

# Memo

Department of Legal and Democratic Services

To: For circulation see below

Legal Services  
City Hall  
Bradford  
BD1 1HY



**Lexcel**  
PRACTICE MANAGEMENT EXPERTS  
THE LAW SOCIETY

Your Ref:

From: Tim Ayres  
Deputy Team Leader  
Development & Regulatory Law  
Team

Date: 22 June 2006

Tel: (01274) 432235  
Fax: (01274) 434242  
My Ref: LEG/DEV/TA/ST/27737  
Email: tim.ayres@bradford.gov.uk

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 201** 1102  
**LAND BETWEEN FARNLEY ROAD AND LEATHLEY ROAD MENSTON - TREE PRESERVATION ORDER**

The above Tree Preservation Order was confirmed on 20 June 2006. Please find attached a copy for your records.

S.T.W.r.s

FARNLEY ROAD ✓  
LEATHLEY ROAD ✓

PP T Ayres

Noted 17/07/06

Enc

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

Land Charges Manager  
Local Land Charges Unit Team  
4<sup>th</sup> Floor, City Hall

Veronica Clair (Area Clerk)  
Transportation, Design and Planning  
Ilkley Town Hall

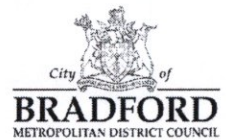
(Farnleyrd.M1)  
N:\DEVELOPMENT\STDS\TP17.DOT(February 2005)



CARDS TAKEN OUT  
OF REGISTER  
29/05/2007



**BRADFORD**  
one landscape many views





# TOWN AND COUNTRY PLANNING ACT 1990

## THE LAND BETWEEN FARNLEY ROAD AND LEATHLEY ROAD MENSTON

### TREE PRESERVATION ORDER 2004

#### 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 between Farnley Road and Leathley Road, Menston Tree Preservation Order 2004.

#### 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 9 November 2004.

#### 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



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:-

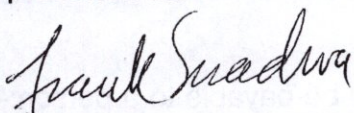
"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

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

Dated this 9<sup>th</sup> day of November 2004.

87052

**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**

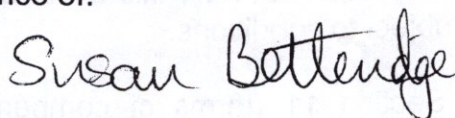
This Order was confirmed by the City of Bradford Metropolitan District Council without modification on the 20<sup>th</sup> day of June 2006.

~~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:-

88738



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

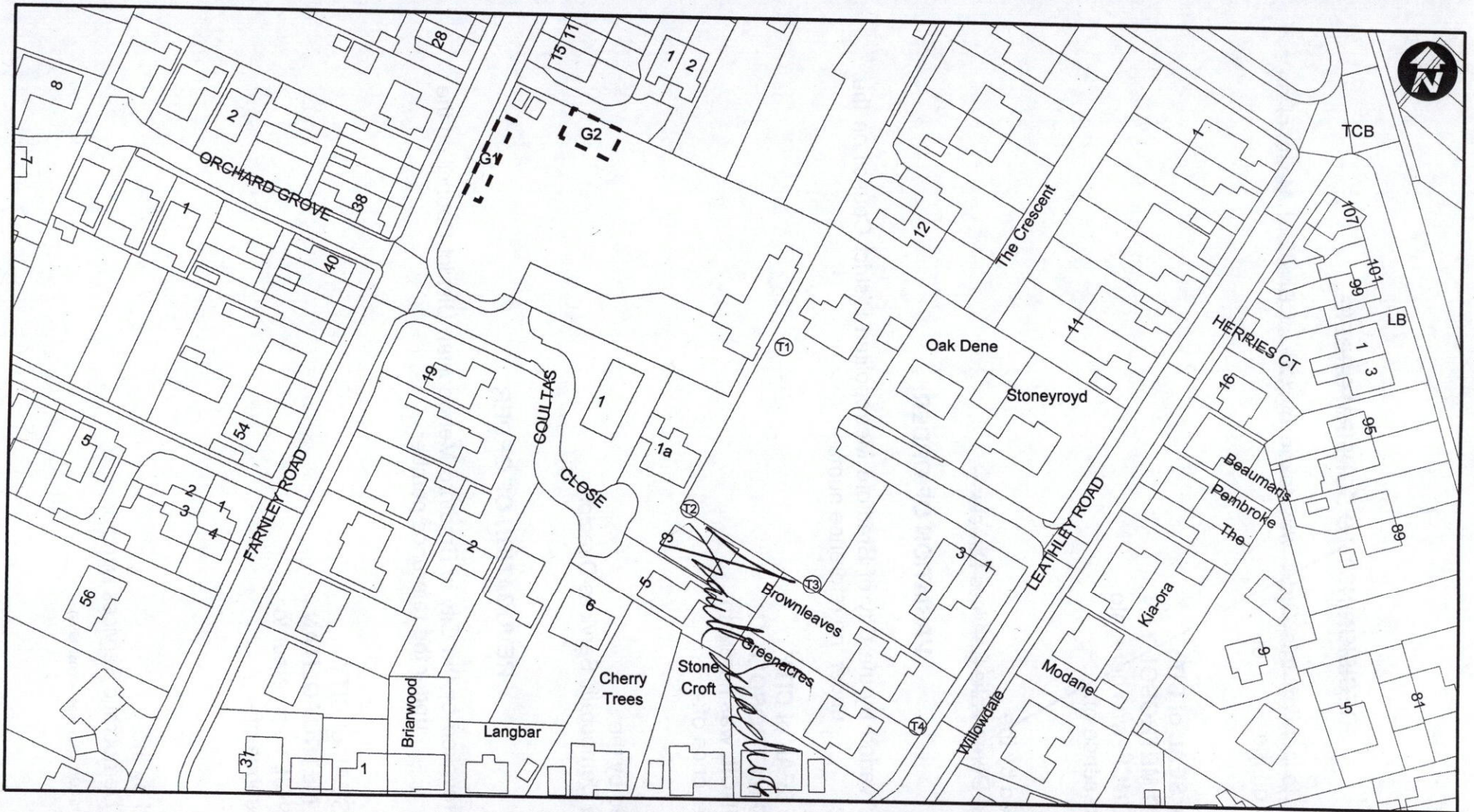
**REVOCATION OF ORDER**

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





Tree Preservation Order No. 1102  
 Land between Farnley Road &  
 Leathley Road  
 Menston

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



OS Ref : SE1743 Scale 1:1250  
 Reproduced from the Ordnance Survey map with the sanction of  
 HM Stationery Office  
 Crown Copyright reserved  
 LA076120 October 2004



**SCHEDULE 1****SPECIFICATION OF TREES****Trees specified individually**  
(encircled in black on the map)

Reference on map	Description	Situation
T1	Cypress	417658 443784
T2	Ash	417638 443747
T3	Sycamore	417665 443731
T4	Birch	417688 443699

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

Reference on map	Description	Situation
	None	

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

Reference on map	Description (including number of trees in the group)	Situation
G1	2 Ash 2 Sycamore	417592 443824
G2	4 Cherry	417616 443829

**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:- “(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”.</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):-



<p>general considerations)</p>	<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.    (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</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>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> <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.
- .....



(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.



# Memo

Department of Legal and Democratic Services

Legal Services  
City Hall  
Bradford  
BD1 1HY



To: For circulation see below

Your Ref:

From: Tim Ayres  
Deputy Team Leader  
Development & Regulatory Law  
Team

Date: 8 May 2007

Tel: (01274) 432235  
Fax: (01274) 434242  
My Ref: LEG/DEV/TA/ST/29080  
Email: tim.ayres@bradford.gov.uk

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**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 201** 1102  
**LAND BETWEEN FARNLEY ROAD AND LEATHLEY ROAD MENSTON - TREE**  
**PRESERVATION ORDER**

The above Tree Preservation Order which was confirmed on 20 June 2006 was revoked on 8 May 2007. Please find attached a copy for your records.

*T. Ayres*

*K 14*

T Ayres

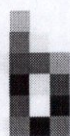
Enc

Arboricultural Technician  
Development Services Tree Section  
Department of Regeneration  
3<sup>rd</sup> Floor, Jacobs Well

Land Charges Manager  
Local Land Charges Unit Team  
4<sup>th</sup> Floor, City Hall

Veronica Clair (Area Clerk)  
Department of Regeneration  
Ilkley Town Hall

(Farnleyrd.M3)  
N:\DEVELOPMENT\STDS\TP11.DOT(Revised March 2007)



**BRADFORD**  
one landscape many views





**CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL**

**TOWN AND COUNTRY PLANNING ACT 1990**


**ORDER REVOKING TREE PRESERVATION ORDER**

1. On 9<sup>th</sup> November 2004 City of Bradford Metropolitan District Council ("the Council") being the local planning authority and in pursuance of their powers under Section 198 of the Town and Country Planning Act 1990 made the land between Farnley Road and Leathley Road, Menston Tree Preservation Order ("the Tree Preservation Order").
2. On 20<sup>th</sup> June 2006 the Council confirmed the Tree Preservation Order without modification.
3. A copy of the Tree Preservation Order as confirmed is annexed hereto.

NOW THEREFORE the Council as local planning authority and in pursuance of their powers under Section 333(7) of the Town and Country Planning Act 1990 and all other powers enabling HEREBY REVOKE the Tree Preservation Order.

This Order is made the 8<sup>th</sup> day of May 2007

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



89782

Authorised by the Interim Head of Legal Services



**TOWN AND COUNTRY PLANNING ACT 1990**

**THE LAND BETWEEN FARNLEY ROAD AND LEATHLEY ROAD MENSTON**

**TREE PRESERVATION ORDER 2004**

**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 between Farnley Road and Leathley Road, Menston Tree Preservation Order 2004.

**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 9 November 2004.

**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

- (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**

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**

- (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**

- (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**

- (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



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 9<sup>th</sup> day of November 2004.

87052

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 20<sup>th</sup> day of June 2006.

~~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:-

884738

Authorised by the  
Legal and Democratic Services Director



~~DECISION NOT TO CONFIRM ORDER~~

~~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  
fixed 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

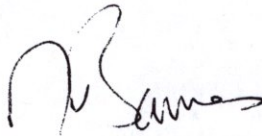
THE COMMON SEAL of CITY  
OF BRADFORD METROPOLITAN  
DISTRICT COUNCIL was hereunto  
fixed in the presence of:-

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 *May 2007* under the reference number

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

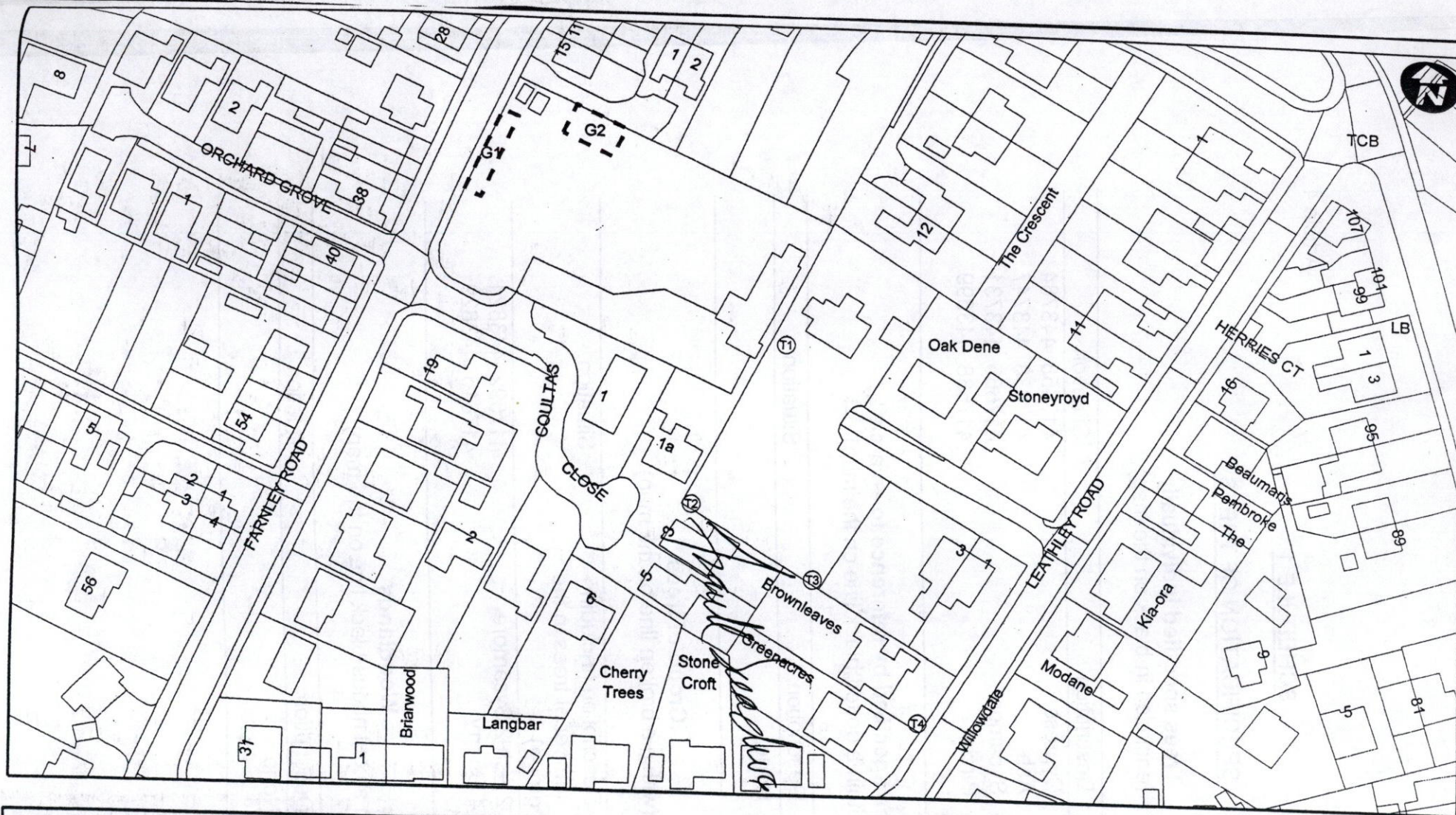


89782

Authorised by the  
Legal and Democratic Services Director

*Interims Head of Legal Services*





Tree Preservation Order No: 1102  
 Land between Farnley Road &  
 Leathley Road  
 Menston

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



OS Ref : SE1743 Scale 1:1250  
 Reproduced from the Ordnance Survey map with the sanction of  
 HM Stationery Office  
 Crown Copyright reserved  
 LA076120 October 2004



**SCHEDULE 1****SPECIFICATION OF TREES****Trees specified individually**  
(encircled in black on the map)

Reference on map	Description	Situation
1	Cypress	417658 443784
2	Ash	417638 443747
3	Sycamore	417665 443731
4	Birch	417688 443699

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

Reference on map	Description	Situation
	None	

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

Reference on map	Description (including number of trees in the group)	Situation
	2 Ash 2 Sycamore	417592 443824
	4 Cherry	417616 443829

**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 applications:	(a) In Sub-Section (1):-



<p>general considerations)</p>	<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.          (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:-          (i) "Any" for the words from "Without" to "any",          (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>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> <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>
<p>Section 79 (determination appeals) (a)</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:-          (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>
--	--

**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**

Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.

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.

.....

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

**Section 70**

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.

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.

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

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 all persons for the time being interested in it.

.....

#### Section 78

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.



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.

The appellant shall serve on the authority a copy of the notice mentioned in Sub-Section (3).

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

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.

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.



# Memo

Department of Legal and Democratic Services

To: For circulation see below

Legal Services  
City Hall  
Bradford  
BD1 1HY



Your Ref:

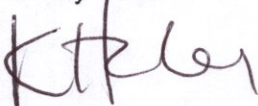
From: Kevin Haley  
Legal Officer  
Development & Regulatory Law  
Team

Date: 20 June 2007

Tel: (01274) 432232  
Fax: (01274) 434242  
My Ref: LEG/DEV/KH/ST/29080  
Email: kevin.haley@bradford.gov.uk

**TOWN AND COUNTRY PLANNING ACT 1990** 1102  
**ORDER REVOKING THE LAND BETWEEN FARNLEY ROAD AND LEATHLEY LANE**  
**MENSTON**  
**TREE PRESERVATION ORDER 2004**

I am not sure whether or not you have been notified that the above Order was revoked on 8 May 2007. In the event that you have not, a copy of the Order revoking the 2004 Tree Preservation Order is attached for your information. The original Tree Preservation Order is therefore no longer of any effect.

  
K Haley

CARDS REMOVED  
FROM REGISTER  
29/05/2007

Encs

cc: Arboricultural Technician  
Development Services – Tree Section  
3<sup>rd</sup> Floor Jacobs Well

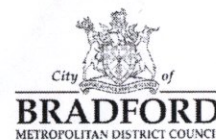
Land Charges Manager  
Local Land Charges Unit  
4<sup>th</sup> Floor City Hall

Veronica Clair (Area Clerk)  
Department of Regeneration  
Ilkley Town Hall

(Farnleyrd.M1)



**BRADFORD**  
one landscape many views





**CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL**

**TOWN AND COUNTRY PLANNING ACT 1990**

**ORDER REVOKING TREE PRESERVATION ORDER**

1. On 9<sup>th</sup> November 2004 City of Bradford Metropolitan District Council ("the Council") being the local planning authority and in pursuance of their powers under Section 198 of the Town and Country Planning Act 1990 made the land between Farnley Road and Leathley Road, Menston Tree Preservation Order ("the Tree Preservation Order").
2. On 20<sup>th</sup> June 2006 the Council confirmed the Tree Preservation Order without modification.
3. A copy of the Tree Preservation Order as confirmed is annexed hereto.

NOW THEREFORE the Council as local planning authority and in pursuance of their powers under Section 333(7) of the Town and Country Planning Act 1990 and all other powers enabling HEREBY REVOKE the Tree Preservation Order.

This Order is made the 8<sup>th</sup> day of May 2007

**THE COMMON SEAL of CITY OF  
BRADFORD METROPOLITAN DISTRICT**

**COUNCIL** was hereunto affixed in

the presence of:-



89782

Authorised by the Interim Head of Legal Services



**TOWN AND COUNTRY PLANNING ACT 1990**

**THE LAND BETWEEN FARNLEY ROAD AND LEATHLEY ROAD MENSTON**

**TREE PRESERVATION ORDER 2004**

**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 between Farnley Road and Leathley Road, Menston Tree Preservation Order 2004.

**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 9 November 2004.

**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

(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**

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**

- (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**

- (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**

- (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



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:-

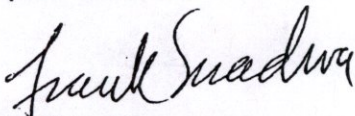
"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

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

Dated this 9<sup>th</sup> day of November 2004.

87052

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

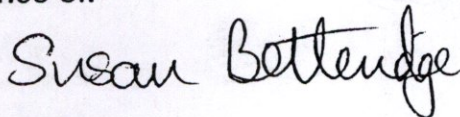
**CONFIRMATION OF ORDER**

This Order was confirmed by the City of Bradford Metropolitan District Council  
without modification on the 20<sup>th</sup> day of June 2006.

~~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:-

888738



Authorised by the  
Legal and Democratic Services Director



~~DECISION NOT TO CONFIRM ORDER~~

~~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 fixed 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 \_\_\_\_\_

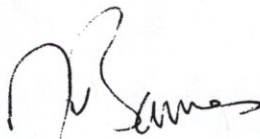
THE COMMON SEAL of CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL was hereunto fixed in the presence of:-

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 *May 2007* under the reference number \_\_\_\_\_

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

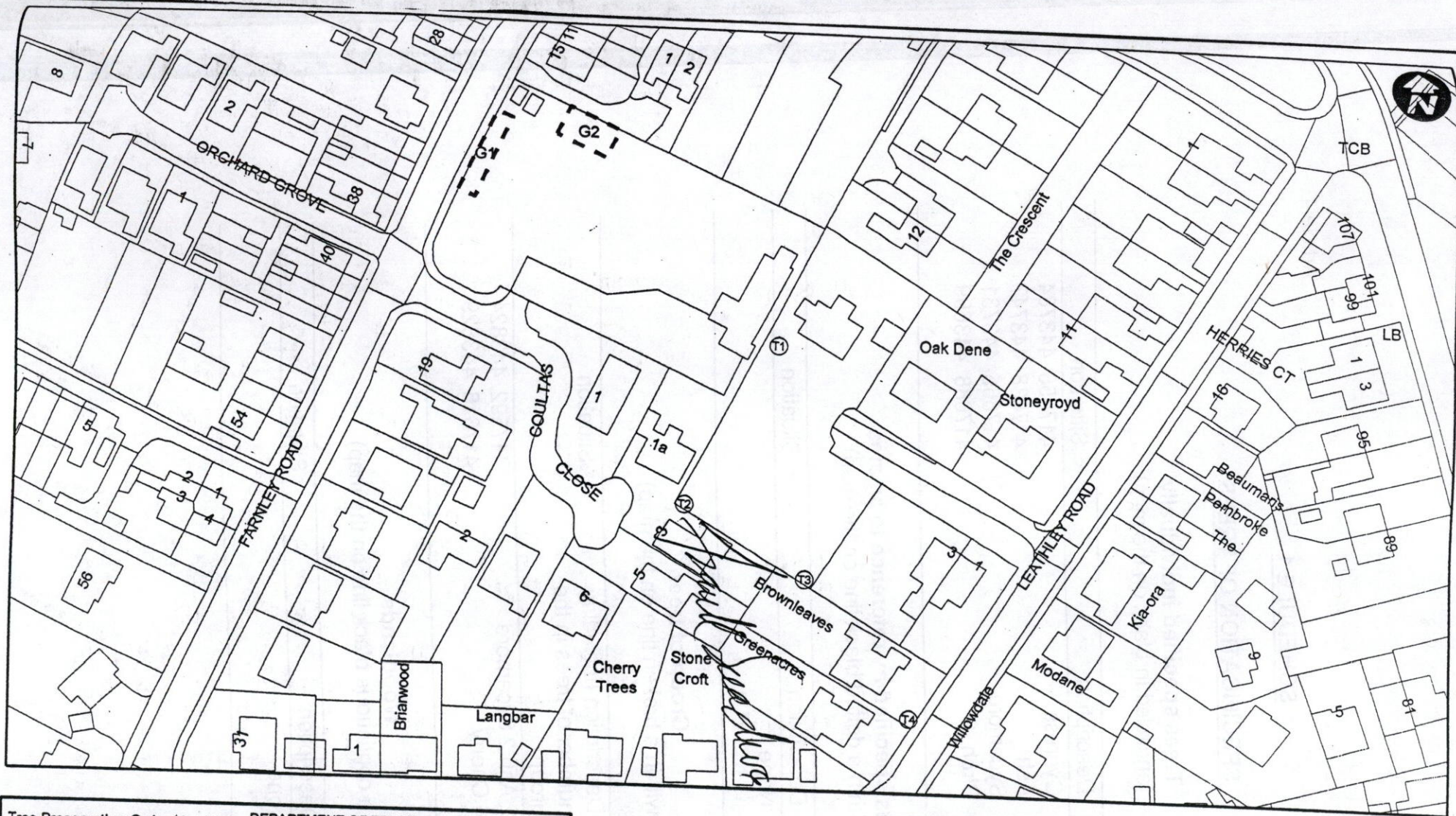


89782

Authorised by the Legal and Democratic Services Director

*Interims Head of Legal Services*





Tree Preservation Order No: 1102  
 Land between Farnley Road &  
 Leathley Road  
 Menston

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



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 LA076120 October 2004



**SCHEDULE 1****SPECIFICATION OF TREES****Trees specified individually**  
(encircled in black on the map)

Reference on map	Description	Situation
1	Cypress	417658 443784
2	Ash	417638 443747
3	Sycamore	417665 443731
4	Birch	417688 443699

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

Reference on map	Description	Situation
	None	

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

Reference on map	Description (including number of trees in the group)	Situation
	2 Ash 2 Sycamore	417592 443824
	4 Cherry	417616 443829

**Woodlands**  
(within a continuous black line on the map)

Reference on map	Description	Situation
	None	



SCHEDULE 2PART 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.    (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>
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>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> <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>
<p>Section 79 (determination appeals) (a)</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>



(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."

(d) Omit Sub-Sections (6) and (6A).

(e) In Sub-Section (7), omit the words after "Section 78".

## 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

Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.

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.

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

#### Section 70

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 or requiring the replacement of trees); or
- (b) they may refuse consent under the order.

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.

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

.....

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 all persons for the time being interested in it.

.....

#### Section 78

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.



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.

The appellant shall serve on the authority a copy of the notice mentioned in Sub-Section (3).

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

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.

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.



CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL LOCAL LAND CHARGES REGISTER

Signature

Local Registrar

Date as per attached search

Description of Property  
LAND BETWEEN FARNLEY ROAD AND LEATHLEY ROAD MENSION

GRID REFERENCE

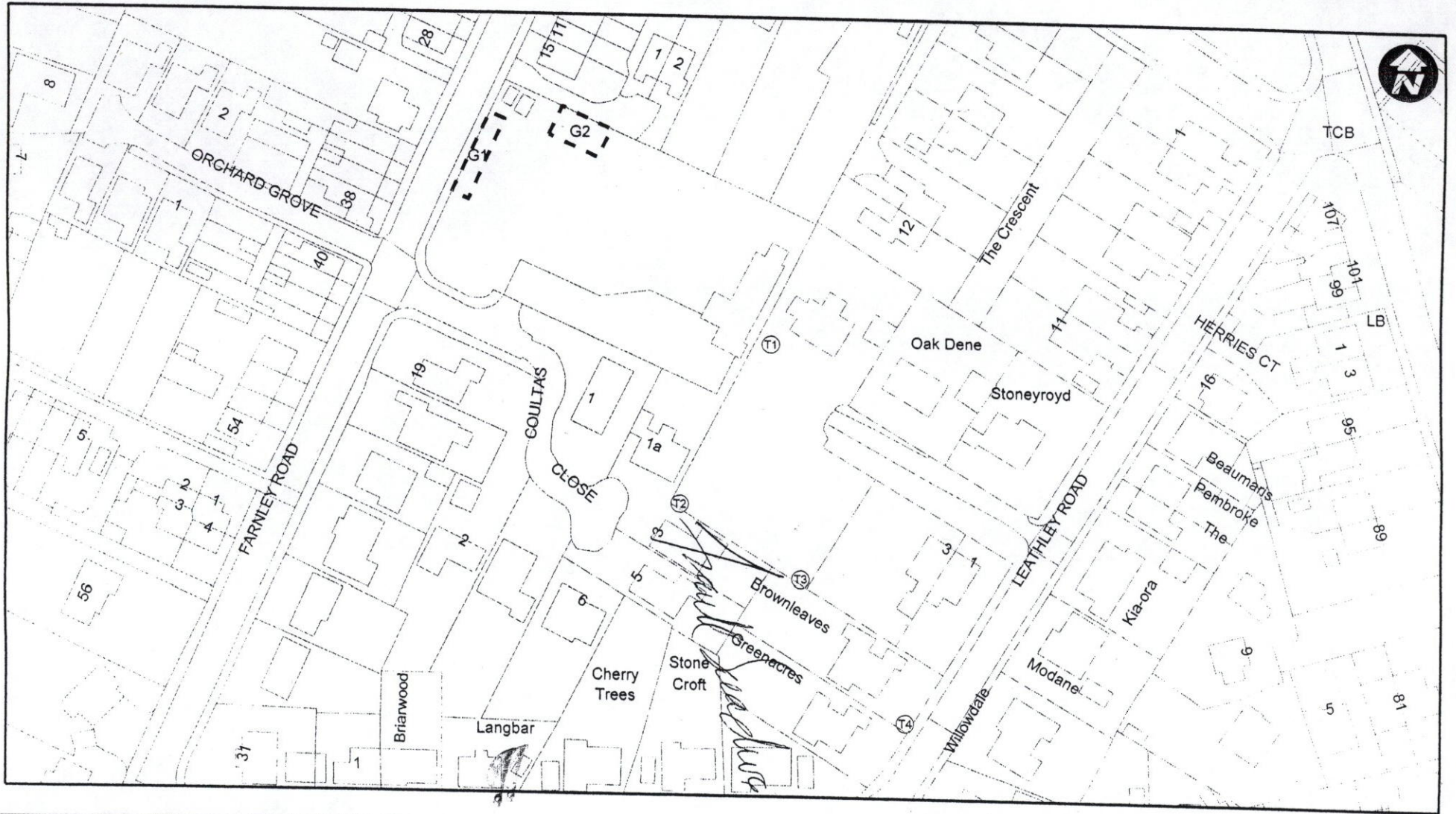
MAP REF. No.

PART 3 PLANNING CHARGES	Description of land affected - (Including particulars of planning decision)	Particulars of compensation and apportionment.	Where charge registered on behalf of another local authority, name of that Authority.	Place at which inspection may be made of any document or certified copy thereof, mentioned in column 1.
(a) Notices deposited under S. 15B TCP Act 1971	<del>OVERHANGING BRANCHES MAY AFFECT PROPERTY ON COULTAS CLOSE</del>	2	3	4
(b) OTHER PLANNING CHARGES				Date of Registration 5
Nature of charge and reference to notice, order, instrument or other document and to enactment under or by virtue of which charge is created or enforceable.				Place at which inspection may be made of any document, or certified copy thereof, mentioned in column 1.
1				2
				Date of Registration 3
				15-11-04

Section 201 Town and Country Planning Act 1990  
 Tree Preservation Order No. 1102  
 Made on 09/11/04  
 Confirmed on NYC 20/06/2006

Part 4 MISCELLANEOUS PROHIBITIONS AND RESTRICTIONS	Nature of prohibition or restriction; reference to order, scheme, instrument, resolution, covenant, agreement or other document, under or by virtue of which prohibition or restriction is created or enforceable.	Where prohibition or restriction registered on behalf of another local authority, name of that Authority.	Place at which inspection may be made of any document (other than public general statute), or certified copy thereof, mentioned in column 1.
	1	2	3
			Date of Registration. 4





Tree Preservation Order No. 1102  
 Land between Farnley Road &  
 Leathley Road  
 Menston

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



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CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL LOCAL LAND CHARGES REGISTER

Signature

Local Registrar

Description of Property

LAND BETWEEN ~~FARNLEY ROAD AND LEATHLEY ROAD~~, MENSTON

GRID REFERENCE

MAP REF. No.

Date as per attached search

PART 3  
PLANNING  
CHARGES

Description of land affected -  
(including particulars of planning decision)

Particulars of compensation  
and apportionment.

Where charge registered on behalf of  
another local authority, name of that  
Authority.

Place at which inspection may be made of any  
document or certified copy thereof, mentioned  
in column 1.

(a) Notices deposited  
under S. 158  
TCP Act 1971

~~OVERHANGING BRANCHES  
MAY EFFECT PROPERTY  
ON COLTAS CLOSE~~

2

3

Date of Registration  
5

(b) OTHER  
PLANNING  
CHARGES

Nature of charge and reference to notice, order, instrument or other document and to enactment under or by virtue  
of which charge is created or enforceable.

Place at which inspection may be made of any  
document, or certified copy thereof, mentioned  
in column 1.

Date of Registration  
3

15-11-04

Section 201 Town and Country Planning Act 1990  
Tree Preservation Order No. 1102  
Made on 09/11/04  
Confirmed on ~~14/11/04~~ 20/06/2006

Part 4  
MISCELLANEOUS  
PROHIBITIONS  
AND RESTRICTIONS

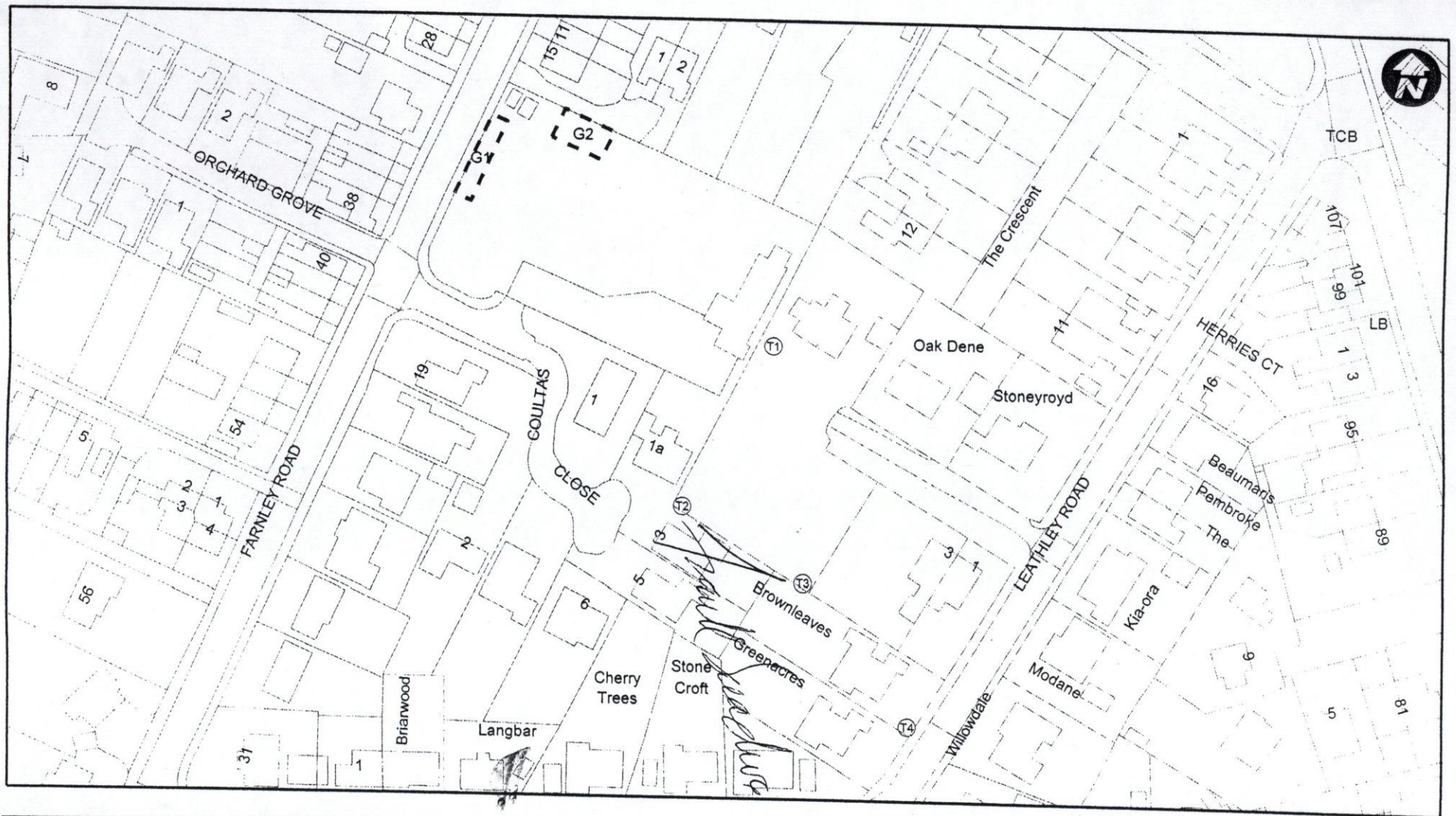
Nature of prohibition or restriction: reference to order, scheme, instrument, resolution, covenant, agreement or  
other document, under or by virtue of which prohibition or restriction is created or enforceable.

Where prohibition or restriction  
registered on behalf of another local  
authority, name of that Authority.

Place at which inspection may be  
made of any document (other than  
public general statute), or certified  
copy thereof, mentioned in column 1.

Date of Registration.  
4





Tree Preservation Order No. 1102  
 Land between Farnley Road &  
 Leathley Road  
 Menston

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



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