

Memo

Department of Legal and Democratic Services

To: For circulation see below

Legal Services
City Hall
Bradford
BD1 1HY



Your Ref:

From: Carole Barrott
Legal Officer
Development & Regulatory Law Team

Date: 10 May 2007

Tel: (01274) 434751
Fax: (01274) 434242
My Ref: LEG/DEV/CEB/ST/28864
Email: carole.barrott@bradford.gov.uk

TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 201 06/001301 I
LAND TO THE EAST OF SOMERSET AVENUE BAILDON - TREE PRESERVATION ORDER

The above Tree Preservation Order was confirmed on 10 May 2007. Please find attached a copy for your records.

C. E. Barrott

C E Barrott

Enc

Arboricultural Technician
Development Services Tree Section
Department of Regeneration
3rd Floor, Jacobs Well



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

X REF - CORNWALL CRESCENT
BENTLEY CLOSE
SPRINGFIELD ROAD

Shirley Nicholls (Area Clerk)
Department of Regeneration
Shipley Town Hall

NOTED ON CARDS
29/05/2007

(28864.M3)
N:\DEVELOPMENT\STDS\TP17.DOT(March 2007)



BRADFORD
one landscape many views



TOWN AND COUNTRY PLANNING ACT 1990

THE LAND TO THE EAST OF SOMERSET AVENUE BRADFORD

TREE PRESERVATION ORDER 2006

CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL

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

Citation

1. This Order may be cited as the land to the east of Somerset Avenue, Bradford Tree Preservation Order 2006.

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 5 December 2006.

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.

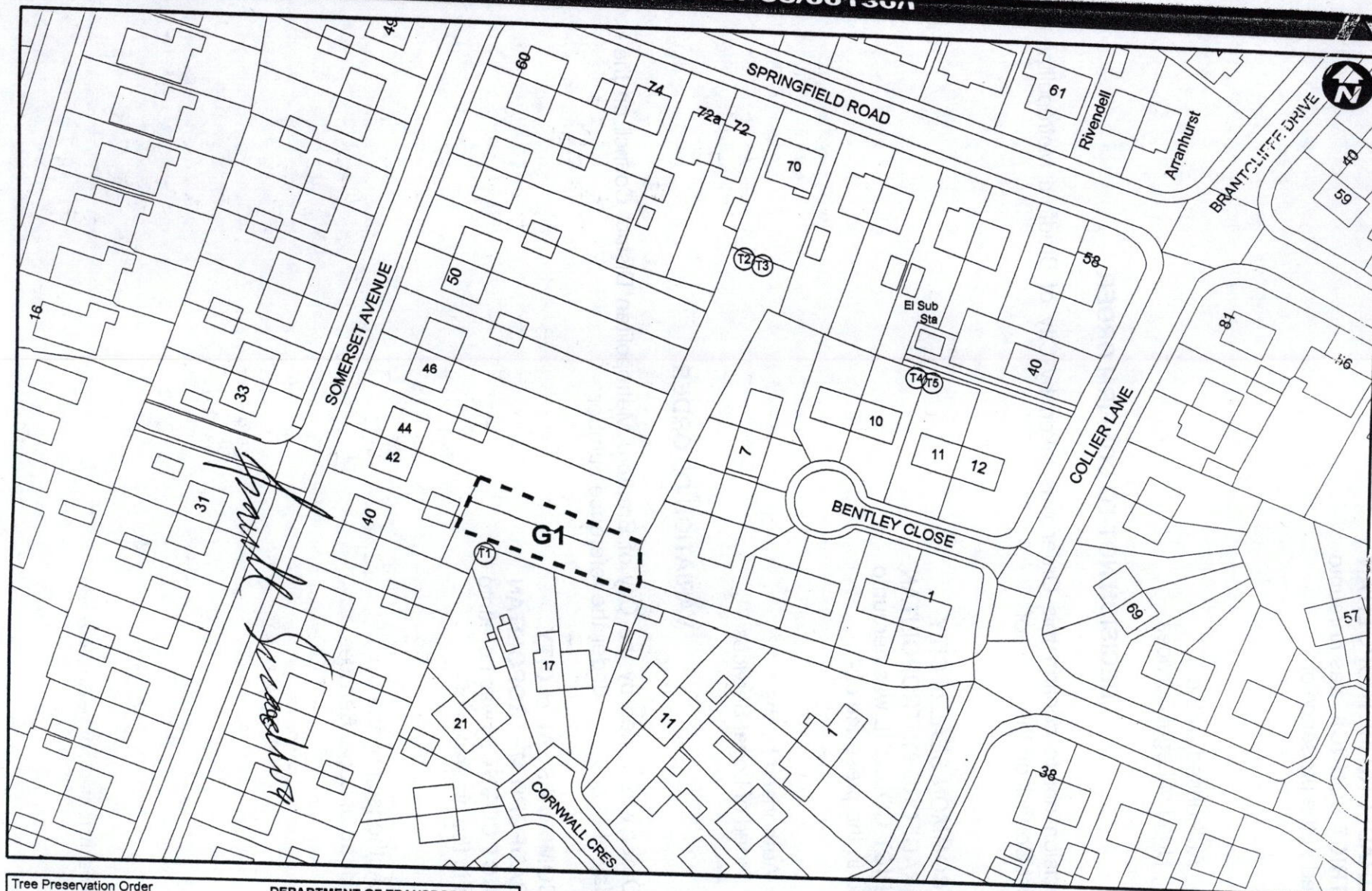
construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or

- (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

- (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



Handwritten signature

Tree Preservation Order
 No. 06/00130/1
 Land to the East of
 Somerset Avenue
 Baildon

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



OS Ref : SE 1439
 Reproduced from the Ordnance Survey map with
 the sanction of HM Stationery Office
 Crown Copyright reserved
 LA076120

Scale 1:1000

November 2006

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
Head of Legal Services

Article 4

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

| Reference on map | Description | Situation |
|------------------|-------------|---------------|
| T1 | Ash | 414806 439754 |
| T2 | Sycamore | 414852 439810 |
| T3 | Sycamore | 414855 439809 |
| T4 | Poplar | 414884 439789 |
| T5 | Ash | 414887 439789 |

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

| Reference on map | Description | Situation |
|------------------|-------------|-----------|
| | None | |

| | |
|---|---|
| | <p>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> |
| <p>Section 70 (determination of applications: general considerations)</p> | <p>(a) In Sub-Section (1):-</p> <p>(i) Substitute:- “Subject to Sub-Sections (1A) and (1B), where” for “Where”; “the authority” for “a local planning authority”, “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</p> |

| | |
|--|--|
| | <p>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:-</p> <p>“(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:-</p> |
|--|--|

- (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) 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.