

FIRST SCHEDULE *

TREES SPECIFIED INDIVIDUALLY
(encircled in black on the map)

No. on map

Description.

Situation

T.1

OAK TREES

{ situate on the corner of Down
{ Hatherley Lane, and the A.38
{ Drunk Road, in the Borough of
{ Tewkesbury, and marked T.1 on
{ the map annexed to this Order.

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 black line on the map)

No. on map

Description

Situation

None

SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority to
(1) the cutting down of any tree on land which is subject to a forestry dedication covenant where

(a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilling;

(b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.

(2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme.

*(3) the cutting down, uprooting, topping or lopping of a tree exempted from the provisions of this Order by section 60 (6) of the Act namely a tree which is dying or dead or has become dangerous, or the cutting down, uprooting, topping or lopping of which is in compliance with obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.

(4) the cutting down, uprooting, topping or lopping of a tree

(a) in pursuance of the power conferred on the Postmaster General by virtue of section 5 of the Telegraph (Construction) Act 1908;

(b) by or at the request of

(i) a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking;

(ii) an electricity board within the meaning of the Electricity Act 1947, where such tree obstructs the construction by the board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act 1919 and the Electric Lighting Act 1882 or interferes or would interfere with the maintenance or working of any such line;

* NOTE: Section 62 of the Act requires, unless on the application of the owner the local authority dispense with the requirement, that any tree removed, uprooted or destroyed under Section 60 (6) of the Act, shall be replaced by another tree of appropriate size and species. In order to enable the local planning authority to come to a decision, on whether or not to dispense with the requirement, notice of the proposed action should be given to the local planning authority which except in a case of emergency shall be of not less than five days.

* Every heading should be included in the Schedule, and the word 'NONE' written in where necessary.

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)).

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 29 of the Town and Country Planning Act 1962 or 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 delivering the claim at the offices of the authority addressed to the Clerk thereof or by sending it by prepaid post so addressed.

(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.

12. Any question of disputed compensation shall be determined in accordance with the provisions of section 179 of the Act.

~~NOTHING IN THIS ORDER SHALL BE TAKEN TO PREVENT THE APPLICATION OF ANY OTHER ACT OR ORDER WHICH MAY BE IN FORCE AT THE TIME THIS ORDER IS MADE.~~

14. This Order may be cited as the TEMKESBURY BOROUGH COUNCIL (No.9)

(Down Bartherley Lane, Down Bartherley) Tree Preservation Order 1976

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 the authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

36.-(4) Before determining an appeal under this section, the Secretary of State shall, if either the appellant 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.

36.-(6) The decision of the Secretary of State on any appeal under this section shall be final.

37. Where an application for consent under the Order is made to the authority, then unless within two months from the date of receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either -

- (a) give notice to the applicant of their decision on the application, or
- (b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 35 above;

the provisions of the last preceding section shall apply in relation to the application as if the consent to which it relates had been refused by the authority, and as if notification of their decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be.

45.-(1) If it appears to the authority that it is expedient to revoke or modify any consent under the Order granted on an application made under Article 3 of the Order, the authority may by Order revoke or modify the consent to such extent as they consider expedient.

45.-(2) Except as provided in sections 46 and 61 of the Act an Order under this section shall not take effect unless it is confirmed by the Secretary of State, and the Secretary of State may confirm any such Order submitted to him either without modification or subject to such modification as he considers expedient.

45.-(3) Where an authority submit an Order to the Secretary of State for his confirmation under this section, the authority shall furnish the Secretary of State with a statement of their reason for making the Order and shall serve notice together with a copy of the aforesaid statement on

TREE PRESERVATION ORDER

Town and Country Planning Act 1971

Town and Country Amenities Act 1974

TEWKESBURY BOROUGH COUNCIL (*Res. 19*) (*Open Meeting*)

) TREE PRESERVATION ORDER 1976

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 1971, hereby makes the following order:-

1. In this Order:-

"the act" means the Town and Country Planning Act 1971, as amended by the Town and Country Amenities Act 1974 "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; leases (including a sub-lessee) 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 to a plan specifying the trees to which the application relates, and the operations for the carrying out of which consent is required.

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 in the First Schedule to this Order the authority shall grant so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

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 of V thereof.

The Common Seal of the COUNCIL
FOR THE BOROUGH OF TEWKESBURY
was hereunto affixed this
19th day of January 1976
in the presence of:-

(Signed) A. Morrison
Mayor

(Signed) R. A. Wheeler
Borough Secretary

I HEREBY CERTIFY this to be a true copy
of the Order of which it purports to be
a true copy.

Dated the 20th day of January 1976

Borough Solicitor