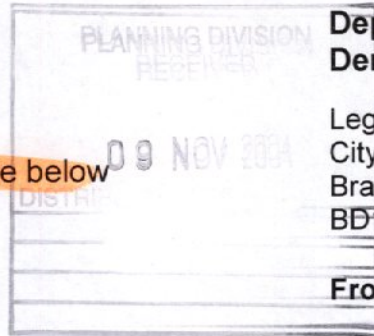


Memo

To: For circulation see below



Department of Legal and Democratic Services

Legal Services
City Hall
Bradford
BD1 1HY

From: Stephen Nelson
Legal Officer
Development & Regulatory Law Team



Your Ref: 1042

Date: 4 November 2004

Tel: (01274) 432083
Fax: (01274) 434242
My Ref: LEG/DEV/SPN/ST/27340
Email: Stephen.nelson@bradford.gov.uk

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 201
LAND AT 41 LOW ASH ROAD WROSE SHIPLEY - TREE PRESERVATION ORDER**

The above Tree Preservation Order was sealed "Decision not to Confirm" on 4 November 2004. Please find attached a copy for your records.

S P Nelson

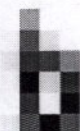
Enc

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

Shirley Nicholls (Area Clerk)
Transportation, Design and Planning
Shipley Town Hall

(27340.M3)
F:\DEV\TEMPLATE\STDS\TP11.DOT (Revised June 1999)



BRADFORD
one landscape many views



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	416143 437231

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: general considerations)	<p>(a) In Sub-Section (1):-</p> <p>(i) Substitute:- “Subject to Sub-Sections (1A) and (1B), where” for “Where”; “the authority” for “a local planning authority”,</p>

	<p>“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. (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> <p>(c) Omit Sub-Sections (2) and (3).</p>
<p>Section 75 (effect of planning permission)</p>	<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 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>Section 78 (right to appeal against planning decisions and failure to take such decisions)</p>	<p>(b) Omit Sub-Sections (2) and (3).</p> <p>(a) In Sub-Section (1) Substitute:-</p> <ul style="list-style-type: none"> (i) "the authority" for "a local planning authority"; (ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear; (iii) "consent under such an order" for "planning permission" in the second place where those words appear; (iv) for paragraph (c) Substitute:- <ul style="list-style-type: none"> "(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 authority was received by the authority". <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> <ul style="list-style-type: none"> (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;
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	<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>
<p>Section 79 (determination of appeals)</p>	<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:-</p> <p>(i) “Section 70(1), (1A) and (1B)” for “Sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5”;</p> <p>(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>

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.

-
- (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.

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