

Our Reference:

5 December 2014

MEMORANDUM

To: Investment and Regeneration
Civic Centre III
Huddersfield

For the attention of Trees

Tree Preservation Order No.16 2014
Re: 41 Ashbrow Road, Fartown
Grid Reference: SE 149 190

On the 1 October 2014, the Council made the above Tree Preservation Order, a copy of which was sent to you.

No objections/representations were received in respect of the Order. On the 5 December 2014, the Council confirmed the Order as made.

Regards,

TOWN AND COUNTRY PLANNING ACT 1990

THE KIRKLEES COUNCIL TREE PRESERVATION ORDER NO 16 2014

The Kirklees Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order –

Citation

1. This Order may be cited as "The Kirklees Council Tree Preservation Order No 16 2014

Interpretation

2. (1) In this Order "the authority" means the Kirklees Council
- (2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made
- (2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall –
 - (a) cut down, top, lop, uproot, willfully damage, or wilful destroy; or
 - (b) cause or permit the cutting down, topping, lopping, willfully damage or wilful destruction of,any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to 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 the tree is planted

Dated this 01 October 2014

THE CORPORATE COMMON SEAL of)

THE COUNCIL OF THE BOROUGH)

OF KIRKLEES was hereunto affixed)

in the presence of:)



006175

Assistant Director – Legal, Governance & Monitoring/Authorised Signatory

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)		
Reference on map	Description	Situation
T1	Ash	Located on the eastern boundary of 41 Ashbrow Road's garden area.
T2	Ash	Located on the southern boundary of 41 Ashbrow Road's garden area.
T3	Sycamore	Located on the southern boundary of 41 Ashbrow Road's garden area, adjacent to T2.
Groups of trees (within a broken line on the map)		
Reference on map	Description (including number of trees in the group)	Situation
G1	7 Sycamores, 4 Limes and 1 Horse Chestnut	Located along the northern boundary of 41 Ashbrow Road's garden area along the road frontage.
G2	2 Limes and 1 Sycamore	Located in the north eastern corner of 43 Ashbrow Road's garden next to number 39 Ashbrow Road
G3	1 Sycamore and 1 Lime	Located in the south west corner of 41 Ashbrow Road's garden area.
G4	2 Sycamores and 1 Ash	Located on the western boundary of 41 Ashbrow Road's garden area.
G5	1 Maple and 2 Sycamores.	Located on the western boundary of 41 Ashbrow Road's garden area.

Woodlands (within a continuous black line on the map)		
Reference on map	Description	Situation
None	None	None



KIRKLEES COUNCIL PLANNING
INVESTMENT & REGENERATION SERVICE
PO Box B93, Civic Centre III, Huddersfield, HD1 2JR
Tel: 01484 221000 Fax: 01484 221613

TREE PRESERVATION ORDER

No. 16 2014

41, Ashbrow Road, Fartown, Huddersfield

Grid Ref. SE 149 190
Scale 1:1000

CONFIRMATION OF ORDER

This Order was confirmed by Kirklees Council without modification on the 5th day of December Two thousand and fourteen

OR

~~This Order was confirmed by Kirklees Council, subject to the modifications included in red ink on the _____ day of _____ Two thousand and _____~~

Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by Kirklees Council on the _____ day of _____ Two thousand and _____

Signed on behalf of Kirklees Council

Authorised by the Council to sign in that behalf

VARIATION OF ORDER

This Order was varied by Kirklees Council on the _____ day of _____ Two thousand and _____ by a variation order under reference number a copy of which is attached

Signed on behalf of Kirklees Council

Authorised by the Council to sign in that behalf

REVOCATION OF ORDER

This Order was revoked by Kirklees Council on the _____ day of _____ Two thousand and _____

Signed on behalf of Kirklees Council

Authorised by the Council to sign in that behalf

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations which apply in relation to England only, substantially revoke and replace the Town and Country Planning (Trees) Regulations 1999, to the extent to which they apply to England. This also revokes the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008 and the Town and Country Planning (Trees) (Amendment No 2) (England) Regulations 2008.

Part 2 prescribes the form of tree preservation orders and the procedure for their making, provisional effect, confirmation, variation and revocation. The prescribed form is set out in the Schedule to the Regulations.

Part 3 of the Regulations sets out prohibited activities in relation to a tree protected by an order and exceptions. Under regulation 13 a tree protected by a tree preservation order may not be cut down, topped, lopped, uprooted or willfully damaged or destroyed without the consent of the local planning authority, unless an exception applies. These exceptions are set out in sections 198(7) and 200(1) of the Town and Country Planning Act 1990, and in regulation 14 of the Regulations.

Section 198(7) provides exceptions relevant to section 39(2) of the Housing and Planning Act 1986 (c.53) (saving for effect of section 2(4) of the Opencast Coal Act 1958 (c.69) 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).

Section 200(1) provides that a tree preservation order does not have effect in respect of anything done by or on behalf of Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision or anything done by or on behalf of any other person under a plan of works approved by the Forestry Commissioners under a forestry dedication covenant (as defined in section 5 of the Forestry Act 1967) or under conditions of a grant or loan made under section 1 of the Forestry Act 1979 (c.21).

Regulation 14 contains exceptions to the requirement for consent and regulation 15 contains exceptions for trees in conservation areas.

Part 4 of the Regulations prescribes the procedure for applications for consent under tree preservation orders.

Part 5 prescribes the procedure for appeals and for their determination. Regulation 19 grants a right of appeal in respect of a refusal to grant consent, a grant of consent subject to conditions or a failure to determine an application for consent within the prescribed time period.

In Part 6, regulation 24 provides for compensation claims, subject to exceptions, to be made where loss or damage has been incurred as a consequence of a refusal to grant consent, a grant of consent subject to conditions or a refusal of approval under a condition.

Part 7 contains miscellaneous provisions. Regulation 25 provides that the prescribed time for the purposes of sections 206(1)(b) (replacement trees) and 213(1)(b) (enforcement of controls as respects trees in conservation areas) is

whenever the cutting down or uprooting of a tree is authorised only by virtue of regulations 14(1)(a)(i) or 14(1)(c) (dead or dangerous trees).

Regulation 26 revokes the Town and Country Planning (Trees) Regulations 1999, the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008 and the Town and Country Planning (Trees) (Amendment No 2) (England) Regulations 2008, subject to transitional transitory and saving provisions in respect of certain classes or order. This regulation also saves regulation 17 of the Town and Country Planning (Trees) Regulations 1999 (amendment to the Town and Country Planning General Regulations 1992).

Under section 193 of the Planning Act 2008 (c.29), all tree preservation orders made prior to the date on which these Regulations come into force take effect with the omission of all of their provisions other than any that identify the order or identify the trees, groups of trees or woodlands to which the order applies.

A full impact assessment of the effect that this instrument will have on the costs of business, charities and the voluntary sector has been prepared in relation to these Regulations. The assessment has been placed in the Library of each House of Parliament and is published with the Explanatory Memorandum alongside the instrument on www.legislation.gov.uk. The assessment may also be accessed at www.communities.gsi.gov.uk.

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