

CITY COUNCIL OF LANCASTER  
TREE PRESERVATION ORDER NO. 485 (2011)

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I hereby certify that this is a true copy of the  
original order.

For Kerchie 18/0/11

BAY VIEW HOLIDAY PARK  
DETRON LANE  
BOLTON LE SANDS  
CARNFORTH  
LANCASHIRE  
LA5 9TN

PO BOX 4  
TOWN HALL  
DALTON SQUARE  
LANCASTER  
LA1 1QR

**TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999**  
**As amended by the Town and Country Planning (Trees)(Amendment)(England) Regulations 2008**

**MODEL FORM OF TREE PRESERVATION ORDER**

**Town and Country Planning Act 1990**  
**Tree Preservation Order No. 485 (2011)**

The City Council of Lancaster, in exercise of the powers conferred on them by sections 198 [201] and 203 of the Town and Country Planning Act 1990 hereby make the following Order

**Citation**

1. This Order may be cited as Tree Preservation Order No. 485 (2011).

**Interpretation**

2. In this Order "the authority" means the [Lancaster City Council] 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 19<sup>th</sup> April 2011.

**Prohibited acts in relation to trees**

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners), 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,

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 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;
- (aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);

(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.

(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.

(3) A direction under paragraph (1) may include requirements as to

- (a) species;
- (b) 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.

(2) No claim, other than a claim made under paragraph (3), may be made under this article

- (a) if more than 12 months has 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.

(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.

(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 application and the documents and particulars accompanying it, 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



## SCHEDULE 2

### PART I 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 subsection (1)</p> <ul style="list-style-type: none"> <li>(i) omit           <ul style="list-style-type: none"> <li>“, in such manner as may be prescribed by a development order,”,</li> <li>“such” in the second place where it appears, and</li> <li>“as may be so prescribed”; and</li> </ul> </li> <li>(ii) substitute “matters relevant to tree preservation orders made by the authority” for “applications for planning permission”.</li> </ul> <p>(b) In subsection (2)</p> <ul style="list-style-type: none"> <li>(i) after “contain” insert “, as regards each such order”; and</li> <li>(ii) for paragraphs (a) and (b) substitute           <ul style="list-style-type: none"> <li>(a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and</li> <li>(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.”.</li> </ul> </li> </ul> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>

Section 78 (right to appeal against planning decisions and failure to take such decisions)

(a) In subsection (1) substitute

- (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
  - "(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,".

(b) Omit subsection (2).

(c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order." substitute

"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 subsection (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 subsection, 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."

(d) For subsection (4), substitute

"(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)."

(e) For subsection (5), substitute

"(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection

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 each 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 subsections (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) enure 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

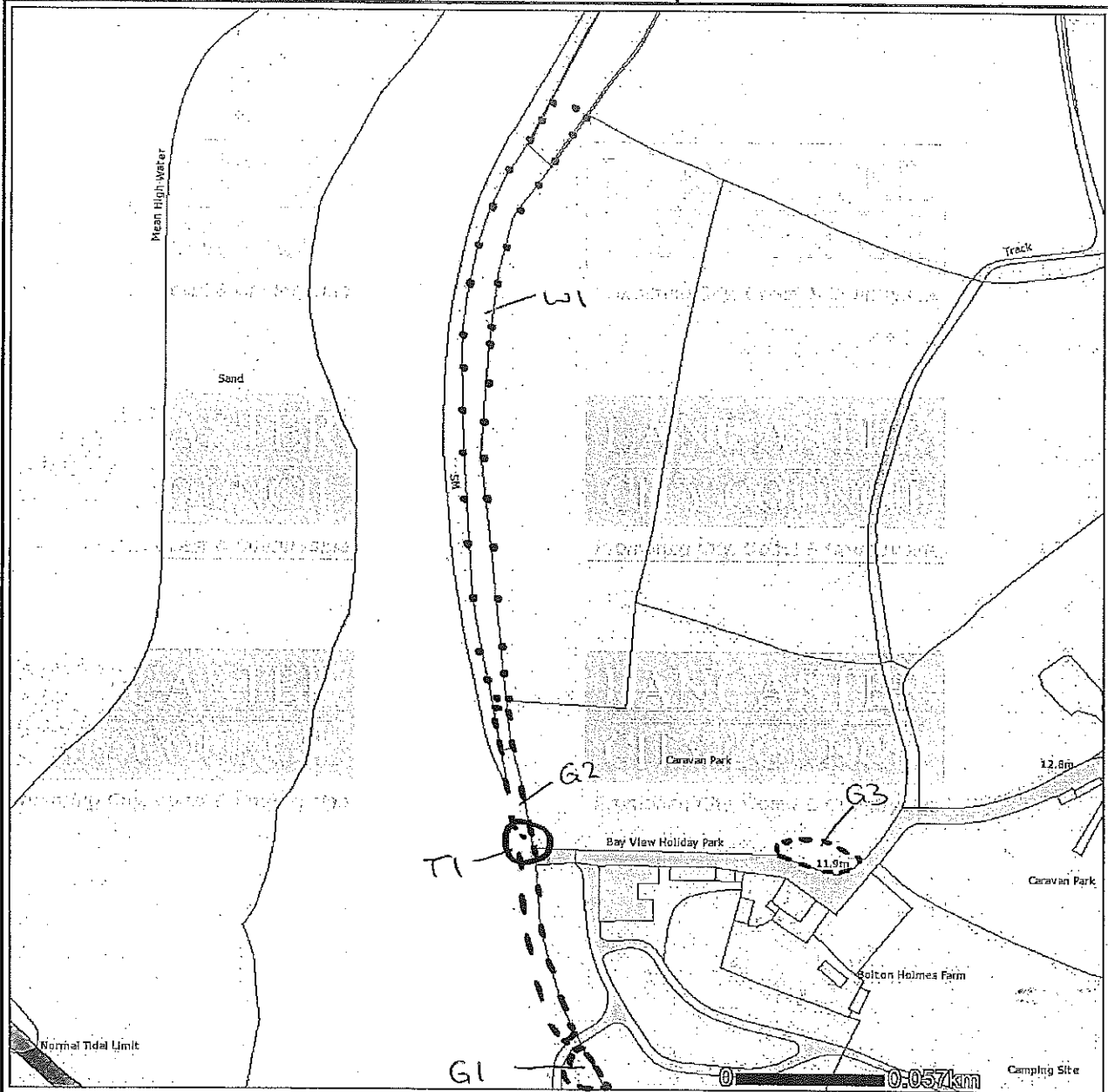
- (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;

# Tree Preservation Order no.485 (2011)

Bay View Park, Detron Gate  
Bolton le Sands

# LANCASTER CITY COUNCIL

Promoting City, Coast & Countryside



## Legend

<b>Annotation</b>	General Surface
<b>Areas</b>	Glasshouse
Building	Height Control
Building or Structure	Historic Interest
Built Environment	Inland Water
General Feature	Landform
Multiple Surface	Landform - Slope
Step	Landform - Cliff
<b>(cont)</b>	<b>(cont)</b>

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## Map Information

Scale:	1: 2457
Date:	8.4.2011

*John Henry*