

NORTH TYNESIDE COUNCIL

3371 SB
3471 SW
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INTERNAL MEMORANDUM

To: See Below

Ref:

Date: 10 April 2001

From: Quasi-Judicial Office

Ref: MDR/MG/DEV:581

This matter is being dealt with by:
Mr M D Robson

10 APR 2001

The Council of the Borough of North Tyneside
(Burnt House Nurseries, Whitley Bay) Tree Preservation Order 2001

I enclose a copy of the above mentioned Tree Preservation Order and associated Notice which I have today served on the affected land owners/occupiers. I shall write to you again shortly informing you of the date from which the Order is confirmed.

Circulated to:-

Building Design Agency (for the attention of Mr M Evans)
Head of Development (for the attention of Mr M Howe)
Land Charges Section, Legal Services

IMPORTANT - THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

COUNCIL OF THE BOROUGH OF NORTH TYNESIDE (BURNT HOUSE NURSERIES, WHITLEY BAY) TREE PRESERVATION ORDER 2001

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

THIS IS A FORMAL NOTICE to let you know that on 10 April 2001 the Council made the above Tree Preservation Order.

A copy of the Order is enclosed. In simple terms, the Order means no one is allowed to cut down, top or lop without the Council's permission any of the trees described in the 1st Schedule of the Order and shown on the map.

A certified copy of the Order and map are available for inspection at the offices of the Quasi-Judicial Office, Town Hall, High Street East, Wallsend between 08.30am and 5.00pm on Mondays to Thursdays and 08.30am and 4.30pm on Fridays.

The Council has made the Order because the adjacent land, in part, has been allocated for housing development in accordance with the Council's emerging Unitary Development Plan. It is likely that the developed of the site, in part, for residential use will be undertaken thereby placing the trees under threat. The trees are considered to be worthy of protection given that they are prominent and are seen as a group contributing significantly towards the amenity value of the immediate area. The Order will prevent indiscriminate selling and will ensure that any future works to the trees are undertaken in accordance with sound arboricultural advice.

{The Order came into force, on a temporary basis, on 10 April 2001, and will remain in force for six months. During this time the Council will decide whether the Order should be given permanent status}.

People affected by the Order have a right to object or make comments before the Council decides whether the Order should be made permanent.

If you would like to make any objections or comments, you must submit them in writing *within 28 days from the date of this notice*. Your comments must comply with Regulation 4 of the Town and Country Planning (Trees) Regulations 1999 which is set out over the page. Please send your comments to the Quasi-Judicial Office, Town Hall, High Street East, Wallsend, NE28 7RR before 8 May 2001. The Council will carefully consider all objections and comments before deciding whether to make the Order permanent and you will be notified of the Council's decision in due course.

In the meantime, if you would like any more information or have any questions about this notice, please contact Michael Robson on 200 7369.

Dated [10 April 2001]

C A DUNN

HEAD OF LEGAL SERVICES, NORTH TYNESIDE COUNCIL

m2703mdr/1h

**COPY OF REGULATION 4 OF THE TOWN AND COUNTRY PLANNING
(TREES) REGULATIONS 1999**

Objections and representations

4(1) Subject to paragraph (2), objections and representations:

- (a) shall be made in writing and:
 - (i) delivered to the authority not later than the date specified by them under regulation 3(2)(c):*

or

 - (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;**
- (b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and*
- (c) in the case of an objection, shall state the reasons for the objection.*

4(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

TOWN AND COUNTRY PLANNING ACT 1990

THE COUNCIL OF THE BOROUGH OF NORTH TYNESIDE

(BURNT HOUSE NURSERIES, WHITLEY BAY) TREE PRESERVATION ORDER 2001

The Council of the Borough of North Tyneside in exercise of the powers conferred on them by Sections 198 [201¹] and 203 of the Town and Country Planning Act 1990² hereby make the following Order:-

Citation

1. This Order may be cited as the Council of the Borough of North Tyneside (Burnt House Nurseries, Whitley Bay) Tree Preservation Order 2001.

Interpretation

2. In this Order "the authority" means the Council of the Borough of North Tyneside 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 10 April 2001.

Prohibited acts in relation to trees

4. Without prejudice to sub-sections (6) and (7) of Section 198 (power to make tree preservation orders)³ [or sub-section (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,

¹ Under Section 199(1), tree preservation orders generally do not take effect until confirmed, but a direction may be given under Section 201 for an order to take provisional effect immediately.

² Where the Order is to be made under the sections cited *and* Section 300 of the Town and Country Planning Act 1990, all those provisions should be cited, as should the fact of the consent of the appropriate authority. As to the circumstances in which the consent of the Forestry Commission is required (and should be cited) *see Section 200(1) of the Act.*

³ Sub-section (6) of Section 198 exempts from the application of tree preservation orders the cutting down, uprooting, topping or lopping of trees which are dying, dead or have become dangerous, or the undertaking of those acts 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. Sub-section (7) of that section makes Section 198 subject to Section 39(2) of the Housing and Planning Act 1986 (c 63) (saving for effect of Section 2(4) of the Opencast Coal Act 1958 on land affected by a tree preservation order despite its repeal) and Section 15 of the Forestry Act 1967 (c 10) (licences under that Act to fell trees comprised in a tree preservation order).

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 land⁴ 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 1995⁵;
- (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 1991⁶; or

⁴ See Section 263 of the Town and Country Planning Act 1990.

⁵ SI 1995/418.

⁶ 1991 c 59, *see Section 72*.

- (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 1989⁷.

5.(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 1986⁸;

the holder of a licence under Section 6 of the Electricity Act 1989;

a public gas transporter;

the holder of a licence under Section 7 of the Telecommunications Act 1984⁹ to whom the telecommunications code (within the meaning of that Act) is applied;

a water or sewerage undertaker;

the Civil Aviation Authority or a body acting on behalf of that Authority; or

the Post Office.

Applications for consent under the Order

6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall:-

(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.

Applications 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).

7.(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

⁷ 1989 c 29.

⁸ 1986 c 31.

⁹ 1984 c 12.

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.
- 8.(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.
- 8.(3) A direction under paragraph (1) may include requirements as to:-
- (a) species;
 - (b) the 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.
- 9.(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.
- 9.(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.

- 9.(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 statement of reasons submitted in accordance with Article 6(c) and any documents or other evidence submitted in support of any such statement, 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.
- 9.(5) Sub-sections (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.

9.(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.

[Application to trees to be planted pursuant to a condition

- 9.(10) In relation to the tree(s) identified in the first column of Schedule 1 by the letter “C”, being [a tree] [trees] to be planted pursuant to a condition (being a condition imposed under paragraph (a) of Section 197 (planning permission to include appropriate provision for preservation and planting of trees)), this Order takes effect as from the time when [that tree is planted] [those trees are planted].]

[Orders made by virtue of Section 300

- 9.(11) This Order takes effect in accordance with sub-section (3) of Section 300 (tree preservation orders in anticipation of disposal of Crown land)].

THE COMMON SEAL of the)
COUNCIL OF THE BOROUGH OF)
NORTH TYNESIDE was hereunto)
affixed this 10th day of April 2001)
in the presence of:)

Mayor

Head of Legal Services

First Schedule

The map referred to is at scales 1:2500 and 1:500 and is based on the OS Sheet Nos. 3371SE, 3471SW, 3370NE & 3470NW.

The area covered by the order lies to the south west of Newlands Avenue and to the west of St. Anne's Court, in Whitley Bay.

The area is wholly within the borough of North Tyneside in the County of Tyne and Wear.

TREES SPECIFIED INDIVIDUALLY (Encircled in black on the map)

No. on
the map

Description

Situation

The following trees are measured along the north west boundary of the Burnt House Nurseries site. The first measurement is given in a south westerly direction from point A which is shown on the plan, the second measurement being offset from the first at 90 degrees in a south easterly direction.

T1	Sycamore	1.2m along boundary, offset 6.6m
T2	Beech	3.6m along boundary, offset 9.8m
T3	Sycamore	4.8m along boundary, offset 15.4m
T4	Sycamore	5.6m along boundary, offset 3.5m
T5	Ash	6.5m along boundary, offset 0.0m
T6	Sycamore	9.7m along boundary, offset 0.0m
T7	Sycamore	13.4m along boundary, offset 0.0m
T8	Sycamore	14.1m along boundary, offset 10.0m
T9	Sycamore	14.5m along boundary, offset 3.7m
T10	Sycamore	16.5m along boundary, offset 8.8m
T11	Sycamore	20.2m along boundary, offset 3.5m
T12	Sycamore	23.1m along boundary, offset 3.8m
T13	Sycamore	24.7m along boundary, offset 0.0m
T14	Sycamore	26.3m along boundary, offset 3.2m
T15	Sycamore	29.2m along boundary, offset 3.7m
T16	Sycamore	31.5m along boundary, offset 0.5m
T17	Sycamore	32.3m along boundary, offset 0.5m
T18	Sycamore	35.4m along boundary, offset 3.7m
T19	Sycamore	38.5m along boundary, offset 3.5m

T20	Ash	40.5m along boundary, offset 0.5m
T21	Sycamore	41.4m along boundary, offset 3.5m
T22	Sycamore	44.5m along boundary, offset 3.7m
T23	Sycamore	45.8m along boundary, offset 0.0m
T24	Sycamore	50.0m along boundary, offset 3.5m
T25	Sycamore	53.3m along boundary, offset 3.6m
T26	Sycamore	56.1m along boundary, offset 3.4m
T27	Beech	58.0m along boundary, offset 12.8m
T28	Beech	58.0m along boundary, offset 13.4m
T29	Sycamore	62.1m along boundary, offset 0.5m
T30	Sycamore	66.8m along boundary, offset 0.0m
T31	Sycamore	67.5m along boundary, offset 3.6m
T32	Sycamore	70.6m along boundary, offset 3.8m
T33	Sycamore	73.4m along boundary, offset 3.5m
T34	Sycamore	82.9m along boundary, offset 0.5m
T35	Sycamore	88.2m along boundary, offset 0.4m
T36	Sycamore	91.2m along boundary, offset 3.5m
T37	Sycamore	98.8m along boundary, offset 0.0m
T38	Sycamore	106.1m along boundary, offset 0.5m
T39	Hawthorn	108.8m along boundary, offset 0.0m
T40	Sycamore	116.3m along boundary, offset 0.0m
T41	Sycamore	119.0m along boundary, offset 0.5m
T42	Sycamore	125.4m along boundary, offset 0.5m
T43	Sycamore	129.0m along boundary, offset 1.5m

The following trees are measured along the south west boundary of the Burnt House Nurseries site. The first measurement is given in a south easterly direction from point B which is shown on the plan, the second measurement being offset from the first at 90 degrees in a north easterly direction.

T44	Sycamore	9.5m along boundary, offset 1.8m
T45	Sycamore	11.5m along boundary, offset 1.7m
T46	Sycamore	18.2m along boundary, offset 1.5m
T47	Sycamore	28.3m along boundary, offset 0.0m
T48	Sycamore	31.3m along boundary, offset 0.0m
T49	Sycamore	33.0m along boundary, offset 0.0m
T50	Sycamore	48.8m along boundary, offset 0.0m
T51	Sycamore	51.2m along boundary, offset 0.0m
T52	Sycamore	53.6m along boundary, offset 0.0m
T53	Sycamore	56.7m along boundary, offset 0.0m

The following trees are measured along the south west boundary of the Burnt House Nurseries site. The first measurement is given in a south easterly direction from point B which is shown on the plan, the second measurement being offset from the first at 90 degrees in a south westerly direction.

T54	Poplar	78.0m along boundary, offset 1.8m
T55	Poplar	91.0m along boundary, offset 1.8m

The following trees are measured along an existing boundary of the Burnt House Nurseries site. The measurements are given in a south westerly direction from point C which is shown on the plan. All of the trees are on the same alignment and are situated on the south east side of the existing drain.

T56	Ash	36.0m along boundary
T57	Ash	38.1m along boundary
T58	Ash	41.8m along boundary
T59	Ash	45.0m along boundary

The following trees are measured from the most western corner of the property No.8 St Annes Court. The first measurement is given in a south westerly direction from point D which is shown on the plan, the second measurement being offset from the first at 90 degrees in a north westerly direction.

T60	Sycamore	8.5m along boundary, offset 5.0m
T61	Cherry	12.7m along boundary, offset 1.7m

The following trees are measured from the most western corner of the property No.17 Arcot Drive. The first measurement is given in a north westerly direction along the existing kerb line, from point E which is shown on the plan, the second measurement being offset from the first at 90 degrees in a south westerly direction.

T62	Sycamore	42.4m along boundary, offset 1.0m
T63	Sycamore	44.5m along boundary, offset 0.8m
T64	Sycamore	47.3m along boundary, offset 0.7m
T65	Sycamore	53.7m along boundary, offset 0.5m

The following trees are measured from the most western corner of the boundary fence of No.17 Arcot Drive. The first measurement is given in a south westerly direction along the existing school playing field boundary, from point F which is shown on the plan, the second measurement being offset from the first at 90 degrees in a north westerly direction.

T66	Ash	54.7m along boundary, offset 16.7m
T67	Ash	58.7m along boundary, offset 15.3m

The following tree is measured from the most northern corner of the property situated within the Burnt House Nurseries site. The first measurement is given in a north westerly direction from point G which is shown on the plan, the second measurement being offset from the first at 90 degrees in a north easterly direction.

T68	Sycamore	3.2m along boundary, offset 6.6m
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SCHEDULE 2

PART 1

PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990 APPLIED WITH ADAPTATIONS OR MODIFICATIONS

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 69 (registers)	<p>(a) In sub-section (1):-</p> <p>(i) omit:-</p> <p>“, in such manner as may be prescribed by a development order,”,</p> <p>“such” in the second place where it appears, and</p> <p>“as may be so prescribed”; and</p> <p>(ii) substitute “matters relevant to tree preservation orders made by the authority” for “applications for planning permission”.</p> <p>(b) In sub-section (2):-</p> <p>(i) after “contain” insert “, as regards each such order”; and</p> <p>(ii) for paragraphs (a) and (b) substitute:-</p> <p>“(a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and</p> <p>(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.”.</p> <p>(c) Omit sub-section (3) and (4) (as required by Section 198(4)).</p>
Section 70 (determination of applications: general consideration)	<p>(a) In sub-section (1):-</p> <p>(i) substitute:-</p> <p>“Subject to sub-sections (1A) and (1B), where” for “Where”;</p>

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
<p>Section 70 (determination of applications: general consideration) (<i>continued</i>)</p>	<p>“the authority” for “a local planning authority”;</p> <p>“consent under a tree preservation order” for “planning permission” where those words first appear; and</p> <p>“consent under the order” for “planning permission” in both of the other places where those words appear;</p> <p>(ii) after “think fit”, insert:-</p> <p>“(including conditions limiting the duration of the consent or requiring the replacement of trees)”;</p> <p>and</p> <p>(iii) omit “subject to sections 91 and 92,”.</p> <p>(b) After sub-section (1) insert:-</p> <p>“(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.</p> <p>(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).”.</p> <p>(c) Omit sub-sections (2) and (3).</p>
<p>Section 75 (effect of planning permission)</p>	<p>(a) In sub-section (1) substitute:-</p> <p>(i) “Any” for the words from “Without” to “any”;</p> <p>(ii) “consent under a tree preservation order” for “planning permission to develop land”;</p> <p>(iii) “the consent” for “the permission”; and</p> <p>(iv) “the land to which the order relates” for “the land”.</p> <p>(b) Omit sub-sections (2) and (3).</p>

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 78 (right to appeal against planning decisions and failure to take such decisions)	<p>(a) In sub-section (1) substitute:-</p> <ul style="list-style-type: none"> (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:- <ul style="list-style-type: none"> "(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,". <p>(b) Omit sub-section (2).</p> <p>(c) In sub-section (3) for "served within such time and in such manner as may be prescribed by a development order." Substitute:-</p> <p>"in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served:-</p> <ul style="list-style-type: none"> (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of sub-section (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;

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
<p>Section 75 (right to appeal against planning decisions and failure to take such decisions) (<i>continued</i>)</p>	<p>(b) in respect of such a failure as is mentioned in paragraph (d) of that sub-section, 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.”.</p> <p>(d) For sub-section (4), substitute:- “(4) The appellant shall serve on the authority a copy of the notice mentioned in sub-section (3).”.</p> <p>(e) For sub-section (5), substitute:- “(5) For the purposes of the application of Section 79(1), in relation to an appeal made under sub-section (1)(d), it shall be assumed that the authority decided to refuse the application in question.”.</p>
<p>Section 79 (determination of appeals)¹⁰</p>	<p>(a) In sub-sections (1) and (2), substitute “the authority” for “the local planning authority”.</p> <p>(b) Omit sub-section (3).</p> <p>(c) In sub-section (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.”.</p> <p>(d) Omit sub-sections (6) and (6A).</p> <p>(e) In sub-section (7), omit the words after “Section 78”.</p>

¹⁰ Section 79 was amended by the Planning and Compensation Act 1991 (c 34), Section 18 and Schedule 7, paragraph 19.

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

Section 70

- (1) Subject to sub-sections (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 conditions 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 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).

Section 75

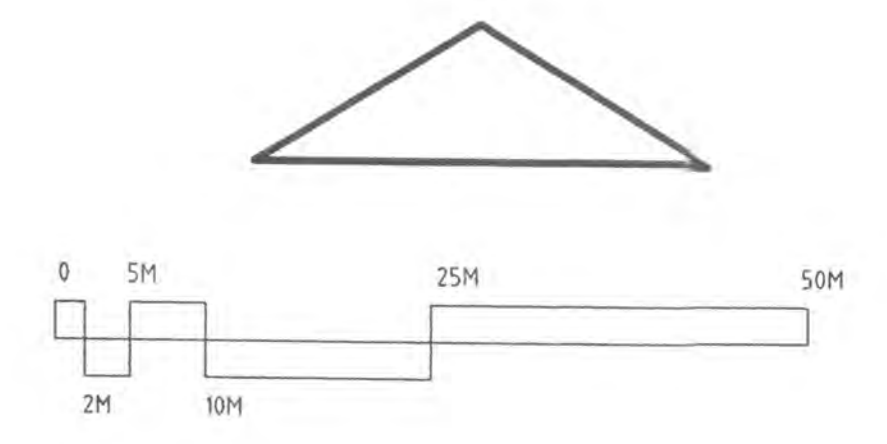
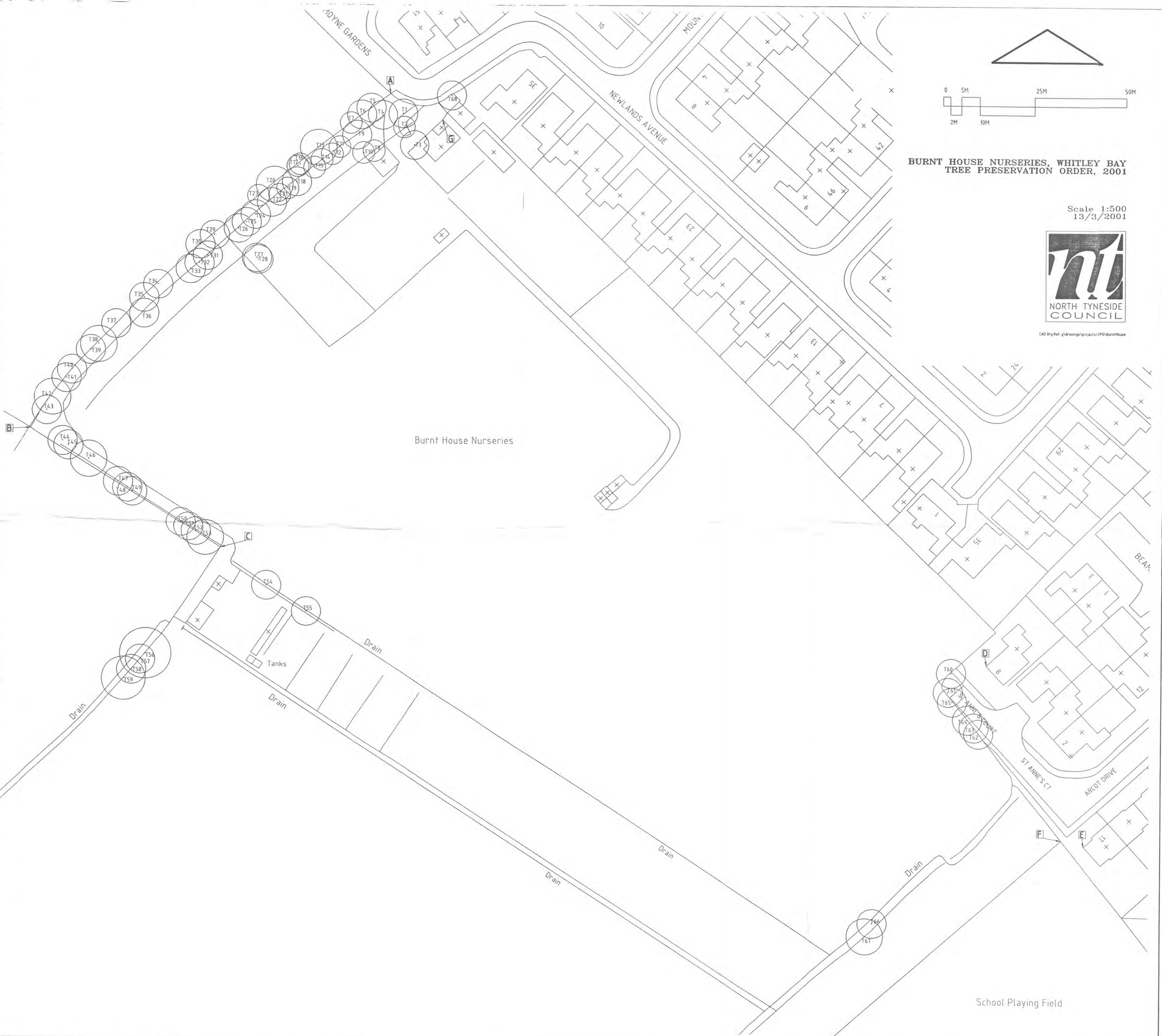
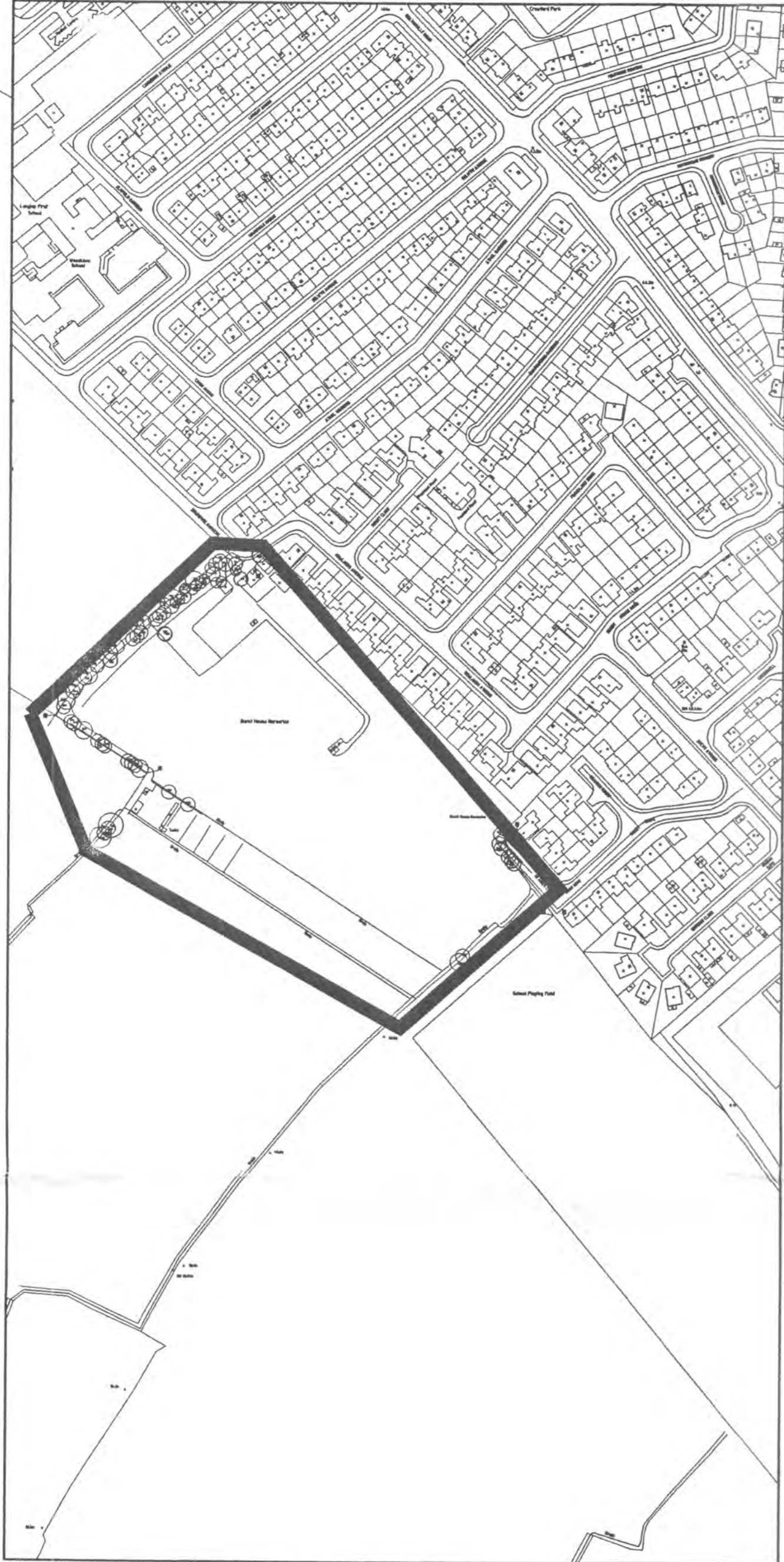
Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) ensure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

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 applications 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 sub-section (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 sub-section, 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 as mentioned in sub-section (3).

LOCATION PLAN
Scale 1:2500



BURNT HOUSE NURSERIES, WHITLEY BAY
TREE PRESERVATION ORDER, 2001

Scale 1:500
13/3/2001



CAD Draw Ref: g:\drawings\projects\TPO\burnthouse

The COMMON SEAL of the
COUNCIL OF THE BOROUGH
OF NORTH TYNESIDE was hereunto
affixed this 10 day of April 2001
In the presence of:



D. Charles
Mayor

Head of Legal Services
Head of Legal Services

School Playing Field