

TOWN AND COUNTRY PLANNING ACT, 1962.

THE BINGLEY URBAN DISTRICT COUNCIL (NARROW LANE, HARDEN)

TREE PRESERVATION ORDER NO. 2, 1965.

WHEREAS the County Council of the West Riding of Yorkshire being the Local Planning Authority under the Town and Country Planning Act, 1962 (hereinafter called "the Act"), for the Administrative County of the West Riding of Yorkshire have entered into an agreement with the Bingley Urban District Council relating to the delegation of functions under Part III of that Act and WHEREAS the aforesaid Agreement authorises the Bingley Urban District Council to exercise (inter alia) and with the consent of the West Riding County Council the powers conferred upon the Local Planning Authority under the Act relating to the making of Tree Preservation Orders under the terms of Section 29 thereof and WHEREAS it appears to us the Council of the Bingley Urban District that it is expedient to provide as hereinafter mentioned for the preservation of certain trees

NOW THEREFORE with the consent and on behalf of the County Council of the West Riding of Yorkshire (hereinafter called "the Authority") and in pursuance of the powers conferred in that behalf by Section 29 of the Act, and subject to the provisions of Section 13 of the Forestry Act, 1951, the Bingley Urban District Council hereby make the following Order:-

1. In this Order:-

"the Act" means the Town and Country Planning Act, 1962;
"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; and
"the Minister" means the Minister of Land and Natural Resources.

2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, or wilfully destroy or cause or permit the cutting down, topping, lopping or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups of trees and woodlands is defined in the manner indicated in the said First Schedule on the map annexed hereto which map shall for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the said First Schedule.

3. An application for consent made under article 2 of this Order shall be in writing stating the reasons for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for the carrying out of which consent is required.

4. (1) Where an application for consent is made 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 on imposing any condition requiring the replacement of any tree, the authority shall if such condition relates to land in respect of which byelaws made by a river authority or a drainage board restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws, and that any such condition has effect subject to the requirements of the river authority or drainage board under those byelaws, and the condition shall have effect accordingly.

(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 compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

5. 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 are so refusing or granting consent that they are satisfied:-

- (a) that the refusal or condition is in the interests of good forestry; or
- (b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.

6. (1) Where consent is granted under this Order to fell any part of a woodland then unless:-

- (a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act, or
- (b) the authority with the approval of the Minister dispense with replanting,

the authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall subject to the provisions of this Order replant the said land in accordance with the direction.

(2) Any direction given under paragraph (1) of this Article may include requirements as to:-

- (a) species;
- (b) number of trees per acre;
- (c) the erection and maintenance of fencing necessary for protection of the replanting;

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(d) the preparation of ground, draining, removal of brushwood, lop and top; and

(e) protective measures against fire.

7. The provisions set out in the Third Schedule to this Order, being provisions of Parts III and VII of the Act adapted and modified for the purposes of this Order, shall apply in relation thereto.

8. 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 on the authority within the time and in the manner prescribed 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 in the case of any trees the subject of a certificate in accordance with Article 5 of this order.

9. In assessing compensation payable under the last preceding Article or under Section 118 of the Act as applied by this Order, account shall be taken of:-

(a) any compensation or contribution which has been paid in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 29 of the Act 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.

10. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority such service to be effected by delivering the claim at the offices of the authority addressed to the Clerk thereof or by sending it by prepaid post so addressed.

(2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from 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, from the date of the decision of the Minister on the Appeal.

11. Any question of disputed compensation shall be determined in accordance with the provisions of Section 128 of the Act.

12. Any person contravening the provisions of this Order is guilty of an offence under subsection (1) of Section 62 of the Act and liable on summary conviction to a fine not exceeding fifty pounds; and if in the case of a continuing offence the contravention is continued after conviction he is guilty of a further offence thereunder and liable on summary conviction to an additional fine not exceeding forty shillings for every day on which the contravention is so continued.

Given under the Common Seal of the Urban District Council of
Bingley this 27th day of September 1965.

(signed) Sydney H. Cross
Chairman of the Council

L.S.

(signed) F. M. Dunwell

Clerk of the Council

FIRST SCHEDULE

Trees Specified Individually
(marked with black circles on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
T.1	Ash	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/08953822
T.2	Oak	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/08963822
T.3	Oak	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/08993821
T.4	Oak	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/08993821
T.5	Oak	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09013818
T.6	Sycamore	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09043813
T.7	Oak	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09053811
T.8	Oak	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09063809
T.9	Ash	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09063807
T.10	Sycamore	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09023807
T.11	Ash	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09023806
T.12	Sycamore	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09023803

No. on MapDescriptionSituation

T.13	Ash	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09063803
T.14	Sycamore	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09073803
T.15	Sycamore	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09073803
T.16	Alder	In O.S. parcel 1100 on sheet 0837 - 0937 N.G.R. SE/09113799
T.17	Sycamore	In O.S. parcel 1100 on sheet 0837 - 0937 N.G.R. SE/09123799
T.18	Sycamore	In O.S. parcel 1100 on sheet 0837 - 0937 N.G.R. SE/09123799
T.19	Sycamore	In O.S. parcel 1100 on sheet 0837 - 0937 N.G.R. SE/09133799
T.20	Oak	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09143800
T.21	Alder	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09153800
T.22	Sycamore	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09173802
T.23	Ash	In O.S. parcel 1100 on sheet 08380938 N.G.R. SE/09173802
T.24	Beech	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09203805
T.25	Beech	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09203805

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
T.26	Sycamore	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09203806
T.27	Oak	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09203808
T.28	Sycamore	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/02903808
T.29	Sycamore	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09213808
T.30	Oak	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09213808
T.31	Sycamore	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09213808
T.32	Ash	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09223810
T.33	Ash	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09193815
T.34	Ash	In O.S. parcel 2916 on sheet 0838 - 0938 N.G.R. SE/09183817
T.35	Ash	In O.S. parcel 1100 on sheet 0838 - 0938 N.G.R. SE/09183817

The ordnance sheets referred to are the 1/2500 scale plans on National Grid lines.

TREES SPECIFIED BY REFERENCE TO AN AREA

- NONE -

GROUPS OF TREES

- NONE -

WOODLANDS

- NONE -

SECOND SCHEDULE

The 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 tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking;
 - (f) by or at the request of an Electricity Board within the meaning of the Electricity Act, 1947, where such tree obstructs the construction by the Board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act, 1919 and the Electric Lighting Act, 1882 or interferes or would interfere with the maintenance or working of any such line;
 - (g) where immediately required for the purpose of carrying out development authorised by a planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;
 - (h) by or at the request of a River Authority established under the Water Resources Act, 1963, or a Drainage Board constituted or treated as having been constituted under the Land Drainage Act, 1930, where the tree interferes or would interfere with the exercise of any functions of such River Authority or Drainage Board in relation to the maintenance, improvement or construction of water courses or of drainage works.

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THIRD SCHEDULE

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

22. Reference of applications to the Minister - (1) The Minister may give directions to the authority requiring applications for consent under the Order, to be referred to him instead of being dealt with by the authority.

(2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.

(3) Any application in respect of which a direction under this section had effect shall be referred to the Minister accordingly.

(4) Where an application for consent under the Order is referred to the Minister under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the authority.

(5) Before determining an application referred to him under this section the Minister shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(6) The decision of the Minister on any application referred to him under this section shall be final.

23. Appeals against decisions - (1) Where an application is made for consent under the Order and that consent is refused by the authority or is granted by them subject to conditions, or where any certificate or direction is given by the authority, the applicant, if he is aggrieved by the direction, may by notice under this section appeal to the Minister.

(2) A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Minister may allow.

(4) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Minister, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

(5) Before determining an appeal under this section, the Minister shall, if either the appellant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(7) The decision of the Minister on any appeal under this section shall be final.

24. Appeal in default of decision - Where an application for consent under the Order is made to the authority, then unless within two months from the date of receipt of the application, 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

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

(3) Subject to the last preceding subsection, no compensation shall be paid under this section in respect of any work carried out in the period after the making of the Order and 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 depreciation of the value of an interest in land) arising out of anything done or omitted to be done during that period.

The Minister of Land and Natural Resources in exercise of the powers conferred upon him in that behalf hereby confirms the foregoing order subject to the modifications shown in red ink thereon.

In Witness whereof the Official Seal of the Minister of Land and Natural Resources is hereunto affixed on the 5th January 1966

L.S.
No. LNR664

(signed) JEAN HORSHAM
Authorised by the Minister

1/7/1/BJ

NOTES FOR FILE



- T1 Ash
- T2 Oak
- T3 Oak (dying)
- T4 Oak
- ZZ Thorns
- T5 Oak (poor)
- ZZ Various Thorns
- T6 Sycamore (split)
- T7 Oak
- T8 Oak (small)
- T9 Ash
- T10 Sycamore (forked)
- T11 Ash
- T12 Sycamore (forked)
- T13 ASH
- T14, T15 Sycamore
- T16 Alder
- T17, T18, T19 Sycamore
- T 20 Oak
- T 21 Alder
- T22 Sycamore
- T23 Ash
- T24, T25 Beech
- T26 Sycamore
- T27 Oak
- T28, T29 Sycamore
- T30 Oak
- T31 Sycamore
- T32 Ash (forked)
- ZZ Two Thorns
- T33, T34, T35 Ash

T.P.O. 122 BINGLEY URBAN DISTRICT.
 Tree Preservation Order No. 12/1965.
 scale 1/2500. drawing No. 3409.

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 1/7/1/BJ