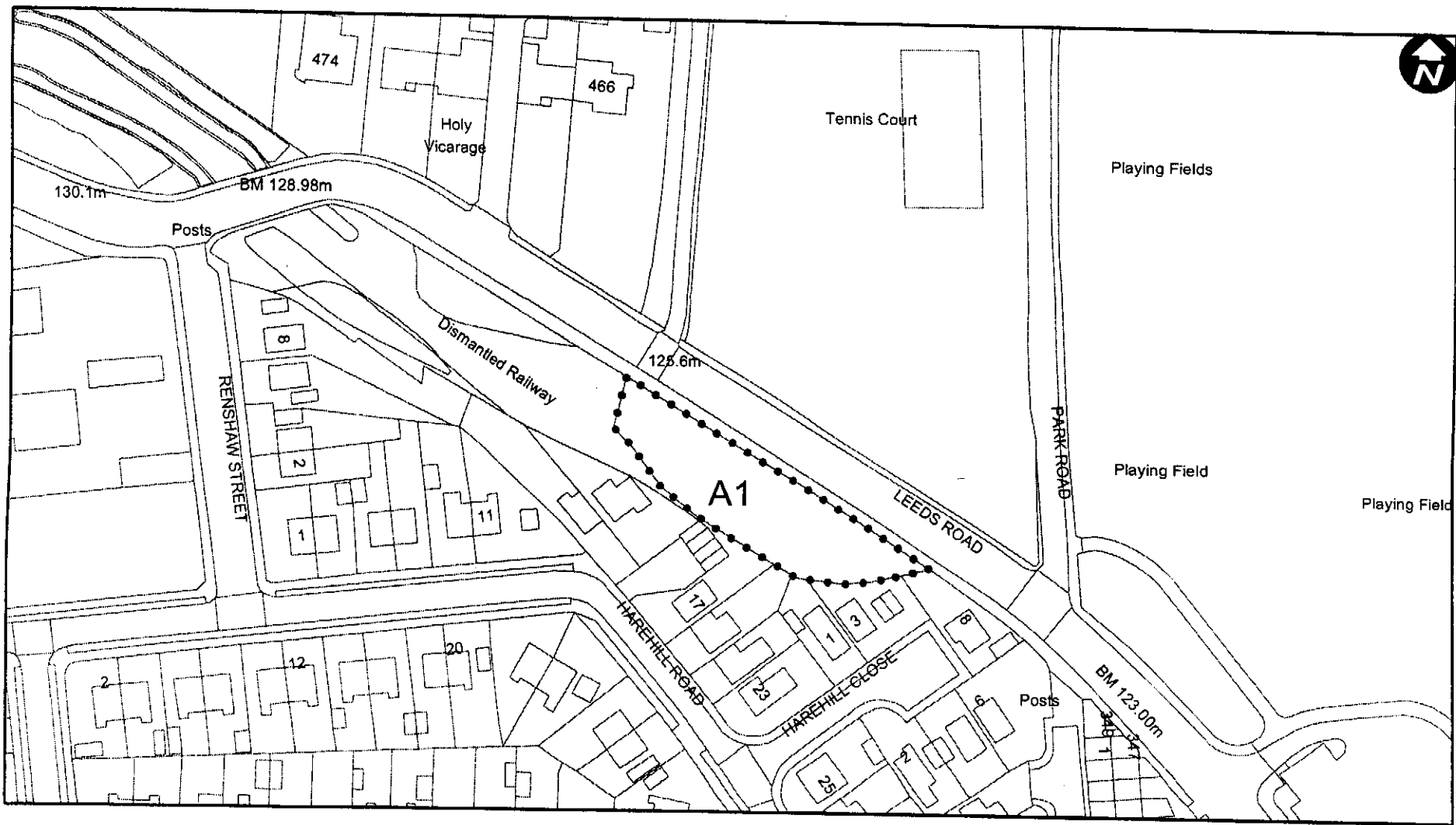
8. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.
- (2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.
- (3) A direction under paragraph (1) may include requirements as to:-
- (a) species;
 - (b) number of trees per hectare;
 - (c) the preparation of the relevant land prior to the replanting; and
 - (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9. (1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of:-
- (a) the refusal of any consent required under this Order; or

- (b) the grant of any such consent Subject to condition he shall, Subject to paragraphs (3) and (4), be entitled to compensation from the authority.
- (2) No claim, other than a claim made under paragraph (3), may be made under this Article:-
- (a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the Subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
- (b) if the amount in respect of which the claim would otherwise have been made is less than £500.
- (3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.
- (4) In any other case, no compensation shall be payable to a person:-
- (a) for loss of development value or other diminution in the value of the land;
- (b) for loss or damage which, having regard to the statement of reason Submitted in accordance with article 6(c) and any documents or other evidence Submitted in support of any such statement, was not reasonably foreseeable when consent was refused or was granted Subject to conditions;
- (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to advert the loss or damage or to mitigate its extent; or
- (d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent Subject to conditions.
- (5) Sub-Sections (3) to (5) of Section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the

1100 05/0007/A



Susan Bettridge

TPO No. 05/0007/A
 Land To North Of
 17 Harehill Road
 Thackley
 Bradford

DEPARTMENT OF TRANSPORTATION
 DESIGN AND PLANNING
 Jacobs Well Bradford BD1 5RW
 Head of Service Alan Mainwaring MSc CEng MICE



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 LA076120

January 2005

assessment of compensation where a felling licence is refused under Section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were Substituted a reference to a consent required under this Order and for the reference to the Commissioners there were Substituted a reference to the authority.

(6) In this article:-

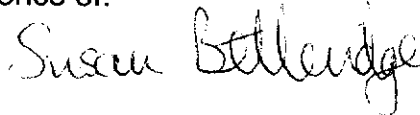
"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

"owner" has the meaning given to it by Section 34 of the Forestry Act 1967.

Dated this 20th day of January 2005.

87255

THE COMMON SEAL of CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL was hereunto affixed in the presence of:-



Authorised by the
Legal and Democratic Services Director

CONFIRMATION OF ORDER

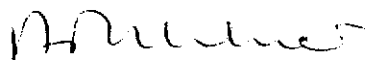
This Order was confirmed by the City of Bradford Metropolitan District Council without modification on the 21st day of April 2005.

OR

This Order was confirmed by the City of Bradford Metropolitan District Council, Subject to the modifications indicated by _____, on the _____ day of _____

THE COMMON SEAL of CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL was hereunto affixed in the presence of:-

87474



Authorised by the
Legal and Democratic Services Director

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by City of Bradford Metropolitan District Council on the of

**THE COMMON SEAL of CITY
OF BRADFORD METROPOLITAN
DISTRICT COUNCIL** was hereunto
affixed in the presence of:-

Authorised by the
Legal and Democratic Services Director

VARIATION OF ORDER

This Order was varied by the City of Bradford Metropolitan District Council on the
day of under the reference number

**THE COMMON SEAL of CITY
OF BRADFORD METROPOLITAN
DISTRICT COUNCIL** was hereunto
affixed in the presence of:-

Authorised by the
Legal and Democratic Services Director

REVOCATION OF ORDER

This Order was revoked by the City of Bradford Metropolitan District Council on the
day of under the reference number

**THE COMMON SEAL of CITY
OF BRADFORD METROPOLITAN
DISTRICT COUNCIL** was hereunto
affixed in the presence of:-

Authorised by the
Legal and Democratic Services Director

SCHEDULE 1**SPECIFICATION OF TREES**

Trees specified individually
(encircled in black on the map)

Reference on map	Description	Situation
	None	

Trees specified by reference to an area
(within a dotted black line on the map)

Reference on map	Description	Situation
A1	All trees of whatever species within the area marked A1 on the plan	417893 438457

Group of trees
(within a broken line on the map)

Reference on map	Description (including number of trees in the group)	Situation
	None	

Woodlands
(within a continuous black line on the map)

Reference on map	Description	Situation
	None	

SCHEDULE 2**PART 1**

Provisions of the Town and Country Planning Act 1990 applied
with adaptations or modifications

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 69 (registers)	<p>(a) In Sub-Section (1):-</p> <p>(i) omit:- “, in such manner as may be prescribed by a development order,”, “such” in the second place where it appears, and “as may be so prescribed”; and</p> <p>(ii) Substitute “matters relevant to tree preservation orders made by the authority” for “applications for planning permission”.</p> <p>(b) In Sub-Section (2):-</p> <p>(i) after “contain” insert “, as regards each such order”, and</p> <p>(ii) for paragraphs (a) and (b) Substitute:-</p> <p>“(a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and</p> <p>(b) a statement as to the Subject matter of every appeal under the order and of the date and nature of the Secretary of State’s determination of it”.</p> <p>(c) Omit Sub-Sections (3) and (4) (as required by Section 198(4)).</p>
Section 70 (determination of applications:	(a) In Sub-Section (1):-

general considerations)	<p>(i) Substitute:- "Subject to Sub-Sections (1A) and (1B), where" for "Where"; "the authority" for "a local planning authority", "consent under a tree preservation order" for "planning permission" where those words first appear; and "consent under the order" for "planning permission" in both of the other places where those words appear;</p> <p>(ii) after "think fit", insert:- "(including conditions limiting the duration of the consent or requiring the replacement of trees)", and</p> <p>(iii) omit "Subject to Sections 91 and 92.",</p> <p>(b) After Sub-Section (1) insert:- "(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</p> (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting)". <p>(c) Omit Sub-Sections (2) and (3).</p>
Section 75 (effect of planning permission)	<p>(a) In Sub-Section (1) Substitute:-</p> <p>(i) "Any" for the words from "Without" to "any",</p> <p>(iv) "consent under a tree preservation order" for "planning permission" to develop</p>

	<p>land",</p> <p>(v) "the consent" for "the permission"; and</p> <p>(vi) "the land to which the order relates" for "the land".</p> <p>(b) Omit Sub-Sections (2) and (3).</p>
<p>Section 78 (right to appeal against planning decisions and failure to take such decisions)</p>	<p>(a) In Sub-Section (1) Substitute:-</p> <p>(i) "the authority" for "a local planning authority";</p> <p>(ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear;</p> <p>(iii) "consent under such an order" for "planning permission" in the second place where those words appear;</p> <p>(iv) for paragraph (c) Substitute:-</p> <p>"(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or</p> <p>(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the authority was received by the authority".</p> <p>(b) Omit Sub-Section (2).</p> <p>(c) In Sub-Section (3) for "served within such time and in such manner as may be prescribed by a development order." Substitute:-</p> <p>"in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served:-</p>

	<p>(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of Sub-Section (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;</p> <p>(b) in respect of such a failure as is mentioned in paragraph (d) of that Sub-Section, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted Subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant."</p> <p>(d) For Sub-Section (4), Substitute:- “(4) The appellant shall serve on the authority a copy of the notice mentioned in Sub-Section (3).”.</p> <p>(e) For Sub-Section (5), Substitute:- “(5) For the purpose of the application of Section 79(1), in relation to an appeal made under Sub-Section (1)(d), it shall be assumed that the authority decided to refuse the application in question.”.</p>
Section 79 (determination of appeals) (a)	<p>(a) In Sub-Sections (1) and (2), Substitute “the authority” for “the local planning authority”.</p> <p>(b) Omit Sub-Section (3).</p> <p>(c) In Sub-Section (4), Substitute:- (i) “Section 70(1), (1A) and (1B)” for “Sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5”; (ii) “consent under a tree preservation order” for “planning permission”; and</p>

	<p>(iii) "the authority." for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of Section 65 or 71."</p> <p>(d) Omit Sub-Sections (6) and (6A).</p> <p>(e) In Sub-Section (7), omit the words after "Section 78".</p>
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PART II

PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

- (1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.
- (2) The register shall contain, as regards each such order:-
 - (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
 - (b) a statement as to the Subject matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

-
- (5) Every register kept under this Section shall be available for inspection by the public at all reasonable hours.

Section 70

- (1) Subject to Sub-Sections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order:-

- (a) they may grant consent under the order, either unconditionally or Subject to such conditions as they think fit (including conditions limiting the duration of the consent of requiring the replacement of trees); or
 - (b) they may refuse consent under the order.
- (1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.
- (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

.....

Section 75

Any grant of consent under a tree preservation order shall (except in so as consent otherwise provides) ensure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

.....

Section 78

- (1) Where the authority:-
- (a) refuse an application for consent under a tree preservation order or grant it Subject to conditions;
 - (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it Subject to conditions;
 - (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or
 - (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

-
- (3) Any appeal under this Section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served:-
 - (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of Sub-Section (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
 - (b) in respect of such a failure as is mentioned in paragraph (d) of that Sub-Section, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted Subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.
 - (4) The appellant shall serve on the authority a copy of the notice mentioned in Sub-Section (3).
 - (5) For the purposes of the application of Section 79(1), in relation to an appeal made under Sub-Section (1)(d), it shall be assumed that the authority decided to refuse the application in question.

Section 79

- (1) On an appeal under Section 78 the Secretary of State may:-
 - (a) allow or dismiss the appeal, or
 - (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),and may deal with the application as if it had been made to him in the first instance.
 - (2) Before determining an appeal under Section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
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(4) Subject to Sub-Section (2), the provisions of Section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under Section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(5) The decision of the Secretary of State on such an appeal shall be final.

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(7) Schedule 6 applies to appeals under Section 78.