

TOWN AND COUNTRY PLANNING ACT 1990

TEWKESBURY BOROUGH COUNCIL NO. 247

(PULLAR COURT BISHOPS CLEEVE)

TREE PRESERVATION ORDER 2005

The Council for the Borough of Tewkesbury in exercise of the powers conferred on them by Sections 198, 201 and 203 of the Town and Country Planning Act 1990.

hereby makes the following Order:-

Citation

1. This Order may be cited as the Tewkesbury Borough Council No. 247 Pullar Court Bishops Cleeve Tree Preservation Order 2005

Interpretation

2. In this Order "the authority" means the Council for the Borough of Tewkesbury 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 directs that Section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 28th July 2005.

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of Section 198 (power to make tree preservation orders) [or subsection (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 trees 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

- (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 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 the 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-

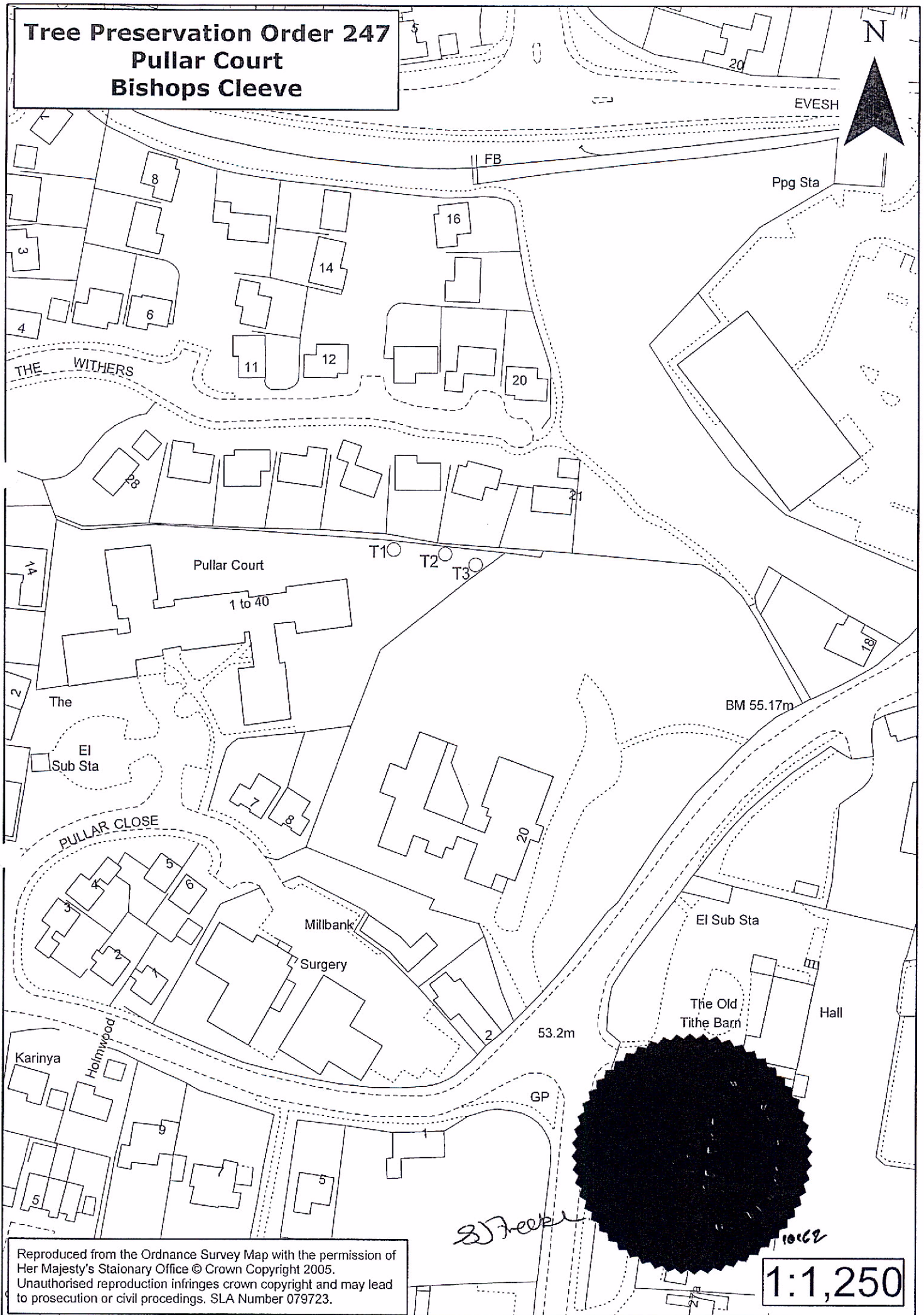
- (a) the refusal of any consent required under this Order; or
- (b) the grant of any such consent subject to conditions,

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.

Tree Preservation Order 247 Pullar Court Bishops Cleeve



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

<i>Reference on Map</i>	<i>Description</i>	<i>Situation</i>
T1	Yew (<i>Taxus baccata</i>)	SO 9565 2770
T2	Yew (<i>Taxus baccata</i>)	SO 9566 2769
T3	Yew (<i>Taxus baccata</i>)	SO 9567 2769

SCHEDULE 2
PART I
Provisions of the Town and Country Planning Act 1990 applied with adaptations or modifications

Provisions of the Town and Country Planning Act 1990	Adaptation or Modification
Section 69 (registers)	(a) In subsection (1)- (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 (ii) substitute "matters relevant to tree preservation orders made by the authority" for "applications for planning permission". (b) In subsection (2)- (i) after "contain" insert "as regards each such order"; and (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." (c) Omit subsections (3) and (4) (as required by section 198(4)).
Section 70 (determination of applications: general consideration)	(a) In subsection (1)- (i) substitute- "Subject to subsections (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

	(c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order." substitute- "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 subsection (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 subsection, 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". (d) For subsection (4), substitute- "(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).". (e) For subsection (5), substitute- "(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in questions.".
Section 79 (determination of appeals)* * Section 79 was amended by the Planning and Compensation Act 1991 (c.34), section 18 and Schedule 7, paragraph 19.	(a) In subsections (1) and (2), substitute "the authority" for "the local planning authority." (b) Omit subsection (3). (c) In subsection (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 (iii) "the authority" for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71". (d) Omit subsections (6) and (6A). (e) In subsection (7), omit the words after "section 78".

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 subsection (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 subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority has 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 subsection (3).

(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (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.

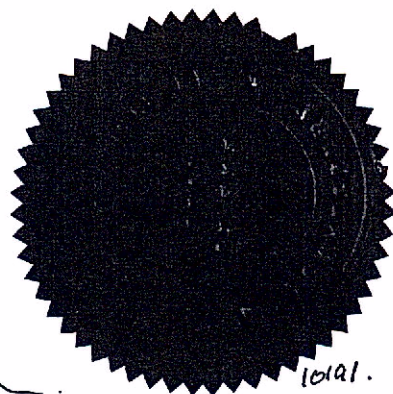
(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

	DATED 27th July 2005
	TOWN AND COUNTRY PLANNING ACT 1990 TEWKESBURY BOROUGH COUNCIL NO. 247 (PULLAR COURT BISHOPS CLEEVE) TREE PRESERVATION ORDER 2005

The Order was confirmed by **THE COUNCIL FOR THE BOROUGH OF TEWKESBURY** without modification on the 30th November 2005 no objections having been received

The Common Seal of THE COUNCIL
FOR THE BOROUGH OF
TEWKESBURY was hereunton affixed
in the presence of:

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SJ Treckel
Borough Solicitor

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