

under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(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.

**[Application to trees to be planted pursuant to a condition**

**[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].]

Dated the 7<sup>th</sup> day of November 2016

The Common Seal of the Wrexham County Borough Council  
was hereunto affixed in the presence of -

..........]

Signed on behalf of the Wrexham County Borough Council

.....  
Authorised by the Council to sign in that behalf



(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 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.

(5) Subsections (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.

(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.

## CONFIRMATION OF ORDER

This Order was confirmed by the Wrexham County Borough Council  
modification on the ... 25 ... day of ... April ... 2017 ...

OR

This Order was confirmed by the Wrexham County Borough Council subject  
to the modifications indicated by ..... on the .....  
day of .....

.....  
Authorised by the Council to sign in that behalf

## DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by Wrexham County Borough  
Council on the ..... day of .....

.....  
Authorised by the Council to sign in that behalf

## VARIATION OF ORDER

This Order was varied by the Wrexham County Borough Council on the .....  
day of ..... under the reference number  
.....

.....  
Authorised by the Council to sign in that behalf

## REVOCATION OF ORDER

This Order was revoked by the Wrexham County Borough Council on the  
..... day of ..... under the reference number  
.....

.....  
Authorised by the Council to sign in that behalf

# SCHEDULE 1

## SPECIFICATION OF TREES

### Trees specified individually (encircled in black on the map)

| Reference on map | Description     | Situation     |
|------------------|-----------------|---------------|
| T1               | London Plane    | Homebase Ltd  |
| T2               | London Plane    | "             |
| T3               | London Plane    | "             |
| T4               | London Plane    | "             |
| T5               | Manna Ash       | "             |
| T6               | Manna Ash       | "             |
| T7               | Manna Ash       | "             |
| T8               | Manna Ash       | "             |
| T9               | Manna Ash       | "             |
| T10              | London Plane    | "             |
| T11              | London Plane    | "             |
| T12              | London Plane    | "             |
| T13              | London Plane    | "             |
| T14              | London Plane    | "             |
| T15              | London Plane    | "             |
| T16              | London Plane    | "             |
| T17              | Common Alder    | "             |
| T18              | Sycamore        | "             |
| T19              | Cherry          | "             |
| T20              | Silver Birch    | "             |
| T21              | Silver Birch    | "             |
| T22              | Silver Birch    | "             |
| T23              | Silver Birch    | "             |
| T24              | Manna Ash       | "             |
| T25              | Manna Ash       | "             |
| T26              | Manna Ash       | "             |
| T27              | Manna Ash       | "             |
| T28              | Manna Ash       | "             |
| T29              | Silver Birch    | Sainsbury Ltd |
| T30              | Silver Birch    | "             |
| T31              | Manna Ash       | "             |
| T32              | Narrow leaf Ash | "             |
| T33              | Silver Birch    | "             |
| T34              | Silver Birch    | "             |
| T35              | Norway Maple    | "             |
| T36              | Norway Maple    | "             |
| T37              | Norway Maple    | "             |
| T38              | Norway Maple    | "             |
| T39              | Norway Maple    | "             |
| T40              | Norway Maple    | "             |

|     |                     |               |
|-----|---------------------|---------------|
| T41 | Norway Maple        | Sainsbury Ltd |
| T42 | Narrow leaf Ash     | "             |
| T43 | Cherry              | "             |
| T44 | Cherry              | "             |
| T45 | Narrow leaf Ash     | "             |
| T46 | Norway Maple        | "             |
| T47 | London Plane        | "             |
| T48 | London Plane        | "             |
| T49 | Norway Maple        | "             |
| T50 | Norway Maple        | "             |
| T51 | Narrow leaf Ash     | "             |
| T52 | Cherry              | "             |
| T53 | Cherry              | "             |
| T54 | Narrow leaf Ash     | "             |
| T55 | Norway Maple        | "             |
| T56 | Norway Maple        | "             |
| T57 | Norway Maple        | "             |
| T58 | Narrow leaf Ash     | "             |
| T59 | Cherry              | "             |
| T60 | Cherry              | "             |
| T61 | Narrow leaf Ash     | "             |
| T62 | Norway Maple        | "             |
| T63 | Norway Maple        | "             |
| T64 | Norway Maple        | "             |
| T65 | Norway Maple        | "             |
| T66 | Norway Maple        | "             |
| T67 | Norway Maple        | "             |
| T68 | Norway Maple        | "             |
| T69 | Norway Maple        | "             |
| T70 | Fastigiata Hornbeam | "             |
| T71 | Narrow leaf Ash     | "             |
| T72 | Cherry              | "             |
| T73 | Cherry              | "             |
| T74 | Narrow leaf Ash     | "             |
| T75 | London Plane        | "             |
| T76 | London Plane        | "             |
| T77 | London Plane        | "             |
| T78 | London Plane        | "             |
| T79 | London Plane        | "             |
| T80 | London Plane        | "             |
| T81 | London Plane        | "             |
| T82 | London Plane        | "             |
| T83 | London Plane        | "             |
| T84 | Sycamore            | "             |
| T85 | Silver Birch        | "             |
| T86 | Silver Birch        | "             |
| T87 | Sycamore            | "             |
| T88 | Cherry              | "             |
| T89 | Cherry              | "             |
| T90 | Cherry              | "             |

|     |                 |               |
|-----|-----------------|---------------|
| T91 | Italian Alder   | Sainsbury Ltd |
| T92 | Cherry          | "             |
| T93 | Cherry          | "             |
| T94 | Narrow leaf Ash | "             |
| T95 | Cherry          | "             |
| T96 | Cherry          | "             |
| T97 | Narrow leaf Ash | "             |
| T98 | Silver Birch    | "             |
| T99 | Cherry          | "             |

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

| Reference on map | Description | Situation |
|------------------|-------------|-----------|
| None             |             |           |

**Groups of trees**  
(within a broken black line on the map)

| Reference on map | Description<br>(including number of<br>trees in the group) | Situation     |
|------------------|------------------------------------------------------------|---------------|
| G1               | 3 No Pine                                                  | Homebase Ltd  |
| G2               | 3 No Cherry                                                | Homebase Ltd  |
| G3               | 23 No lime,<br>19 No Norway Maple<br>4 No Cherry           | Sainsbury Ltd |

**Woodlands**  
(within a continuous black line on the map)

| Reference on map | Description     | Situation                       |
|------------------|-----------------|---------------------------------|
| W1               | Mixed broadleaf | Homebase Ltd /<br>Sainsbury Ltd |

## 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> <p style="padding-left: 40px;">(i) omit—</p> <p style="padding-left: 80px;">“, in such manner as may be prescribed by a development order,”</p> <p style="padding-left: 80px;">“such” in the second place where it appears, and</p> <p style="padding-left: 80px;">“as may be so prescribed”; and</p> <p style="padding-left: 40px;">(ii) substitute “matters relevant to tree preservation orders made by the authority” for “applications for planning permission”.</p> <p>(b) In subsection (2)—</p> <p style="padding-left: 40px;">(i) after “contain” insert “, as regards each such order”; and</p> <p style="padding-left: 40px;">(ii) for paragraphs (a) and (b) substitute—</p> <p style="padding-left: 80px;">(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 style="padding-left: 80px;">(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 subsections (3) and (4) (as required by section 198(4)).</p> |

|                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| <p>Section 70<br/>(determination of applications: general considerations)</p> | <p>(a) In subsection (1)—</p> <p>(i) substitute—</p> <p>“Subject to subsections (1A) and (1B), where” for “Where”;</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)”; and</p> <p>(iii) omit “subject to sections 91 and 92,”.</p> <p>(b) After subsection (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 subsections (2) and (3).</p> |
| <p>Section 75 (effect of planning permission)</p>                             | <p>(a) In subsection (1) substitute—</p> <p>(i) “Any” for the words from “Without” to “any”;</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

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|                                                                                            | <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 subsections (2) and (3).</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Section 78 (right to appeal against planning decisions and failure to take such decisions) | <p>(a) In subsection (1) substitute—</p> <p>(i) “the authority” for “a local planning authority”;</p> <p>(ii) “consent under a tree preservation order” for “planning permission” in the first place where those words appear;</p> <p>(iii) “consent under such an order” for “planning permission” in the second place where those words appear;</p> <p>(iv) for paragraph (c) substitute—</p> <p>“(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</p> <p>(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> <p>(b) Omit subsection (2).</p> <p>(c) In subsection (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> <p>(a) in respect of a matter mentioned in any of</p> |

|                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                          | <p>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;</p> <p>(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.”.</p> <p>(d) For subsection (4), substitute—</p> <p>“(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).”.</p> <p>(e) For subsection (5), substitute—</p> <p>“(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.”.</p> |
| Section 79<br>(determination of appeals) | <p>(a) In subsections (1) and (2), substitute “the authority” for “the local planning authority”.</p> <p>(b) Omit subsection (3).</p> <p>(c) In subsection (4), substitute—</p> <p>(i) “section 70(1), (1A) and (1B)” for “sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5”;</p> <p>(ii) “consent under a tree preservation order” for “planning permission”; and</p> <p>(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 sections 65</p>                                                                                                                                                                                                                                                                                                                                                                                                                         |

|  |                                                                                                                            |
|--|----------------------------------------------------------------------------------------------------------------------------|
|  | <p>or 71.”.</p> <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after “section 78”.</p> |
|--|----------------------------------------------------------------------------------------------------------------------------|

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;
- (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 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,

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 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.

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