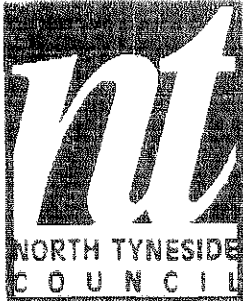


Facsimile Cover Sheet

FROM



QUASI-JUDICIAL OFFICE
CENTRAL SUPPORT
TOWN HALL
HIGH STREET EAST,
WALLSEND,
TYNE AND WEAR, NE28 7RR
Telephone: (0191) 200 7369
Fax: (0191) 200 6889

AUTHOR:	Alan Crawford
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TO:	Paul Attrill
LOCATION:	
FAX:	X2185
DATE:	27.5.02
NO. PAGES ATTACHED	6

TPO documentation as requested.

Alan C

A 3095
(10)

TOWN AND COUNTRY PLANNING ACT 1990

THE COUNCIL OF THE BOROUGH OF NORTH TYNESIDE
(DARSLEY PARK, WHITLEY ROAD, BENTON)
TREE PRESERVATION ORDER 2001

The Council of the Borough of North Tyneside in exercise of the powers conferred on them by Sections 198 [201^a] and 203 of the Town and Country Planning Act 1990^b hereby make the following Order:-

Citation

1. This Order may be cited as the Council of the Borough of North Tyneside (Darsley Park, Whitley Road, Benton). 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 25 July 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)^c [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,

^a 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.

^b 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.

^c 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 effect) 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 land^d 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^e;
- (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^f; or

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

^e SI 1995/418.

^f 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 1989^g.

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 1986^h);

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 1984ⁱ 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).

^g 1989 c 29

^h 1986 c 31.

ⁱ 1984 c 12.

- 7.(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.
- 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.

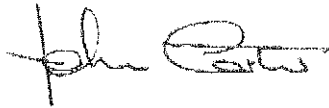
[Application to trees to be planted pursuant to a condition

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)].

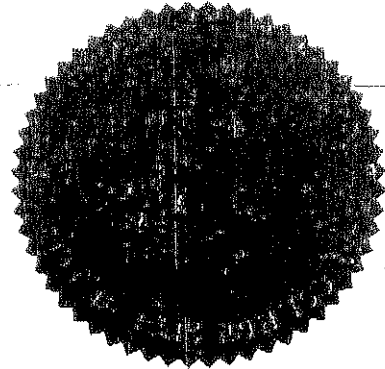
THE COMMON SEAL of the)
COUNCIL OF THE BOROUGH OF)
NORTH TYNESIDE was hereunto)
affixed this 25 day of July 2001)
in the presence of:)



Deputy Mayor



Head of Legal Services



***CONFIRMATION OF ORDER**

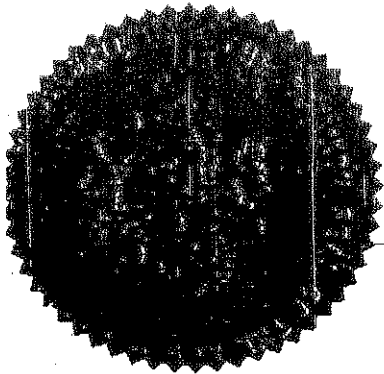
This Order was confirmed by the Council of the Borough of North Tyneside without modification on the 19 day of September 2001.



MAYOR



Head of Legal Services



***CONFIRMATION OF ORDER**

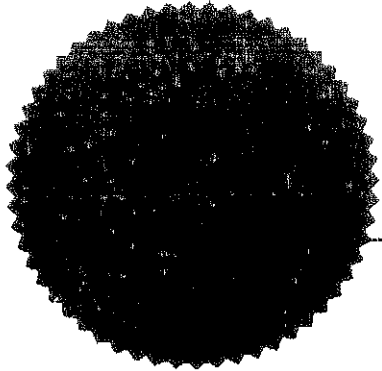
This Order was confirmed by the Council of the Borough of North Tyneside without modification on the 19 day of September 2001.



MAYOR



Head of Legal Services



SCHEDULE 1

SPECIFICATION OF TREES

The map referred to is a scale of 1:1250 and 1:10000 taken from the Ordnance Survey based on North Tyneside Council's Geographic Information System (GIS).

The area covered includes the playing fields, car park, club house, tennis court, bowling green and other outhouses forming part of the Civil Service Sporting Club (Darsley Park) in Benton.

The area is wholly in the Borough of North Tyneside.

Trees specified individually

None.

Trees specified by reference to an area (within a dotted black line on the map)

Reference on Map	Description	Situation
A1	Area of trees consisting of Lime, Thorn, Sycamore, Poplar and Silver Birch	Extending for approximately 250m along the west boundary fence of the main sports field
A2	Area of trees consisting of Cherry, Birch, Poplar, Willow, Ash, Lime, Rowan, Scots Pine, thorn and Sycamore	Extending for approximately 270m along the east boundary fence of the main sports field

Group of Trees (within a broken line on the map)

Reference on Map	Description	Situation
G1	Group consisting of 15 Ash, 4 Sycamore and 2 Thorn and 7 Larch	Extending for 205m along the northern boundary fence with Whitley Road
G2	Group consisting of 27 Sycamore, 2 Rowan and 1 Whitebeam	Extending for 165m along the eastern boundary with the railway line
G3	Group consisting of 2 Ash, 9 Cherry, 33 Thorn and 7 Willow	Extending for 215m along the southern boundary of the top field

Reference on Map	Description	Situation
G4	Group consisting of 15 Poplar	Extending for 40m along the north east boundary of the main sports field
G5	Group consisting of 8 Ash, 1 Rowan, 22 Poplar, 2 Sycamore and 2 Thorn	Extending for 100m along the northern edge of the car park
G6	Group consisting of 15 Beech, 4 Horse Chestnut, 4 Cherry, 2 Ash, 5 Whitebeam, 13 Poplar, 2 Thorn, 8 Willow, 5 Rowan, 14 Sycamore, 8 Larch, 1 Silver Birch, 2 Lime	Extending for 90m along the north west boundary and 60m along the north of the tennis courts

Woodlands

None.

FIRST SCHEDULE

The map referred to is at a scale of 1:1250 and is based on the 1:1250 O.S. edition of sheets numbered NZ 2868 SW / NZ 2868 NW / NZ 2768 NE / NZ 2768 SE. The area covered by the Order includes the playing fields, car park, clubhouse, tennis courts, bowling green and other outhouses forming part of the Civil Service Sporting Club (Darsley Park) in Benton, North Tyneside.

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

TREES SPECIFIED INDIVIDUALLY

(Encircled in black on the map)

None

GROUPS OF TREES

(Within a broken line on the map)

No. on the map	Description	Situation
G1	Group consisting of 15 Ash, 4 Sycamore and 2 Thorn and 7 Larch	Extending for 205m along the northern boundary fence with Whitley Road
G2	Group consisting of 27 Sycamore, 2 Rowan and 1 Whitebeam	Extending for 165m along the eastern boundary with the railway line
G3	Group consisting of 2 Ash, 9 Cherry, 33 Thorn and 7 Willow	Extending for 215m along the southern boundary of the top field
G4	Group consisting of 15 Poplar	Extending for 40m along the north east boundary of the main sports field
G5	Group consisting of 8 Ash, 1 Rowan, 22 Poplar, 2 Sycamore and 2 Thorn	Extending for 100m along the northern edge of the car park
G6	Group consisting of 15 Beech, 4 Horse Chestnut, 4 Cherry, 2 Ash, 5 Whitebeam, 13 Poplar, 2 Thorn, 8 Willow, 5 Rowan, 14 Sycamore, 8 Larch, 1 Silver Birch, 2 Lime	Extending for 90m along the north west boundary and 60m along the north of the tennis courts

**TREES SPECIFIED WITH REFERENCE
TO AN AREA**

(Within a dotted line on the map)

No. on the map	Description	Situation
A1	Area of trees consisting of Lime, Thorn, Sycamore, Poplar and Silver Birch	Extending for approx. 250m along the west boundary fence of the main sports field
A2	Area of trees consisting of Cherry, Birch, Poplar, Willow, Ash, Lime, Rowan, Scots Pine, Thorn and Sycamore	Extending for approx. 270m along the east boundary fence of the main sports field

WOODLAND

None



LOCATION PLAN Scale 1:10000



NORTH TYNESIDE COUNCIL
 DARSLEY PARK
 WHITLEY ROAD, BENTON
 TREE PRESEVATION ORDER 2001

M.D. Halsey, Head of Development,
 PO Box 113, Station Road,
 Killingworth, Newcastle upon Tyne
 NE12 6WJ

Scale 1:1250

