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 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.

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 an 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 is removed, uprooted or destroyed in contravention of an Order, or, except in the case of a tree to which the Order applies 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 60(6) of the Act relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on 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.

In respect of trees in a woodland it shall be sufficient for the purposes of Section 62 of the Act 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 removed, uprooted or destroyed stood or in such other land as may be agreed between the local planning authority and the owner of the land, and (in either case) in such places as may be designated by the local planning authority.)
CASTLE POINT DISTRICT COUNCIL

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

<table>
<thead>
<tr>
<th>No. on Map</th>
<th>Description</th>
<th>Situation</th>
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<tbody>
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<td>T.1</td>
<td>Horse Chestnut</td>
<td>138/140 Thundersley Park Road, South Benfleet</td>
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</table>

TREES SPECIFIED BY REFERENCE TO AN AREA

NONE

GROUPS OF TREES

NONE

WOODLANDS

NONE
Map referred to in the Castle Point District Council Tree Preservation Order No. 11/88

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

[Signatures]

Chairman of the Council

Chief Executive and 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 dispenses 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.

8.
(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 insofar as the consent otherwise provides) enure for the benefit of the land and of all persons for the time being interested therein (33(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 it considers expedient (45(1)).

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.

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 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 authority that they wish for an opportunity of appearing before, and being heard by, a person appointed 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, such Order may take effect by virtue of this section (46(2)).

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

If within the period referred to in sub-section (2)(a)(above) no person claiming to be affected by such Order has given notice as aforesaid, 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. 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 confirmed by the local planning authority, 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 local planning authority;
(c) that copies of the Order, when confirmed by 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 Eleventh day of July One thousand nine hundred and eighty-eight

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

[Seal]

[Signature]

Chairman of the Council

[Signature]

Chief Executive & Clerk of the Council
CASTLE POINT DISTRICT COUNCIL

CASTLE POINT TREE PRESERVATION ORDER /88

138/140 THUNDERSLEY PARK ROAD, BENFLEET

STATEMENT OF REASONS FOR THE COUNCIL MAKING THE ORDER

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

2. The Council considers that the tree is a good specimen, forming part of the amenities enjoyed by the occupiers of dwellings in the vicinity. In addition it can be seen by people travelling along Thundersley Park Road.

Dated this 11th day of July 1988

Chief Executive and Clerk of the Council

Council Offices, Kiln Road, Benfleet, Essex.
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 (as amended) and subject to the provisions of the Forestry Act 1967, hereby makes the following order:-

In this Order:-
"the Act" means the Town and Country Planning Act 1971, as amended by the Town and Country Amenities Act 1974, Local Government, Planning and Land Act 1980 and the Town and Country Planning (Amendment) Act 1985, "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 mortgage in possession.

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 if necessary make reference to a plan specifying 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 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:-

2.
(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 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 provisions 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, lopping and topping; 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 a 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 conditions 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 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.

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 an 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 is removed, uprooted or destroyed in contravention of an Order, or, except in the case of a tree to which the Order applies 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 60(6) of the Act relating to trees which are dying, dead or have become dangerous, it is the duty of the owner of the land, unless on 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.

In respect of trees in a woodland it shall be sufficient for the purposes of Section 62 of the Act 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 removed, uprooted or destroyed stood or in such other land as may be agreed between the local planning authority and the owner of the land, and (in either case) in such places as may be designated by the local planning authority.)
CASTLE POINT DISTRICT COUNCIL

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

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<tr>
<th>No. on Map</th>
<th>Description</th>
<th>Situation</th>
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TREES SPECIFIED BY REFERENCE TO AN AREA

NONE

GROUPS OF TREES

NONE

WOODLANDS

NONE

/continued overleaf....
CASTLE POINT DISTRICT COUNCIL

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

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TREES SPECIFIED BY REFERENCE TO AN AREA

NONE

GROUPS OF TREES

NONE

WOODLANDS

NONE
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 dispenses 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).
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(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;
Map referred to in the Castle Point District Council Tree Preservation Order No. 10/88

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

Canvey Island
(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 insofar as the consent otherwise
provides) ensue for the benefit of the land and of all persons for
the time being interested therein (33(1)).

Power to revoke or modify any consent under the Order.

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)).
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.

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 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 authority that they wish for an opportunity of appearing before, and being heard by, a person appointed 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, such Order may take effect by virtue of this section (46(2)).

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

If within the period referred to in sub-section (2) (a) (above) no person claiming to be affected by such Order has given notice as aforesaid, 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. 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 confirmed by the local planning authority, 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 local planning authority;

(c) that copies of the Order, when confirmed by the authority, shall be served on such persons as may be specified in the regulations".

10.
Given under the Common Seal of Castle Point District Council this Twenty-Fourth day of June One thousand nine hundred and eighty-eight

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
CASTLE POINT DISTRICT COUNCIL

CASTLE POINT TREE PRESERVATION ORDER 10 /88

LAND TO THE NORTH OF THORNEY BAY ROAD, CANVEY ISLAND

STATEMENT OF REASONS FOR THE COUNCIL MAKING THE ORDER

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

2. The Council considers that the trees provide a welcome degree of natural relief, adding significantly to the attractiveness of Thorney Bay Road.

Dated this 24th day of June 1988

Chief Executive and Clerk of the Council

Council Offices,
Kiln Road,
Benfleet,
Essex
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 (as amended) and subject to the provisions of the Forestry Act 1967, hereby makes the following order:

In this Order:
"the Act" means the Town and Country Planning Act 1971, as amended by the Town and Country Amenities Act 1974, Local Government, Planning and Land Act 1980 and the Town and Country Planning (Amendment) Act 1985; "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 mortgage in possession.

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 if necessary make reference to a plan specifying 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 will 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 1967)).

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:
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 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 provisions 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, lopping and topping; and
(e) protective measures against fire.

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 conditions or direction shall have effect accordingly.

3.
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 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.

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.

(NOUE: 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 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 an 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 is removed, uprooted or destroyed in contravention of an Order, or, except in the case of a tree to which the Order applies 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 60(6) of the Act 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.

In respect of trees in a woodland it shall be sufficient for the purposes of Section 62 of the Act 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 removed, uprooted or destroyed stood or in such other land as may be agreed between the local planning authority and the owner of the land, and (in either case) in such places as may be designated by the local planning authority.)
CASTLE POINT DISTRICT COUNCIL

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

<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>310 The Chase, Thundersley</td>
</tr>
<tr>
<td>T.2</td>
<td>oak</td>
<td>310 The Chase, Thundersley</td>
</tr>
<tr>
<td>T.3</td>
<td>oak</td>
<td>310 The Chase, Thundersley</td>
</tr>
</tbody>
</table>

TREES SPECIFIED BY REFERENCE TO AN AREA

NONE

GROUPS OF TREES

NONE

WOODLANDS

NONE
Map referred to in the Castle Point District Council Tree Preservation Order No.9/88

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

[Signature]
Chairman of the Council

[Signature]
Chief Executive and 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 dispenses 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).
(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 insofar as the consent otherwise provides) ensue for the benefit of the land and of all persons for the time being interested therein (33(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 it considers expedient (45(1)).

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)).

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 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 authority that they wish for an opportunity of appearing before, and being heard by, a person appointed 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, such Order may take effect by virtue of this section (4(2)).

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

If within the period referred to in sub-section (2)(a) above no person claiming to be affected by such Order has given notice as aforesaid, 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. 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 (without prejudice to the generality of this sub-section) make provision as follows:—

(a) that, before a Tree Preservation Order is confirmed by the local planning authority, 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 local planning authority;

(c) that copies of the Order, when confirmed by 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-fourth day of June One thousand nine hundred and eighty-eight

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 9/88

310 THE CHASE, THUNDERSLEY

STATEMENT OF REASONS FOR THE COUNCIL MAKING THE ORDER

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

2. The Council considers that the trees are good specimens, constituting attractive features enjoyed by the occupiers of neighbouring dwellings and by people travelling along The Chase.

Dated this 24th day of June 1988

[Signature]
Chief Executive and Clerk of the Council

Council Offices,
Kiln Road,
Benfleet,
Essex
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 (as amended) and subject to the provisions of the Forestry Act 1967, hereby makes the following order:

In this Order:

"the Act" means the Town and Country Planning Act 1971, as amended by the Town and Country Amenities Act 1974, Local Government, Planning and Land Act 1980 and the Town and Country Planning (Amendment) Act 1985; "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 mortgage in possession.

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.

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 if necessary make reference to a plan specifying 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 planting.

(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.

(NOT: 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 75(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 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 provisions 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, lopping and topping; 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 each 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 conditions 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 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.

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 an 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 is removed, uprooted or destroyed in contravention of an Order, or, except in the case of a tree to which the Order applies 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 60(6) of the Act relating to trees which are dying 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.

In respect of trees in a woodland it shall be sufficient for the purposes of Section 62 of the Act 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 removed, uprooted or destroyed stood or in such other land as may be agreed between the local planning authority and the owner of the land, and (in either case) in such places as may be designated by the local planning authority).
CASTLE POINT DISTRICT COUNCIL

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

<table>
<thead>
<tr>
<th>No. on Map</th>
<th>Description</th>
<th>Situation</th>
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<tbody>
<tr>
<td>T.1.</td>
<td>OAK</td>
<td>Land to the north of The Finches, Thundersley.</td>
</tr>
<tr>
<td>T.2.</td>
<td>OAK</td>
<td></td>
</tr>
<tr>
<td>T.3.</td>
<td>OAK</td>
<td></td>
</tr>
</tbody>
</table>

TREES SPECIFIED BY REFERENCE TO AN AREA

NONE

GROUPS OF TREES

NONE

WOODLANDS

NONE
map referred to in the Castle Point District Council Tree Preservation Order No. 8/88

THE COMMON SEAL OF CASTLE POINT DISTRICy COUNCIL was hereunto fixed in the presence of:

Chairman of the Council

Chief Executive and 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 insofar as the consent otherwise provides) enure for the benefit of the land and of all persons for the time being interested therein (33(1)).

Power to revoke or modify any consent under the Order.

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)).

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 or those operations as has been previously carried out (45(4)).

Unopposed revocation or modification of consent.

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 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)).

9.
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 authority that they wish for an opportunity of appearing before, and being heard by, a person appointed 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, such Order may take effect by virtue of this section (§46(2)).

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

If within the period referred to in sub-section (2) (a) (above) no person claiming to be affected by such Order has given notice as aforesaid, 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. §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 confirmed by the local planning authority, 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 local planning authority;

(c) that copies of the Order, when confirmed by 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 Seventeenth day of June One thousand nine hundred and eighty-eight

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

T. Greenwood
Chairman of the Council

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

CASTLE POINT TREE PRESERVATION ORDER 8/88

LAND TO THE NORTH OF THE FINCHES, THUNDERSLEY.

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

2. The Council considers that the trees are attractive specimens, forming part of the amenities enjoyed by the occupiers of neighbouring dwellings and people travelling along The Finches.

Dated this 17th day of June 1988

Chief Executive and Clerk of the Council

Council Offices,
Kiln Road,
Benfleet,
Essex
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 (as amended) and subject to the provisions of the Forestry Act 1967, hereby makes the following order:—

In this Order:

"the Act" means the Town and Country Planning Act 1971, as amended by the Town and Country Amenities Act 1974, Local Government, Planning and Land Act 1980 and the Town and Country Planning (Amendment) Act 1985, "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 mortgage in possession.

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 if necessary make reference to a plan specifying 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 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 provisions 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, lopping and topping; 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 conditions or direction shall have effect accordingly.
3. 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.

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 a Court to be the value of the tree, whichever is the greater, or an 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 is removed, uprooted or destroyed in contravention of an Order, or, except in the case of a tree to which the Order applies 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 60(6) of the Act relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on 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.

In respect of trees in a woodland it shall be sufficient for the purposes of Section 62 of the Act 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 removed, uprooted or destroyed stood or in such other land as may be agreed between the local planning authority and the owner of the land, and (in either case) in such places as may be designated by the local planning authority).
Map referred to in the Castle Point District Council Tree Preservation Order No. 7/86

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.
CASTLE POINT DISTRICT COUNCIL

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

<table>
<thead>
<tr>
<th>No. on Map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>T.1</td>
<td>Horse Chestnut</td>
<td>324 High Road, South Benfleet</td>
</tr>
</tbody>
</table>

TREES SPECIFIED BY REFERENCE TO AN AREA

NONE

GROUPS OF TREES

NONE

WOODLANDS

NONE
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 dispenses 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).
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 insofar as the consent otherwise
provides) enure for the benefit of the land and of all persons for
the time being interested therein (33(1)).

Power to
revoke or
modify any
consent
under the
Order.

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)).
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.

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 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 authority that they wish for an opportunity of appearing before, and being heard by, a person appointed 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, such Order may take effect by virtue of this section (46(2)).

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

If within the period referred to in sub-section (2)(a)(above) no person claiming to be affected by such Order has given notice as aforesaid, 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. 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 confirmed by the local planning authority, 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 local planning authority;

(c) that copies of the Order, when confirmed by the authority, shall be served on such persons as may be specified in the regulations".

10.
Given under the Common Seal of Castle Point District Council this Thirteenth day of June One thousand nine hundred and eighty-eight

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 7/88

324 HIGH ROAD, SOUTH BENFLEET.

STATEMENT OF REASONS FOR THE COUNCIL MAKING THE ORDER

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

2. The Council considers that the tree provides a welcome degree of natural relief for the enjoyment of occupiers of dwellings in the vicinity. Furthermore, the tree is visible from the busy High Road, and forms part of the amenities enjoyed by people travelling along this road.

Dated this 13th day of June, 1988

Chief Executive and Clerk
of the Council

Council Offices,
Kiln Road,
Benfleet,
Essex.