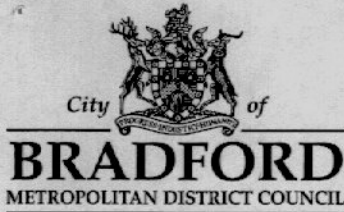


copy



**Department of Transportation,  
Design and Planning**

Head of Service:  
Alan Mainwaring MSc CEng MICE



INVESTOR IN PEOPLE

**MEMORANDUM**

**TO:**  
Carole Barrott  
Development Law Team  
Legal Services  
City Hall

**FROM:**  
Alison West-Lay  
Trees Section  
3<sup>rd</sup> Floor  
Jacobs Well  
Ext. 4297

**Your Ref:** LEG/PL/CEB/25728

**My Ref:** P/EW/AWL/TPO806

---

14<sup>th</sup> June 2001

**TOWN & COUNTRY PLANNING ACT 1990 - SECTION 201  
OBJECTION TO TREE PRESERVATION ORDER NO 806  
116 GILSTEAD LANE BINGLEY**

I refer to your memo dated 8<sup>th</sup> June 2001 regarding the above.

The objection will be presented at Shipley Area Planning Panel on 19<sup>th</sup> July 2001.

Awl

## Alison West-Lay

---

**From:** Carole Barrott  
**Sent:** 11 June 2001 12:15  
**To:** Alison West-Lay  
**Subject:** 116 Gilstead Lane

**Importance:** High

I sent you a letter of objection on Friday about this TPO.

Mr Pennington has been on the phone this morning saying that someone needs to go out and look at this tree. He feels that it is a health hazard and could well be diseased. He tells me that there was a pond on the land which has been drained - what this has to do with the tree I cannot say - but he also tells me that the owner of the land (the lady who is now in the nursing home in Morecambe) had no inside toilet facilities and this tree is where the "you know what" from the house was spread - nice ! He would like to know when the site visit takes place and gives his telephone number 568039 for you to call him and let him know. i think he would like to be there and give you a bit of local info etc.

I am aware that another neighbour is writing in similar vein but have not as yet received that letter. I will copy it through to you when I do.

Thanks

**Carole**

(Telephone: 01274 754751  
Facsimile: 01274 754242)

This e-mail is intended for the above named only. It may contain private and confidential information that is privileged. If this has come to you in error you must take no action based on it. Please telephone the sender immediately and return the original to them.

**Legal Services**

City Hall  
Bradford  
West Yorkshire BD1 1HY  
DX11758 BRADFORD-1

Head of Legal Services:  
Susan Betteridge, Solicitor

Tel: 01274 754751  
Fax: 01274 754242  
E-mail: [carole.barrott@bradford.gov.uk](mailto:carole.barrott@bradford.gov.uk)



INVESTOR IN PEOPLE



From: C E Barrott Legal Officer Property and Planning Law	To: Eric Waterworth/Alison West-Lay Tree Section Jacobs Well
Ref: LEG/PL/CEB/25728 Date: 8 June 2001	Ref:

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 201  
LAND AT: 116 GILSTEAD LANE, BINGLEY**

I refer to the above matter and write to inform you that I have now received an objection to the making of the above Order.

I attach a copy of the letter of objection and would be obliged if you would arrange for it to be considered by Members of the Area Planning Panel (Shipley) and advise me of their decision on the matter in due course.

*C.E. Barrott*

C E Barrott

Enc

(F:\DEV\TEMPLATE\STDS\TP13.DOT (Revised June 1999))



F.M. PENNINGTON  
HILL TOP  
118 GILSTEAD LANE  
GILSTEAD BINGLEY  
WEST YORKSHIRE BD16 3LH  
TEL: 01274 568039

02-06-01.

LEGAL AND DEMOCRATIC  
SERVICES DIRECTOR,  
CITY OF BRADFORD  
METRO DISTRICT COUNCIL,  
CITY HALL,  
BRADFORD - BD1 1HY.

DEPARTMENT OF LEGAL  
& DEMOCRATIC SERVICES  
- 5 JUN 2001  
LES/PL

Dear Sir,  
I refer to the T.P.O. dated 0-04-01 in the large tree in the grounds of 116, GILSTEAD LANE. I have only just become aware of the T.P.O., as it was placed on the tree concerned in a most obscure position in the grounds of 116, GILSTEAD LANE, and I would have thought that a further notice would have been placed outside the property, which is now unoccupied and vacant. I am concerned re the future condition of this property, as I live opposite at the top of Garden View.

The T.P.O. states as one of its reasons and I quote "And the appearance of the property". May I ask if anyone from your department has visited the site of 116 GILSTEAD LANE, as the property/garden makes the building of houses look like Buckingham Palace. I would suggest that the grounds are a major health hazard, in which case the appropriate department will be advised. How can a T.P.O. be placed on such a tree in such an environment??

The tree concerned needs at best planning  
a topping of the branches, and we understand that  
the tree may be diseased due to the amount of  
juice growing up the tree. We know for a fact  
that one of the trees nearby was being looked  
and the tree surgeon concerned, stated that the  
tree was diseased and it would be advisable  
to cut it down completely.

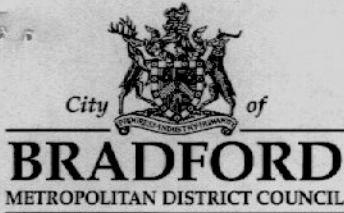
It appears to me that a T.P.O. is not  
consistent or logical as one can be placed on  
a tree at 16 (insist) hours and yet be cut  
at the bottom of Colvingly Road, just above  
the traffic light.

I am indeed concerned as I consider  
this tree to be dangerous, and should it ever  
be disturbed or blown down, then it would  
demolish my house. And if we were in the  
front bedroom it might even kill us. What would  
Bristol City Council think of this and concerned  
would be inappropriate if we were 'killed'??  
Remember 7 days in Vent which became 1 day  
in a matter of a few hours.

May I ask you to reconsider this  
T.P.O. even though I may be late in my  
objection, due to certain circumstances and my  
wife being in hospital for the past 15  
days.

Yours Faithfully  
F.M. Pennington  
(F.M. PENNINGTON.)

Copy



**Department of Transportation,  
Design and Planning**

Head of Service:  
Alan Mainwaring MSc CEng MICE



INVESTOR IN PEOPLE

**MEMORANDUM**

**TO:**  
Carole Barrott  
Development Law Team  
Legal Services  
City Hall

**FROM:**  
Alison West-Lay  
Trees Section  
3<sup>rd</sup> Floor  
Jacobs Well  
Ext. 4297

**Your Ref:** LEG/PL/CEB/25728

**My Ref:** P/EW/AWL/TPO806

19<sup>th</sup> June 2001

**TOWN & COUNTRY PLANNING ACT 1990 - SECTION 201  
OBJECTION TO TREE PRESERVATION ORDER NO 806  
116 GILSTEAD LANE BINGLEY**

I refer to your memo dated 15<sup>th</sup> June 2001 regarding the above.

The objection will be presented at Shipley Area Planning Panel on 19<sup>th</sup> July 2001.

*AWL*

**Legal Services**

City Hall  
 Bradford  
 West Yorkshire BD1 1HY  
 DX11758 BRADFORD-1



INVESTOR IN PEOPLE

Head of Legal Services:  
 Susan Betteridge, Solicitor



Tel: 01274 754751  
 Fax: 01274 754242  
 E-mail: [carole.barrott@bradford.gov.uk](mailto:carole.barrott@bradford.gov.uk)

<p>From: C E Barrott          Legal Officer          Property and Planning Law</p> <p>Ref: LEG/PL/CEB/25728          Date: 15 June 2001</p>	<p>To: Alison West-Lay          Tree Section          Jacobs Well</p> <p>Ref: [their ref]</p>
---	---

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 201  
 LAND AT: 116 GILSTEAD LANE, GILSTEAD, BINGLEY**

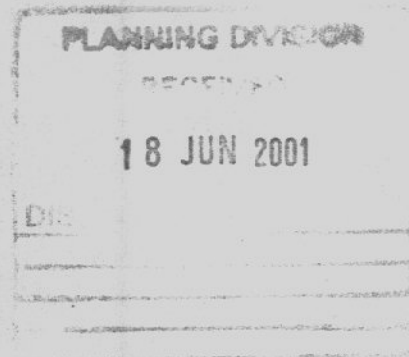
I refer to the above matter and write to inform you that I have now received an objection to the making of the above Order. I shall be pleased if you would also contact this objector for the reasons set out in my previous e-mail relating to this same TPO.

I attach a copy of the letter of objection and would be obliged if you would arrange for it to be considered by Members of the Area Planning Panel Shipley and advise me of their decision on the matter in due course.

*C.E. Barrott*

C E Barrott

Enc



(Document10)  
 F:\DEV\TEMPLATE\STDS\TP13.DOT (Revised June 1999)

25728  
Tm CCB

5 June 2001

DEPARTMENT OF LEGAL  
& DEMOCRATIC SERVICES  
- 7 JUN 2001  
LES/AJ

For the attention of:  
Gerry A Danby, Barrister,  
Legal and Democratic Service Director,  
City of Bradford Metropolitan Council,  
City Hall,  
Bradford,  
BD1 1HY.

Dear Sir,

Re: Property at 116 Gilstead lane, BD16 3LH, and the tree preservation order dated 10 April 2001.

I have only recently seen the preservation notice on the tree at the above property. It is not in a prominent position and I only spotted it because I had to enter the property to attend to lots of trees and shrubs that were growing into my property.

I also mentioned this notice to one of my neighbours and he had not spotted it either, which is not a surprise as the property in question is simply an eyesore and a health hazard. Although the notice was placed on the tree at eye level, nobody can get to see it unless they enter the property. The property is dark, dingy and depressing because of all the uncontrolled vegetation, which includes this particular tree, and you must duck under moss covered branches to get close to the sign.

To say that the tree is "of amenity value contributing to the character of the area and appearance of the property" is an absolute joke. Has anybody from your department come to have a look at the tree and the property? The property is a wooden shack with what I hear is an asbestos roof. There are numerous trees, shrubs and bushes growing wildly and only God knows what lies in the undergrowth but it does not smell pleasant.

\* The tree itself has things growing from it, which is not a sign of being healthy, and it may only be a matter of time before branches start falling from it.

The whole building and premises should be condemned and cleared with care (In case there is asbestos). Instead your tree preservation order makes planning permission for the property totally unappealing. ?

You go on to say "This order is to ensure good management and long term future".

There is no management of the property at all, and all your order does is makes sure that there never will be. Instead I can only see the trees getting higher, and the bushes getting thicker.



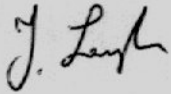
I know I have missed the 28 days to offer objection to the order but you must be flexible in this case as I think it is impossible to have seen the notice earlier than I did.

I think somebody from your department should visit this tree and this will confirm to you that it has little or no redeeming features that justify the preservation order.

I also think that you should insist that the Environmental Health Department take a look at the property. I for one cannot believe anybody lived there, as recently as last summer and you cannot stop young children in the area being curious.

Please advise what you intend to do to take this matter forward. If you are unable to act further on this then I would like to know how I can do something to get the property in better health and shape.

Yours sincerely



Mr Ihor Lewyk

1 Garden View,  
Gilstead, BD16 3LL.  
Tel: 01274 567559  
Mob: 0777 987 1952  
e-mail [ihorlewyk@lineone.net](mailto:ihorlewyk@lineone.net)



Copy

MEMORANDUM

**TO:**

Gary Rushworth  
Planning Office  
Town Hall  
SHIPLEY

**FROM:**

Alison West-Lay  
Planning Division Trees Section  
3<sup>rd</sup> Floor  
Jacobs Well  
Ext. 4297

**Your Ref:**

**My Ref:** P/EW/AWL/TPO806

---

20<sup>th</sup> June 2001

**OBJECTIONS TO TREE PRESERVATION ORDER  
116 GILSTEAD LANE BINGLEY**

Please find enclosed information regarding the above, for the Shipley Planning Panel agenda on 19<sup>th</sup> July 2001.

Information regarding the other one (Hoyle Court First School) to follow shortly.

*AW* Alison West-Lay  
Arboricultural Technician

**Item No:**

**Ward: Bingley**

**Recommendation:**

**THAT THE OBJECTIONS BE OVER-RULED AND THE TREE PRESERVATION ORDER BE CONFIRMED**

**Location:** 116 Gilstead Lane Bingley

**Tree Preservation Order No:** 806

**Report:** Outline planning permission for demolition of the existing property (a single storey wooden structure) and the erection of a two-storey house and integral garage at the above location, was refused in May 2001.

In connection with this outline planning application, which included the proposed siting of the house, the agent commissioned a tree survey which revealed that twenty-two of the twenty-four trees on the site were in poor condition and would be removed.

Of the only two trees proposed to remain, the Sycamore now subject to the Tree Preservation Order would clearly be affected by the siting of the house. As the tree is in fair condition and is in a prominent position to front of the site, a TPO was made in April 2001 to ensure its good management and long term future. It should be noted that a written request for a Tree Preservation Order was received from local residents.

As the owner is no longer living in the property, a notice regarding the making of the Order was posted on site. Two letters of objection from local residents were subsequently received.

The basic grounds of objections are as follows:

- 1) The tree may be diseased because it has ivy on it
- 2) The tree is considered to be dangerous
- 3) The tree is not healthy and branches may fall from it

The Local Planning Authority's response to the above is as follows:

- 1) The ivy on the tree does not affect its health and can be removed by the owner if required
- 2) The tree is not considered to be dangerous. However whether the tree is subject to a Preservation or not, it's health and safety is the responsibility of the owner.
- 3) The tree is considered to be in fair condition. The TPO does not preclude any necessary management works being carried out and an application for pruning works can be made to the Local Planning Authority in the usual way.

It should be noted that other comments in the two letters regarding the general condition of the property and its grounds cannot be taken into consideration. The property is now unoccupied and it is likely that a house of an appropriate scale will be built on the land in the future, which will remove any alleged 'health hazard' on the site.

It is therefore requested that the objections be over-ruled and the Order be confirmed.

Councillor David Heseltine  
1 Nab Wood Road,  
Shipley,  
BD18 4AG  
Tel: (01274) 597230 (Res)

SHIPLEY

16 JUL 2001

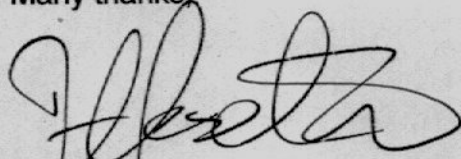
AREA OFFICE

Dear Peter,

Please find the enclosed letter from one of my constituents regarding the proposal for a TPO at 116 Gilstead Lane (TPO806).

The resident in my opinion has some justified objections, could you please make his comments known to members so they can take them into account in their decision making.

Many thanks

  
David Heseltine

Letter verbally reported to APP 19.7.01.  
R.G.B.

F.M. PENNINGTON  
"HILL TOP"  
118 GILSTAD LANE  
GILSTAD BINGLEY  
WEST YORKSHIRE BD16 3LH  
TEL: 01274 568039

05-07-01.

COUNCILLOR J. HESELTINE,  
1 NAB WOOD ROAD,  
SHIPLEY - B.D.18 4AG.

Dear Councillor Heseltine,

T.P.O. on hand at 116, GILSTAD LANE.

I understand that the above T.P.O. will be discussed by members of the Council's Area Planning Panel - Shipley on 19-07-01. I realise that I may be late in placing my objection to this T.P.O. hence my letter to the local councillor although I did write to the legal department, lodging my general complaint on 02-06-01.

- 1/ The tree is unhealthy. See as follows:
- 2/ The tree obliterated all but to my front garden
- 3/ The tree sheds all its leaves in the Autumn so that we are knee deep in leaves.
- 4/ The main concern however is safety, as I consider the tree to be dangerous and should it ever be disturbed or blown down, then it would demolish my house and if we were in the front garden it might even kill us. What would Bingley Council think of that and compensation would be inappropriate if we were killed??
- 5/ Remember 7 trees in Kent which was reduced to 1 tree in a matter of a few hours.
- 6/ In our garden we have many smaller trees, which are pruned every year by a specialised gardener (tree man) and we understand that the tree in question may be diseased due to the amount of ivy

growing up the tree. We also understand that diseased trees are more prone to being blown down. My department has visited the site so that you know exactly what I am talking about. I don't think that the Council's Planning Panel - simply, may take my objections into consideration and refuse the T.P.O.

Yours sincerely,  
F.M. Pinnings  
(F.M. Pinnings)

P.S. We have lived at our present address for 30 years, and in all that time the tree at 116 (instead) has never been removed or touched in any way. Why has it taken so long therefore to place a T.P.O. on this tree??

P.P.S. - Enclosed photo copy of previous letter written on 02.06.01 to the legal department dealing with T.P.O's.



Copy

**MEMORANDUM**

**TO:**

Carole Barrott  
Development Law Team  
Legal Services  
City Hall

**FROM:**

Alison West-Lay  
Development Services Trees Section  
3<sup>rd</sup> Floor  
Jacobs Well  
Ext. 4297

**Your Ref:** LEG/PL/CEB/25728

**My Ref:** P/EW/AWL/TPO806

20<sup>th</sup> July 2001.

**TOWN & COUNTRY PLANNING ACT 1990 - SECTION 201  
OBJECTIONS TO TREE PRESERVATION ORDER NO 806  
116 GILSTEAD LANE BINGLEY**

Further to my memorandum dated 14<sup>th</sup> June 2001 regarding the above, I write to inform you that the objections were over-ruled at Shipley Area Planning Panel on 19<sup>th</sup> July 2001.

Could you please confirm the Order.

Thanks very much

*AWL*



**BRADFORD**  
METROPOLITAN DISTRICT COUNCIL

**Department of Legal and Democratic Services**

**Legal Services**

City Hall  
Bradford  
West Yorkshire BD1 1HY  
DX11758 BRADFORD-1

Head of Legal Services:  
Susan Betteridge, Solicitor

Tel: 01274 754751

Fax: 01274 754242

E-mail: [carole.barrott@bradford.gov.uk](mailto:carole.barrott@bradford.gov.uk)



INVESTOR IN PEOPLE



From: Carole Barrott Legal Officer – Development Team	To: See Circulation Below
Ref: LEG/PL/CEB/ST/25728	
Date: 31 July 2001	Ref:

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 201  
LAND AT 116 GILSTEAD LANE GILSTEAD BINGLEY - TREE PRESERVATION ORDER**

The above Tree Preservation Order was confirmed on 31 July 2001. Please find attached a copy for your records.

*C.E. Barrott*

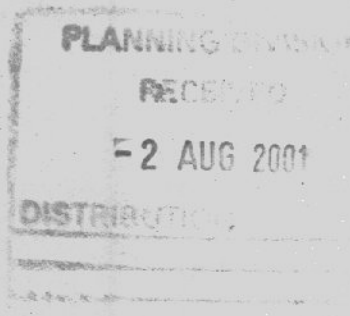
C E Barrott

Enc

Alison West - Lay (Arboricultural Technician)  
Tree Section  
Transportation, Design and Planning  
8<sup>th</sup> Floor  
Jacobs Well

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

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



(25728.M3)  
F:\DEV\TEMPLATE\STDS\TP11.DOT (Revised June 1999)



**TOWN AND COUNTRY PLANNING ACT 1990**

**THE LAND AT 116 GILSTEAD LANE GILSTEAD BINGLEY**

**TREE PRESERVATION ORDER 2001**

**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 at 116 Gilstead Lane, Gilstead, Bingley Tree Preservation Order 2001.

**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 10 April 2001.

**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

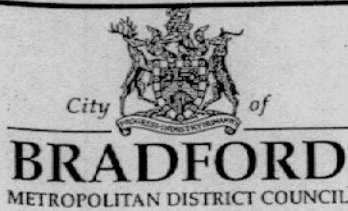
he shall, Subject to paragraphs (3) and (4), be entitled to compensation from the authority.

- (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



**TREE PRESERVATION ORDER NO. 806**

116 Gilstead Lane  
 Gilstead  
 Bingley



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



NORTH

OS REF: SE 1239 SW  
 SCALE 1:1250

Reproduced from the  
 Ordnance Survey map with  
 the sanction of  
 HM Stationary Office

CROWN COPYRIGHT  
 RESERVED  
 LA076120

April 2001

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.

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

82253

*Mark S. ...*

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 31<sup>st</sup> day of July 2001 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:-

83096

*Susan Bettendge*

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



**SCHEDULE 1****SPECIFICATION OF TREES**

**Trees specified individually**  
(encircled in black on the map)

Reference on map	Description	Situation
T1	Sycamore	SE 1222 3938

**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
	None	

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

Reference on map	Description	Situation
	None	

**SCHEDULE 2****PART 1**

Provisions of the Town and Country Planning Act 1990 applied  
with adaptations or modifications

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 69 (registers)	<p>(a) In Sub-Section (1):-</p> <p>(i) omit:- “, in such manner as may be prescribed by a development order,”, “such” in the second place where it appears, and “as may be so prescribed”; and</p> <p>(ii) Substitute “matters relevant to tree preservation orders made by the authority” for “applications for planning permission”.</p> <p>(b) In Sub-Section (2):-</p> <p>(i) after “contain” insert “, as regards each such order”, and</p> <p>(ii) for paragraphs (a) and (b) Substitute:-</p> <p>“(a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and</p> <p>(b) a statement as to the Subject matter of every appeal under the order and of the date and nature of the Secretary of State’s determination of it”.</p> <p>(c) Omit Sub-Sections (3) and (4) (as required by Section 198(4)).</p>
Section 70 (determination of applications:	(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>(b) Omit Sub-Sections (2) and (3).</p>
<p>Section 78 (right to appeal against planning decisions and failure to take such decisions)</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>
--	--

## 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.