

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

Town and Country Planning Act 1990

Land at or Adjacent to 49 Fitzjohn s Avenue London NW3 6PG

The London Borough of Camden in exercise of the powers conferred on them by sections 198 [201] and 203 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation

1 This Order may be cited as the TPO C969 2011

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 direct that section 201 (provisional tree preservation orders) shall apply to this Order and accordingly this Order shall take effect provisionally on 26 May 2011

Prohibited acts in relation to trees

4 Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders Forestry Commissioners) and subject to article 5 no person shall—

- (a) cut down top lop uproot wilfully damage or wilfully destroy or
- (b) cause or permit the cutting down topping lopping uprooting wilful damage or wilful destruction of

any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified except with the consent of the authority and where such consent is given subject to conditions in accordance with those conditions

Exemptions

5 —(1) Nothing in article 4 shall prevent—

- (a) the cutting down topping lopping or uprooting of a tree by or at the request of a statutory undertaker where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary—
 - (i) in the interests of the safe operation of the undertaking

- (ii) in connection with the inspection repair or renewal of any sewers mains pipes cables or other apparatus of the statutory undertaker or
- (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995
- (aa) the cutting down topping lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes)
- (ab) the cutting down topping lopping or uprooting of a tree where that work is urgently necessary for national security purposes
- (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 the 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 that 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 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 a body acting on behalf of that authority or a person who holds a licence under Chapter I of Part I of the Transport Act 2000
- a universal postal service provider in connection with the provision of a universal postal service

1

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

1 Article 6 omitted by regulation 2(4)(a) of the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008 Statutory Instrument 2008 No 2260

- (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 they shall not be required to pay compensation to any person other than the owner of the land and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal

(4) In any other case no compensation shall be payable to a person—

- (a) for loss of development value or other *diminution in the value of the land*
- (b) for loss or damage which having regard to the application and the documents and particulars accompanying it was not reasonably foreseeable when consent was refused or was granted subject to conditions
- (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent or
- (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

[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]]

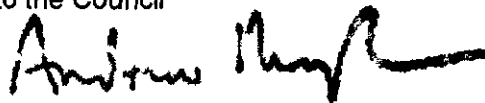
Dated this 26 day of May 2011

[The Common Seal of the []
was hereunto affixed in the presence of

]

[if the Council's Standing Orders do not require the sealing of such documents]

Signed on behalf of the London Borough of Camden
Andrew Maughan
Head of Legal Services
Solicitor to the Council



Authorised by the Council to sign in that behalf]

[CONFIRMATION OF ORDER

[This Order was confirmed by the London borough of Camden without modification on the [] day of []

OR

[This Order was confirmed by the London Borough of Camden subject to the modifications indicated by [state how indicated] on the [] day of [insert month and year]]

Authorised by the Council to sign in that behalf]

[DECISION NOT TO CONFIRM ORDER

[A decision not to confirm this Order was taken by the London Borough of Camden on the [] day of []]

Authorised by the Council to sign in that behalf]

[VARIATION OF ORDER

[This Order was varied by the [*London Borough of Camden*] 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 London Borough of Camden 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]	Plane Tree	Located in the rear garden of 49 Fitzjohn's Avenue London NW3 6PG

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

Reference on map	Description	Situation
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Groups of trees
(within a broken black line on the map)

Reference on map	Description	Situation
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Woodlands

(within a continuous black line on the map)

Reference on map	Description	Situation
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8

NETHERHALL GARDENS

MARESFIELD GARDENS

FITZJOHN S AVENUE

AKENSIDE ROAD

T1

St Mary School

Madras House

The Old
C. B. Co.
Central Bank School



C969 49 Fitzjohn s Avenue

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Scale 1/1250

Centre = 526513 E 185135 N

Date 4/2/2011

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>(i) omit—</p> <p style="padding-left: 40px;">in such manner as may be prescribed by a development order</p> <p style="padding-left: 40px;">such in the second place where it appears and as may be so prescribed and</p> <p>(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>(i) after contain insert as regards each such order and</p> <p>(ii) for paragraphs (a) and (b) substitute—</p> <p style="padding-left: 40px;">(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: 40px;">(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>
Section 70 (determination of applications general considerations)	<p>(a) In subsection (1)—</p> <p>(i) substitute—</p> <p style="padding-left: 40px;">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>
Section 75 (effect of planning permission)	<p>(a) In subsection (1) substitute—</p> <p>(i) Any for the words from Without to any</p> <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)	<p>(a) In subsection (1) substitute—</p>

<p>and failure to take such decisions)</p>	<ul style="list-style-type: none"> (i) the authority for a local planning authority (ii) consent under a tree preservation order for planning permission in the first place where those words appear (iii) consent under such an order² for planning permission in the second place where those words appear (iv) for paragraph (c) substitute— <ul style="list-style-type: none"> (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 <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 style="padding-left: 40px;">in writing addressed to the Secretary of State specifying the grounds on which the appeal is made and such notice shall be served—</p> <ul style="list-style-type: none"> (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 <p>(d) For subsection (4) substitute—</p> <p style="padding-left: 40px;">(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)</p>
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	<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>
<p>Section 79 (determination of appeals)</p>	<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> <ul style="list-style-type: none"> (i) section 70(1) (1A) and (1B) for sections 70 72(1) and (5) 73 and 73A and Part I of Schedule 5 (ii) consent under a tree preservation order' for planning permission and (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 or 71 <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)

(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

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 had 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 an appeal shall be final

(7) 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 C969 2011

LAND AT OR ADJACENT TO

49 Fitzjohn s Avenue London NW3 6PG

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 at **OR ADJACENT TO**

49 Fitzjohn s Avenue London NW3 6PG

shown 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

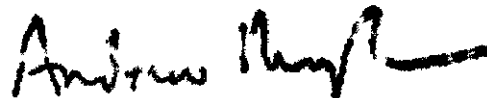
Should you wish to raise any objections or make representations with respect to the tree[s] groups of trees or woodlands which are specified in the Tree Preservation Order they should be made in writing to the Tree Preservation Officer Environment Department [Ref KF/C969 2011], London Borough of Camden 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 Culture and Environment Department (Planning) of the London Borough of Camden by 26 June 2011 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 26 May 2011

[Signed]

A handwritten signature in black ink, appearing to read "Andrew May". The signature is written in a cursive style with a long horizontal stroke at the end.

[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 C969 2011
LAND AT OR ADJACENT TO
49 Fitzjohn's Avenue London NW3 6PG**

SITE NOTICE

TAKE NOTE that on the 26 May 2011 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 5th 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 26 June 2011

Any enquiries in connection with this Notice should be made to the Tree Preservation Officer Culture and Environment Department (Planning)[Ref KF/C969 2011] London Borough of Camden Fifth Floor Town Hall Argyle Street London WC1 8EQ (Telephone 020 7974 5616)

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