

Seal

**HERTSMERE BOROUGH COUNCIL**

**Town and Country Planning Act 1990**

**THE HERTSMERE BOROUGH COUNCIL**

**Land opposite 17-41 Grange Road, Bushey, Herts**

**TREE PRESERVATION ORDER No. 262/92**

**HERTSMERE BOROUGH COUNCIL** in this Order called "the authority" in pursuance of the powers conferred in that behalf by Section 201 of the Town and Country Planning Act 1990 and subject to the provisions of the Forestry Act 1967 and 1979, hereby makes 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 permit the cutting down, topping, lopping, 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 may shall,' for the purpose of such definition, 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.

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 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 a water authority since 31st March 1974, by any other authority (whose functions are now exercised by a water authority) who at any time prior to 1st April 1974 exercised the functions in respect of which the byelaw was made, by a drainage board, in the exercise of its functions in relation to maintenance, improvement or constitution of watercourses or of drainage works, 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 water authority, or the drainage board under those byelaws and the condition or direction shall have effect accordingly.

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 £20000 or twice the sum which appears to the court to be the value of the tree, whichever is the greater, or on indictment to a fine. The penalty for any other contravention of this Order is a fine not exceeding £500 on summary conviction and, in the case of the continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

If a tree other than one to which an order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order or 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.

\* Delete as applicable.

### GROUPS OF TREES\*

(within a broken black line on the map)

| No ON MAP | DESCRIPTION               | SITUATION   |
|-----------|---------------------------|---|
| G1        | Consists of 29 Lime Trees | Land opposite<br>17-41 Grange Road<br>Bushey<br>Herts |

### TREES SPECIFIED BY REFERENCES TO AN AREA\*

(within a dotted black line on the map)

| No ON MAP | DESCRIPTION | SITUATION |
|-----------|-------------|-----------|
|           | None        |           |

\* 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 Forestry Commission under the approved woodlands scheme 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) in pursuance of the power conferred on the Post Office by virtue of Section 5 of the Telegraph (Construction) Act 1908 and Section 21 of the Post Office Act 1969, or by or at the request of the Post Office where the land on which the tree is situated is operational land as defined by the Post Office Operational Land Regulations and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking;
  - (b) by or at the request of
    - (i) a statutory undertaker where 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, topping or lopping is for the purpose of securing safety in the operation of the undertaking;
    - (ii) an electricity board within the meaning of the Electricity Act 1947, where such tree obstructs the construction by the board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act 1919 and the Electric Lighting Act 1882 or interferes or would interfere with the maintenance or working of any such line;

- (2) Subject to the provisions of Section 99 and 201 of the Act, an Order under this section shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such Order submitted to him either without modification or subject to such modifications as he considers expedient.
- (3) Where an authority submit an Order to the Secretary of State for his confirmation under this section, the authority shall furnish the Secretary of State with a statement of their reason for making the Order and shall serve notice together with a copy of the aforesaid statement on the owner and on the occupier of the land affected, and on any other person who in their opinion will be affected by the Order, and if within the period of twenty-eight days from the service thereof any person on whom the notice is served so required, the Secretary of State, before confirming the Order, shall afford to that person, and to the authority, an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- (4) 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.

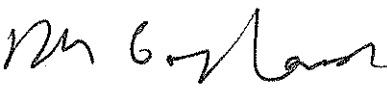
- (5) Where a notice has been served in accordance with the provisions of Subsection (3) of this section, no operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Secretary of State under Subsection (2) of this section.

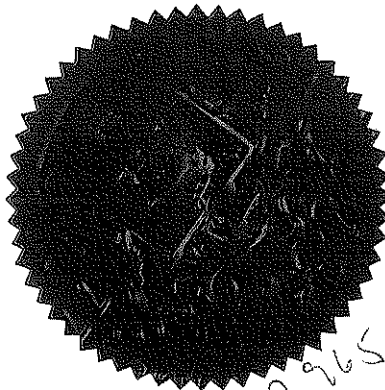
#### **99. Unopposed revocation or modification of consent**

- (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 than 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

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 8th January 1993  
in the presence of

  
(Borough Secretary) \_\_\_\_\_



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