Section 79

(1) On an appeal under section 78 the Secretary of State may—

(a) allow or dismiss the appeal, or

(b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(5) The decision of the Secretary of State on such an appeal shall be final.

(7) Schedule 6 applies to appeals under section 78.
Plan referred to in Castle Point Borough Council Tree Preservation Order No. 2/2010

Signed on behalf of the CASTLE POINT BOROUGH COUNCIL

CHIEF DEVELOPMENT CONTROL OFFICER

Dated this 27th April 2010.
The CASTLE POINT BOROUGH COUNCIL, in exercise of the powers conferred on them by sections 198, 201 and 203 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation
1. This Order may be cited as the Land adjacent 462 Rayleigh Road Tree Preservation Order No 1/2010.

Interpretation
2. In this Order “the authority” means the Castle Point Borough Council and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201
3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 16th March 2010.

Prohibited acts in relation to trees
4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners), and subject to article 5, no person shall—

(a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions
5.—(1) Nothing in article 4 shall prevent—

(a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary—

(i) in the interests of the safe operation of the undertaking;
in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or

(iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;

(aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);

(ab) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;

(b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;

(c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;

(d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);

(e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development Order) 1995;

(f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose “drainage body” and “drainage” have the same meanings as in the Land Drainage Act 1991; or

(g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.

(2) In paragraph (1), “statutory undertaker” means any of the following—

- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,

- a relevant airport operator (within the meaning of Part V of the Airports Act 1986),
• the holder of a licence under section 6 of the Electricity Act 1989,
• a gas transporter,
• the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,
• a water or sewerage undertaker,
• the Civil Aviation Authority, a body acting on behalf of that authority or a person who holds a licence under Chapter I of Part I of the Transport Act 2000,
• a universal postal service provider in connection with the provision of a universal postal service.

Application of provisions of the Town and Country Planning Act 1990
7.—(1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting
8.—(1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

(3) A direction under paragraph (1) may include requirements as to—

(a) species;

(b) number of trees per hectare;

(c) the preparation of the relevant land prior to the replanting; and

(d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation
9.—(1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of—

(a) the refusal of any consent required under this Order; or

(b) the grant of any such consent subject to conditions,
he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

(2) No claim, other than a claim made under paragraph (3), may be made under this article—

(a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or

(b) if the amount in respect of which the claim would otherwise have been made is less than £500.

(3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.

(4) In any other case, no compensation shall be payable to a person—

(a) for loss of development value or other diminution in the value of the land;

(b) for loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;

(c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or

(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article—

"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

"owner" has the meaning given to it by section 34 of the Forestry Act 1967.
"planning permission" where those words first appear; and

"consent under the order" for "planning permission" in both of the other places where those words appear;

(ii) after "think fit", insert—

"(including conditions limiting the duration of the consent or requiring the replacement of trees)"; and

(iii) omit "subject to sections 91 and 92, ".

(b) After subsection (1) insert—

"(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).":

(c) Omit subsections (2) and (3).

<table>
<thead>
<tr>
<th>Section 75 (effect of planning permission)</th>
<th>(a) In subsection (1) substitute—</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) &quot;Any&quot; for the words from &quot;Without&quot; to &quot;any&quot;;</td>
<td></td>
</tr>
<tr>
<td>(ii) &quot;consent under a tree preservation order&quot; for &quot;planning permission to develop land&quot;;</td>
<td></td>
</tr>
<tr>
<td>(iii) &quot;the consent&quot; for &quot;the permission&quot;; and</td>
<td></td>
</tr>
<tr>
<td>(iv) &quot;the land to which the order relates&quot; for &quot;the land&quot;.</td>
<td></td>
</tr>
</tbody>
</table>

(b) Omit subsections (2) and (3).

<table>
<thead>
<tr>
<th>Section 78 (right to appeal against planning decisions and failure to take such decisions)</th>
<th>(a) In subsection (1) substitute—</th>
</tr>
</thead>
<tbody>
<tr>
<td>(i) &quot;the authority&quot; for &quot;a local planning authority&quot;;</td>
<td></td>
</tr>
<tr>
<td>(ii) &quot;consent under a tree preservation order&quot; for &quot;planning permission&quot; in the first place where those words appear;</td>
<td></td>
</tr>
<tr>
<td>(iii) &quot;consent under such an order&quot; for &quot;planning permission&quot; in the second place where those words appear;</td>
<td></td>
</tr>
</tbody>
</table>
(iv) for paragraph (c) substitute—

"(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or

(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority;".

(b) Omit subsection (2).

(c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order." substitute—

"in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—

(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority’s decision or direction or within such longer period as the Secretary of State may allow;

(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.".

(d) For subsection (4), substitute—

"(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).".

(e) For subsection (5), substitute—

"(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.".

Section 79 (determination of appeals) (a) In subsections (1) and (2), substitute "the authority" for "the local planning authority".
(b) Omit subsection (3).

(c) In subsection (4), substitute—

(i) "section 70(1), (1A) and (1B)" for "sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5";

(ii) "consent under a tree preservation order" for "planning permission"; and

(iii) "the authority," for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of sections 65 or 71.".

(d) Omit subsections (6) and (6A).

(e) In subsection (7), omit the words after "section 78".
The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

(1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.

(2) The register shall contain, as regards each such order—

(a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and

(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State’s determination of it.

(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

(1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order—

(a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or

(b) they may refuse consent under the order.

(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) enure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78
(1) Where the authority—

(a) refuse an application for consent under a tree preservation order or grant it subject to conditions;

(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;

(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or

(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—

(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;

(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).

(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

Section 79

(1) On an appeal under section 78 the Secretary of State may—

(a) allow or dismiss the appeal, or

(b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.
(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(5) The decision of the Secretary of State on such an appeal shall be final.

(7) Schedule 6 applies to appeals under section 78.
### SCHEDULE 1

**SPECIFICATION OF TREES**

**Trees specified individually**
(encircled in black on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>T1</td>
<td>Oak</td>
<td>Field boundary tree northeast of 42 Asquith Gardens</td>
</tr>
</tbody>
</table>

**Trees specified by reference to an area**
(within a dotted black line on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non</td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>G1</td>
<td>11 Oak (Quercus Robur) and 1 Sycamore (Acer Psuedoplatanus)</td>
<td></td>
</tr>
</tbody>
</table>

**Woodlands**
(within a continuous black line on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Non</td>
<td></td>
</tr>
<tr>
<td>Provision of the Town and Country Planning Act 1990</td>
<td>Adaptation or Modification</td>
<td></td>
</tr>
<tr>
<td>-------------------------------------------------</td>
<td>-----------------------------</td>
<td></td>
</tr>
<tr>
<td>Section 69 (registers)</td>
<td>(a) In subsection (1)—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(i) omit—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>&quot;such&quot; in the second place where it appears, and</td>
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</tr>
<tr>
<td></td>
<td>&quot;as may be so prescribed&quot;; and</td>
<td></td>
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<tr>
<td></td>
<td>(ii) substitute &quot;matters relevant to tree preservation orders made by the authority&quot; for &quot;applications for planning permission&quot;.</td>
<td></td>
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<tr>
<td></td>
<td>(b) In subsection (2)—</td>
<td></td>
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<tr>
<td></td>
<td>(i) after &quot;contain&quot; insert &quot;, as regards each such order&quot;; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(ii) for paragraphs (a) and (b) substitute—</td>
<td></td>
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<tr>
<td></td>
<td>(a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State’s determination of it.&quot;.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(c) Omit subsections (3) and (4) (as required by section 198(4)).</td>
<td></td>
</tr>
<tr>
<td>Section 70 (determination of applications: general considerations)</td>
<td>(a) In subsection (1)—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(i) substitute—</td>
<td></td>
</tr>
<tr>
<td></td>
<td>&quot;Subject to subsections (1A) and (1B), where&quot; for &quot;Where&quot;;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>&quot;the authority&quot; for &quot;a local planning authority&quot;;</td>
<td></td>
</tr>
<tr>
<td></td>
<td>&quot;consent under a tree preservation order&quot; for</td>
<td></td>
</tr>
</tbody>
</table>
Plan referred to in Castle Point Borough Council Tree Preservation Order No. 1/2010

Signed on behalf of the CASTLE POINT BOROUGH COUNCIL

CHIEF DEVELOPMENT CONTROL OFFICER

Dated this 8th March 2010.
2009
The CASTLE POINT BOROUGH COUNCIL, in exercise of the powers conferred on them by sections 198, 201(b) and 203 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation
1. This Order may be cited as Tree Preservation Order 4/2009, Land to the north of The Canters and The Chase, west of Rayleigh Road, Thundersley, Essex.

Interpretation
2. In this Order “the authority” means the CASTLE POINT BOROUGH COUNCIL and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201
3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 24th September 2009.

Prohibited acts in relation to trees
4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners), and subject to article 5, no person shall—

(a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in Schedule 1 to this Order except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions
5. (1) Nothing in article 4 shall prevent—
(a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary—

(i) in the interests of the safe operation of the undertaking;

(ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or

(iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;

(b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;

(c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;

(d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);

(e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Development Order) 1995;

(f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or

(g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.

(2) In paragraph (1), “statutory undertaker” means any of the following—

- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation,
dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,

- a relevant airport operator (within the meaning of Part V of the Airports Act 1986),
- the holder of a licence under section 6 of the Electricity Act 1989,
- a public gas transporter,
- the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,
- a water or sewerage undertaker,
- the Civil Aviation Authority or a body acting on behalf of that Authority,
- the Post Office.

Applications for consent under the Order
6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall—

(a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
(b) specify the work for which consent is sought; and
(c) contain a statement of the applicant’s reasons for making the application.

Application of provisions of the Town and Country Planning Act 1990
7. (1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting
8. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.
(3) A direction under paragraph (1) may include requirements as to—

(a) species;
(b) number of trees per hectare;
(c) the preparation of the relevant land prior to the replanting; and
(d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation
9.—(1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of—

(a) the refusal of any consent required under this Order; or
(b) the grant of any such consent subject to conditions,

he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

(2) No claim, other than a claim made under paragraph (3), may be made under this article—

(a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
(b) if the amount in respect of which the claim would otherwise have been made is less than £500.

(3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.

(4) In any other case, no compensation shall be payable to a person—

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

(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article—

"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

"owner" has the meaning given to it by section 34 of the Forestry Act 1967.

Orders made by virtue of section 300

11. This Order takes effect in accordance with subsection (3) of section 300 (tree preservation orders in anticipation of disposal of Crown land).

Dated 22nd September 2009.

Signed on behalf of the CASTLE POINT BOROUGH COUNCIL

Authorized by the Council to sign in that behalf
SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>T1</td>
<td>1 x Oak</td>
<td>Rear garden of 336 The Chase.</td>
</tr>
<tr>
<td>T2</td>
<td>1 x Oak</td>
<td>Rear garden of 334 The Chase.</td>
</tr>
<tr>
<td>T3</td>
<td>1 x Oak</td>
<td>Rear of 334 The Chase east of 6 The Canters.</td>
</tr>
<tr>
<td>T4</td>
<td>1 x Oak</td>
<td>Rear garden of 12 The Canters.</td>
</tr>
<tr>
<td>T5</td>
<td>1 x Oak</td>
<td>Rear garden of 330 The Chase.</td>
</tr>
<tr>
<td>T6</td>
<td>1 x Oak</td>
<td>Rear of 330 The Chase east of 8 The Canters.</td>
</tr>
</tbody>
</table>

Trees specified by reference to an area
(within a dotted black line on the map)

Reference on map  | Description                          | Situation                                      |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>Group of 3 x Ash, 1 x Oak, 3 x Hawthorn and 17 x Cherry.</td>
<td>Land to the north of 340 The Chase west of 263 Rayleigh Road.</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>G1</td>
<td>Group of 1 x Sycamore and 2 x Ash, one of which is twin stemmed.</td>
<td>Land to the west of 263 Rayleigh Road north of 346 The Chase.</td>
</tr>
<tr>
<td>Reference</td>
<td>Description</td>
<td>Situation</td>
</tr>
<tr>
<td>-----------</td>
<td>-------------</td>
<td>-----------</td>
</tr>
<tr>
<td>W1</td>
<td>Trees of whatever species.</td>
<td>North of The Canters and 326 to 340 The Chase, West of 271 to 281 Rayleigh Road.</td>
</tr>
</tbody>
</table>

Woodlands
(within a continuous black line on the map)
Plan referred to in Castle Point Borough Council Tree Preservation Order No. 4/2009

Signed on behalf of the CASTLE POINT BOROUGH COUNCIL

CHIEF DEVELOPMENT CONTROL OFFICER

Dated this 22nd September 2009.
## SCHEDULE 2

### PART I

**PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990 APPLIED WITH ADAPTATIONS OR MODIFICATIONS**

<table>
<thead>
<tr>
<th>Provision of the Town and Country Planning Act 1990</th>
<th>Adaptation or Modification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 69 (registers)</td>
<td>(a) In subsection (1)—</td>
</tr>
<tr>
<td></td>
<td>(i) omit—</td>
</tr>
<tr>
<td></td>
<td>&quot;; in such manner as may be prescribed by a development order,&quot;;</td>
</tr>
<tr>
<td></td>
<td>&quot;such&quot; in the second place where it appears, and</td>
</tr>
<tr>
<td></td>
<td>&quot;as may be so prescribed&quot;; and</td>
</tr>
<tr>
<td></td>
<td>(ii) substitute &quot;matters relevant to tree preservation orders made by the authority&quot; for &quot;applications for planning permission&quot;.</td>
</tr>
<tr>
<td></td>
<td>(b) In subsection (2)—</td>
</tr>
<tr>
<td></td>
<td>(i) after &quot;contain&quot; insert &quot;, as regards each such order&quot;; and</td>
</tr>
<tr>
<td></td>
<td>(ii) for paragraphs (a) and (b) substitute—</td>
</tr>
<tr>
<td></td>
<td>&quot;(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and</td>
</tr>
<tr>
<td></td>
<td>(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.&quot;.</td>
</tr>
<tr>
<td></td>
<td>(c) Omit subsections (3) and (4) (as required by section 198(4)).</td>
</tr>
<tr>
<td>Section 70 (determination of applications: general considerations)</td>
<td>(a) In subsection (1)—</td>
</tr>
<tr>
<td></td>
<td>(i) substitute—</td>
</tr>
</tbody>
</table>
"Subject to subsections (1A) and (1B), where" for "Where";

"the authority" for "a local planning authority";

"consent under a tree preservation order" for "planning permission" where those words first appear; and

"consent under the order" for "planning permission" in both of the other places where those words appear;

(ii) after "think fit", insert—

"(including conditions limiting the duration of the consent or requiring the replacement of trees)"; and

(iii) omit "subject to sections 91 and 92,".

(b) After subsection (1) insert—

"(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).".

(c) Omit subsections (2) and (3).

Section 75 (effect of planning permission)

(a) In subsection (1) substitute—

(i) "Any" for the words from "Without" to "any";

(ii) "consent under a tree preservation order" for "planning permission to develop land";

(iii) "the consent" for "the permission"; and

(iv) "the land to which the order relates" for "the
(b) Omit subsections (2) and (3).

<table>
<thead>
<tr>
<th>Section 78 (right to appeal against planning decisions and failure to take such decisions)</th>
<th>(a) In subsection (1) substitute—</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(i) “the authority” for “a local planning authority”;</td>
</tr>
<tr>
<td></td>
<td>(ii) “consent under a tree preservation order” for “planning permission” in the first place where those words appear;</td>
</tr>
<tr>
<td></td>
<td>(iii) “consent under such an order” for “planning permission” in the second place where those words appear;</td>
</tr>
<tr>
<td></td>
<td>(iv) for paragraph (c) substitute—</td>
</tr>
<tr>
<td></td>
<td>“(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or</td>
</tr>
<tr>
<td></td>
<td>(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,”.</td>
</tr>
</tbody>
</table>

(b) Omit subsection (2).

(c) In subsection (3) for “served within such time and in such manner as may be prescribed by a development order.” substitute—

“in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—

(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;

(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions,
before an appeal has been made, an appeal may only be made against that refusal or grant.”.

(d) For subsection (4), substitute—

“(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).”.

(e) For subsection (5), substitute—

“(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.”.

| Section 79 (determination of appeals) | (a) In subsections (1) and (2), substitute “the authority” for “the local planning authority”.

(b) Omit subsection (3).

(c) In subsection (4), substitute—

(i) “section 70(1), (1A) and (1B)” for “sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5”;

(ii) “consent under a tree preservation order” for “planning permission”; and

(iii) “the authority,” for “the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of sections 65 or 71.”.

(d) Omit subsections (6) and (6A).

(e) In subsection (7), omit the words after “section 78”.

- 11 -
PART II
PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990,
AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

(1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.

(2) The register shall contain, as regards each such order—

   (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
   
   (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

(1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order—

   (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
   
   (b) they may refuse consent under the order.

(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

Section 75
Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) enure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78

(1) Where the authority—

(a) refuse an application for consent under a tree preservation order or grant it subject to conditions;

(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;

(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or

(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—

(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;

(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).

(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.
Section 79

(1) On an appeal under section 78 the Secretary of State may—

(a) allow or dismiss the appeal, or

(b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(5) The decision of the Secretary of State on such an appeal shall be final.

(7) Schedule 6 applies to appeals under section 78.
Town and Country Planning Act 1990
The Tree Preservation Order 3/2009

The CASTLE POINT BOROUGH COUNCIL, in exercise of the powers conferred on them by sections 198, 201(b) and 203 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation
1. This Order may be cited as Tree Preservation Order 3/2009, Uplands, Goldfinch Lane, Thundersley, Essex.

Interpretation
2. In this Order “the authority” means the CASTLE POINT BOROUGH COUNCIL and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201
3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 15th May 2009.

Prohibited acts in relation to trees
4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners), and subject to article 5, no person shall—

   (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

   (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in Schedule 1 to this Order except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions
5. (1) Nothing in article 4 shall prevent—
(a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary—

(i) in the interests of the safe operation of the undertaking;

(ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or

(iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;

(b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;

(c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;

(d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);

(e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Development Order) 1995;

(f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose “drainage body” and “drainage” have the same meanings as in the Land Drainage Act 1991; or

(g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.

(2) In paragraph (1), “statutory undertaker” means any of the following—

- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation,
dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,

- a relevant airport operator (within the meaning of Part V of the Airports Act 1986),
- the holder of a licence under section 6 of the Electricity Act 1989,
- a public gas transporter,
- the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,
- a water or sewerage undertaker,
- the Civil Aviation Authority or a body acting on behalf of that Authority,
- the Post Office.

Applications for consent under the Order
6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall—

(a) identify the tree or trees to which it relates (if necessary, by reference to a plan);

(b) specify the work for which consent is sought; and

(c) contain a statement of the applicant's reasons for making the application.

Application of provisions of the Town and Country Planning Act 1990
7. (1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting
8. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated (“the relevant land”) a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.
(3) A direction under paragraph (1) may include requirements as to—

(a) species;
(b) number of trees per hectare;
(c) the preparation of the relevant land prior to the replanting; and
(d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9.—(1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of—

(a) the refusal of any consent required under this Order; or
(b) the grant of any such consent subject to conditions,

he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

(2) No claim, other than a claim made under paragraph (3), may be made under this article—

(a) if more than 12 months have elapsed since the date of the authority’s decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
(b) if the amount in respect of which the claim would otherwise have been made is less than £500.

(3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.

(4) In any other case, no compensation shall be payable to a person—

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

(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article—

“development value” means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

“owner” has the meaning given to it by section 34 of the Forestry Act 1967.

Orders made by virtue of section 300
11. This Order takes effect in accordance with subsection (3) of section 300 (tree preservation orders in anticipation of disposal of Crown land).

Dated this 15th May 2009.

Signed on behalf of the CASTLE POINT BOROUGH COUNCIL

Authorised by the Council to sign in that behalf
## SCHEDULE 1

### SPECIFICATION OF TREES

**Trees specified individually**
(encircled in black on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>T1</td>
<td>Oak (Quercus)</td>
<td>Located in the front garden of 'Uplands', Goldfinch Lane, Thundersley.</td>
</tr>
</tbody>
</table>

**Trees specified by reference to an area**
(within a dotted black line on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>NONE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>NONE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Woodlands**
(within a continuous black line on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>NONE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Plan referred to in Castle Point Borough Council Tree Preservation Order No. 3/2009

Signed on behalf of the CASTLE POINT BOROUGH COUNCIL

CHIEF DEVELOPMENT CONTROL OFFICER

Dated this 15th May 2009
Town and Country Planning Act 1990
The Tree Preservation Order 1/2009

The CASTLE POINT BOROUGH COUNCIL, in exercise of the powers conferred on them by sections 198, 201(b) and 203 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation
1. This Order may be cited as Tree Preservation Order 1/2009, End View, Bramble Crescent, Benfleet, Essex.

Interpretation
2. In this Order “the authority” means the CASTLE POINT BOROUGH COUNCIL and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201
3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 20th February 2009.

Prohibited acts in relation to trees
4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners), and subject to article 5, no person shall—

(a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions
5. (1) Nothing in article 4 shall prevent—

- 1 -
(a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary—

(i) in the interests of the safe operation of the undertaking;

(ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or

(iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;

(b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;

(c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;

(d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);

(e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Development Order) 1995;

(f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or

(g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.

(2) In paragraph (1), "statutory undertaker" means any of the following—

- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation,
dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,

- a relevant airport operator (within the meaning of Part V of the Airports Act 1986),
- the holder of a licence under section 6 of the Electricity Act 1989,
- a public gas transporter,
- the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,
- a water or sewerage undertaker,
- the Civil Aviation Authority or a body acting on behalf of that Authority,
- the Post Office.

Applications for consent under the Order
6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall—

(a) identify the tree or trees to which it relates (if necessary, by reference to a plan);

(b) specify the work for which consent is sought; and

(c) contain a statement of the applicant's reasons for making the application.

Application of provisions of the Town and Country Planning Act 1990
7. (1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting
8. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.
(3) A direction under paragraph (1) may include requirements as to—

(a) species;
(b) number of trees per hectare;
(c) the preparation of the relevant land prior to the replanting; and
(d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9.—(1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of—

(a) the refusal of any consent required under this Order; or
(b) the grant of any such consent subject to conditions,

he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

(2) No claim, other than a claim made under paragraph (3), may be made under this article—

(a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or

(b) if the amount in respect of which the claim would otherwise have been made is less than £500.

(3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.

(4) In any other case, no compensation shall be payable to a person—

(a) for loss of development value or other diminution in the value of the land;

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

(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article—

"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

"owner" has the meaning given to it by section 34 of the Forestry Act 1967.

Orders made by virtue of section 300
11. This Order takes effect in accordance with subsection (3) of section 300 (tree preservation orders in anticipation of disposal of Crown land).

Dated this 20th February 2009.

Signed on behalf of the CASTLE POINT BOROUGH COUNCIL

[Signature]

Authorised by the Council to sign in that behalf
SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>NONE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Trees specified by reference to an area
(within a dotted black line on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>NONE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>G1</td>
<td>8 x Oak trees</td>
<td>End View, Bramble Crescent, Benfleet, Essex</td>
</tr>
</tbody>
</table>

Woodlands
(within a continuous black line on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>NONE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## SCHEDULE 2

### PART I

PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990 APPLIED WITH ADAPTATIONS OR MODIFICATIONS

<table>
<thead>
<tr>
<th>Provision of the Town and Country Planning Act 1990</th>
<th>Adaptation or Modification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 69 (registers)</td>
<td>(a) In subsection (1)—</td>
</tr>
<tr>
<td></td>
<td>(i) omit—</td>
</tr>
<tr>
<td></td>
<td>&quot;; in such manner as may be prescribed by a development order,&quot;;</td>
</tr>
<tr>
<td></td>
<td>&quot;such&quot; in the second place where it appears, and</td>
</tr>
<tr>
<td></td>
<td>&quot;as may be so prescribed&quot;; and</td>
</tr>
<tr>
<td></td>
<td>(ii) substitute &quot;matters relevant to tree preservation orders made by the authority&quot; for &quot;applications for planning permission&quot;.</td>
</tr>
<tr>
<td></td>
<td>(b) In subsection (2)—</td>
</tr>
<tr>
<td></td>
<td>(i) after &quot;contain&quot; insert &quot;, as regards each such order&quot;; and</td>
</tr>
<tr>
<td></td>
<td>(ii) for paragraphs (a) and (b) substitute—</td>
</tr>
<tr>
<td></td>
<td>&quot;(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and</td>
</tr>
<tr>
<td></td>
<td>(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.&quot;.</td>
</tr>
<tr>
<td></td>
<td>(c) Omit subsections (3) and (4) (as required by section 198(4)).</td>
</tr>
</tbody>
</table>

<p>| Section 70 (determination of)                       | (a) In subsection (1)—    |</p>
<table>
<thead>
<tr>
<th>applications: general considerations</th>
<th>(i) substitute—</th>
</tr>
</thead>
<tbody>
<tr>
<td>where &quot;Subject to subsections (1A) and (1B), for &quot;Where&quot;; &quot;the authority&quot; for &quot;a local planning authority&quot;; &quot;consent under a tree preservation order&quot; for &quot;planning permission&quot; where those words appear; and &quot;consent under the order&quot; for &quot;planning permission&quot; in both of the other places those words appear;</td>
<td></td>
</tr>
<tr>
<td>(ii) after &quot;think fit&quot;, insert—</td>
<td></td>
</tr>
<tr>
<td>&quot;(including conditions limiting the duration of the consent or requiring the replacement of trees)&quot;; and</td>
<td></td>
</tr>
<tr>
<td>(iii) omit &quot;subject to sections 91 and 92,&quot;.</td>
<td></td>
</tr>
<tr>
<td>(b) After subsection (1) insert—</td>
<td></td>
</tr>
<tr>
<td>&quot;(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</td>
<td></td>
</tr>
<tr>
<td>(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).&quot;.</td>
<td></td>
</tr>
<tr>
<td>(c) Omit subsections (2) and (3).</td>
<td></td>
</tr>
<tr>
<td>Section 75 (effect of planning permission)</td>
<td>(a) In subsection (1) substitute—</td>
</tr>
</tbody>
</table>
(b) Omit subsections (2) and (3).

Section 78 (right to appeal against planning decisions and failure to take such decisions)

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) In subsection (1) substitute—</td>
<td></td>
</tr>
<tr>
<td>(i) “the authority” for “a local planning authority”;</td>
<td></td>
</tr>
<tr>
<td>(ii) “consent under a tree preservation order” for “planning permission to develop land”;</td>
<td></td>
</tr>
<tr>
<td>(iii) “consent under such an order” for “planning permission” in the second place where those words appear;</td>
<td></td>
</tr>
<tr>
<td>(iv) for paragraph (c) substitute—</td>
<td></td>
</tr>
<tr>
<td>“(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or</td>
<td></td>
</tr>
<tr>
<td>(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,”.</td>
<td></td>
</tr>
</tbody>
</table>

(b) Omit subsection (2).

(c) In subsection (3) for “served within such time and in such manner as may be prescribed by a development order.” substitute—

“in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—

(a) in respect of a matter mentioned in any of
paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;

(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(d) For subsection (4), substitute—

"(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)."

(e) For subsection (5), substitute—

"(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question."

<table>
<thead>
<tr>
<th>Section (determination appeals)</th>
<th>79</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) In subsections (1) and (2), substitute &quot;the authority&quot; for &quot;the local planning authority&quot;.</td>
<td></td>
</tr>
<tr>
<td>(b) Omit subsection (3).</td>
<td></td>
</tr>
<tr>
<td>(c) In subsection (4), substitute—</td>
<td></td>
</tr>
<tr>
<td>(i) &quot;section 70(1), (1A) and (1B)&quot; for &quot;sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5&quot;;</td>
<td></td>
</tr>
<tr>
<td>(ii) &quot;consent under a tree preservation order&quot; for &quot;planning permission&quot;; and</td>
<td></td>
</tr>
<tr>
<td>(iii) &quot;the authority,&quot; for &quot;the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of sections 65 or 71.&quot;.</td>
<td></td>
</tr>
</tbody>
</table>
(d) Omit subsections (6) and (6A).

(e) In subsection (7), omit the words after "section 78".
PART II
PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990,
AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

(1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.

(2) The register shall contain, as regards each such order—

(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and

(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

(1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order—

(a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or

(b) they may refuse consent under the order.

(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).
Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) enure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78

(1) Where the authority—

(a) refuse an application for consent under a tree preservation order or grant it subject to conditions;

(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;

(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or

(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—

(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;

(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).

(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.
Section 79

(1) On an appeal under section 78 the Secretary of State may—

(a) allow or dismiss the appeal, or

(b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(5) The decision of the Secretary of State on such an appeal shall be final.

(7) Schedule 6 applies to appeals under section 78.
Plan referred to in Castle Point Borough Council Tree Preservation Order No. 1/2009

Signed on behalf of the CASTLE POINT BOROUGH COUNCIL

CHIEF DEVELOPMENT CONTROL OFFICER

Dated this 20\textsuperscript{th} February 2009.
2002
Tree Preservation Orders are legal documents and I am obliged to present them in this manner, however, some explanatory guidance on tree preservation orders is given in the enclosed leaflet, *Protected Trees: A Guide to Tree Preservation Orders*, produced by the Department of the Environment, Transport and the Regions which gives guidance on Tree Preservation procedures and answers many of the most asked questions about Orders which you may find of assistance. If you have any further queries about this letter, please contact Andy Day, Planning Department, Council Office, Kiln Road, Benfleet, Essex. SS7 1TF. 01268 882384. The Council will write to you again when a decision has been made.

Dated: 4th January 2002

Signed: [Signature]

Director of Planning on behalf of CASTLE POINT BOROUGH COUNCIL

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**COPY OF REGULATION 4 OF THE TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999**

Objections and representations

4(1) Subject to paragraph (2), objections and representations-

(a) shall be made in writing and-

   (i) delivered to the authority not later than the date specified by them under regulation 3(2) (c); or

   (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;

(b) shall specify the particular trees, groups of trees or woodlands (as the case maybe) in respect of which the objections or representations are made, and

(c) in the case of an objection, shall state the reasons for the objection.

4(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph 4 (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.
TREE PRESERVATION ORDER

Town and Country Planning Act 1990

The CASTLE POINT BOROUGH COUNCIL in exercise of the powers conferred on them by sections 198, 201(a) and 203 of the Town and Country Planning Act 1990(b) hereby makes the following Order-

Citation

1. This Order may be cited as Tree Preservation Order 1/2002, 200 Rayleigh Road, Benfleet, Essex.

Interpretation

2. In this Order "the authority" means the CASTLE POINT BOROUGH COUNCIL and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on the 4th January 2002.

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders)(c) [or subsection (3) of section 200 (orders affecting land where Forestry Commissioners interested), and subject to subsection 5, no person shall-

(a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in Schedule I to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

5. (1) Nothing in article 4 shall prevent-

(a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land(d) of the statutory undertaker and the work is necessary-

(i) in the interests of the safe operation of the undertaking;

(ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or

(iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995(e);

(b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;

(c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;

Under section 199(1), tree preservation orders generally do not take effect until confirmed, but a direction may be given under section 201 for an order to take provisional effect immediately.

Where the Order is to be made under the sections cited and section 300 of the Town and Country Planning Act 1990, all those provisions should be cited, as should the fact of the consent of the appropriate authority. As to the circumstances in which the consent of the Forestry Commission is required (and should be cited) see section 200(1) of that Act.

Subsection (6) of section 198 exempts from the application of tree preservation orders the cutting down, uprooting, topping or lopping of trees which are dying, dead or have become dangerous, or the undertaking of those acts 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. Subsection (7) of that section makes section 198 subject to section 39(2) of the Housing and Planning Act 1986 (c.63) (saving for effect of section 2(4) of the Opencast Coal Act 1958 on land affected by a tree preservation order despite its repeal) and section 15 of the Forestry Act 1967 (c.10) (licences under that Act to fell trees comprised in a tree preservation order).

See section 263 of the Town and Country Planning Act 1990.

S. 1. 1995/418.
IMPORTANT – THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

CASTLE POINT BOROUGH COUNCIL

REVOCATION OF

Tree Preservation Order No. 3/82
200 Rayleigh Road, Benfleet, Essex

THIS IS A FORMAL NOTICE to advise you that the above Tree Preservation Order No. 3/82, on trees at the above site has been revoked, this 4th day of January, 2002 following a recent review of the site, which revealed that the trees, the subject of the original order, are no longer of sufficient amenity value to warrant preservation.

A number of other trees however have been identified as trees with high amenity value and a new Order in respect of these trees (reference TPO/1/2002) has been served. A copy of that Order is attached for your information and comment.

Dated: 4th January, 2002

Signed: [Signature]

Director of Planning on behalf of CASTLE POINT BOROUGH COUNCIL
I. P. BURCHILL BSc, Dip., M.R.T.P.I., M.I.Mgt  
Director of Planning

IMPORTANT - THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

CASTLE POINT BOROUGH COUNCIL
Tree Preservation Order 1/2002

200 Rayleigh Road, Benfleet, Essex.

THIS IS A FORMAL NOTICE to let you know that the Council has made a tree preservation order in respect of trees at the above site.

Under the provisions of the legislation I am required to serve the owners and occupiers of any land affected by the Order, including any land which is adjoining, with a copy of the Order and the map referred to therein. I am also required to provide a copy of the Order to any person known by the Council to be entitled to work on the land, or to fell any tree affected by the Order, in pursuance of the above Act and Regulations.

A copy of the Order is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping any of the trees described in the First Schedule and shown on the map, without the Council's consent.

The Council has made the Order on the trees because they provide a significant degree of natural vegetation to the benefit of the area and the occupiers of neighbouring dwellings. The trees also form an essential part of the general amenity of this area.

The order took effect on a provisional basis, on 4th January 2002. It will continue in force on this basis for 6 months or until the order is confirmed by the Council, whichever occurs first.

People affected by the Order have a right to make objections or other representations about any of the trees, covered by the Order. The Council will consider such objections and representations before determining whether the Order should be confirmed, that is to say, whether it should take effect formally.

If you would like to make an objection or other comments, please make sure we receive them in writing by the 1st February, 2002. Your comments must comply with Regulation 4 of the Town and Country Planning (Trees) Regulations, 1999, a copy of which is provided below. Send your comments to the Director of Planning, Council Offices, Kiln Road, Benfleet, Essex. SS7 1TF. All valid objections or representations are carefully considered before a decision on whether to confirm the order is made.

Cont........
(d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);

(e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;

(f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991(a); or

(g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989(b).

2. In paragraph (1), "statutory undertaker" means any of the following-

- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,

- a relevant airport operator (within the meaning of Part V of the Airports Act 1986)(c),

- the holder of a licence under section 6 of the Electricity Act 1989,

- a public gas transporter,

- the holder of a licence under section 7 of the Telecommunications Act 1984(d) to whom the telecommunications code (within the meaning of that Act) is applied,

- a water or sewerage undertaker,

- the Civil Aviation Authority or a body acting on behalf of that Authority,

- the Post Office.

Applications for consent under the Order

6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall-

(a) identify the tree or trees to which it relates (if necessary, by reference to a plan);

(b) specify the work for which consent is sought; and

(c) contain a statement of the applicant's reasons for making the application.

Application of provisions of the Town and Country Planning Act 1990

7.(1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part 11 of that Schedule.

Directions as to replanting

8.(1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

(3) A direction under paragraph (1) may include requirements as to-

(a) species;

(b) number of trees per hectare;

(c) the preparation of the relevant land prior to the replanting; and

(d) the erection of fencing necessary for the protection of the newly planted trees.
Compensation

9.- (1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of-

(a) the refusal of any consent required under this Order; or

(b) the grant of any such consent subject to conditions,

he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

(2) No claim, other than a claim made under paragraph (3), may be made under this article-

(a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or

(b) if the amount in respect of which the claim would otherwise have been made is less than £500.

(3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.

(4) In any other case, no compensation shall be payable to a person-

(a) for loss of development value or other diminution in the value of the land;

(b) for loss or damage which, having regard to the statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, was not reasonably foreseeable when consent was refused or was granted subject to conditions;

(c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or

(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section II (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article-

"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and "owner" has the meaning given to it by section 34 of the Forestry Act 1967.

Application to trees to be planted pursuant to a condition

10. In relation to the tree(s) identified in the first column of Schedule 1 by the letter "C", being [a tree] [trees] to be planted pursuant to a condition (being a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees)), this Order takes effect as from the time when [that tree is planted] [those trees are planted].

Orders made by virtue of section 300

11. This Order takes effect in accordance with subsection (3) of section 300 (tree preservation orders in anticipation of disposal of Crown land).

Dated this 4th January, 2002

Signed on behalf of the CASTLE POINT BOROUGH COUNCIL

[T. P. Burhill]

Director of Planning, Authorised by the Council to sign in that behalf
## SCHEDULE I  Article 4

### SPECIFICATION OF TREES

**TREES SPECIFIED INDIVIDUALLY**
(Encircled in black on the map)

<table>
<thead>
<tr>
<th>Reference on Map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>T1</td>
<td>Ash (Fraxinus excelsior)</td>
<td>Land at 200 Rayleigh Road,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Benfleet, Essex.</td>
</tr>
<tr>
<td>T2</td>
<td>Ash (Fraxinus excelsior)</td>
<td></td>
</tr>
<tr>
<td>T3</td>
<td>Ash (Fraxinus excelsior)</td>
<td></td>
</tr>
<tr>
<td>T4</td>
<td>Ash (Fraxinus excelsior)</td>
<td></td>
</tr>
<tr>
<td>T5</td>
<td>Ash (Fraxinus excelsior)</td>
<td></td>
</tr>
</tbody>
</table>

### GROUPS OF TREES
(Within a broken black line on the map)

<table>
<thead>
<tr>
<th>Reference on Map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>NONE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### WOODLAND
(Within a continuous black line on the map)

<table>
<thead>
<tr>
<th>Reference on Map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>NONE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SCHEDULE 2

Section 69

(1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.

(2) The register shall contain, as regards each such order-

(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and

(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

(1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order-

(a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or

(b) they may refuse consent under the order.

(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) enure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78 Appeals against decisions or in default of decision

(1) Where the authority-

(a) refuse an application for consent under a tree preservation order or grant it subject to conditions;

(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;

(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or

(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served-

(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;

(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).

(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

Section 79 Determination of appeals

(1) On an appeal under section 78 the Secretary of State may-

(a) allow or dismiss the appeal, or
(b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to him in the first instance.

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) Subject to subsection (2), the provisions of section 70(1), (IA) and (IB) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(5) The decision of the Secretary of State on such an appeal shall be final.

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

Section 69 was amended by the Town and Country Planning (Trees) Regulations 1999 omitting subsections (3) and (4)
Section 78 was amended by the Town and Country Planning (Trees) Regulations 1999 omitting subsection (2)
Section 79 was amended by the Town and Country Planning (Trees) Regulations 1999 omitting subsection (3)
Section 79 was amended by the Town and Country Planning (Trees) Regulations 1999 omitting subsections (5) and (6A)
Section 79 was amended by the Planning and Compensation Act 1991 (c.34), section 18 and Schedule 7, paragraph 19.

NOTE:

Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding the prescribed sum or 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 Level 4 on the standard scale on summary.

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 198(6)(a) of the Town and Country Planning Act 1990 relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the local planning authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than 5 days previous notice of the removal, etc. should be given to the authority to enable the latter to decide whether or not to dispense with the requirement. In respect of trees in a woodland it is sufficient to replace the trees removed, uprooted or destroyed by planting the same number of trees either on or near the land on which the trees removed, uprooted or and (in either case) in such places as may be designated by the authority.
Plan referred to Castle Point
Tree Preservation Order No 1/2002

Signed: [Signature]
Director of Planning

Dated 4th January, 2002 Council Offices, Kiln Road, Benfleet, Essex, SS7 1TF
CASTLE POINT BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

TREE PRESERVATION ORDER

relating to

land

at

200 Rayleigh Road, Benfleet, Essex.

1/2002
CASTLE POINT BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

TREE PRESERVATION ORDER

relating to

land

15 Konny Brook,
Benfleet, Essex

9/2001
Plan referred to Castle Point
Tree Preservation Order No 9/2001

Signed: ........................................ Director of Planning

Dated 18th September, 2001
Council Offices, Kiln Road, Benfleet, Essex, SS7 1TF
CASTLE POINT BOROUGH COUNCIL

I. P. BURCHILL BSc, Dip., M.R.T.P.I., M.I.Mgt
Director of Planning

IMPORTANT - THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

CASTLE POINT BOROUGH COUNCIL
Tree Preservation Order 9/2001

15 Konny Brook, Benfleet Essex.

THIS IS A FORMAL NOTICE to let you know that the Council has made a tree preservation order in respect of trees at the above site.

Under the provisions of the legislation I am required to serve the owners and occupiers of any land affected by the Order, including any land which is adjoining, with a copy of the Order and the map referred to therein. I am also required to provide a copy of the Order to any person known by the Council to be entitled to work on the land, or to fell any tree affected by the Order, in pursuance of the above Act and Regulations.

A copy of the Order is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping any of the trees described in the First Schedule and shown on the map, without the Council’s consent.

The Council has made the Order on the trees because they provide a significant degree of natural vegetation to the benefit of the area and the occupiers of neighbouring dwellings. The trees also form an essential part of the general amenity of this area.

The order took effect on a provisional basis, on 18th September 2001. It will continue in force on this basis for 6 months or until the order is confirmed by the Council, whichever occurs first.

People affected by the Order have a right to make objections or other representations about any of the trees, covered by the Order. The Council will consider such objections and representations before determining whether the Order should be confirmed, that is to say, whether it should take effect formally.

If you would like to make an objection or other comments, please make sure we receive them in writing by the 16th October, 2001. Your comments must comply with Regulation 4 of the Town and Country Planning (Trees) Regulations, 1999, a copy of which is provided below. Send your comments to the Director of Planning, Council Offices, Kiln Road, Benfleet, Essex. SS7 1TF. All valid objections or representations are carefully considered before a decision on whether to confirm the order is made.

Cont.......