

Ribble Valley Borough Council

Town and Country Planning Acts 1971-4

RIBBLE VALLEY BOROUGH CONCIL
TREE PRESERVATION ORDER No 5 1986
BELVEDERE RESTAURANT
HAMMOND DRIVE, READ.

The Ribble Valley Borough Council in this order called "the authority", in pursuance of the powers conferred in that behalf by section 60 (and section 61) of the Town and Country Planning Act 1971 (as amended by Section 10(1) of the Town and Country Amenities Act 1974), and subject to the provisions of the Forestry Act 1967, hereby makes the following order:-

1. In this Order -

"the Act" means the Town and Country Planning Act 1971;

"owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession; and "the Secretary of State" means the Secretary of State for the Environment.

2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, wilful damage, or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of trees, groups of trees and woodlands is defined in the manner indicated in the said First Schedule on the map annexed hereto which map shall, for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification of the said First Schedule.

3. An application for consent made to the authority under Article 2 of this Order shall be in writing stating the reasons for making the application and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for the carrying out of which consent is required.

4.-(1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent:

Provided that where the application relates to any woodland specified in the First Schedule to this Order the authority shall grant consent as far as accords with the principles of good forestry, except where, in the opinion of the authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

5. Where the authority refuse consent under this Order or grant such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are so refusing or granting consent that they are satisfied -

- (a) that the refusal or condition is in the interests of good forestry; or
- (b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.

6.-(1) Where consent is granted under this Order to fell any part of a woodland other than consent or silvicultural thinning then unless -

- (a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act, or
- (b) the authority with the approval of the Secretary of State dispense with replanting,

the authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provision of this Order and section 175 of the Act, replant the said land in accordance with the direction.

(2). Any direction given under paragraph (1) of this Article may include requirements as to -

- (a) species;
- (b) number of trees per acre (hectare);
- (c) the erection and maintenance of fencing necessary for protection of the replanting;
- (d) the preparation of ground, draining, removal of brushwood, lop and top; and
- (e) protective measures against fire.

7. On imposing any condition requiring the replacement of any tree under Article 4 of the Order, or on giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall if such condition or direction relates to land in respect of which byelaws made by a water authority since 31 March 1974, by any other authority (whose functions are now exercised by a water authority) who at any time prior to 1 April 1974 exercised the functions in respect of which the byelaw was made, by a drainage board, or by the Greater London Council in the exercise of any of its functions in relation to the maintenance, improvement or construction of watercourses or of drainage works restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the water authority, the drainage board, or the Greater London Council under those byelaws and the condition or direction shall have effect accordingly.

8. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Act adapted and modified for the purposes of this Order, shall apply in relation thereto.

9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the authority within the time and in the manner prescribed by this order, be entitled to recover from the authority compensation in respect of such loss or damage:

Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

10. In assessing compensation payable under the last preceding Article account shall be taken of:

- (a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under section 60 of the Act or under the terms of any Interim Preservation Order made under section 8 of the Town and Country Planning (Interim Development) Act 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1943, and
- (b) any injurious affection to any land of the owner which would result from the felling of trees the subject of the claim.

11.(1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority, such service to be effected by addressing the claim to the authority and leaving it at or sending it by post to the principal office of the authority.

(2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the authority, or of the Secretary of State, as the case may be, or where an appeal has been made to the Secretary of State against the decision of the authority, from the date of the decision of the Secretary of State on the appeal.

12. Any question of disputed compensation shall be determined in accordance with the provisions of section 179 of the Act.

13.-(1) The provisions of section 61 of the Act shall apply to this Order and the Order shall take effect on 25th June 1986.

THE COMMON SEAL OF THE RIBBLE VALLEY
BOROUGH COUNCIL WAS HEREUNTO AFFIXED

THIS 14th DAY OF FEBRUARY 1986



Chief Executive.

NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or twice the sum which appears to the court to be the value of the tree, whichever is the greater, or on indictment to a fine. The penalty for any other contravention of this Order is a fine not exceeding £200 on summary conviction and, in the case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

If a tree other than one to which an Order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by section 60(6) of the Town and Country Planning Act 1971 relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the local planning authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than 5 days previous notice of the removal etc., should be given to the authority to enable the latter to decide whether or not to dispense with the requirement.

FIRST SCHEDULE

<u>No. on Map</u>	<u>Description of Trees</u>	<u>Location on O.S. Sheet</u>
<u>TREES SPECIFIED INDIVIDUALLY</u> (Encircled black on Map)		
T1	Ash	763348
T2	Ash	all within the grounds of the Belvedere Restaurant, Read.
T3	Sycamore	
T4	Sycamore	
T5	Sycamore	

TREES SPECIFIED BY REFERENCE TO AN AREA (Within a continuous black line on the Map)

NONE

GROUPS OF TREES (Within a broken black line on the Map)

G1	Group consisting of 3 sycamore	adjacent to the western boundary of the site.
G2	Group of trees consisting of 3 ash, 3 holly, 6 sycamore, 1 yew, 2 beech, 2 whitebeam, 2 lime.	line of trees along the southern boundary of the site.
G3	Group consisting of 2 beech, 1 chestnut and 2 elms	adjacent to S.E. boundary of the site.
G4	Group consisting of 2 holly, 1 yew, 2 gean and 2 sycamore	adjacent to the entrance drive to the Belvedere Hotel, East side.
G5	Group consisting of 1 chestnut, 2 copper beech, 6 beech, 1 sycamore, 1 oak and 2 elm	adjacent to the entrance drive to the Belvedere Hotel, West side.
G6	Group consisting of 2 gean and 1 lime	South side of the entrance to the car park.

REASONS FOR SERVING THE ORDER

The trees within the grounds of the "Belvedere" restaurant, together with other well-treed sites on the south facing hillside overlooking the Calder Valley, make an important contribution to the landscape of the Calder Valley. Many trees in the grounds of the Belvedere have already been lost as a result of disease; it is considered appropriate to protect the remaining trees thus ensuring continuity of tree cover in this area.

