

**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING
(TREES) REGULATIONS 1999**

**NORTH NORFOLK DISTRICT COUNCIL
(Sheringham)
TREE PRESERVATION ORDER 2005 NO.11**

**22 St Austins Grove
Sheringham**

Dated 15/08/05

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| <p>Section 78 (right to appeal against planning decisions and failure to take such decisions)</p> | <p>(a) In subsection (1) substitute -</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 order" 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> <p>(e) For subsection (5), substitute -</p> <p style="padding-left: 40px;">"(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> |
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| <p>Section 79 (determination of appeals)</p> | <ul style="list-style-type: none">(a) In subsections (1) and (2), substitute "the authority" for "the local planning authority".(b) Omit subsection (3).(c) In subsection (4), substitute -<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".(d) Omit subsections (6) and (6A).(e) In subsection (7), omit the words after "section 78" |
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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.
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- (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).

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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.

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- (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 any 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.

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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.

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- (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.

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- (7) Schedule 6 applies to appeals under section 78.