

# Camden memo

Borough Solicitor's Branch

r/o 2 - 30 (evens) Aga Rd .

r/o 62 Gondar Gardens

r/o 37-45 (odds) Hillfield Road

To: LAND CHARGES Cc:	From: ROGER KEMP
Date: 20 .3.2003	Ext: 5680
	Ref: CLS/CLT/RK 426/000

**TREE PRESERVATION ORDER:  
LAND AT: OR ADJACENT TO :  
SHOOT UP HILL, RESERVOIR, GONDAR GARDENS,  
LONDON NW6, ON A STRIP OF LAND ALONG THE  
EASTERN BOUNDARY ADJOINING PROPERTIES ON  
AGAMEMNON ROAD AND HILLFIELD ROAD**

**A Tree Preservation Order has been issued in respect of the above property, which may be identified, from the Plan attached to it.**

**Please record the Order on your cards as follows:**

**"Included in the London Borough of Camden Tree Preservation Order No. C378 2003 made under the Town and Country Planning Act 1990 (as amended): Land at or adjacent to SHOOT UP HILL, RESERVOIR, GONDAR GARDENS, LONDON NW6, ON A STRIP OF LAND ALONG THE EASTERN BOUNDARY ADJOINING PROPERTIES ON AGAMEMNON ROAD AND HILLFIELD ROAD".**

**I will lodge the original Order with you when (and if) it is confirmed.**

**For the time being I enclose a copy of the Tree Preservation Order, and of the Notice of the issue of the Tree Preservation Order.**

**NB. The last day for confirming this Tree Preservation Order is 6<sup>th</sup> SEPTEMBER 2003**

**Please note: that the Department of the Environment has issued guidance that in certain circumstances, a Tree Preservation Order may be confirmed past this date. In practice, I shall always endeavor to confirm any TPO before the six months expires, providing I am instructed to do so.**

**Thanks,  
Roger  
ROGER KEMP  
COMMERCIAL LAW TEAM  
FOR THE BOROUGH SOLICITOR.**

**TOWN AND COUNTRY PLANNING ACT 1990.  
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999  
TREE PRESERVATION ORDER: C378 2003  
LAND AT OR ADJACENT TO:  
SHOOT UP HILL, RESERVOIR, GONDAR GARDENS, LONDON NW6,  
ON A STRIP OF LAND ALONG THE EASTERN BOUNDARY ADJOINING  
PROPERTIES ON AGAMEMNON ROAD AND HILLFIELD ROAD**

The Council, The London Borough of Camden, in exercise of the powers conferred on it by Sections 198, 201, 203 [and 300 in accordance with the consent dated of the Crown Estates] of the Town and Country Planning Act 1990 hereby make the following Order:-

Citation.

1. This Order may be cited as TPO C378 2003.

Interpretation.

2. In this Order "the Authority" means "The London Borough of Camden" 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 directs that Section 201 [provisional tree preservation orders] shall apply to this Order and, accordingly, this Order shall take effect provisionally on 7 MARCH 2003.

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 (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,

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.

**# Subsection (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. Subsection (7) of that section makes section 198 subject to section 39(2) of the Housing and Planning Act 1986 and section 15 of the Forestry Act 1967.**

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#### 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;**
- (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 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 the 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; or

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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.

(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),

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 1984 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,

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.**

Application 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).**

**(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 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.**

**(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, it 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 –  
for loss of development value or other diminution in the value of the  
land;**

**(a) for loss or damage which, having regard to the statement of  
reasons  
submitted in accordance with Article 6c 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;**

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**(b) 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**

**(c) 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.**

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]

Orders made by Virtue of Section 300.

11. This Order takes effect in accordance with subsection (3) of Section 300 (tree preservation orders in anticipation of disposal of Crown Land).

Signed on behalf of  
MAYOR AND BURGESSES OF THE  
LONDON BOROUGH OF CAMDEN  
THIS 7 MARCH 2003

..... .....

[Authorised by the Council to sign on that behalf]

The London Borough of Camden  
in exercise of the powers conferred  
upon them in that behalf by Section  
198 of the Town and Country Planning  
Act 1990, hereby confirm/ do not confirm, with/without  
any Modification, the foregoing Order.

Signed on behalf of the  
MAYOR AND BURGESS OF THE  
LONDON BOROUGH OF CAMDEN  
This Day of 2003

.....  
[Authorised by the Council to sign on that behalf]



**DATED 7 MARCH 2003**

**TOWN AND COUNTRY  
PLANNING ACT 1990.**

**TOWN AND COUNTRY  
PLANNING (TREES)  
REGULATIONS**

**TPO C378 2003**

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**TREE PRESERVATION ORDER  
RELATING TO LAND AT  
OR ADJACENT TO:  
SHOOT UP HILL RESERVOIR,  
GONDAR GARDENS, LONDON NW6,  
ON A STRIP OF LAND ALONG THE  
EASTERN BOUNDARY ADJOINING  
PROPERTIES ON AGAMEMNON ROAD  
AND HILLFIELD ROAD.**

**ALISON LOWTON,  
BOROUGH SOLICITOR  
LONDON BOROUGH OF CAMDEN  
TOWN HALL,  
JUDD STREET  
LONDON WC1H 9LP**

**[CLS/CLT/RK/ C378 2003]**

SCHEDULE 1  
SPECIFICATION OF TREES.

Trees Specified Individually.  
[encircled in black on the map].

<u>Reference Number</u>	<u>Description</u>	<u>Situation</u>
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Situation  
On Map

None.

Specified by Reference to an Area.  
[within a dotted black line on the map].

<u>Reference Number on</u>	<u>Description</u>	<u>Situation</u>
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Situation  
The Map

None

Groups of Trees  
[within broken line on the map]

<u>Reference number</u>	<u>Description</u>	<u>Situation.</u>
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On the Map

G1

Group of trees  
of various species.

Land at or adjacent  
Shoot Up Hill Reservoir,  
Gondar Gardens,  
London NW6, on a strip  
Of land along the eastern  
Boundary adjoining  
properties on  
Agamemnon Road and  
Hillfield Road,  
London NW6

Woodlands

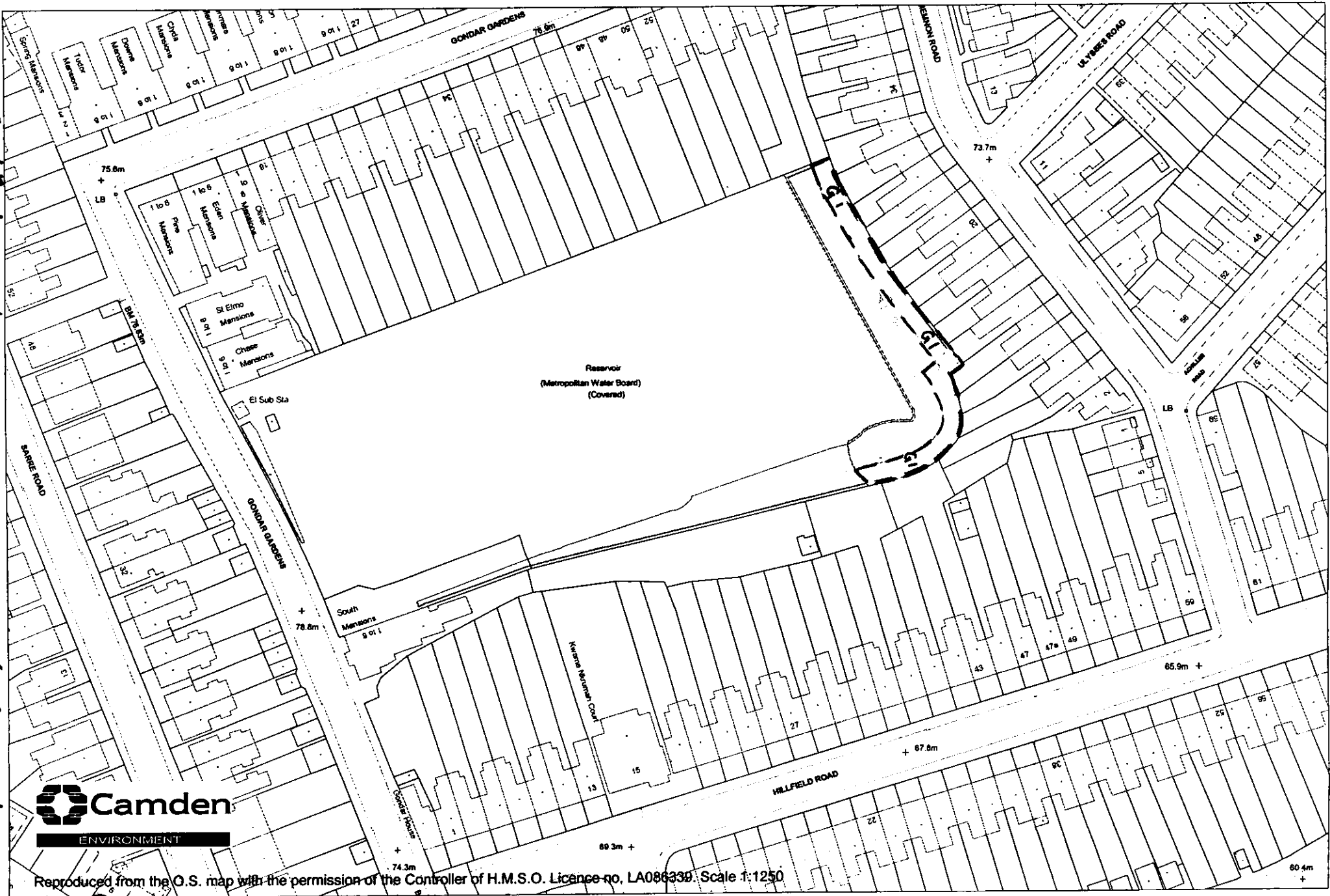
[within continuous black line on the map]

<u>Reference number</u>	<u>Description</u>	<u>Situation.</u>
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On the Map

None

SHOOT UP HILL RESERVOIR LAND No  
ON STRIP OF LAND ALONG GONDAR GARDENS, HILLFIELD ROAD AND  
GONDAR GARDENS, HILLFIELD ROAD AND  
GONDAR GARDENS, HILLFIELD ROAD AND  
GONDAR GARDENS, HILLFIELD ROAD AND



Reproduced from the O.S. map with the permission of the Controller of H.M.S.O. Licence no. LA086339. Scale 1:1250

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SCHEDULE 2 – PART II.

PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990

AS ADAPTED AND MODIFIED BY PART 1.

**The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part 1 of this Schedule, apply 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 1(B), 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**

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**(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.**

**(2) The applicant shall serve on the authority a copy of the notice mentioned in subsection(3). .**

**4)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.**

Section 79.

**(1) On an appeal under section 78 the Secretary of State may –**

**(a) allow or dismiss the appeal, or**

**(b) reverse or vary any part of the decision of the Authority (whether the appeal relates to that part of it or not),**

**and may deal with the application as if it has been made to him in the first instance.**

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**(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the Authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.**

.....

**4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the Authority.**

**5) The decision of the Secretary of State on such appeal shall be final.**

**(5) Schedule 6 applies to appeals under Section 78.**

NOTICE TO ACCOMPANY TPO

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

NOTICE UNDER REGULATION 3.

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THE LONDON BOROUGH OF CAMDEN TREE PRESERVATION ORDER  
NUMBER **C378 2003**.

LAND AT OR ADJACENT TO :

**SHOOT UP HILL, RESERVOIR, GONDAR GARDENS, LONDON NW6,  
ON A STRIP OF LAND ALONG THE EASTERN BOUNDARY ADJOINING  
PROPERTIES ON AGAMEMNON ROAD AND HILLFIELD ROAD**

TAKE NOTICE that the London Borough of Camden in pursuance of its powers as Local Planning Authority under Sections 198, 201, [and 300] of the above-named Act, has this day made a Tree Preservation Order in respect of

Land and Premises at or adjacent to  
**SHOOT UP HILL, RESERVOIR, GONDAR GARDENS, LONDON  
NW6, ON A STRIP OF LAND ALONG THE EASTERN BOUNDARY  
ADJOINING PROPERTIES ON AGAMEMNON ROAD  
AND HILLFIELD ROAD**

on the attached map.

**A copy of the Order, together the map included therein, is enclosed.**

**The grounds for making the said Order are as follows:**

In the interests of amenity

**A certified copy of the Order and map included therein may be inspected without charge at the offices of the London Borough of Camden, Planning Reception, Environment (Planning) Department, Fifth Floor, Town Hall, Argyle Street, London WC1H 8EQ between the hours of 10.00am and 4.00pm on Mondays to Fridays.**



Should you wish to raise any objections or make representations with respect to the tree[s], groups of trees or woodlands which are specified in the Tree Preservation Order, they should be made in writing to the Tree Preservation Officer, Environment Department [Ref: KF/C378 2003], London Borough of Camden, Sixth Floor, Town Hall, Argyle Street, London WC1H 8EQ, stating the grounds of objection and specifying the particular tree(s) or

woodlands in respect of which it is made. Any objection or representation duly made must be received by the Environment (Planning) Department of the London Borough of Camden by 16 APRIL 2003, and made in accordance with Regulation 4.

If no objections or representations are duly made, or if any so made are withdrawn, then not less than 42 days from the date of the service of this Notice, the Order may be confirmed (without any modification) by the above authority as an unopposed Order. If objections are received in the form referred to above and not withdrawn then the Authority, having considered all such representations, may confirm the Order either with modifications or in the original form.

The Order contains a direction under Section 201 of the Town and Country Planning Act 1990 which has the effect of bringing the Order into effect forthwith for a period of six months provisionally. Within that period the Order must be confirmed or otherwise it ceases to have effect.

Dated: 7 March 2003

[Signed]..... .

[Duly Authorised Officer]

**TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999**

**REGULATION NO. 4.**

**Objections and representations.**

**4(1) Subject to paragraph (2), objections and representations –**

**a) shall be made in writing and –**

- i) delivered to the authority not later than the date specified by them under Regulation 3(2) (c);**
  - ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;**
- b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made ; and**
- c) in the case of an objections, shall state the reasons for the objection.**

**4(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.**

THE LONDON BOROUGH OF CAMDEN  
TOWN AND COUNTRY PLANNING ACT 1990  
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999.  
TREE PRESERVATION ORDER NO. C378 2003

LAND AT OR ADJACENT TO  
SHOOT UP HILL, RESERVOIR, GONDAR GARDENS, LONDON NW6,  
ON A STRIP OF LAND ALONG THE EASTERN BOUNDARY ADJOINING  
PROPERTIES ON AGAMEMNON ROAD AND HILLFIELD ROAD

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SITE NOTICE

TAKE NOTE that on the 7 March 2003, the London Borough of Camden issued Tree Preservation Order under Section 198 , 201 [and 300] of the Town and Country Planning Act 1990 , in respect of the trees identified on the site plan.

The Order contains a direction under Section 201 of the Act, the effect of which is that the Order takes immediate effect and continues in force for six months or until the date on which the Order is confirmed, whichever comes last.

A certified copy of the Order and the map included therein may be inspected without charge at Reception, Environment (Planning) Department, 5<sup>th</sup> Floor, Argyle street, London WC1H 8EQ between the hours of 10.00am and 4.00pm on Mondays to Fridays.

Any person wishing to make an objection or representation on the making of this Order may do so under Regulation 4 of the Town and Country Planning (Trees) Regulations 1999. Any objection or representation must be in writing and must state the grounds for making the objection or representation and specify the particular tree in respect of which it is made. All objections and representations must be received by the 16 APRIL 2003.

Any enquiries in connection with this Notice should be made to the Tree Preservation Officer, Environment (Planning) Department [Ref: NJ/C378 2003], London Borough of Camden, Fifth Floor, Town Hall, Argyle Street, London WC1 8EQ (Telephone 020 7974-6374).

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 £20,000, or twice the sum which appears to the Court to be the value of the tree, whichever is the greatest, or on indictment to a fine; the penalty for any other contravention of this Order is a fine not exceeding £2,500 on summary conviction.

# Camden Borough Solicitor's Branch

## memo

<b>To: LAND CHARGES</b> <b>Cc:</b>	<b>From: ROGER KEMP</b>
<b>Date: 31.8.2004</b>	<b>Ext: 5680</b>
	<b>Ref: CLS/CLT/RK1375/78</b>

**TREE PRESERVATION ORDER:  
C378 2003:  
LAND AT AND ADJACENT:**

**SHOOT UP HILL, RESERVOIR, GONDAR GARDENS, LONDON NW6,  
ON A STRIP OF LAND ALONG THE EASTERN BOUNDARY ADJOINING  
PROPERTIES ON AGAMEMNON ROAD AND HILLFIELD ROAD**

On the 7 March 2003 I sent you a copy of the above Tree Preservation Order, with a request that it be registered as a Local Land Charge.

The Tree Preservation Order was confirmed, without Modifications, on 9 February 2004 and I now enclose the ORIGINAL Tree Preservation Order C378 2003, together with the original Notice of Issue of the Tree Preservation Order. Please retain these in your records.

**ROGER KEMP  
COMMERCIAL LAW TEAM  
FOR BOROUGH SOLICITOR.**

**TOWN AND COUNTRY PLANNING ACT 1990.  
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999  
TREE PRESERVATION ORDER: C378 2003  
LAND AT OR ADJACENT TO:  
SHOOT UP HILL, RESERVOIR, GONDAR GARDENS, LONDON NW6,  
ON A STRIP OF LAND ALONG THE EASTERN BOUNDARY ADJOINING  
PROPERTIES ON AGAMEMNON ROAD AND HILLFIELD ROAD**

The Council, The London Borough of Camden, in exercise of the powers conferred on it by Sections 198, 201, 203 [and 300 in accordance with the consent dated of the Crown Estates] of the Town and Country Planning Act 1990 hereby make the following Order:-  
Citation.

**1. This Order may be cited as TPO C378 2003.**

Interpretation.

**2. In this Order "the Authority" means "The London Borough of Camden" 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 directs that Section 201 [provisional tree preservation orders] shall apply to this Order and, accordingly, this Order shall take effect provisionally on 7 MARCH 2003.**

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 (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,**

**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.**

**# Subsection (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. Subsection (7) of that section makes section 198 subject to section 39(2) of the Housing and Planning Act 1986 and section 15 of the Forestry Act 1967.**

#### 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;**
- (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 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 the 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; or**
- 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.**

**(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),**

**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 1984 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,**

**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.**

Application 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).**
  - (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 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.**

**(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, it 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 –  
for loss of development value or other diminution in the value of the  
land;**

**(a) for loss or damage which, having regard to the statement of  
reasons  
submitted in accordance with Article 6c 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;**

**(b) 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**

**(c) 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.**


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]

Orders made by Virtue of Section 300.

11. This Order takes effect in accordance with subsection (3) of Section 300 (tree preservation orders in anticipation of disposal of Crown Land).


Signed on behalf of  
MAYOR AND BURGESSES OF THE  
LONDON BOROUGH OF CAMDEN  
THIS 7 MARCH 2003

.....

[Authorised by the Council to sign on that behalf]

The London Borough of Camden  
in exercise of the powers conferred  
upon them in that behalf by Section  
198 of the Town and Country Planning  
Act 1990, hereby confirm/ ~~do not confirm~~ with/without  
any Modification, the foregoing Order.

Signed on behalf of the  
MAYOR AND BURGESS OF THE  
LONDON BOROUGH OF CAMDEN

This 9 Day of February 2004  
.....

[Authorised by the Council to sign on that behalf]

[ 9 FEBRUARY 2004 ]

**DATED 7 MARCH 2003**

**TOWN AND COUNTRY  
PLANNING ACT 1990.**

**TOWN AND COUNTRY  
PLANNING (TREES)  
REGULATIONS**

**TPO C378 2003**

**TREE PRESERVATION ORDER  
RELATING TO LAND AT  
OR ADJACENT TO:  
SHOOT UP HILL RESERVOIR,  
GONDAR GARDENS, LONDON NW6,  
ON A STRIP OF LAND ALONG THE  
EASTERN BOUNDARY ADJOINING  
PROPERTIES ON AGAMEMNON ROAD  
AND HILLFIELD ROAD.**

**ALISON LOWTON,  
BOROUGH SOLICITOR  
LONDON BOROUGH OF CAMDEN  
TOWN HALL,  
JUDD STREET  
LONDON WC1H 9LP**

**[CLS/CLT/RK/ C378 2003]**

SCHEDULE 1  
SPECIFICATION OF TREES.

Trees Specified Individually.  
[encircled in black on the map].

<u>Reference Number</u>	<u>Description</u>	<u>Situation</u>
<u>Situation</u>		
<u>On Map</u>		

None.

Specified by Reference to an Area.  
[within a dotted black line on the map].

<u>Reference Number on</u>	<u>Description</u>	<u>Situation</u>
<u>Situation</u>		
<u>The Map</u>		

None

Groups of Trees  
[within broken line on the map]

<u>Reference number</u>	<u>Description</u>	<u>Situation.</u>
<u>On the Map</u>		

G1

Group of trees  
of various species.

Land at or adjacent  
Shoot Up Hill Reservoir,  
Gondar Gardens,  
London NW6, on a strip  
Of land along the eastern  
Boundary adjoining  
properties on  
Agamemnon Road and  
Hillfield Road,  
London NW6

Woodlands

[within continuous black line on the map]

<u>Reference number</u>	<u>Description</u>	<u>Situation.</u>
<u>On the Map</u>		

None

SHOOT UP HILL RESERVOIR, GONDAR GARDENS, LONDON N16  
ON A STRIP OF LAND AND ALONG THE EASTERN BOUNDARY OF STANT  
DANGER



Reproduced from the O.S. map with the permission of the Controller of H.M.S.O. Licence no. LA086339. Scale 1:1250

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Ambari.

SCHEDULE 2 – PART II.

PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990

AS ADAPTED AND MODIFIED BY PART 1.

**The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part 1 of this Schedule, apply 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 1(B), 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.**

**(2) The applicant shall serve on the authority a copy of the notice mentioned in subsection(3). .**

**4)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.**

Section 79.

**(1) On an appeal under section 78 the Secretary of State may –**

**(a) allow or dismiss the appeal, or**

**(b) reverse or vary any part of the decision of the Authority (whether the appeal relates to that part of it or not),**

**and may deal with the application as if it has been made to him in the first instance.**

**(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the Authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.**

.....

**4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the Authority.**

**5) The decision of the Secretary of State on such appeal shall be final.**

**(5) Schedule 6 applies to appeals under Section 78.**

NOTICE TO ACCOMPANY TPO

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

NOTICE UNDER REGULATION 3.

THE LONDON BOROUGH OF CAMDEN TREE PRESERVATION ORDER

NUMBER C378 2003.

LAND AT OR ADJACENT TO :

**SHOOT UP HILL, RESERVOIR, GONDAR GARDENS, LONDON NW6,  
ON A STRIP OF LAND ALONG THE EASTERN BOUNDARY ADJOINING  
PROPERTIES ON AGAMEMNON ROAD AND HILLFIELD ROAD**

TAKE NOTICE that the London Borough of Camden in pursuance of its powers as Local Planning Authority under Sections 198, 201, [and 300] of the above-named Act, has this day made a Tree Preservation Order in respect of

Land and Premises at or adjacent to

**SHOOT UP HILL, RESERVOIR, GONDAR GARDENS, LONDON  
NW6, ON A STRIP OF LAND ALONG THE EASTERN BOUNDARY  
ADJOINING PROPERTIES ON AGAMEMNON ROAD  
AND HILLFIELD ROAD**

on the attached map.

A copy of the Order, together the map included therein, is enclosed.

The grounds for making the said Order are as follows:

In the interests of amenity

A certified copy of the Order and map included therein may be inspected without charge at the offices of the London Borough of Camden, Planning Reception, Environment (Planning) Department, Fifth Floor, Town Hall, Argyle Street, London WC1H 8EQ between the hours of 10.00am and 4.00pm on Mondays to Fridays.

Should you wish to raise any objections or make representations with respect to the tree[s], groups of trees or woodlands which are specified in the Tree Preservation Order, they should be made in writing to the Tree Preservation Officer, Environment Department [Ref: KF/C378 2003], London Borough of Camden, Sixth Floor, Town Hall, Argyle Street, London WC1H 8EQ, stating the grounds of objection and specifying the particular tree(s) or

woodlands in respect of which it is made. Any objection or representation duly made must be received by the Environment (Planning) Department of the London Borough of Camden by 16 APRIL 2003, and made in accordance with Regulation 4.

If no objections or representations are duly made, or if any so made are withdrawn, then not less than 42 days from the date of the service of this Notice, the Order may be confirmed (without any modification) by the above authority as an unopposed Order. If objections are received in the form referred to above and not withdrawn then the Authority, having considered all such representations, may confirm the Order either with modifications or in the original form.

The Order contains a direction under Section 201 of the Town and Country Planning Act 1990 which has the effect of bringing the Order into effect forthwith for a period of six months provisionally. Within that period the Order must be confirmed or otherwise it ceases to have effect.

Dated: 7 March 2003

[Signed]..... .

[Duly Authorised Officer]

**TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999**

**REGULATION NO. 4.**

**Objections and representations.**

**4(1) Subject to paragraph (2), objections and representations –**

**a) shall be made in writing and –**

- i) delivered to the authority not later than the date specified by them under Regulation 3(2) (c);**
- ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;**

**b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made ; and**

**c) in the case of an objections, shall state the reasons for the objection.**

**4(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.**

THE LONDON BOROUGH OF CAMDEN  
TOWN AND COUNTRY PLANNING ACT 1990  
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999.  
TREE PRESERVATION ORDER NO. C378 2003

LAND AT OR ADJACENT TO  
**SHOOT UP HILL, RESERVOIR, GONDAR GARDENS, LONDON NW6,  
ON A STRIP OF LAND ALONG THE EASTERN BOUNDARY ADJOINING  
PROPERTIES ON AGAMEMNON ROAD AND HILLFIELD ROAD**

#### SITE NOTICE

TAKE NOTE that on the 7 March 2003, the London Borough of Camden issued Tree Preservation Order under Section 198 , 201 [and 300] of the Town and Country Planning Act 1990 , in respect of the trees identified on the site plan.

The Order contains a direction under Section 201 of the Act, the effect of which is that the Order takes immediate effect and continues in force for six months or until the date on which the Order is confirmed, whichever comes last.

A certified copy of the Order and the map included therein may be inspected without charge at Reception, Environment (Planning) Department, 5<sup>th</sup> Floor, Argyle street, London WC1H 8EQ between the hours of 10.00am and 4.00om on Mondays to Fridays.

Any person wishing to make an objection or representation on the making of this Order may do so under Regulation 4 of the Town and Country Planning (Trees) Regulations 999. Any objection or representation must be in writing and must state the grounds for making the objection or representation and specify the particular tree in respect of which it is made. All objections and representations must be received by the 16 APRIL 2003.

Any enquiries in connection with this Notice should be made to the Tree Preservation Officer, Environment (Planning) Department [Ref: NJ/C378 2003], London Borough of Camden, Fifth Floor, Town Hall, Argyle Street, London WC1 8EQ (Telephone 020 7974-6374).

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 £20,000, or twice the sum which appears to the Court to be the value of the tree, whichever is the greatest, or on indictment to a fine; the penalty for any other contravention of this Order is a fine not exceeding £2,500 on summary conviction.