

Memo

Department of Legal and Democratic Services

Legal Services
City Hall
Bradford
BD1 1HY



To: For circulation see below

From: Mr S P Nelson
Legal Officer
Development

Your Ref:

1108

Date: 6 December 2005

Tel: (01274) 432083
Fax: (01274) 434242
My Ref: LEG/DEV/SPN/27707
Email: Stephen.nelson@bradford.gov.uk

**TOWN AND COUNTRY PLANNING ACT 1990 - SECTION 201
31 TO 35 INTAKE ROAD BRADFORD - TREE PRESERVATION ORDER**

The above Tree Preservation Order was confirmed with amendments on 6th December 2005. Please find attached a copy for your records.

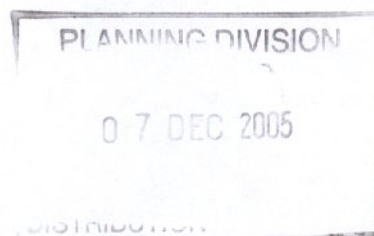
Mr S P Nelson
Legal Officer

Enc

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

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

For TPO's in Bradford Area (including Denholme)
Tracy Cullen (Senior Clerk)
Transportation, Design and Planning
Development Control
3rd Floor, Jacobs Well



N:\DEVELOPMENT\STDS\TP11.DOT(Revised June 1999)



BRADFORD
one landscape many views



TOWN AND COUNTRY PLANNING ACT 1990
LAND AT 31 TO 35 INTAKE ROAD BRADFORD
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 at 31 to 35 Intake Road Bradford 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 11th 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 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 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:-

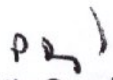
"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

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

Dated this 11th day of November 2004.

87055

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

Authorised by 
Legal and Democratic Services Director

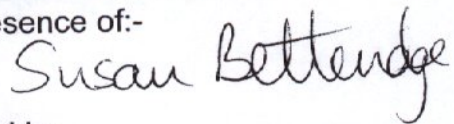
CONFIRMATION OF ORDER

~~This Order was confirmed by the City of Bradford Metropolitan District Council
without modification on the _____ day of _____~~

OR

This Order was confirmed by the City of Bradford Metropolitan District Council,
Subject to the modifications indicated by red lines, on the 6th day of December 2005

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


Authorised by
Legal and Democratic Services Director

88123

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
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
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
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	Bush	418076	434077
T2	Ash	418102	434667
T3	Lime	418108	434693
T4	Lime	418097	434693
T5	Cherry	418088	434718
T6	Sorbus	418100	434714
T7	Sycamore	418128	434666
T8	Ash	418124	434686
T9	Sycamore	418138	434659
T10	Sycamore	418143	434658

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 Cherry	418081	434711
G2	3 Sycamore, 1 Horse Chestnut	418158	434658

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</p>

<p>Section 70 (determination of applications: general considerations)</p>	<p>Section 198(4)).</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 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”</p>

	<p>for "planning permission" to develop 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)	<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> <p>(iii) “the authority.” for “the local planning authority and a development order may apply, with or without modifications, to</p>

	<p>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

To: Stephen Nelson

Your Ref: 27707

Department of Transportation,
Design and Planning

Minerals, Waste and Trees

3rd Floor
Jacobs Well
BRADFORD BD1 5RW

From: Daniel Speedy

Tel: (01274) 434297
Fax: (01274) 722840
E-Mail: daniel.speedy@bradford.gov.uk
My Ref: TDP/DS/TPO1108

COPY

SUBJECT: Land at 31 –35 Intake Road Bradford

The objection that was received from Mrs McMahon has now been considered by Keith Stones the Group Planning Manager and it has been decided to confirm the order with modifications.

Please find attached a signed authorisation to confirm the order with details of the modifications to be made.

Regards

Daniel Speedy
Trees Team

COPY

TREE PRESERVATION ORDER 1108 (2005)

LAND AT 31-35 INTAKE ROAD


In accordance with powers delegated to me under section SP16 of the City of Bradford Scheme of Delegation of Planning Decisions 2004, I Keith Stones being a Group Planning Manager resolve that the Council under the provisions of Section 201 of the Town and Country Planning Act 1990 confirm the Tree Preservation Order at 31-35 Intake Road, Bradford made on 21/11/2004 with modification.

The modification is as follows:

Omit T1
Omit G1
Omit T5

so that it reads

“T2 Ash, T3 Lime, T4 Lime, T7 Sycamore, T8 Ash, T9 Sycamore, T10 Sycamore,
G2 3 Sycamore, 1 Horse Chestnut”

SIGNED: 

Keith Stones
Group Planning Manager

DATED:

Item No: 1

Ward: Bolton & Undercliffe Ward

Recommendation: THAT THE TREE PRESERVATION ORDER BE CONFIRMED WITH MODIFICATION.

Location: 31-35 Intake Road, Bradford

Tree Preservation Order No: 1108: 31 – 35 Intake Road, Undercliffe

Summary Original Area Order TPO made on 20th April 2004 as a result of a planning application. Objection by GA & JL McMahon of 31 Intake Road. Further representations by Farleys Insurance acting on behalf of Mr McMahon on 10th November 2004. Decision taken not to confirm TPO on 11th November 2005.

Site was resurveyed picking up only trees worthy of the TPO. New (existing) TPO made on 11 November 2004 under s.201. Objection by Mr McMahon on 3rd December 2004 and 15th May 2005. Second objection letter is repetitive points made in the first letter.

Beech (T1) is removed through TPO application.

.....
The objection by G.A. McMahon of 31 Intake Road, Undercliffe is made on the following grounds:

Objection relates to G1, T5 and T4 only.

1. Trees were managed very well in the past and objector should be able to prune/remove trees without going through the council.
2. Trees have caused damage to a tarmac drive.
3. Insurers have recommended pre-emptive tree removal on the possibility of future tree related subsidence from occurring.
4. Objector cannot change insurers due to a previous subsidence issue.

Officer Comment:

The TPO expired on 11 May 2005 yet the trees are still in existence. The TPO was put in place due to a development application that has now been completed. Several of the trees are in close proximity to houses now (due to the development) and therefore it is expedient to ensure that the trees are protected so that any future tree works comply with good arboricultural practice.

G1 and T5 are relatively small specimens of no public merit. These trees are not worthy of a TPO because they are no longer visible from a public place

due to the approved development. T1 has been removed (consent granted under TPO application). The other trees are visible from Intake Road and are worthy of inclusion within the TPO. It is my recommendation that the TPO is confirmed with these modifications.

1. The TPO is not intended to hinder the objectors enjoyment of the trees and is not a means of restricting pruning, or indeed felling, where appropriate. The objector will still be able to manage his trees even with the TPO being in existence.

2. We have not been given any details of the nature of the damage to the tarmac driveway and until we do, I cannot comment further on this.

3. The letter from the insurers indicates that all Lime trees need to be 20m from a house to "comply with an insurance industry study and that...Lime trees are particularly noted for their tendency to remove a great deal of moisture from the ground". I assume that the minimum distances referred to in the insurers letter quotes NHBC chapter 4.2 (Building Near Trees). This document is not recognised by the arboricultural profession. In fact, I am not aware of any arboricultural document that presents a model of minimum distances of trees to buildings because of the complicated nature of the subject.

The insurers letter does not indicate soil type, any persistent soil moisture deficit, foundation depths, crack/level monitoring or root encroachment analysis. Until this information is provided there is no justification for the tree to be removed. I would be happy to review my position on this should any further information come to light in the future with specific reference to the subject site and Lime tree; rather than the generic advice that has been given so far.

4. The insurers letter gives general advice only and merely states that the objector would have to declare a history of subsidence when changing insurers. Until the Lime tree is implicated in a subsidence matter, the TPO is unlikely to compound any difficulties in changing insurers. In any event, the changing of insurers is not relevant to the making of the TPO.

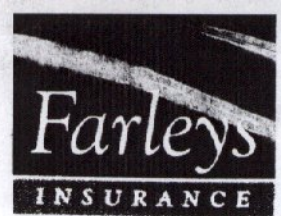
I believe that the historic subsidence damage occurred to the rear of the house, and I presume that suitable remedial works to the house, which may have included vegetation management, were undertaken then. The Lime tree in question is located at the front right of the house and was not implicated in that damage. Therefore I do not consider this tree to be a present threat to the house. It is also a significant tree worthy of the TPO.

It is therefore requested that the objection be overruled and the Tree Preservation Order be confirmed subject to the modification that T1, G1 and T5 are omitted.

Simon Keenan
Arboricultural Officer

Broker Ref: FARL01
Date: 10/11/2004

copy



Mr G A McMahon
Highfield House
31 Intake Road
Undercliffe
Bradford
BD2 3JP

Dear Mr McMahon

Implications for your Household Insurance of adjacent trees

I am writing following my visit to your home to assess the above situation. As you know, this visit was the result of conversations we have had on this matter over the last 12-18 months.

I noted on my visit that you have two Cherry trees in very close proximity to the rear of the house, a large Beech tree to the front left of the house and some trees, particularly a Lime, to the front right.

Also, checking my file, I note that you previously had some ground movement damage to the rear of the house a few years ago, since when the Cherry trees in this vicinity have, as one might expect, become larger.

There are two main insurance implications arising from the close proximity of trees to properties. The first concerns increased likelihood of damage to your property from either storm damaged trees or subsidence. In this respect the general view of insurers is that trees over 20 feet in height and trees within 30 feet of the building gives them cause for concern.

All the trees I have mentioned are within around 30 feet of the property. The Beech tree is quite mature and large. It appears to have some damage, perhaps from squirrels. In view of this it would seem to present a threat from both storm and subsidence. Lime trees are particularly noted for their tendency to remove a great deal of moisture from the ground. Your Lime tree is not of a size at present that causes a problem but it is close to the building and, as it grows, has the potential to do so.

The Cherry tree(s) are very close to the house and in an area which has suffered previous damage. We keep a library of industry information on subjects such as this and, as it may be interesting and relevant, I reproduce below an extract from an insurance industry study which shows the 'safe' distance from the house of mature trees of the species mentioned:-

Beech	15 metres
Lime	20 metres
Cherry	11 metres

It should also be noted that, should you ever wish to change insurer, you would need to mention the previous damage. This would then lead insurers to ask further questions, including the proximity of trees. They would almost certainly then require you to remove trees in close proximity before providing cover.



B I B A



General Insurance

E. Farley & Son Ltd
42 Piccadilly Bradford
West Yorkshire BD1 3PB

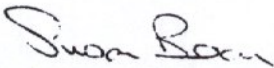
T: 01274 725526
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E: enquiries@farleysinsurance.co.uk
W: www.farleysinsurance.co.uk

In summary, given their proximity to your house, and the fact that you have previously experienced damage, it would seem that the trees mentioned all present a danger to your property.

The other implication from an insurance point of view is that of your potential liability for injury or damage to other persons or their property. Here the Beech tree would seem to be the potential problem as it is adjacent to an access road and neighbouring property. I also note that there appears to be a drain on the other side of the wall from the tree which is not a happy situation as the roots are likely to encroach on this utility. Given the fact that the Beech shows some damage already it would seem advisable to take action here to avoid future problems.

I trust the above is helpful, please do not hesitate to contact me if you have any queries.

Yours sincerely



RP
Stephen Howard
Managing Director
E Farley & Son Limited
email. stephen.howard@farleysinsurance.co.uk



B I B A

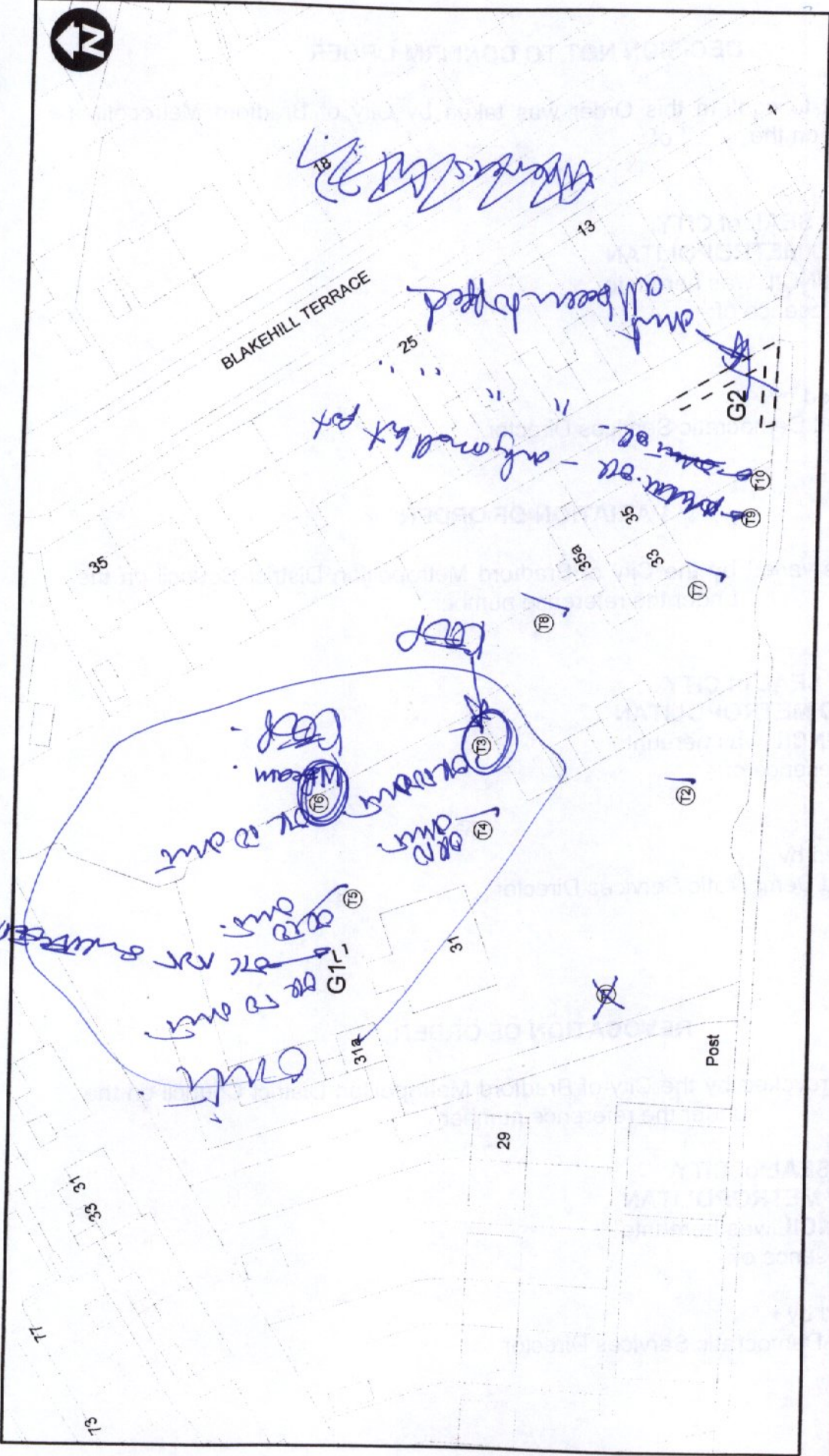


General Insurance

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Directors
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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
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
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
Legal and Democratic Services Director