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**TOWN AND COUNTRY PLANNING ACT 1990
THE LAKE DISTRICT NATIONAL PARK AUTHORITY (IRT COTTAGE TO WASDALE
HALL, NETHER WASDALE) TREE PRESERVATION (NO. 13B) ORDER 2003**

THE LAKE DISTRICT NATIONAL PARK AUTHORITY, 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 Lake District National Park Authority (Irt Cottage to Wasdale Hall, Nether Wasdale) Tree Preservation (No. 13B) Order 2003.

Interpretation

2 In this Order "the Authority" means the Lake District National Park Authority 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 2 June 2003.

Prohibited acts in relation to trees

4 Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders), 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

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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;
 - (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

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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),

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- 4 -

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.

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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.

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WITH
MODIFICATIONS**

(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 statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
- (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or

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MODIFICATIONS**

- 7 -

(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.

GIVEN UNDER THE COMMON SEAL of
THE LAKE DISTRICT NATIONAL
PARK AUTHORITY this
2nd day of June
Two thousand and
three

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AUTHORISED SIGNATORY



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- 8 -

SCHEDULE 1

Article 4

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

<u>Reference on Map</u>	<u>Description</u>	<u>Situation</u>
T2	Pine	Close to, and west of the fence forming the eastern boundary of Galesyke
T3	Pine	Close to, and west of the fence forming the eastern boundary of Galesyke; south of T2
T4	Beech	Close to, and west of the fence forming the eastern boundary of Galesyke; south of T3
T5	Lime	Close to, and west of the fence forming the eastern boundary of Galesyke; south of T4
T6	Western Red Cedar	Set back from, and west of the fence forming the eastern boundary of Galesyke; south of T5
T7	Western Red Cedar	Set back from, and west of the fence forming the eastern boundary of Galesyke; south of T6
T8	Beech	Within the field immediately to the east of Galesyke, close to its northern boundary
T9	Beech	Within the field immediately to the east of Galesyke, close to its northern boundary; east of T8
T10	Oak	Towards the corner of the field north east of Galesyke and on

LAKE DISTRICT NATIONAL PARK AUTHORITY (IRT COTTAGE TO WASDALE HALL, NETHER WASDALE) TREE PRESERVATION (NO. 13B) ORDER 2003

CONFIRMED SUBJECT TO THE MODIFICATIONS SET OUT BELOW

SCHEDULE I PAGE 11

<u>Reference on Map</u>	<u>Description</u>	<u>Situation</u>
T35	Fir	Amended location of T35 on Plan

SCHEDULE I PAGE 11/12

<u>Reference on Map</u>	<u>Description</u>
G2	Delete reference to Sycamore and add Beech

GIVEN UNDER THE COMMON SEAL of
THE LAKE DISTRICT NATIONAL
PARK AUTHORITY this
14th day of October
Two thousand and three

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**CONTINUED
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		the north side of the road; east of G9
T11	Oak	Within the eastern boundary of the field immediately to the east of Galesyke
T12	Oak	Within the eastern boundary of the field immediately to the east of Galesyke; south of T11
T13	Oak	Within the eastern boundary of the field immediately to the east of Galesyke; south of T12
T14	Oak	Within the eastern boundary of the field immediately to the east of Galesyke; south of T13
T15	Oak	In the north east corner of a field, south of the road (C4019) between G12 and G15
T16	Beech	Close to, and south of the field boundary on the northern side of the road; opposite G15 towards its western end
T17	Ash	Close to an access track, south of the Lodge, on the south east side of the field boundary; north east of G17
T18	Beech	Within the field on the north west side of the drive to Wasdale Hall; south west of T19
T19	Oak	Within the field on the north west side of the drive to Wasdale Hall; north east of T18
T20	Oak	At the north east end of the field on the north west side of the drive to Wasdale Hall; close to the south west end of the property and T21

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WITH
MODIFICATIONS**

- 10 -

T21	Fern Leaf Beech	At the north east end of the field on the north west side of the drive to Wasdale Hall; close to the south west end of the property and T20
T22	Beech	To the east of Wasdale Hall, on the eastern side of the field between the Hall and W5
T23	Sycamore	Set back from the northern boundary of the field between Wasdale Hall and W5; on the western side of the field
T24	Oak	Set back from the northern boundary of the field between Wasdale Hall and W5; on the eastern side of the field
T25	Oak	Close to the lakeshore at the northern end of the field to the north east of Wasdale Hall; close to the south western edge of W6
T26	Beech	Set back from the lakeshore at the northern end of the field to the north east of Wasdale Hall; west of T25
T27	Oak	At the northern end of the field to the north east of Wasdale Hall; close to the south western edge of W6, between T28 and T26
T28	Oak	In the northern corner of the field to the north east of Wasdale Hall; close to the roadside boundary and south western edge of W6
T29	Beech	To the west of Galesyke set back from the wall forming the western boundary of the property; south of and inside a fence forming a boundary to the

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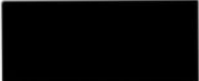
		field to the north west of Galesyke
T30	Beech	To the west of Galesyke set back from the wall forming the western boundary of the property; south of and inside a fence forming a boundary to the field to the north west of Galesyke; close to T29
T31	Beech	Close to, and east of the wall forming the western boundary of Galesyke; to the south of T29 and T30
T32	Ash	On the north side of the road (C4019) in the field corner close to the access drive to Woodhow
T33	Oak	To the south of Woodhow, on the opposite side of the road; to the west of G12 and G13 and set back from the road
T34	Chestnut	Close to and on the north east side of the field boundary between the south western ends of G15 and G17
T35	Fir	At roadside close to the access to the Lodge on the south side of the road north east of G15

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

<u>Reference on Map</u>	<u>Description</u> (including no of trees in the group)	<u>Situation</u>
G1	Group consisting of 4 Sycamore	Adjacent to and on the eastern side of the telephone exchange (centred on OS GR: NY 1300 0391)
G2	Group consisting of 5	On the south side of the road

**CONFIRMED
WITH
MODIFICATIONS**

- 12 -

		Sycamore Beech	(C4019) to the south of the telephone exchange and G1 (centred on OS GR: NY 1300 0387)
G3		Group consisting of 1 Ash, 1 Sycamore and 2 Beech	Adjacent to and on the eastern side of Murt (centred on OS GR: NY 1311 0402)
G4		Group consisting of 14 Beech, 1 Copper Beech, (The Spruce at the southern most end is excluded)	Within the field to the north of Galesyke adjacent to its northern and western boundaries (centred on OS GR: NY 1320 0396); extending from within the fence adjacent to the access to the property along the roadside to the field gate (9 Beech, 1 Copper Beech); and from the field corner at the roadside along the western boundary (5 Beech)
G4a		Group consisting of 16 Beech	Forming an avenue with eight trees on each side of the drive (centred on OS GR: NY 1332 0398)
G6		Group consisting of 3 Pine (The small leaning Pine close to the group is excluded)	Towards the northern end of the area to the east of the drive from the road (C4019) to the house at Galesyke (centred on OS GR: NY 1333 0401)
G7		Group consisting of 1 Oak, 1 Beech, and 1 Ash (The suppressed poorly formed smaller Oak is excluded)	On the southern side of the road (C4019) at the northern end of the fence forming the eastern boundary of Galesyke (centred on OS GR: NY 1336 0400)
G8		Group consisting of 3 Oak, 2 Beech, 1 Ash	On the edge of the field to the north east of Galesyke on the north side of the road (C4019); to the west of G9 (centred on OS GR: NY 1342 0402)
G9		Group consisting of 2 Oak, 1 Beech and 2 Holly	On the edge of the field to the north east of Galesyke on the

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WITH
MODIFICATIONS**

		north side of the road (C4019); to the east of G8 and opposite G10 on the south side of the road (centred on OS GR: NY 1353 0405)
G10	Group consisting of 4 Oak and 2 Beech	On the northern edge of the of the field immediately to the east of Galesyke, on the south side of the road. The Oak are at the eastern end of the group (centred on OS GR: NY 1354 0404)
G11	Group consisting of 10 Oak	On the northern edge of the field to the south west of Woodhow on the south side of the road (C4019) (centred on OS GR: NY 1387 0409). One Oak at the eastern end of the group is set back from the boundary into the field
G12	Group consisting of 15 Oak, 10 Beech, 1 Birch, 1 Larch and 1 Copper Beech	In the north eastern part of the field to the south east of Woodhow on the south side of the road (C4019) (centred on OS GR: NY 1413 0416)
G13	Group consisting of 5 Oak	In the eastern part of the field to the south east of Woodhow on the south side of the road (C4019) to the south of G12 (centred on OS GR: NY 1413 0411)
G14	Group consisting of 4 Oak and 1 Ash	In the south east corner of a field adjacent to and south of the River It; south west of W4 (centred on OS GR: NY 1415 0388)
G15	Group consisting of 3 Beech, 5 Oak, 7 Sycamore, 2 Ash	On the north western side of the field to the south west of the Lodge on the south side of the road (C4019). Some of the trees are on the roadside (3 Beech, 4 Oak and 2 Sycamore)

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		others within the field (2 Ash, 5 Sycamore, 1 Oak) (centred on OS GR: NY 1429 0426)
G16	Group consisting of 3 Oak	Within the field to the west of the Lodge; between G15 and G17 and north east of T34 (centred on OS GR: NY 1403 0422)
G17	Group consisting of 6 Beech, 2 Sycamore and 5 Oak	On the south eastern edge of the field to the south west of the Lodge; to the south east of G16 (centred on OS GR: NY 1434 0421)
G18	Group consisting of 4 Oak, 1 Red Oak, 4 Beech, 1 Copper Beech (1 small suppressed Copper Beech on the drive and 1 Beech east of the Lodge are excluded)	Extending from and on the east side of the boundary to the east of the Lodge along the south eastern side of the drive to Wasdale Hall (centred on OS GR: NY 1442 0435)
G19	Group consisting of 10 Oak, 2 Sycamore, 2 Beech	On the north western edge of the field to the north east of Wasdale Hall adjacent to the Road (C4019) (centred on OS GR: NY 1462 0472)
G20	Group consisting of 4 Oak	On the south eastern edge of the field on the north western side of the road (C4019) west of the cattlegrid; opposite the north eastern end of G19 (centred on OS GR: NY 1465 0477)

Woodlands
(within a continuous black line on the map)

<u>Reference on Map</u>	<u>Description</u>	<u>Situation</u>
W1	Woodland consisting mainly of Pine, Birch, Larch, Oak, Ash and Beech	To the east of Irt Cottage on the southern side of the River Irt (extending from OS GR: NY 1296 0578 to NY 1308 0382)

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opposite W2

W2	Woodland consisting mainly of Oak, Beech, Sycamore, Larch, Pine, Ash and Birch	To the east of Irt Cottage on the north side of the River Irt (extending from OS GR: NY 1297 0385 to NY 1311 0382) opposite W1
W3	Woodland consisting of Ash, Alder, Thorn, Willow and Oak	To the south east of Woodhow on the north eastern side of the River Irt (extending from OS GR: NY 1410 0406 to NY 1418 0394) opposite the northern part of W4
W4	Woodland consisting of Ash (9), Oak (21), Alder (10), Birch (2), Sycamore (4), Willow (1)	To the south east of Woodhow, a narrow wood on the south western side of the River Irt (extending from OS GR: NY 1406 0406 to NY 1426 0378)
W5	Woodland consisting mainly of Larch, Oak, Beech, Holly, Sycamore, Ash, Yew and Horse Chestnut	On the shore of Wast Water to the east and south east of Wasdale Hall (extending from OS GR: NY 1461 0453 to NY 1450 0429)
W6	Woodland consisting of Oak, Birch, Sycamore, Holly, Larch and Ash	Between the road (C4019) and lakeshore to the north east of Wasdale Hall at a point where enclosed land gives way to unenclosed fell land (centred on OS GR: NY 1472 0478)

The Lake District National Park Authority
 (Irt Cottage to Wasdale Hall, Nether Wasdale) Tree Preservation (No: 13B) Order, 2003



For the avoidance of doubt:

- * Trees excluded from groups
- G4 A Conifer (next to pole)
- G6 B Thin leaning Pine
- G7 C Suppressed Oak
- G18 D Beech (second tree SE of gate)
- G18 E Suppressed Copper Beech

Lake District
 National Park Authority

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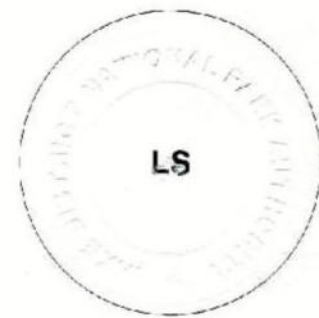
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Given under the Common seal of the
 Lake District National Park Authority

This... day of... 2003

two thousand and...

..... Authorised Signatory



The Lake District National Park Authority
 (Irt Cottage to Wasdale Hall, Nether Wasdale) Tree Preservation (No: 13B) Order, 2003 (Modified Order, 2003)

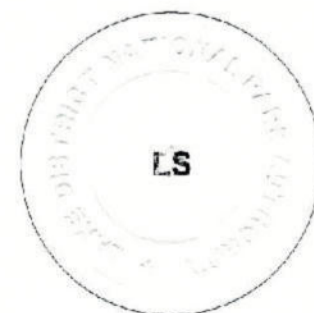


Given under the Common seal of the
 Lake District National Park Authority

This... day of...

two thousand and...

.....Authorised Signatory



13B

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SCHEDULE 2

Article 7

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>“, in such manner as may be prescribed by a development order,”, “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>“(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>(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State’s determination of it.”.</p> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>

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Provision of the Town and Country Planning Act 1990	Adaptation or Modification
<p>Section 70 (determination of applications: general considerations)</p>	<p>(a) In subsection (1) –</p> <p>(i) substitute –</p> <p>“Subject to subsections (1A) and (1B), where” for “Where”;</p> <p>“the Authority” for “a local planning authority”;</p> <p>“consent under a tree preservation order” for “planning permission” where those words first appear; and</p> <p>“consent under the order” for “planning permission” in both of the other places where those words appear;</p> <p>(ii) after “think fit”, insert -</p> <p>“(including conditions limiting the duration of the consent or requiring the replacement of trees)”; and</p> <p>(iii) omit “subject to sections 91 and 92.”</p> <p>(b) After subsection (1) insert -</p> <p>“(1A) Where an application relates to an area of woodland, the Authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</p> <p>(1B) Where the Authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).”</p> <p>(c) Omit subsections (2) and (3).</p>

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WITH
MODIFICATIONS**

- 18 -

<p>Section 75 (effect of planning permission)</p>	<p>(a) In subsection (1) substitute –</p> <ul style="list-style-type: none">(i) “Any” for the words from “Without” to “any”;(ii) “consent under a tree preservation order” for “planning permission to develop land”;(iii) “the consent” for “the permission”; and(iv) “the land to which the order relates” for “the land”. <p>(b) Omit subsections (2) and (3).</p>
<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 – <p>“(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that Authority required by such a direction; or</p> <p>(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the Authority.”</p> <p>(b) Omit subsection (2).</p> <p>(c) In subsection (3) for “served within such time and in such manner as may be prescribed by a development order.” substitute –</p> <p>“in writing addressed to the Secretary of State.</p>

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<p>Section 78 (right to appeal against planning decisions and failure to take such decisions) (continued)</p>	<p>specifying the grounds on which the appeal is made; and such notice shall be served –</p> <p>(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the Authority's decision or direction or within such longer period as the Secretary of State may allow;</p> <p>(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the Authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.”.</p> <p>(d) For subsection (4), substitute –</p> <p>“(4) The appellant shall serve on the Authority a copy of the notice mentioned in subsection (3).”.</p> <p>(e) For subsection (5), substitute –</p> <p>“(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the Authority decided to refuse the application in question.”.</p>
<p>Section 79 (determination of appeals)(a)</p> <p>(a) Section 79 was amended by the Planning and Compensation Act</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> <p>(i) “section 70(1), (1A) and (1B)” for “sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5”;</p> <p>(ii) “consent under a tree preservation order” for “planning permission”; and</p> <p>(iii) “the Authority.” for “the local planning authority and a development order may apply, with or without</p>

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<p>1991 (c.34), section 18 and Schedule 7, paragraph 19.</p> <p>Section 79 (determination of appeals)(a) (continued)</p> <p>(a) Section 79 was amended by the Planning and Compensation Act 1991 (c.34), section 18 and Schedule 7, paragraph 19.</p>	<p>modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71.”.</p> <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after “section 78”.</p>
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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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WITH
MODIFICATIONS**

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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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WITH
MODIFICATIONS**

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

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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.

**CONFIRMED
WITH
MODIFICATIONS**

- 24 -

- (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.

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

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DATED 2 JUNE 2003

LAKE DISTRICT NATIONAL PARK
AUTHORITY

TOWN AND COUNTRY PLANNING ACT
1990

THE LAKE DISTRICT NATIONAL PARK
AUTHORITY (IRT COTTAGE TO
WASDALE HALL, NETHER WASDALE)
TREE PRESERVATION (NO. 13B) ORDER
2003

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