The Common Seal of Castle Point
District Council was hereunto
affixed in the presence of:

Chairman of the Council

Chief Executive and Clerk of
the Council
1980
The Castle Point District Council in this Order called "the authority" in pursuance of the powers conferred in that behalf by sections 60 and 61 of the Town and Country Planning Act 1971 and subject to the provisions of the Forestry Act 1967, hereby makes the following order:—

1. In this Order:—
   "the Act" means the Town and Country Planning Act 1971;
   "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 purposes 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 by reference if necessary to a plan specify the trees to which the application relates, and the operations for 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 relates 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 interests of amenity to maintain the
special character of the woodland or the woodland character of the area, and
shall not impose conditions on such consent requiring replacement or
replanting.

(2) The authority shall keep a register of all applications 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.

(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 it may when refusing or granting consent certify in respect
of any trees for which it is so refusing or granting consent that it is 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 woodlands, that the
trees have an outstanding or special amenity value.

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 175 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;
(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.

2.
7. On imposing any condition requiring the replacement of any tree under Article 5 of the 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 relates to land in respect of which byelaws made by a river authority, a drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board 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 river authority, drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board under those byelaws 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 and of sub-section (5) of Section 60 of the Act adapted and modified for the purpose 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 condition 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 60 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 1942, 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 affection to any land of the owner which would result from the felling of the trees the 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 delivering the claim at the offices of the authority addressed to the Chief Executive and Clerk thereof or by sending it by pre-paid post so addressed.
(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 179 of the Act.

13. The provisions of Section 61 of the Act shall apply to this Order and the Order shall take effect on the date hereof.

(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 £400 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 £200 on summary conviction and, in the case of a 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 60(6) of the Town and Country Planning Act 1971 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 dispenses with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than five 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).
FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

None

TREES SPECIFIED BY REFERENCE TO AN AREA

None

GROUPS OF TREES

None

WOODLANDS

(within a continuous black line on the map)

NO. ON MAP

SITUATION

W1

Mixed hardwood and softwood deciduous trees consisting mainly of oak, sycamore and poplar.

Land to the south of Bowers Road and to the west of Catherine Road, Benfleet, Essex
THE COMMON SEAL of CASTLE POINT
DISTRICT COUNCIL was hereunto
affixed in the presence of:

Chairman of the Council

Chief Executive & Clerk of the Council
SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority to
(1) the cutting down of any tree on land which is subject to a 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 and 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 exempted from the provisions of this Order by Section 60(6) of the Act namely a tree which is dying or dead or has become dangerous, or the cutting down, topping or lopping of which is in compliance with obligations imposed by or under an Act of Parliament, or so far as may be necessary for the prevention or abatement of a nuisance.

(NOTE: Section 62(1) of the Act requires, unless on the application of the owner the local authority dispense with the requirement, that any tree removed or destroyed under Section 60(6) of the Act shall be replaced by another tree of appropriate size and species. In order to enable the local planning authority to come to a decision, on whether or not to dispense with the requirement, notice of the proposed action should be given to the local planning authority which except in a case of emergency shall be of not less than five days).

(4) 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;
   (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, uprooting, 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;
(iii) a river authority established under the Water Resources Act 1963,
a drainage board constituted or treated as having been constituted
under the Land Drainage Act 1930, the Conservators of the River
Thames, or the Lee Conservancy Catchment Board, where the tree
interferes or would interfere with the exercise of any of the
functions of such river authority, drainage board, Conservators
of the River Thames or Lee Conservancy Catchment Board in relation
to the maintenance, improvement or construction of water courses
or of drainage works; or

(iv) the Minister of Defence for the Royal Air Force, the Minister of
Technology or the Board of Trade where in the opinion of such
Minister or Board the tree obstructs the approach of aircraft to,
or their departure from, any aerodrome 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;

(a) which is a fruit tree cultivated for fruit production growing or
standing on land comprised in an orchard or garden.

THIRD SCHEDULE
Provisions of the following parts of Parts III and IV of the Act as adapted and
modified to apply to this Order.

Without prejudice to the following provisions as to the revocation or
modification of consents any consents 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) enure for the
benefit of the land and of all persons for the time being interested therein
(33(1) ).

Reference of applications to the Secretary of State.

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 (35(1) ).

A direction under this section may relate either to a particular
application or to applications of a class specified in the direction (35(2) ).
Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly (35(3)).

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 (35(4)).

Before determining an application referred to him under this section, the Secretary of State shall, if either the applicant 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 (35(5)).

The decision of the Secretary of State on any application referred to him under this section shall be final (35(6)).

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 it subject to conditions, or where any certificate or direction is given by the authority, the applicant, if he is aggrieved by its decision on the application, or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Secretary of State (36(1)).

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 (36(2)).

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 (36(3)).

Before determining an appeal under this section, the Secretary of State shall, if either the applicant 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 (36(4)).

The decision of the Secretary of State on any appeal under this section shall be final (36(6)).
Where an application for consent under the Order is made to the authority, then unless within two months from 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 either:

(a) gives notice to the applicant of its decision on the application; or

(b) gives notice to him that the application has been referred to the Secretary of State in accordance with directions given under Section 35 (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 its decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be (37).

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 it considers expedient (45(1)).

(Subject to the provisions of Sections 46 and 61 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 modification as he considers expedient (45(2)).

Where an authority submits 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 its 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 its 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 requires, 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 (45(3)).

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 (45(4)).
(NOTE: Where a notice has been served in accordance with the provisions of sub-section (3) of Section 4.5, 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 sub-section (2) of that section).

The following provisions shall have effect where the planning authority has made an Order (hereinafter called "such Order") under Section 4.5 (above) revoking or modifying any consent granted on an application made under a tree preservation order but has 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 (4.6(1)).

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 that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose and (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 Secretary of State (4.6(2)).

The Authority shall also serve notices to the same effect on the persons mentioned in sub-section (1) (above) (4.6(3)).

The Authority shall send a copy of any advertisement published under sub-section (2) (above) to the Secretary of State, not more than three days after the publication (4.6(4)).

If within the period referred to in sub-section (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 submitted to him for confirmation, such Order shall at the expiration of the period referred to in sub-section (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 4.5(2) of the Act (4.6(5)).

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 of Part V of this Act (4.6(6)).

3.60(5) Provision may be made by regulations under this Act with respect to the form of tree preservation orders, and the procedure to be followed in
connection with the submission and confirmation of such orders, and the
regulations may (without prejudice to the generality of this sub-section)
make provision as follows:—

(a) that, before a tree preservation order is submitted to the
Secretary of State for confirmation, notice of the making of
the order shall be given to the owners and occupiers of land
affected by the order and to such other persons, if any, as
may be specified in the regulations;

(b) that objections and representations with respect to the order, if
duly made in accordance with the regulations, shall be considered
before the order is confirmed by the Secretary of State;

(c) that, if no objections or representations are so made, or if any
so made are withdrawn, the order, instead of requiring the
confirmation of the Secretary of State in accordance with sub-
section (4) of this section, may be confirmed (but without any
modification), as an unopposed order, by the authority who made
it; and

(d) that copies of the order, when confirmed by the Secretary of State
or the authority, shall be served on such persons as may be
specified in the regulations.

Given under the Common Seal of Castle Point District Council this 18th
Day of August 1951, one thousand nine hundred and eighty.

THE COMMON SEAL of CASTLE
POINT DISTRICT COUNCIL was
hereunto affixed in the
presence of:—

[Signature]
Chairman of the Council

[Signature]
Chief Executive & Clerk
of the Council
CASTLE POINT DISTRICT COUNCIL

CASTLE POINT TREE PRESERVATION ORDER
NO. 1/80

WOODLAND TO THE SOUTH OF BOWERS ROAD AND WEST OF CATHERINE ROAD,
BENFLEET, ESSEX

STATEMENT OF THE REASONS OF
THE COUNCIL FOR MAKING THE ORDER

1. The Council is the local planning authority for the District of Castle Point.

2. The Council considers that the woodland within the area marked WI on the attached plan provides a significant degree of natural vegetation which forms an important feature of this part of the district, and, consequently, by virtue of the powers conferred upon it by the Town & Country Planning Act 1971, have made a Tree Preservation Order in respect thereof.

Dated this 18th day of August 1980.

Chief Executive and Clerk of the Council

Council Offices,
Kiln Road,
Benfleet,
Essex,
SS7 1TF.
The Castle Point District Council in this Order called "the authority" in pursuance of the powers conferred in that behalf by sections 60 and 61 of the Town and Country Planning Act 1971 and subject to the provisions of the Forestry Act 1967, hereby makes the following order:-

1. In this Order:
   "the Act" means the Town and Country Planning Act 1971;
   "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 purposes 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 by reference if necessary to a plan specify the trees to which the application relates, and the operations for 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 relates 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 interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

(2) The authority shall keep a register of all applications 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.

(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 license 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 it may when refusing or granting consent certify in respect of any trees for which it is so refusing or granting consent that it is 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 woodlands, that the trees have an outstanding or special amenity value.

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 175 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;
(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 the 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 relates to land in respect of which byelaws made by a river authority, a drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board 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 river authority, drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board under those byelaws 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 and of sub-section (5) of Section 60 of the Act adapted and modified for the purpose 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 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 60 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 affection to any land of the owner which would result from the felling of the trees the 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 delivering the claim at the offices of the authority addressed to the Chief Executive and Clerk thereof or by sending it by prepaid post so addressed.
(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 179 of the Act.

13. The provisions of Section 61 of the Act shall apply to this Order and the Order shall take effect on the date hereof.

(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 £500 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 £200 on summary conviction and, in the case of a 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 60(6) of the Town and Country Planning Act 1971 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 dispenses with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than five 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).
FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

None

<table>
<thead>
<tr>
<th>No. On Map</th>
<th>Trees Specified by Reference to an Area</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Al</td>
<td>All trees situated within the area numbered Al on the map.</td>
<td>In the grounds of Whittier Hall, High Street, Canvey Island</td>
</tr>
</tbody>
</table>

GROUPS OF TREES

None

WOODLANDS

None
THE COMMON SEAL of CASTLE POINT DISTRICT COUNCIL was hereunto affixed in the presence of:

Chairman of the Council

Chief Executive and Clerk of the Council
This Order shall not apply so as to require the consent of the authority to

(1) the cutting down of any tree on land which is subject to a 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 and 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 exempted from the provisions of this Order by Section 60(6) of the Act namely a tree which is dying or dead or has become dangerous, or the cutting down, topping or lopping of which is in compliance with obligations imposed by or under an Act of Parliament, or so far as may be necessary for the prevention or abatement of a nuisance.

(NOTE: Section 62(1) of the Act requires, unless on the application of the owner the local authority dispense with the requirement, that any tree removed or destroyed under Section 60(6) of the Act shall be replaced by another tree of appropriate size and species. In order to enable the local planning authority to come to a decision, on whether or not to dispense with the requirement, notice of the proposed action should be given to the local planning authority which except in a case of emergency shall be of not less than five days).

(4) 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;
   (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, uprooting, 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;
(iii) a river authority established under the Water Resources Act 1963 a drainage board constituted or treated as having been constituted under the Land Drainage Act 1930, the Conservators of the River Thames, or the Lee Conservancy Catchment Board, where the tree interferes or would interfere with the exercise of any of the functions of such river authority, drainage board, Conservators of the River Thames or Lee Conservancy Catchment Board in relation to the maintenance, improvement or construction of water courses or of drainage works; or

(iv) the Minister of Defence for the Royal Air Force, the Minister of Technology or the Board of Trade where in the opinion of such Minister or Board the tree obstructs the approach of aircraft to, or their departure from, any aerodrome 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 an orchard or garden.

**THIRD SCHEDULE**

Provisions of the following parts of Parts III and IV of the Act as adapted and modified to apply to this Order.

Without prejudice to the following provisions as to the revocation or modification of consents any consents 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 (33(1)).

Reference of applications to the Secretary of State. 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 (35(1)).

A direction under this section may relate either to a particular application or to applications of a class specified in the direction (35(2)).
Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly (35(3)).

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 fails to be determined by the authority (35(4)).

Before determining an application referred to him under this section, the Secretary of State shall, if either the applicant 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 (35(5)).

The decision of the Secretary of State on any application referred to him under this section shall be final (35(6)).

Appeals

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 it subject to conditions, or where any certificate or direction is given by the authority, the applicant, if he is aggrieved by its decision on the application, or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Secretary of State (36(1)).

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 (36(2)).

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 (36(3)).

Before determining an appeal under this section, the Secretary of State shall, if either the applicant 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 (36(4)).

The decision of the Secretary of State on any appeal under this section shall be final (36(6)).
Where an application for consent under the Order is made to the authority, then unless within two months from 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 either:

(a) gives notice to the applicant of its decision on the application; or

(b) gives notice to him that the application has been referred to the Secretary of State in accordance with directions given under Section 35 (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 its decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be (37).

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 it considers expedient (45(1)).

(Subject to the provisions of Sections 45 and 61 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 modification as he considers expedient (45(2)).

Where an authority submits 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 its 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 its 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 requires, 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 (45(3)).

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 (45(4)).
Unopposed revocation or modification of consent.

NOTE: Where a notice has been served in accordance with the provisions of sub-section (3) of Section 45, 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 sub-section (2) of that section.

The following provisions shall have effect where the planning authority has made an Order (hereinafter called "such Order") under Section 45 (above) revoking or modifying any consent granted on an application made under a tree preservation order but has 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 (4(6)(1))

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 that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose and (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 Secretary of State (4(6)(2))

The Authority shall also serve notices to the same effect on the persons mentioned in sub-section (1) (above) (4(6)(3))

The Authority shall send a copy of any advertisement published under sub-section (2) (above) to the Secretary of State, not more than three days after the publication (4(6)(4)).

If within the period referred to in sub-section (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 submitted to him for confirmation, such Order shall at the expiration of the period referred to in sub-section (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 45(2) of this Act (4(6)(5)).

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 of Part V of this Act (4(6)(6)).

3.60(5) "Provision may be made by regulations under this Act with respect to the form of tree preservation orders, and the procedure to be followed in
that, before a tree preservation order is submitted to the Secretary of State for confirmation, notice of the making of the order shall be given to the owners and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations;

(b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is confirmed by the Secretary of State;

(c) that, if no objections or representations are so made, or if any so made are withdrawn, the order, instead of requiring the confirmation of the Secretary of State in accordance with subsection (4) of this section, may be confirmed (but without any modification), as an unopposed order, by the authority who made it; and

(d) that copies of the order, when confirmed by the Secretary of State or the authority, shall be served on such persons as may be specified in the regulations.

Given under the Common Seal of Castle Point District Council this 17th day of May One thousand nine hundred and seventy nine

THE COMMON SEAL of CASTLE POINT DISTRICT COUNCIL was hereunto affixed in the presence of:

Chairman of the Council

Chief Executive & Clerk of the Council

11.
CASTLE POINT DISTRICT COUNCIL

CASTLE POINT TREE PRESERVATION ORDER
NO. 2/79

WHITTIER HALL, HIGH STREET, CANVEY ISLAND, ESSEX

STATEMENT OF THE REASONS OF
THE COUNCIL FOR MAKING THE ORDER

1. The Council is the local planning authority for the District of Castle Point.

2. The Council considers that the trees within the area marked Al on the attached plan provide a significant degree of natural vegetation in a densely built up area generally lacking in trees, and, in addition, form an important feature in the street scene, and, consequently, by virtue of the powers conferred upon it by the Town & Country Planning Act 1971, have made a Tree Preservation Order in respect thereof.

Dated this 17th day of May 1979.

[Signature]

Chief Executive and Clerk of the Council

Council Offices,
Kiln Road,
Benfleet,
Essex,
SS7 1TP.
The Castle Point District Council, in this Order called "the authority" in pursuance of the powers conferred in that behalf by sections 60 and 61 of the Town and Country Planning Act 1971 and subject to the provisions of the Forestry Act 1967, hereby makes the following order:—

1. In this Order:—

"the Act" means the Town and Country Planning Act 1971;
"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 purposes 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 by reference if necessary to a plan specify the trees to which the application relates, and the operations for 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 relates 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 interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

(2) The authority shall keep a register of all applications 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.

(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, it may when refusing or granting consent certify in respect of any trees for which it is so refusing or granting consent that it is 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 woodlands, that the trees have an outstanding or special amenity value.

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 175 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;
(c) the erection and maintenance of fencing necessary for protection of the replanting;
(d) the preparation of ground, draining, removal of brushwood, top and top; and
(e) protective measures against fire.
7. On imposing any condition requiring the replacement of any tree under Article 4 of the 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 relates to land in respect of which byelaws made by a river authority, a drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board 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 river authority, drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board under those byelaws and the condition or direction shall have effect accordingly.

6. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Act and of sub-section (5) of Section 60 of the Act adapted and modified for the purpose 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 60 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 affection to any land of the owner which would result from the felling of the trees the 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 delivering the claim at the offices of the authority addressed to the Chief Executive and Clerk thereof or by sending it by prepaid post so addressed.
(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 179 of the Act.

13. The provisions of Section 61 of the Act shall apply to this Order and the Order shall take effect on the date hereof.

(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 £400 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 £200 on summary conviction and, in the case of a 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 60(6) of the Town and Country Planning Act 1971 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 dispenses with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than five 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).

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY
(ENCIRCLED IN BLACK ON THE MAP)

<table>
<thead>
<tr>
<th>NO. ON MAP</th>
<th>DESCRIPTION</th>
<th>SITUATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>T.1</td>
<td>OAK</td>
<td>IN THE REAR GARDEN OF 15 DEERHURST, THUNDERSLEY, BENFLEET, ESSEX.</td>
</tr>
</tbody>
</table>

TREES SPECIFIED BY REFERENCE TO AN AREA
(NONE)

GROUPS OF TREES
(NONE)

WOODLANDS
(NONE)
This Order shall not apply so as to require the consent of the authority to

(1) the cutting down of any tree on land which is subject to a 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 and 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 exempted from the
provisions of this Order by Section 60(6) of the Act namely a tree which is
dying or dead or has become dangerous, or the cutting down, topping or lopping
of which is in compliance with obligations imposed by or under an Act of
Parliament, or so far as may be necessary for the prevention or abatement of a
nuisance.

(NOTE: Section 62(1) of the Act requires, unless on the application of the
owner the local authority dispense with the requirement, that any tree removed
or destroyed under Section 60(6) of the Act shall be replaced by another tree of
appropriate size and species. In order to enable the local planning authority
to come to a decision, on whether or not to dispense with the requirement, notice
of the proposed action should be given to the local planning authority which
except in a case of emergency shall be of not less than five days).

(4) 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;

(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, uprooting,
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 Electric (Supply) Act 1919 and the Electric
Lighting Act 1882 or interferes or would interfere with the maintenance
or working of any such line;
(iii) a river authority established under the Water Resources Act 1963
a drainage board constituted or treated as having been constituted
under the Land Drainage Act 1930, the Conservators of the River
Thames, or the Lee Conservancy Catchment Board, where the tree
interferes or would interfere with the exercise of any of the
functions of such river authority, drainage board, Conservators
of the River Thames or Lee Conservancy Catchment Board in relation
to the maintenance, improvement or construction of water courses
or of drainage works; or

(iv) the Minister of Defence for the Royal Air Force, the Minister of
Technology or the Board of Trade where in the opinion of such
Minister or Board the tree obstructs the approach of aircraft to,
or their departure from, any aerodrome 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 an orchard or garden.

THIRD SCHEDULE

Provisions of the following parts of Parts III and IV of the Act as adapted and
modified to apply to this Order.

Without prejudice to the following provisions as to the revocation or
modification of consents any consents 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
(35(1)).

Reference

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 (35(1)).

A direction under this section may relate either to a particular
application or to applications of a class specified in the direction (35(2)).
Any application in respect of which a direction under this section has act shall be referred to the Secretary of State accordingly (35(3) ).

Where an application for consent under the Order is referred to the retary of State under this Section, the provisions of Articles 4 and 5 of Order shall apply as they apply to an application which falls to be ermined by the authority (35(4) ).

Before determining an application referred to him under this section, the retary of State shall, if either the applicant or the authority so desire, rd to each of them an opportunity of appearing before, and being heard by son appointed by the Secretary of State for the purpose (35(5) ).

The decision of the Secretary of State on any application referred to him this section shall be final (35(6) ).

Where an application is made to the authority for consent under the Order for consent is refused by that authority or is granted by it subject to ions, or where any certificate or direction is given by the authority, applicant, if he is aggrieved by its decision on the application, or by any certificate, or the person directed if he is aggrieved by the direction, notice under this section appeal to the Secretary of State (36(1) ).

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Where an application for consent under the Order is made to the authority, then unless within two months from 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 either:

(a) gives notice to the applicant of its decision on the application; or

(b) gives notice to him that the application has been referred to the Secretary of State in accordance with directions given under Section 35 (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 its decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be (37).

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 of such extent as it considers expedient (45(1)).

(Subject to the provisions of Sections 46 and 61 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 modification as he considers expedient (45(2)).

Where an authority submits 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 its 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 its 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 requires, 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 (45(3)).

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 (45(4)).
NOTE: Where a notice has been served in accordance with the provisions of sub-section (3) of Section 45, 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 sub-section (2) of that section.

The following provisions shall have effect where the planning authority has made an Order (hereinafter called "such Order") under Section 45 (above) revoking or modifying any consent granted on an application made under a tree preservation order but has 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 (46(1)).

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 that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose and (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 Secretary of State (46(2)).

The Authority shall also serve notices to the same effect on the persons mentioned in sub-section (1) (above) (46(3)).

The Authority shall send a copy of any advertisement published under sub-section (2) (above) to the Secretary of State, not more than three days after the publication (46(4)).

If within the period referred to in sub-section (2)(c) (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 submitted to him for confirmation, such Order shall at the expiration of the period referred to in sub-section (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 45(2) of the Act (46(5)).

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 of Part V of this Act (46(6)).

S.60(5) "Provision may be made by regulations under this Act with respect to the form of tree preservation orders, and the procedure to be followed in
connection with the submission and confirmation of such orders; and the regulations may (without prejudice to the generality of this sub-section) make provision as follows :-

(a) that, before a tree preservation order is submitted to the Secretary of State for confirmation, notice of the making of the order shall be given to the owners and occupiers of land affected by the order and to such other persons, if any, as may be specified in the regulations;

(b) that objections and representations with respect to the order, if duly made in accordance with the regulations, shall be considered before the order is confirmed by the Secretary of State;

(c) that, if no objections or representations are so made, or if any so made are withdrawn, the order, instead of requiring the confirmation of the Secretary of State in accordance with subsection (4) of this section, may be confirmed (but without any modification), as an unopposed order, by the authority who made it; and

(d) that copies of the order, when confirmed by the Secretary of State or the authority, shall be served on such persons as may be specified in the regulations.

Given under the Common Seal of Castle Point District Council this twenty-fifth day of April One thousand nine hundred and Seventy-eight.

THE COMMON SEAL of CASTLE POINT DISTRICT COUNCIL was hereunto affixed in the presence of:

(signed) R. Howard
Chairman of the Council

(signed) A.R. Neighbour
Chief Executive & Clerk of the Council
CASTLE POINT DISTRICT COUNCIL

THE CASTLE POINT DISTRICT COUNCIL TREE PRESERVATION ORDER NO.1/78

15, DEERHURST, THUNDERSLEY, BENFLEET, ESSEX

STATEMENT OF THE REASONS OF THE COUNCIL FOR MAKING THE ORDER

1. The Council is the local planning authority for the District of Castle Point.

2. The owner of the property known as 15 Deerhurst, Thundersley, Benfleet within the said District requested the Council to make a Tree Preservation Order in respect of an oak tree in the rear garden of the said property. The said tree is shown on the plan annexed to the Order.

3. The Council considers that the said tree is worthy of preservation and constitutes a visually important aspect of the surrounding area and, by virtue of the powers conferred upon it by the Town and Country Planning Act, 1971, on the 27th day of September, 1977, resolved that a Tree Preservation Order be made in respect thereof.

DATED this 25th day of April 1978

(Signed) A.R. NEILSON

Chief Executive and Clerk of the Council

Council Offices,
BENFLEET, Essex.
SS7 1TF.