HERTSMERE BOROUGH COUNCIL

Town and Country Planning Act 1990

TREE PRESERVATION ORDER No. 341/1996
Norfolk Lodge School, Dancers Hill Lane Potters Bar Herts

HERTSMERE BOROUGH COUNCIL in this Order called "the authority" in pursuance of the powers conferred in that behalf by Sections 198,199 and 201 of the Town and Country Planning Act 1990 and subject to the provisions of the Forestry Act 1967 and 1979, hereby make the following order:-

1. In this Order:-
"the Act" means the Town and Country Planning Act 1990;
"owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more and a mortgagee in possession; and"the Secretary of State" means the Secretary of State for the Environment.

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

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

4. (1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent.
Provided that where the application related to any woodland specified in the First Schedule to this Order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is necessary in the interest of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impost conditions on such consent requiring replacement or replanting.

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

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* Note - If it is desired to fell any of the trees included in this Order whether included as trees, groups of trees or woodlands and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application should be made not to the authority for consent under this Order but to the Conservator of Forests for a licence under that Act (Section 15 (5)).

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

(a) that the refusal or condition is in the interests of good forestry; or

(b) in the case of trees, other than trees comprised in a group of trees or in a woodland, that the trees have an outstanding or special amenity value; or

(c) in the case of trees which are comprised in a group of trees or in a woodland, that the group of trees or the woodland, as the case may be, has an outstanding or special amenity value,

but a certificate shall not be given in the case of trees falling within (c) above if the application in respect of them has been referred by the forestry Commissioners under section 15 (1) (b) or 15 (2) (a) of the Forestry Act 1967.

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

(a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act, or

(b) the authority with the approval of the Secretary of State dispenses with replanting,

the authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provision of this Order and Section 204 of the Act, replant the said land in accordance with the direction.

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

(a) species;

(b) number of trees per acre (hectare);

(c) the erection and maintenance of fencing necessary for protection of the replanting;

(d) the preparation of ground, draining, removal of brushwood, lop and top; and

(e) protective measures against fire.

7. On imposing any condition requiring the replacement of any tree under Article 4 of this Order, or on giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall if such condition or direction related to land in respect of which byelaws made by the National Rivera Authority,an internal drainage board, a water undertaker or a sewerage undertaker (as defined in the Water Act 1989) or any other authority whose functions are now exercised by the above bodies, restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the bylaws,and the condition or direction shall have effect accordingly.

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

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

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

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

(a)any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 198 of the Act, or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Development) Act 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1932, and

(b)any injurious infection to any land of the owner which would result from the felling of the trees and subject of the claim.

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

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

12. Any question of disputed compensation shall be determined in accordance with the provisions of Section 205 of the Act.

13. [(1) The Provisions of Section 201 of the Act shall apply to this Order shall take effect on the **7th June 1996**]

[(2) This Order shall apply to any tree specified in the First Schedule hereto, which is to be planted as mentioned therein, as from the time when that tree is planted.]

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 the prescribed sum § or on indictment to a fine. The penalty for any other contravention of this Order is a fine not exceeding Level 4 on the standard scale ¥ on summary conviction.

If a tree is removed, uprooted or destroyed in contravention of the order or, excempt in the case of a tree which the Order appies as part of a woodland, is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by Section 198(6) of the Town and Country Planning Act 1990 relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the local planning authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonable can. Except in emergency, not less than 5 days previous notice of the removal, etc., should be given to the authority to enable the latter to decide whether or not to dispense with the requirement. In respect of trees in a woodland it is sufficient to replace the trees removed, uprooted or destroyed by planting the same number of trees either on or near the land on which the trees stood or on such other land as may be agreed the the authority and the owner of the land, and (in either case) in such places as may be designated by the authority.

§ This sum is currently £20,000

¥ £2,500 but subject to alteration by Order.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

(encircled in black on the map)

No ON MAP	DESCRIPTION	SITUATION
T1	Lime	Norfolk Lodge School Dancers Hill Lane Potters Bar, Herts
T2	Scot Pine	
T3	Monkey Puzzle	
T4	Pine	
T5	Silver Birch	
T6	Silver Birch	
T7	Wellingtonia	As Above
T8	Sycamore	
T9	Scot Pine	
T10	Scot Pine	
T11	Scot Pine	
T12	Scot Pine	
T13	Cedar	

GROUPS OF TREES*

(within a broken black line on the map)

No ON MAP	DESCRIPTION	SITUATION
G1	Elm, Holly, Ash, Yew, Pine, Sycamore and Oak	As Above

TREES SPECIFIED BY REFERENCES TO AN AREA*

(within a dotted black line on the map)

No ON MAP	DESCRIPTION	SITUATION
	None	

WOODLANDS*

(within a continuous black line on the map)

No ON MAP	DESCRIPTION	SITUATION
W1	Various species including Oak, Birch, Sycamore and willow	

* The word "**NONE**" must be entered where necessary

SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority to -

(1) the cutting down of any trees on land which is subject to forestry dedication covenant where

(a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant at the time of the cutting down binding on the then owner of the land are fulfilled;

(b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed;

(2) the cutting down of any tree which is in accordance with a plan of operations approved by the Foresty Commission under the approved woodlands sheme or other grant scheme under Section 4 of the Forestry Act 1967 except a scheme which applies to a forestry dedication covenant;

(3) the cutting down, uprooting, topping or lopping of a tree

(a) by or at the request of the Post Office where the land on which the tree is situated is land whichhas been aquired for the purpose of the Post Office's undertaking and either works on such land cannot otherwise be carried out or the cutting down, uprooting or lopping is for the purpose of securing safety in the operation of the undertaking; or the lopping in pursuance of the power conferred on any operator of a telecommunications code system by virtue of paragraph 19 of Schedule 2 to the Telecommunications Act 1984;

(b) by or at the request of

(i) a statutory undertaker or a holder of a licence under section 6(1) of the Electricity Act 1989where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, uprooting, topping or lopping is for the purpose of securing safety in the operation of the undertaking;

(ii) a licence holder within the meaning of Part 1 of the Electricity Act 1989, where such tree obstructs the construction by the licence holder of any main transmission line or other electric line within the meaning of Part 1 of the said Act of 1989 or interferes or would inerfere with the maintenance or working of any such line;

(iii) the National Rivers Authority or an internal drainage board established under the Water Act 1989, where the tree interferes or would interfere with the exercise of any of the functions of such authority, drainage board, or Council in relation to the maintenance, improvement or construction of water courses or of drainage works; or a water undertaker or sewage undertaker appointed under section 11 of the Water Act 1989 in relation to their duties as such undertakers; or

(iv) the Secretary of State for Defence, the Secretary of State for Transport, the Civil Aviation Authority or in relation to any airport managed by a company to which any property,rights or liabilities have been transferred in pursuance of a scheme made under section 1 or 15 of the Airports Act 1986, the persons for the time being having the management of the airport, where in the opinion of such Secretary of State, Authority or person the tree obstructs the approach of aircraft to, or their departure from, any airport or hinders the safe and efficient use of aviation or defence technical installations;

(c) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;

(d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in orchard or garden;
(e) in pursuance of the powers of the Thames Water Authority under Section 105 of the Thames Conservancy Act 1932.

THIRD SCHEDULE

Provisions of the following parts of Part III of the Town and Country Planning Act 1990 as adapted and modified to apply to this Order.

75. Without prejudice to the following provisions as to the revocation or modification of consents, any consent under the Order, including any direction as to replanting given by the authority on the granting of such consent, shall (except in so far as the consent otherwise provides), ensure for the benefit of the land and of all persons for the time being interested therein.

77. Reference of applications to the Secretary of State

(1) The Secretary of State may give directions to the authority requiring applications for consent under the Order to be referred to him instead of being dealt with by the authority.

(2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.

(3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

(4) Where an application for consent under the Order is referred to the Secretary of State under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the authority.

(5) Before determining an application referred to him under this section, the Secretary of State shall, if either the applicant or the authority 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.

(7) The decision of the Secretary of State on any application referred to him under this section shall be final.

78 and 79. Appeals against decisions

(1) Where an application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions, or where any certificate or direction is given by the authority, the applicant, if he is aggrieved by their decision on the application, or by any such certificate, or the person directed if he is aggrived by the direction, may by notice under this section appeal to the Secretary of State.

(2) A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Secretary of State may allow.

(3) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Secretary of State, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, or may

cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

(4) Before determining an appeal under this section, the Secretary of State shall, if either the appellant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(5) The decision of the Secretary of State of any appeal under this section shall be final.

78(2). Appeal in default of decision

Where an application for consent under the Order is made to the authority, then unless within two months of the date of receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority neither -

(a) give notice to the applicant of their decision on the application; or

(b) give notice to him that the application has been referred to the Secretary of State in accordance with directions given under Section 77 above;

the provisions of the last preceding section shall apply in relation to the application as if the consent to which it relates had been refused by the authority, and as if notification of their decision has been received by the applicant at the end of the said period to two months, or at the end of the said extended period, as the case may be.

97. Power to revoke or modify the consent under the order

(1) If it appears to the authority that it is expedient to revoke or modify any consent under the Order granted on an application made under Article 3 of the Order, the authority may by Order revoke or modify the consent to such extent as they consider expedient.

(2) The power conferred by this section to revoke or modify a consent may be exercised at any time before the operations for which consent has been given have been completed.Provided that the revocation or modification of consent shall not affect so much of those operations as has been previously carried out.

99. Unopposed revocation or modification of consent

(1) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called "such Order") under Section 97 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Secretary of State for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such Order have notified the authority in writing that they do not object to such Order.

(2) The authority shall advertise the fact that such Order has been made and the advertisement shall specify (a) the period (not less that twenty-eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Secretary of State for the purpose of (b) the period (not less than 14 days from the expiration of the period referred to in Paragraph (a) above) at the expiration of which, if no such notice is given to the Secretary of State, such Order may take effect by virtue of this section and without being confirmed by the Secretay of State.

(3) The authority shall also serve notice to the same effect on the persons mentioned in Subsection (1) above.

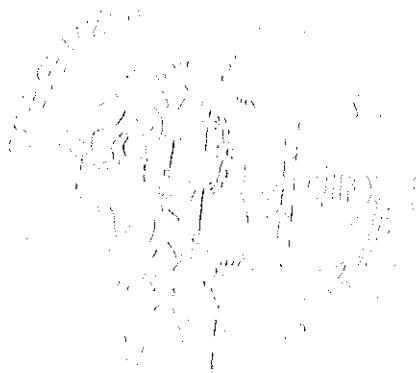
(4) The authority shall send a copy of any advertisement published under Subsection (2) above to the Secretary of State, not more than three days after the publication.

(5) If within the period referred to in Subsection (2) (a) above no person claiming to be affected by such Order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that such Order be sumbitted to him for confirmation, such Order shall at the expiration of the period referred to in Subsection (2) (b) of this section, take effect by virtue of this section and without being confirmed by the Secretary of State as required by Section 97 of the Act.

(6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Part III, Part IV or Part V of the Act.

GIVEN under the Common Seal of the
HERTSMERE BOROUGH COUNCIL
7th June 1996

(Signed P.H. Copland)
MANAGING DIRECTOR



The **HERTSMERE BOROUGH COUNCIL,** in exercise of the within written powers conferred upon it in that behalf, hereby confirms the Order subject to the amendments shown in red.

In witness whereof the Common Seal of the
Council was hereto affixed
this
in the presence of

(signed P.H. Copland)
MANAGING DIRECTOR

HERTSMERE BOROUGH COUNCIL

Town and Country Planning
Act 1990

TREE PRESERVATION ORDER

TPO No. 341/1996
Norfolk Lodge School, Dancers Hill Lane, Potters Har, Herts

Civic Offices
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