

TREE PRESERVATION ORDER

Town and Country Planning Act 1971

(as amended)

TEWKESBURY BOROUGH COUNCIL (No. 59)
(NEW ROAD, SOUTHAM)

TREE PRESERVATION ORDER 1981

TEWKESBURY BOROUGH PLANNING DEPARTMENT
M.....
Recd. 24 FEB 1981
Ack'd.....
Ans'd.....
File.....

THE COUNCIL FOR THE BOROUGH OF TEWKESBURY in this Order called "the Authority", in pursuance of the powers conferred in that behalf by Sections 60 ~~and 61~~ of the Town and Country Planning Act 1971, and subject to the provisions of the Forestry Act 1967, hereby makes the following order:-

1. In this Order:-

"the Act" means the Town and Country Planning Act 1971, (as amended); "the owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including a sub-lease) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession; and "the Secretary of State" means the Secretary of State for the Environment.

2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting wilful damaging or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups of trees and woodlands is defined in the manner indicated in the said First Schedule on the map annexed hereto which map shall, for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the said First Schedule.

3. An application for consent made to the authority under Article 2 of this Order shall be in writing stating the reasons for making the application and shall, by reference if necessary to a plan, specify the trees to which the application relates, and the operations for the carrying out of which consent is required.

NOTE: If it is desired to fell any of the trees included in this Order, whether included as trees, groups of trees or woodlands, and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application should be made not to the authority for consent under this Order but to the Conservator of Forests for a licence under that Act (section 15 (5)).

4. (1) Where an application for consent is made to the authority under this Order, the Authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent:

Provided that where the application relates to any woodland specified

7. On imposing any condition requiring the replacement of any tree under Article 4 of the Order, or on giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall if such condition or direction relates to land in respect of which byelaws made by a water authority since the 31st of March 1974, by any other authority (whose functions are now exercised by a water authority) who at any time prior to the 1st of April 1974 exercised the functions in respect of which the byelaw was made, by a drainage board, or by the Greater London Council in the exercise of any of its functions in relation to the maintenance improvement or construction of watercourses or of drainage works restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the water authority, the drainage board, or the Greater London Council under those byelaws and the condition or direction shall have effect accordingly.

8. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Act adapted and modified for the purposes of this Order, shall apply in relation thereto.

9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions, shall if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority compensation in respect of such loss or damage:

Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

10. In assessing compensation payable under the last preceding Article account shall be taken of:

- (a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under section 60 of the Act or under the terms of any Interim Preservation Order made under section 8 of the Town and Country Planning (Interim Development) Act 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act, 1932 and
- (b) any injurious affection to any land of the owner which would result from the felling of the trees the subject of the claim.

11. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority, such service to be effected by addressing the claim to the authority and leaving it at or sending it by post to the principal office of the authority.

(2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the authority or of the Secretary of State, as the case may be, or where an appeal has been made to the Secretary of State against the decision of the authority, from the date of the decision of the Secretary of State on the appeal.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

(encircled in black on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
T.1	Oak	In Field No. 0970 adjoining New Road, Southam
T.2	Oak	In Field No. 0558 " "
T.3	Oak	In Field No. 9350 " "
T.4	Oak	In Field No. 1350 " "
T.5	Oak	" " " " " "
T.6	Oak	On boundary between Fields No. 1038 & 9435
T.7	Oak	" " " " "
T.8	Oak	In Field No. 2736 adjoining New Road, Southam
T.9	Oak	" " " " " "

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY
(encircled in black on the map)

No. on map	Description	Situation
------------	-------------	-----------

See Schedule

TREES SPECIFIED BY REFERENCE TO AN AREA
(within a dotted black line on the map)

No. on map	Description	Situation
------------	-------------	-----------

NONE

GROUP OF TREES
(within a broken black line on the map)

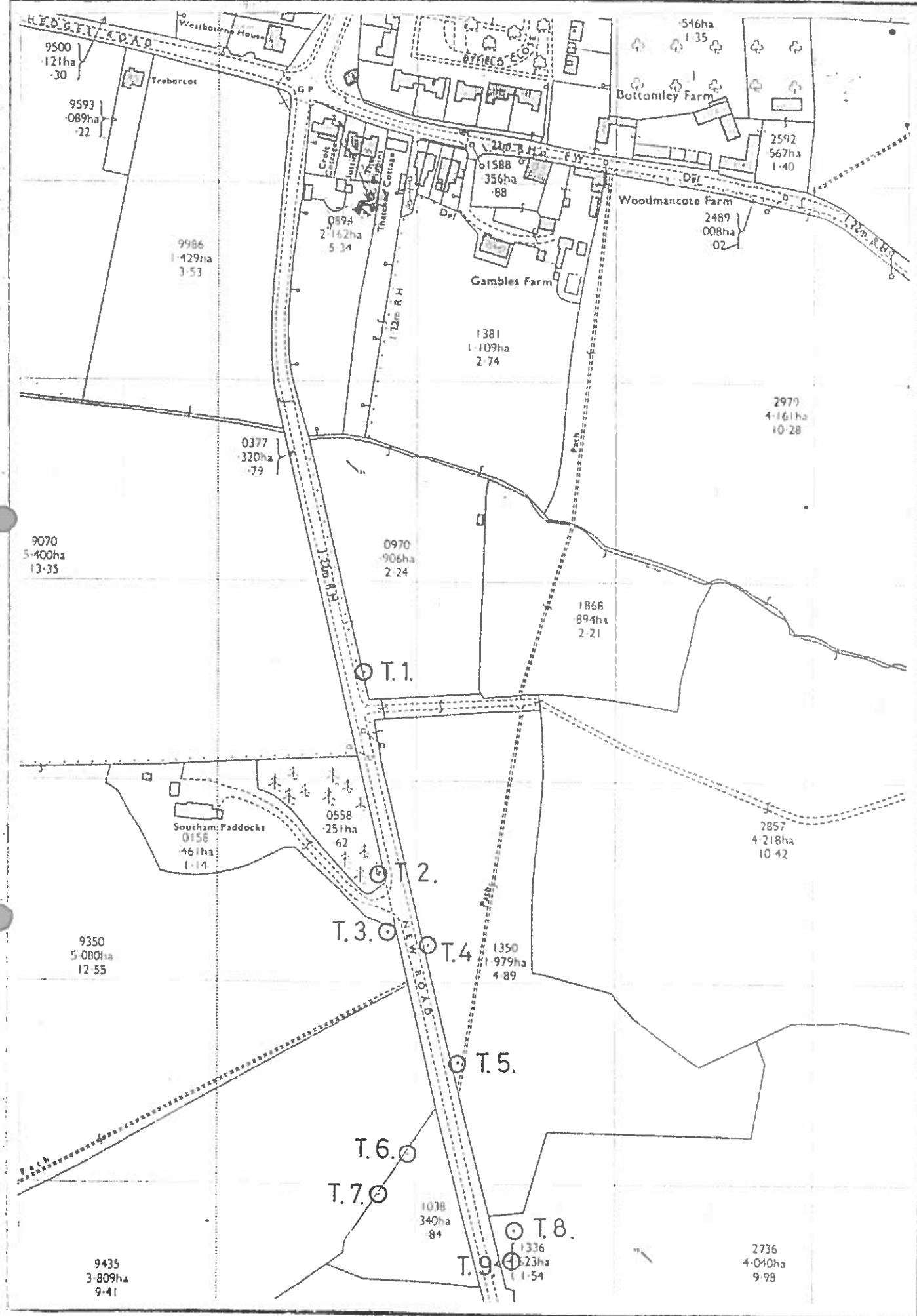
No. on map	Description	Situation
------------	-------------	-----------

NONE

WOODLANDS
(within a continuous line on the map)

No. on map	Description	Situation
------------	-------------	-----------

NONE



TREE PRESERVATION
ORDER AT NEW ROAD,
SOUTHAM.

A. A. WHITWORTH.
BOROUGH PLANNING OFFICER
TEWKESBURY BOROUGH COUNCIL

scale . 1:2500
ref no . T.P.1034
date . 9.10.80
drawn .

- (c) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;
- (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

THIRD SCHEDULE

Provisions of the following parts of Part III of the Act as adapted and modified to apply to this Order.

33 (1) Without prejudice to the following provisions as to the revocation or modification of consents any consent under the Order, including any direction as to replanting given by the authority on the granting of such consent, shall (except in so far as the consent otherwise provides), enure for the benefit of the land and of all persons for the time being interested therein.

35. (1) The Secretary may give directions to the authority requiring applications for consent under the Order to be referred to him instead of being dealt with by the authority.

35. (2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.

35. (3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

35. (4) Where an application for consent under the Order is referred to the Secretary of State under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the authority.

35. (5) Before determining an application referred to him under this section the Secretary of State shall if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by a person appointed by the Secretary of State for the purpose.

35. (6) The decision of the Secretary of State on any application referred to him under this section shall be final.

36. (1) Where an application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions, or where any certificate or direction is given by the authority, the applicant, if he is aggrieved by their decision on the application, or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Secretary of State.

36. (2) A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Secretary of State may allow.

36. (3) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Secretary of State, subject to the following provisions of this section, may allow or dismiss the appeal or may reverse or vary any part of the decision of

Provided that the revocation or modification of consent shall not affect so much of those operations as has been previously carried out.

45. (5) Where a notice has been served in accordance with the provisions of subsection (3) of this section, no operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Secretary of State under subsection (2) of this section.

46. (1) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called "such Order") under section 45 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Secretary of State for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such Order have notified the authority in writing that they do not object to such Order.

46. (2) The authority shall advertise the fact that such Order has been made and the advertisement shall specify (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose and (b) the period (not less than 14 days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Secretary of State, such Order may take effect by virtue of this section and without being confirmed by the Secretary of State.

46. (3) The authority shall also serve notices to the same effect on the persons mentioned in subsection (1) above.

46. (4) The authority shall send a copy of any advertisement published under subsection (2) above to the Secretary of State, not more than three days after the publication.

46. (5) If within the period referred to in subsection (2)(a) above no person claiming to be affected by such Order has given notices to the Secretary of State as aforesaid and the Secretary of State has not directed that such Order be submitted to him for confirmation, such Order shall at the expiration of the period referred to in subsection (2)(b) of this section take effect by virtue of this section and without being confirmed by the Secretary of State as required by section 45 (2) of the Act.

46. (6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under this Part of the Act or under Part IV or V thereof.

The Common Seal of the COUNCIL)
FOR THE BOROUGH OF TEWKESBURY)
was hereunto affixed this)
19th day of January 1978)
in the presence of:--)

Barbara Arnold

Mayor

R.A. Wheeler

Borough Secretary

DATED 19th January, 1981

TOWN AND COUNTRY PLANNING ACT 1971-1974

TEWKESBURY BOROUGH COUNCIL (No. 59)

(NEW ROAD, SOUTHAM)

TREE PRESERVATION ORDER, 1981

I hereby certify that this is a true copy of the within-written
Tewkesbury Borough Council (No. 59) (New Road, Southam) Tree
Preservation Order, 1981.

Dated the 23rd day of February, 1981

JA Danish

Solicitor to the Council