

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.350)

(INVISTA, BROCKWORTH)

TREE PRESERVATION ORDER 2011

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.350)(INVISTA, BROCKWORTH) Tree Preservation Order 2011.

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 15th September 2011

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

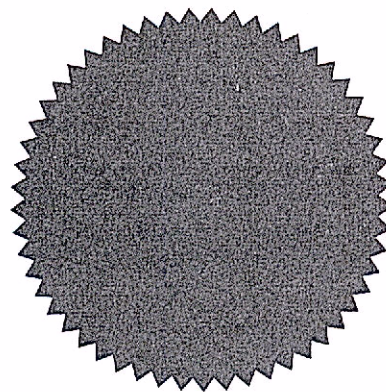
8. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time 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.

Dated this 15th day of September 2011

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



A handwritten signature in black ink, appearing to be 'B. H. C.', written in a cursive style.

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]

SCHEDULE 1

SPECIFICATION OF TREES

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

Groups of trees – (within a broken black line on the map)

No. on Map	Description	Situation
G1	Mixed species group of: Horse Chestnut (<i>Aesculus hippocastanum</i>), Eucalyptus (<i>Eucalyptus gunii</i>), Black Poplar (<i>Populus nigra</i>), Norway Maple (<i>Acer platanoides</i>)	388913 216433
No. on Map	Description	Situation
G2	Mixed Species Group of: Silver Maple (<i>Acer saccharinum</i>), Norway Maple (<i>Acer platanoides</i>)	388900 216500
No. on Map	Description	Situation
G3	Silver Birch <i>Betula pendula</i>	389000 216400
No. on Map	Description	Situation
G4	Japanese Maple (<i>Acer palmatum</i>) Norway Maple (<i>Acer platanoides</i>)	389011 216395
No. on Map	Description	Situation
G5	Cypress (<i>Cuprocedaris spp.</i>)	389032 216412

No. on Map	Description	Situation
G6	Mixed Species Group of: Sycamore (<i>Acer pseudoplatanus</i>), Holly (<i>Ilex aquifolium</i>), Hawthorn (<i>Crataegus monogyna</i>), Cyprus (<i>Cuprocedaris spp.</i>)	389034 216393

No. on Map	Description	Situation
G11	Mixed Species Group of: Cyprus (<i>Cuprocedaris spp.</i>) Eucalyptus (<i>Eucalyptus gunii</i>), Black Poplar (<i>Populus nigra</i>)	388988 216377

No. on Map	Description	Situation
G12	Mixed Species Group of: Black Poplar (<i>Populus nigra</i>), Sycamore (<i>Acer pseudoplatanus</i>), Cyprus (<i>Cuprocedaris spp.</i>), Lime (<i>Tilia x europaea</i>), Silver Birch (<i>Betula pendula</i>), Rowan (<i>Sorbus aucuparia</i>)	388942 216400

No. on Map	Description	Situation
G13	Mixed Species Group of: Lime (<i>Tilia x europaea</i>), Rowan (<i>Sorbus aucuparia</i>), Norway Maple (<i>Acer platanoides</i>), Walnut (<i>Juglans regia</i>)	388986 216307

No. on Map	Description	Situation
G14	Lime (<i>Tilia x europaea</i>)	388971 216198

No. on Map	Description	Situation
G16	Mixed Species Group of: Cyprus (<i>Cuprocedaris spp.</i>), Beech (<i>Fagus sylvatica</i>)	388953 216117

No. on Map	Description	Situation
G17	Lime (<i>Tilia x europaea</i>)	388919 216110

No. on Map	Description	Situation
G18	Crack Willows (<i>Salix fragilis</i>)	388768 215837

No. on Map	Description	Situation
G19	Field Maple (<i>Acer campestre</i>)	388831 215918

No. on Map	Description	Situation
G20	Lime (<i>Tilia x europaea</i>)	388779 215931

No. on Map	Description	Situation
G21	Mixed Species Group of: Black Poplar (<i>Populus nigra</i>), Lime (<i>Tilia x europaea</i>)	388646 215964

No. on Map	Description	Situation
G22	Black Poplar (<i>Populus nigra</i>)	388618 215966

No. on Map	Description	Situation
G23	Mixed Species Group of: Lombardy Poplar (<i>Populus nigra</i>), Cyprus (<i>Cuprodedaris spp.</i>)	388604 215981

No. on Map	Description	Situation
G24	Mixed Species Group of: Black Poplar (<i>Populus nigra</i>), Cyprus (<i>Cuprodedaris spp.</i>)	388564 215974

No. on Map	Description	Situation
G25	Mixed Species Group of: Black Poplar (<i>Populus nigra</i>), White Willow (<i>Salix alba</i>)	388498 215996

No. on Map	Description	Situation
G27	Norway Maple (<i>Acer platanoides</i>)	388484 216044

No. on Map	Description	Situation
G28	Horse Chestnut (<i>Aesculus hippocastanum</i>)	388565 216243

No. on Map	Description	Situation
G29	Mixed Species Group of: Lime (<i>Tilia x europaea</i>), Field Maple (<i>Acer campestre</i>), Norway Maple (<i>Acer platanoides</i>)	388837 216138

No. on Map	Description	Situation
G30	Silver Maple (<i>Acer saccharinum</i>)	388833 216170

No. on Map	Description	Situation
G31	Mixed Species Group of: Lime (<i>Tilia x europaea</i>), London Plane (<i>Platanus acerifolia</i>), Yew (<i>Taxus baccata</i>)	388618 216498

No. on Map	Description	Situation
G32	Mixed Species Group of: Ash (<i>Fraxinus excelsior</i>), Black Poplar (<i>Populus nigra</i>), Apple (<i>Malus domestica</i>)	388600 216600

No. on Map	Description	Situation
T1	Black Poplar <i>Populus nigra</i>	388907 216470

No. on Map	Description	Situation
T2	Horse Chestnut <i>Aesculus hippocastanum</i>	388956 216428

No. on Map	Description	Situation
T3	London Plane <i>Platanus acerifolia</i>	388955 216427

No. on Map	Description	Situation
T4	Walnut <i>Juglans regia</i>	388967 216438

No. on Map	Description	Situation
T5	Horse Chestnut <i>Aesculus hippocastanum</i>	388976 216431

No. on Map	Description	Situation
T6	Ginkgo <i>Ginkgo biloba</i>	388983 216397

No. on Map	Description	Situation
T7	Oak <i>Quercus Robur</i>	388992 216393

No. on Map	Description	Situation
T8	White Beam <i>Sorbus aria</i>	389010 216428

No. on Map	Description	Situation
T9	London Plane <i>Platanus acerifolia</i>	389022 216418

No. on Map	Description	Situation
T10	Lime <i>Tilia x europaea</i>	389016 216377

No. on Map	Description	Situation
T11	Blue Atlas Cedar <i>Cedrus atlantica</i>	388956 216409

No. on Map	Description	Situation
T12	Tulip Tree <i>Liriodendron tulipifera</i>	388893 216408

No. on Map	Description	Situation
T13	Yew <i>Taxus baccata</i>	388938 216128

No. on Map	Description	Situation
T14	Norway Maple <i>Acer platanoides</i>	388935 216094

No. on Map	Description	Situation
T15	Beech <i>Fagus sylvatica</i>	388941 216084

No. on Map	Description	Situation
T16	Horse Chestnut <i>Aesculus hippocastanum</i>	388954 216090

No. on Map	Description	Situation
T17	Norway Maple <i>Acer platanoides</i>	388952 216060

No. on Map	Description	Situation
T18	Cherry <i>Prunus spp.</i>	388955 216033

No. on Map	Description	Situation
T19	London Plane <i>Platanus acerifolia</i>	388959 216010

No. on Map	Description	Situation
T20	Beech <i>Fagus sylvatica</i>	388966 216003

No. on Map	Description	Situation
T21	Beech <i>Fagus sylvatica</i>	388973 215981

No. on Map	Description	Situation
T22	Norway Maple <i>Acer platanoides</i>	388985 215945

No. on Map	Description	Situation
T23	Beech <i>Fagus sylvatica</i>	388964 215943

No. on Map	Description	Situation
T24	Norway Maple <i>Acer platanoides</i>	388949 215945

No. on Map	Description	Situation
T25	Beech <i>Fagus sylvatica</i>	388931 215941

No. on Map	Description	Situation
T26	Horse Chestnut <i>Aesculus hippocastanum</i>	388991 215959

No. on Map	Description	Situation
T27	Norway Maple <i>Acer platanoides</i>	388893 215945

No. on Map	Description	Situation
T28	Ash <i>Fraxinus excelsior</i>	388893 215934

No. on Map	Description	Situation
T29	Norway Maple <i>Acer platanoides</i>	388909 215920

No. on Map	Description	Situation
T30	Ash <i>Fraxinus excelsior</i>	388927 215923

No. on Map	Description	Situation
T31	Lime <i>Tilia x europaea</i>	388936 215917

No. on Map	Description	Situation
T32	Maple <i>Acer saccharinum</i>	388978 215892

No. on Map	Description	Situation
T33	London Plane <i>Platanus acerifolia</i>	388978 215872

No. on Map	Description	Situation
T34	Hawthorn <i>Crataegus monogyna</i>	388921 215774

No. on Map	Description	Situation
T35	Oak <i>Quercus Robur</i>	388875 215783

No. on Map	Description	Situation
T36	Hawthorn <i>Crataegus monogyna</i>	388829 215791

No. on Map	Description	Situation
T37	Crab Apple <i>Malus sylvestris</i>	388765 215875

No. on Map	Description	Situation
T38	Norway Maple <i>Acer platanoides</i>	388778 215900

No. on Map	Description	Situation
T39	Norway Maple <i>Acer platanoides</i>	388788 215903

No. on Map	Description	Situation
T40	Maple <i>Acer saccharinum</i>	388798 215901

No. on Map	Description	Situation
T41	Maple <i>Acer saccharinum</i>	388807 215909

No. on Map	Description	Situation
T42	Beech <i>Fagus sylvatica</i>	388881 215953

No. on Map	Description	Situation
T43	Oak <i>Quercus Robar</i>	388854 215965

No. on Map	Description	Situation
T44	Ash <i>Fraxinus excelsior</i>	388785 215916

No. on Map	Description	Situation
T45	Lime <i>Tilia x europaea</i>	388746 215914

No. on Map	Description	Situation
T46	London Plane <i>Platanus acerifolia</i>	388726 215916

No. on Map	Description	Situation
T48	Black Poplar <i>Populus nigra</i>	388607 215956

No. on Map	Description	Situation
T49	Ash <i>Fraxinus excelsior</i>	388500 216095

No. on Map	Description	Situation
T50	Horse Chestnut <i>Aesculus hippocastanum</i>	388518 216106

No. on Map	Description	Situation
T51	Horse Chestnut <i>Aesculus hippocastanum</i>	388537 216144

No. on Map	Description	Situation
T52	Horse Chestnut <i>Aesculus hippocastanum</i>	388537 216162

No. on Map	Description	Situation
T53	London Plane <i>Platanus acerifolia</i>	388553 216229

No. on Map	Description	Situation
T54	Black Poplar <i>Populus nigra</i>	388652 216231

No. on Map	Description	Situation
T55	Black Poplar <i>Populus nigra</i>	388685 216191

No. on Map	Description	Situation
T56	London Plane <i>Platanus acerifolia</i>	388774 216144

No. on Map	Description	Situation
T57	Horse Chestnut <i>Aesculus hippocastanum</i>	388765 216071

No. on Map	Description	Situation
T58	Yew <i>Taxus baccata</i>	388513 216221

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 considerations)	(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 where those words appear; (ii) after "think fit", insert- "(including conditions limiting the duration of the consent or requiring the replacement of trees)"; and (iii) omit "subject to sections 91 and 92,". (b) After subsection (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).".
	(c) Omit subsections (2) and (3).
Section 75 (effect of planning permission)	(a) In subsection (1) substitute- (i) "Any" for the words from "Without" to "any"; (ii) "consent under a tree preservation order" for "planning permission to develop land"; (iii) "the consent" for "the permission"; and (iv) "the land to which the order relates" for "the land". (b) Omit subsections (2) and (3).
Section 78 (right to appeal against planning decisions and failure to take such decisions)	(a) In subsection (1) substitute- (i) "the authority" for "a local planning authority"; (ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear; (iii) "consent under such an order" for "planning permission" in the second place where those words appear; (iv) for paragraph (c) substitute- "(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,".

	(b) Omit subsection (2). (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 question."
Section 79 (determination of appeals)	(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".

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.

.....

- (2) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

- (1) Subject to subsections (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 condition as they think fit (including conditions limiting the duration of the consent or 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 to 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 far as the 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 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.

(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.

.....

(4) Subject to subsection (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.

	DATED 15th September 2011
	TOWN AND COUNTRY PLANNING ACT 1990 TEWKESBURY BOROUGH COUNCIL (NO.350) (INVISTA, BROCKWORTH) TREE PRESERVATION ORDER 2011
I hereby certify the foregoing Order to be a true copy of the Tewkesbury Borough Council (NO.350) (INVISTA, BROCKWORTH) Tree Preservation Order 2011  Borough Solicitor/ Authorised Signatory	