

TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999
As amended by the Town and Country Planning (Trees)(Amendment)(England)
Regulations 2008

TOWN AND COUNTRY PLANNING ACT 1990

TEWKESBURY BOROUGH COUNCIL (NO. 289)

(CRICKET GROUND, DUMBLETON)

TREE PRESERVATION ORDER 2009

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 make the following Order -

Citation

1. This Order may be cited as the Tewkesbury Borough Council (No. 289) (Cricket Ground, Dumbleton) Tree Preservation Order 2009.

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 direct that Section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 9th July 2009.

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 (1) of Section 200 (tree preservation orders: Forestry Commissioners), 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;
- (aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);
- (ab) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;
- (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 person authorised by any 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,
- a relevant airport operator (within the meaning of Part V of the Airports Act 1986),
- the holder of a licence under Section 6 of the Electricity Act 1989,
- a gas transporter,

- 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,
- a water or sewerage undertaker,
- the Civil Aviation Authority, a body acting on behalf of that authority or a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000,
- a universal postal service provider in connection with the provision of a universal postal service.

Applications for consent under the Order

6. *This article was revoked by the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008. Applications for consent are now governed by regulation 9A of the 1999 Regulations.*

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 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 has 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 application and the documents and particulars accompanying it, 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 avert 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) Subsections (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-

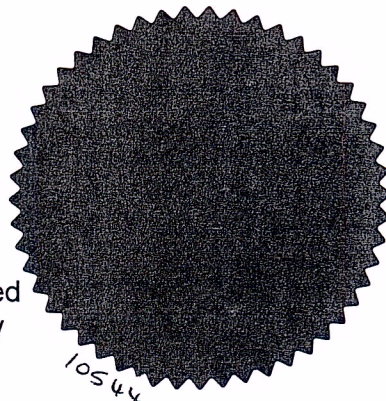
"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

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

Dated this 9th day of July 2009

THE COMMON SEAL of the COUNCIL)
FOR THE BOROUGH OF TEWKESBURY)
was hereunto affixed in the presence of-)


Borough Solicitor/Authorised
Signatory



[CONFIRMATION OF ORDER

[This Order was confirmed by the *[insert name of Council]* without modification on the [] day of *[insert month and year]*]

OR

[This Order was confirmed by the *[insert name of Council]*, subject to the modifications indicated by *[state how indicated]*, on the [] day of *[insert month and year]*]

.....
Authorised by the Council to sign in that behalf]

[DECISION NOT TO CONFIRM ORDER

[A decision not to confirm this Order was taken by *[insert name of Council]* on the [] day of *[insert month and year]*]

.....
Authorised by the Council to sign in that behalf]

[VARIATION OF ORDER

[This Order was varied by the *[insert name of Council]* on the [] day of *[insert month and year]* under the reference number *[insert reference number of the variation order]*]

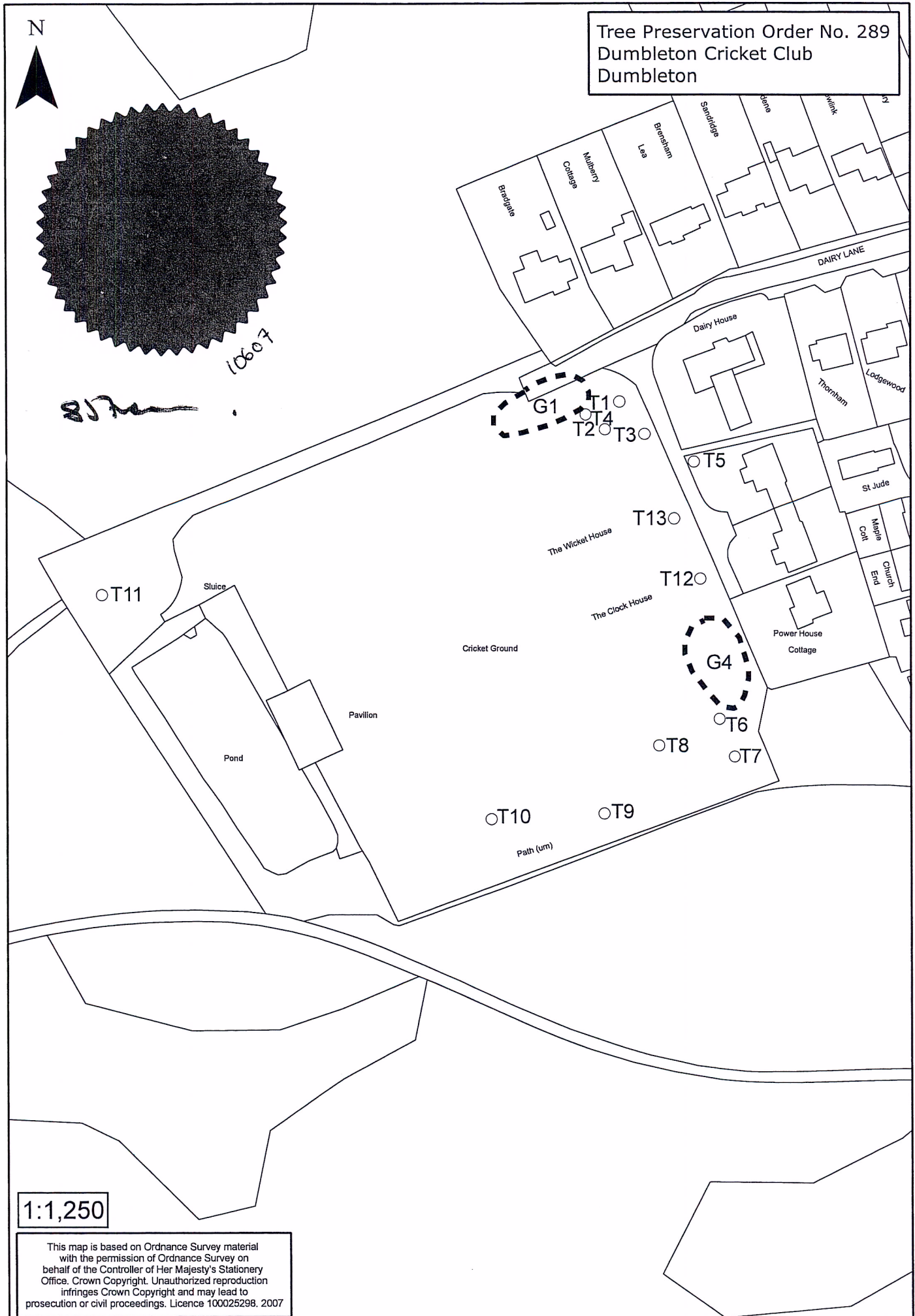
.....
Authorised by the Council to sign in that behalf]

[REVOCATION OF ORDER

[This Order was revoked by the *[insert name of Council]* on the [] day of *[insert month and year]* under the reference number *[insert reference number of the revocation order]*]

.....
Authorised by the Council to sign in that behalf]

SUBSTITUTED PLAN



SUBSTITUTED FIRST SCHEDULE SCHEDULE

TREE SPECIFICATION

(individuals are encircled in black, groups are shown as a broken black line)

No. on Map	Description	Situation
T1	Holm Oak <i>Quercus ilex</i>	401555 235908
T2	Yew <i>Taxus baccata</i>	401549 235904
T3	Yew <i>Taxus baccata</i>	401564 235899
T4	Scotts Pine <i>Pinus sylvestris</i>	401550 235902
T5	Oak <i>Quercus robur</i>	401578 235893
T6	Oak <i>Quercus robur</i>	401583 235825
T7	Oak <i>Quercus robur</i>	401587 235810
T8	Sycamore <i>Acer pseudoplatanus</i>	401561 235817
T9	London Plane <i>Platanus x hispanica</i>	401565 235812
T10	Oak <i>Quercus robur</i>	401519 235793
T11	Oak <i>Quercus robur</i>	401422 235859
T12	Horse Chestnut <i>Aesculus hippocastanum</i>	401579 235862
T13	Field Maple <i>Acer campestre</i>	401571 235879
G1	3 Cherry <i>Prunus serotina</i>	401539 235908
G4	3 Sycamore <i>Acer pseudoplatanus</i>	401582 235839