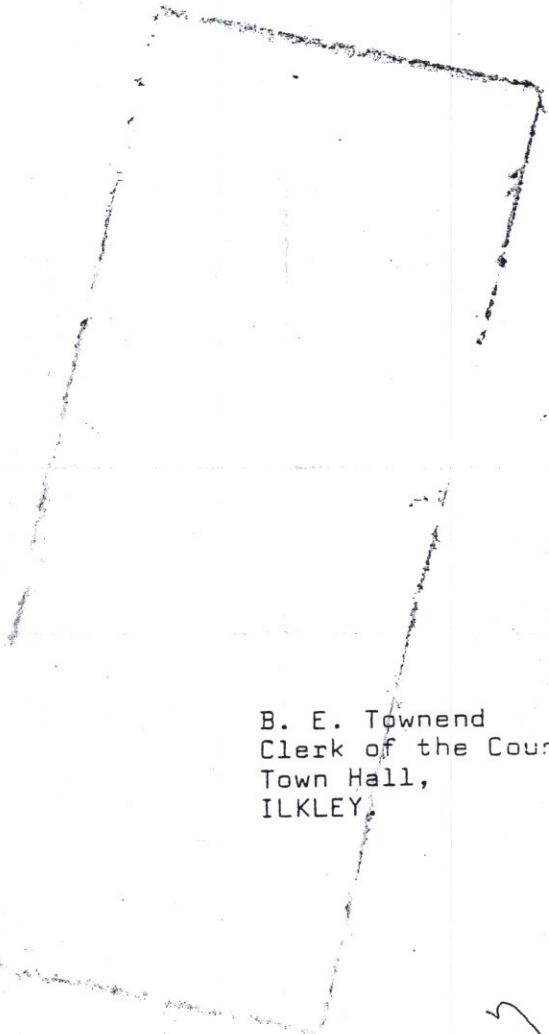


TOWN AND COUNTRY PLANNING ACTS 1962 AND 1968

ILKLEY URBAN DISTRICT TREE PRESERVATION ORDER NO. 1 1970

made on the 13th December, 1971, confirmed as
an unopposed Order, 2nd July, 1973.



B. E. Townend
Clerk of the Council
Town Hall,
ILKLEY.

TOWN AND COUNTRY PLANNING ACTS 1962 AND 1968

ILKLEY URBAN DISTRICT TREE PRESERVATION ORDER NO 1 1970

ILKLEY URBAN DISTRICT COUNCIL (on behalf of the County Council of the West Riding of Yorkshire)

In this order called "the authority" in pursuance of the powers conferred in that behalf by Section 29 of the Town and Country Planning Act, 1962 and subject to the provisions of the Forestry Act, 1967,

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; 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 Housing and Local Government or the Secretary of State for Wales.

2. Subject to the provisions of this Order and to the exemption 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 may 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 to the authority 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 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 specified in the First Schedule to this Order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is necessary in the interest of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

(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

When Tree Preservation Order is made by a District Council on behalf of a County Council an application for consent should be made to the District Council. See also note at foot of this page.

NOTE:- If it is desired to fell any of the trees included in this Order whether included as trees, groups of trees or woodlands and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application must be made not to the Authority for consent under this Order but to the Conservator of Forests for a licence under that Act (Section 15(5)).

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 woodland 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 other than consent for silvicultural thinning 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 provision of this Order and Section 25 of the Countryside Act 1968, 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;
- (d) the preparation of ground draining, removal of brushwood, lop and top; and
- (e) protective measures against fire.

7. On imposing any condition requiring the replacement of any tree under Article 4 of the Order, or on giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall if such conditions or direction relates to land in respect of which byelaws made by a river authority, a drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment 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 or direction has effect subject to the requirements of the river authority, drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board, under those byelaws and the condition or direction shall have effect accordingly.

8. The provisions set out in the Third Schedule to this Order being provisions of Part III of the Act and of Section 80 of the Town and Country Planning Act 1968 adapted and modified for the purposes of this Order, shall apply in relation thereto.

9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) 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 loss or damage:

Provided that no compensation shall be payable in respect of loss or damage suffered 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.

10. In assessing compensation payable under the last preceding Article account shall be taken of:

- (a) any compensation or contribution which has been paid whether to the claimant or any other person, 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.

11. - (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.

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

NOTE 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. Under Section 13, 14 and 15 of the Civic Amenities Act 1967 if a tree is wilfully cut down or destroyed, or if topping or lopping is carried out in such a way as to be likely to destroy the tree the fine is £250 or twice the value of the tree whichever is the greater. If a tree other than one which is part of woodland is removed or destroyed in contravention of the Order it is the duty of the owner of the land unless on his application the local authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

(Encircled in black on the Map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
T1	Beech	In O.S. Parcel No. 418
T2	Beech	In O.S. Parcel No. 418
T3	Pine	In O.S. Parcel No. 418

FIRST SCHEDULE (continued)

<u>No on Map</u>	<u>Description</u>	<u>Situation</u>
✓ T4	Pine	In O.S. Parcel No 418
✓ T5	Beech	In O.S. Parcel No. 413
✓ T6	Beech	In O.S. Parcel No. 359
✓ T7	Beech	In O.S. Parcel No. 427
✓ T8	Beech	In O.S. Parcel No. 427
✓ T9	Beech	In O.S. Parcel No. 368
T10	Horse Chestnut	In O.S. Parcel No. 356B
T11	Horse Chestnut	In O.S. Parcel No. 356a
T12	Sycamore	In O.S. Parcel No. 356
✓ T13	Elm	In O.S. Parcel No. 379
✓ T14	Beech	In O.S. Parcel No. 379
✓ T15	Beech	In O.S. Parcel No. 379
✓ T16	Beech	In O.S. Parcel No. 381
✓ T17	Cedar	In O.S. Parcel No. 382
✓ T18	Beech	Adjacent and east of South Parad
✓ T19	Cedar	" " " "
✓ T20	Beech	" " " "
T21	Cypress	" " " "
T22	Pine	" " " "
T23	Cypress	" " " "
T24	Horse Chestnut	" " " "
T25	Cypress	" " " "
T26	Cypress	" " " "
✓ T27	Cypress	" " " "
✓ T28	Elm	Adjacent & south of Kings
✓ T29	Beech	Adjacent & west of West Road.
✓ T30	Beech	Adjacent & south of Kings
✓ T31	Lime	" " "
✓ T32	Elm	Adjacent & east of Westvi. Road
✓ T33	Robinia	Adjacent & west of Westvi. Road
✓ T34	Beech	In the grounds of Elderme. and west of Westville Road
T35	Beech	" " " "
✓ T36	Sycamore	Adjacent and south of Grov Road
✓ T37	Horse Chestnut	In O.S. Parcel No. 389.
T38	Horse Chestnut	In O.S. Parcel No. 389.
T39	Horse Chestnut	In O.S. Parcel No. 389
T40	Horse Chestnut	Adjacent & east of Oakbur
T41	Rowan	" " "

FIRST SCHEDULE (continued)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
T42	Sycamore	Adjacent and north of Parish Ghyll Road
T43	Sycamore	" " " "
T44	Beech	Within the grounds of One Oak and west of Oakburn Road
T45	Beech	" " " "
T46	Elm	In O.S. Parcel No. 338a
T47	Ash	In O.S. Parcel No. 338a
T48	Oak	In O.S. Parcel No. 342
T49	Ash	In O.S. Parcel No. 342
T50	Maple	In O.S. Parcel No. 342
T51	Sycamore	In O.S. Parcel No. 342
T52	Horse Chestnut	In O.S. Parcel No. 342
T53	Horse Chestnut	In O.S. Parcel No. 342
T54	Oak	In O.S. Parcel No. 347
T55	Sycamore	In O.S. Parcel No. 352
T56	Beech	In O.S. Parcel No. 352
T57	Beech	In O.S. Parcel No. 352
T58	Sycamore	In O.S. Parcel No. 354
T59	Sycamore	In O.S. Parcel No. 354
T60	Lime	In O.S. Parcel No. 352
T61	Birch	In O.S. Parcel No. 352a
T62	Sycamore	In O.S. Parcel No. 352a
T63	Sycamore	In O.S. Parcel No. 352a
T64	Sycamore	In O.S. Parcel No. 241
T65	Willow	In O.S. Parcel No. 241
T66	Lime	In O.S. Parcel No. 241
T67	Beech	In O.S. Parcel No. 258
T68	Beech	In O.S. Parcel No. 259
T69	Beech	In O.S. Parcel No. 258
T70	Pine	In O.S. Parcel No. 332
T71	Pine	In O.S. Parcel No. 332
T72	Pine	In O.S. Parcel No. 332
T73	Pine	In O.S. Parcel No. 332
T74	Walnut	In O.S. Parcel No. 331
T75	Horse Chestnut	In O.S. Parcel No. 332
T76	Horse Chestnut	In O.S. Parcel No. 331
T77	Beech	In O.S. Parcel No. 332
T78	Beech	In O.S. Parcel No. 332
T79	Elm	In O.S. Parcel No. 322
T80	Ash	In O.S. Parcel No. 326
T81	Sycamore	Adjacent and north of Queens Road
T82	Sycamore	" " " " " "
T83	Sycamore	" " " " " "

FIRST SCHEDULE (continued)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
✓ T.84	Horse Chestnut	East of Chantry Close and west parcel No. 315.
✓ T.85	Elm	Adjacent and east of Chantry
✓ T.86	Beech	" " " "
✓ T.87	Horse Chestnut	East of Chantry Close and West parcel No. 315.
✓ T.88	Sycamore	In O.S. Parcel No. 280
✓ T.89	Sycamore	In O.S. Parcel No. 280
✓ T.90	Cypress	In O.S. Parcel No. 280
✓ T.91	Cypress	In O.S. Parcel No. 280
✓ T.92	Horse Chestnut	In O.S. Parcel No. 280
✓ T.93	Lime	Adjacent and south of Cowpasture Road

Trees Specified by Reference to an Area
(within a dotted black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
✓ A1	The several trees consisting of Cedar pine, cypress, lime, rowan, sycamore, birch, horse chestnut standing in the area A1 on the map.	In OS parcel 425
✓ A2	The several trees consisting of oak, elm, birch, beech, lime, horse chestnut, cypress, cedar, standing in the area A2 on the map.	In OS parcel number 424, 424A, 361, 362, 363, 365, 366, 369.
✓ A3	The several trees consisting of horse chestnut, beech, pine, larch, cedar, cypress standing in the area A3 on the map.	In OS parcel 364.
✓ A4	The several trees consisting of cypress, spruce, standing in the area A4 on the map.	In OS parcel 360
✓ A5	The several trees consisting of spruce cypress, oak standing in the area A5 on the map	In OS parcel Nos. 427, 427B, 427C
✓ A6	The several trees consisting of sycamore, birch, oak, beech, spruce standing in the area A6 on the map	In OS parcel 367
✓ A7	The several trees consisting of beech, cherry, cypress, cedar, pine and chile pine standing in the area A7 on the map	In OS parcel No. 370
✓ A8	The several trees consisting of sycamore, beech, horse chestnut and pine standing in the area A8 on the map	In OS parcel 356
✓ A9	The several trees consisting of cypress, spruce, cedar, horse chestnut, beech, birch standing in the area A9 on the map	In OS parcels 372, 377

FIRST SCHEDULE (continued)

<u>No on Map</u>	<u>Description</u>	<u>Situation</u>
✓ A10	The several trees consisting of elm, ash, poplar, cherry, horse chestnut, lime, sycamore, birch, ash, beech standing in the area A10 on the map.	In OS parcels 410, 537, 411, 413.
A11	The several trees consisting of cypress, cedar, silver fir, yew, horse chestnut, beech, walnut standing in the area A11 on the map.	In the curtilage Hazel Hill, Inglemere, Woodville, Chelmwood and Copston.
✓ A12	The several trees consisting of horse chestnut and beech standing in the area A12 on the map.	
✓ A13	The several trees consisting of thuya standing in the area A13 on the map.	On the northern boundary of OS parcel 384.
✓ A14	The several trees consisting of birch, beech, horse chestnut, lime and cherry standing in the area A14 on the map.	South of Kings Road West of Westville Road.
✓ A15	The several trees consisting of sycamore, beech, elm, birch, rowan standing in the area A15 on the map.	East of Westville Road.
✓ A16	The several trees consisting of cypress, beech, willow, sycamore, standing in the area A16 on the map.	In the curtilage of Eldermorn.
✓ A17	The several trees consisting of cypress, sycamore and ash standing in the area A17 on the map.	" " "
✓ A18	The several trees consisting of birch, lime and cypress standing in the area A18 on the map.	In OS parcel No 388.
✓ A19	The several trees consisting of rowan, yew, poplar, birch, beech, pine, cypress, cedar standing in the area A19 on the map.	In OS parcel Nos. 384, 388.
✓ A20	The several trees consisting of horse chestnut, willow, beech and oak standing in the area A20 on the map.	In OS parcel 379.
✓ A21	The several trees consisting of sycamore, pine, cypress, willow cedar standing in the area A21 on the map.	In OS parcel 378.
✓ A22	The several trees consisting of poplar, sycamore, beech, oak, pine, standing in the area A22 on the map.	In OS parcel 374.

FIRST SCHEDULE (continued)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
10074 ✓ A23	The several trees consisting of beech, horse chestnut, cypress, cedar, standing in the area A23 on the map.	In OS parcel 356A
10075 ✓ A24	The several trees consisting of beech, birch, pine and cypress standing in the area A24 on the map.	In OS parcel 375
10076 ✓ A25	The several trees consisting of lime, elm, beech, sycamore, standing in the area A25 on the map	In OS parcel 380
10077 ✓ A26	The several trees consisting of horse chestnut, spruce, elm, lime, beech, sycamore standing in the area A26 on the map.	In OS parcel 380
10078 ✓ A27	The several trees consisting of elm, sycamore, birch, beech, rowan, lime, cedar, cypress standing in the area A27 on the map.	In OS parcel 387 and 386
10079 ✓ A28	The several trees consisting of ash, sycamore, beech and lime standing in the area A28 on the map	East of Eaton Rd South of The Grove.
10080 ✓ A29	The several trees consisting of horse chestnut, poplar, beech, lime and cherry standing in the area A29 on the map.	In the curtilage of Hampton House, south of Grove Road.
10081 ✓ A30	The several trees consisting of oak, ash, pine standing in the area A30 on the map	East of Oakburn Rd South of Ashburn Place.
10082 ✓ A31	The several trees consisting of alder, oak, ash, sycamore and elm standing in the area A31 on the map.	Within the curtilage of One Oak, north Parish Ghyll Road.
10083 ✓ A32	The several trees consisting of cedar, pine, cypress, holly standing in the area A32 on the map.	In OS parcel 338 and 338A.
10084 ✓ A33	The several trees consisting of cypress standing in the area A33 on the map	In OS parcel 338, 338A.
10085 ✓ A34	The several trees consisting of beech, sycamore, horse chestnut standing in the area A34 on the map.	In OS parcel 342.
10086 ✓ A35	The several trees consisting of elm, birch, cypress, yew, sycamore, beech, oak, elm, cedar, pine standing in the area A35 on the map.	In OS parcel 343, 346
10087 ✓ A36	The several trees consisting of sycamore standing in the area A36 on the map.	In OS parcel 348

FIRST SCHEDULE (continued)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
✓ A37	The several trees consisting of alder, beech, lime, spruce, pine cypress, sycamore standing in the area A37 on the map	In OS parcel 349 A 350, 352A
A38	The several trees consisting of poplar, cypress standing in the area A38 on the map	In OS parcel 349 A
✓ A39	The several trees consisting of pine, cypress, cedar, alder, ash, lime, horse chestnut, birch standing in the area A39 on the map	In OS parcel 345, 348A, 349, 344.
✓ A40	The several trees consisting of horse chestnut, elm and lime standing in the area A40 on the map	In OS parcel 341
✓ A41	The several trees consisting of pine, beech, cypress standing in the area A41 on the map	In OS parcel 341
✓ A42	The several trees consisting of pine, cypress, birch, Norway Spruce standing in the area A42 on the map	In OS parcel 332
✓ A43	The several trees consisting of silver fir, beech, cedar, cypress standing in the area A43 on the map	In OS parcel 328
✓ A44	The several trees consisting of horse chestnut, beech, elm, yew standing in the area A44 on the map	In OS parcel 322
✓ A45	The several trees consisting of beech, yew, cedar, maple standing in the area A45 on the map	In OS parcel 322
✓ A46	The several trees consisting of sycamore, oak standing in the area A46 on the map.	" " "
✓ A47	The several trees consisting of beech, sycamore, ash, elm standing in the area A47 on the map	" " "
✓ A48	The several trees consisting of ash, horse chestnut, sycamore, poplar, oak beech standing in the area A48 on the map	In OS parcel 315, 316.
✓ A49	The several trees consisting of beech, ash, sycamore standing in the area A49 on the map	In OS parcel 316.
✓ A50	The several trees consisting of elm, horse chestnut, beech, sycamore, ash, oak standing in the area A50 on the map	In OS parcel 318
✓ A51	The several trees consisting of beech, sycamore, ash standing in the area A51 on the map	In OS parcel 318

FIRST SCHEDULE (continued)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
A52	The several trees consisting of birch, beech, sycamore, poplar, ash, standing in the area A52 on the map	In OS parcel 318
11475/12700 ✓ A53	The several trees consisting of cypress, beech, ash, elm, yew standing in the area A53 on the map.	In OS parcel 280, 281.
11475/12700 ✓ A54	The several trees consisting of beech and birch standing in the area A54 on the map.	South of Crossbeck Road.
A55	The several trees consisting of beech, birch standing in the area A55 on the map	In OS parcel 285
A56	The several trees consisting of poplar, pine, cypress, horse chestnut, beech, elm, Chile Pine, willow, yew, maple standing in the area A56 on the map	In OS parcel 286, 287A, 287
A57	The several trees consisting of sycamore, elm, ash, beech standing in the area A57 on the map	South of Queens Road
11475/12700 ✓ A58	The several trees consisting of sycamore, beech, lime, horse chestnut standing in the area A58 on the map	In OS parcel 267
11475/12700 ✓ A59	The several trees consisting of pine, oak, sycamore, beech, birch, cherry, larch standing in the area A59 on the map.	In OS parcel 263
11475/12700 ✓ A60	The several trees consisting of beech, oak, horse chestnut, lime, ash, cypress standing in the area A60 on the map	In OS parcel 257, 265
11475/12700 ✓ A61	The several trees consisting of sequoia, beech, lime, cypress, tsuga, standing in the area A61 on the map	In OS parcel 258
A62	The several trees consisting of sycamore, and beech standing in the area A62 on the map	In OS parcel 254
11475/12700 ✓ A63	The several trees consisting of sycamore, elm, ash, beech, horse chestnut standing in the area A63 on the map	In OS parcel 255
11475/12700 ✓ A64	The several trees consisting of birch, beech, sycamore, elm, horse chestnut, Douglas fir standing in the area A64 on the map	In OS parcel 237
A65	The several trees consisting of sycamore, cypress standing in the area A65 on the map	In OS parcel 251 247.
A66	The several trees consisting of cypress, birch, beech standing in the area A66 on the map.	In OS parcel 249

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
A67	The several trees consisting of cherry, beech, sycamore standing in the area A67 on the map	In OS parcel 248
A68	The several trees consisting of alder, oak, sycamore standing in the area A68 on the map	In OS parcel 247
A69	The several trees consisting of lime, sycamore, cypress, birch, oak standing in the area A69 on the map	In OS parcel 247
A70	The several trees consisting of rowan, horse chestnut, elm, sycamore, lime, birch, oak, larch standing in the area A70 on the map	In OS parcel 236, 237
A71	The several trees consisting of larch, sycamore standing in the area A71 on the map	In OS parcel 234
A72	The several trees consisting of horse chestnut, sycamore, elm, oak standing in the area A72 on the map.	In OS parcel 232

GROUPS OF TREES

(within a broken black line on the map)

104 Pine ✓ G1	The group consisting of 4 pine	In OS parcel 268
104 Pine ✓ G2	The group consisting of 1 sycamore, 2 rowan	In OS parcel 416
G3	The group consisting of 3 sycamore	In OS parcel 272
G4	The group consisting of 3 elm	In OS parcel 272
G5	The group consisting of 1 lime, 3 elm, 1 sycamore, 1 horse chestnut, 1 cherry.	In OS parcel 315

WOODLANDS

(within a continuous black line on the map)

W1	The mixed conifers and deciduous trees consisting mainly of larch, alder, oak, beech, sycamore, rowan.	In OS parcel 428a, 428b, 428c, 428d, 428e, 428f.
W2	The mixed conifers and deciduous trees consisting mainly of yew, cherry, maple, oak, elm, sycamore, pine, horse chestnut, birch, beech, ash, Chile Pine	In OS parcel 260
W3	Mixed hardwoods consisting mainly of beech, oak, birch, sycamore, ash, willow	In OS parcel 335

SECOND SCHEDULE

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

- (1) the cutting down of any tree on land which is subject to a forestry dedication covenant where
 - (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
 - (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.
- (2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme.
- (3) the cutting down, topping or lopping of a tree exempted from the provisions of this Order by section 29(7) of the Act namely a tree which is dying or dead or has become dangerous, or the cutting down, topping or lopping of which is in compliance with obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.
- (4) the cutting down, topping or lopping of a tree
 - (a) in pursuance of the power conferred on the Postmaster General by virtue of section 5 of the Telegraph (Construction) Act 1908:
 - (b) by or at the request of
 - (i) 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;
 - (ii) 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;
 - (iii) a river authority established under the Water Resources Act 1963, a drainage board constituted or treated as having been constituted under the Land Drainage Act, 1930, the Conservators of the River Thames, or the Lee Conservancy Catchment Board, where the tree interferes or would interfere with the exercise of any of the functions of such river authority, drainage board, Conservators of the River Thames or Lee Conservancy Catchment Board in relation to the maintenance, improvement or construction of water courses or of drainage works; or

NOTE: Section 13(1) of the Civic Amenities Act 1967 requires, unless on the application of the owner the local authority dispense with the requirement, that any tree removed or destroyed under section 29(7) of the Town and Country Planning Act 1962, shall be replaced by another tree of appropriate size and species. In order to enable the local planning authority to come to a decision, on whether or not to dispense with the requirement, notice of the proposed action should be given to the local planning authority which except in a case of emergency shall be of not less than five days.

SECOND SCHEDULE contd

- (iv) the Minister of Defence for the Royal Air Force, the Minister of Technology or the Board of Trade where in the opinion of such Minister or Board the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations;
- (c) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the A or deemed to have been so granted for any of the purposes of that Part;
- (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.
(Where the trees are within the area administered by the Conservators of the River Thames).
- (e) in pursuance of the powers conferred on the Conservators of the River Thames by virtue of section 105 of the Thames Conservancy Act 1932).

THIRD SCHEDULE

Provisions of the following parts of (a) Part III of the Town and Country Planning Act 1962 and (b) section 80 of the Town and Country Planning Act 1968 as adapted and modified to apply to this Order.

(a) Part III of the Town and Country Planning Act 1962.

21. - (1) Without prejudice to the following provisions as to the revocation or modification of consents, any consent under the Order, including any direction as to replanting given by the authority on the granting of such consent, shall (except in so far as the consent otherwise provides), ensure for the benefit of the land and of all persons for the time being interested therein.

22. - (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.

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

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

22. - (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.

22. - (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.

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

Refs
of
applns
to the
Min-
ister

THIRD SCHEDULE contd

Appeals
against
decisions

23.-(1) Where an 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 to the applicant, if he is aggrieved by their decision on the application, or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Minister.

23.-(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.

23.-(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.

23.-(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.

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

Appeal in
default
of
decision

24. 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
- (b) give notice to him that the application has been referred to the Minister in accordance with directions given under section 22 of the Act;

the provisions of the last preceding 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 end of the said period of two months, or at the end of the said extended period, as the case may be.

Power to
revoke or
modify
the
consent
under the
order.

27.-(1) If it appears to the authority that it is expedient to revoke or modify any consent under the Order granted on an application made under Article 3 of the Order, the authority may by Order revoke or modify the consent to such extent as they consider expedient.

27.-(2) Subject to the provisions of section 16 of the Civic Amenities Act, 1967 and section 80 of the Town and Country Planning Act 1968⁷ an Order under this section shall not take effect unless it is confirmed by the Minister; and the Minister may confirm any such Order submitted to him either without modification or subject to such modifications as he considers expedient.

†
When Tree Preservation Order is made by a District Council on behalf of a County Council an application for consent should be made to the District Council. See also note at foot of page 1.

27.-(3) Where an authority submit an Order to the Minister for his confirmation under this section, the authority shall furnish the Minister with a statement of their reason for making the Order and shall serve notice together with a copy of the aforesaid statement on the owner and on the occupier of the land affected, and on any other person who in their opinion will be affected by the Order, and if within the period of twenty-eight days from the service thereof any person on whom the notice is served so requires the Minister, before confirming the Order, shall afford to that person, and to the authority an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

27.-(4) 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 previously carried out.

27.-(5) Where a notice has been served in accordance with the provisions of subsection (3) 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 (2) of this section.

(b) Town and Country Planning Act 1968

80.-(1) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called "such Order") under section 27 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Minister for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such Order have notified the authority in writing that they do not object to such Order.

80.-(2) The authority shall advertise the fact that such Order has been made and the advertisement shall specify (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Minister that they wish for an opportunity of appearing before and being heard by, a person appointed by the Minister for the purpose and (b) the period (not less than 14 days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Minister, such Order may take effect by virtue of this section and without being confirmed by the Minister.

80.-(3) The authority shall also serve notices to the same effect on the persons mentioned in subsection (1) above.

80.-(4) The authority shall send a copy of any advertisement published under subsection (2) above to the Minister, not more than three days after the publication.

80.-(5) If within the period referred to in subsection (2)(a) above no person claiming to be affected by such Order has given notice to the Minister as aforesaid and the Minister has not directed that such Order be submitted to him for confirmation such Order shall at the expiration of the period referred to in subsection (2)(b) of this section take effect by virtue of this section and without being confirmed by the Minister as required by section 27(2) of the Town and Country Planning Act 1962.

80.-(6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted

THIRD SCHEDULE contd

by the Minister under Part III or Part IV of the Town and Country Planning Act 1962 or under Part II or Part V of the Town and Country Planning Act 1968.

GIVEN under the Common Seal of the Ilkley Urban District Council on the Thirteenth day of December in the year nineteen hundred and seventy one

The Seal was hereto affixed in the presence of

JAMES M. SHELTON

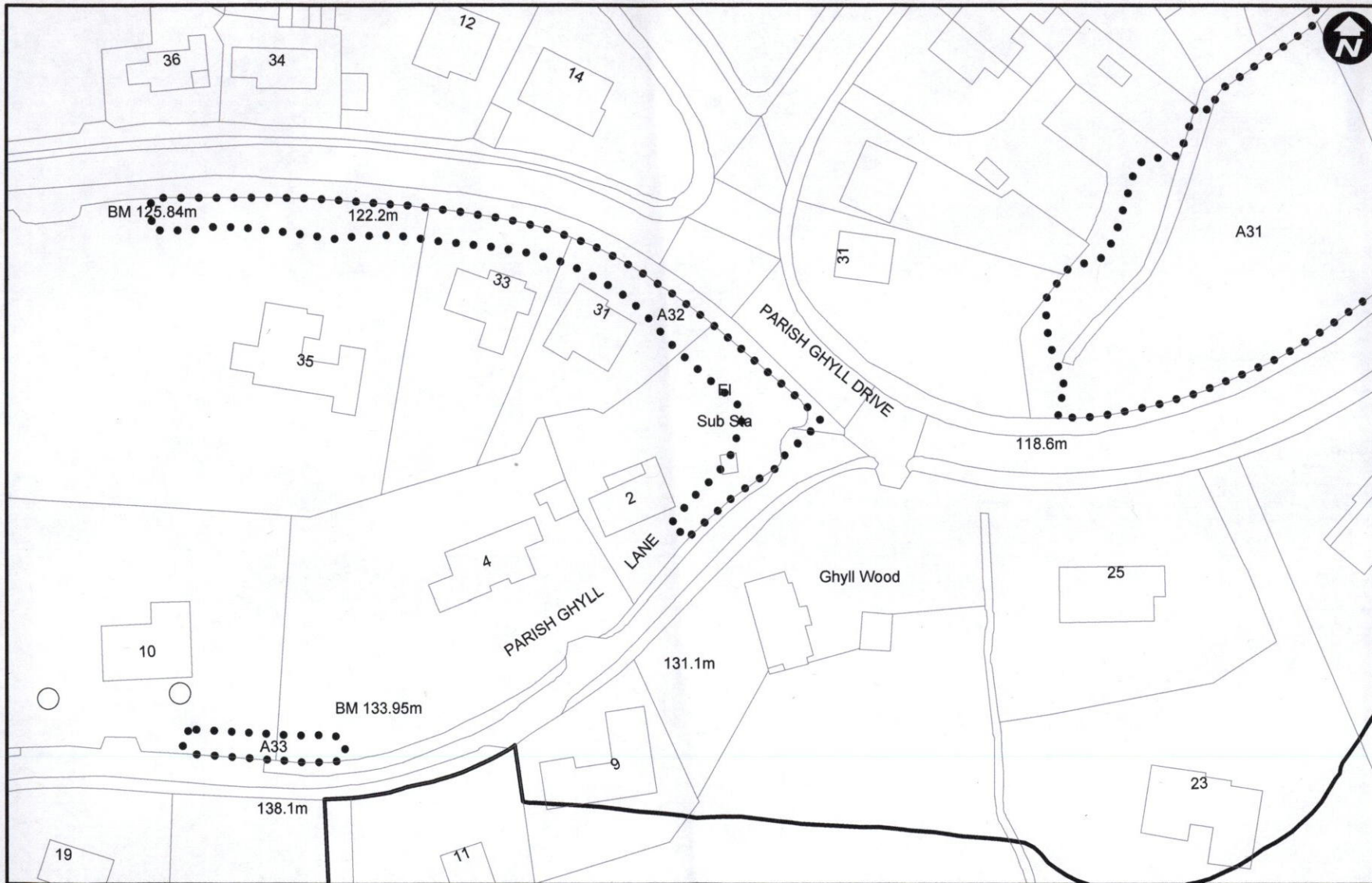
CHAIRMAN

B. E. TOWNEND

CLERK

Confirmed by the Ilkley Urban District Council as an unopposed Order on the 2nd July, 1973.

Tree Preservation Order 0136 - Area 32



Tree Preservation Order
No. 0136
Area 32

DEPARTMENT OF REGENERATION
Jacobs Well Bradford BD1 5RW
Head of Service Alan Mainwaring
MSc CEng MICE



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May 2007