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.

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 7 day of September 1999

Signed on behalf of the CASTLE POINT BOROUGH COUNCIL

[Signature]

Director of Planning, 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>Roblé Beech <em>(Nothofagus obliqua)</em></td>
<td>THUNDERLEY CONGREGATIONAL CHURCH, KENNETH ROAD, THUNDERLEY, ESSEX.</td>
</tr>
<tr>
<td>T2</td>
<td>Roblé Beech <em>(Nothofagus obliqua)</em></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>
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<td></td>
<td></td>
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</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>
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<td></td>
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</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.
Plan referred to Castle Point
Tree Preservation Order No 12/1999

Signed... Director of Planning

Dated this 7th day of September 1999
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

THUNDERSLEY CONGREGATIONAL CHURCH,
KENNETH ROAD,
THUNDERSLEY,
ESSEX.

12/1999
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 11/99

18 CRANBROOK AVENUE, THUNDERSLEY, ESSEX.

THIS IS A FORMAL NOTICE to let you know that the Council has made a new tree preservation order in respect of trees at the above site. This Order supersedes Tree Preservation Order 3/99 which has now expired.

This Order is identical to the Order it supersedes.

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 3rd September 1999. 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 have previously submitted an objection to the Tree Preservation Order 3/99 comments and objections will be carried forward unless you indicate that you do not wish this to happen.

If you would like to make a fresh objection or other comments, please make sure we receive them in writing by 30th September 1999. 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........
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 Carol Nicholls, 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: 3rd September 1999

Signed: [Signature]

Director of Planning on behalf of CASTLE POINT BOROUGH COUNCIL

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.
SCHEDULE

TREE PRESERVATION ORDER

Town and Country Planning Act 1990

The 18 CRANBROOK AVENUE, THUNDERSLEY, ESSEX 11/1999

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 hereby make the following Order-

Citation

1. This Order may be cited as 18 CRANBROOK AVENUE, THUNDERSLEY, ESSEX 11/1999.

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 3rd September 1999.

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;

(a) Under section 196(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.

(b) 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.

(c) 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).

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

(e) S.1. 1995/418.
(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-

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

- specify the work for which consent is sought; and

- 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-

- species;

- number of trees per hectare;

- the preparation of the relevant land prior to the replanting; and

- 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.

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 3rd day of September 1999

Signed on behalf of the CASTLE POINT BOROUGH COUNCIL

I P Burchill, Director of Planning, Authorised by the Council to sign in that behalf
Plan referred to Castle Point
Tree Preservation Order No 11/1999

Signed

Director of Planning

Dated this 3rd day of September 1999
Council Offices, Kiln Road, Benfleet, Essex, SS7 1TF
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>Horse Chestnut (<em>Aesculus hippocastanum</em>)</td>
<td>18 CRANBROOK AVENUE, THUNDERSLEY, ESSEX</td>
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TREES SPECIFIED BY REFERENCE TO AN AREA (within a dotted black line on the map)

<table>
<thead>
<tr>
<th>Reference on Map</th>
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GROUPS OF TREES* (within a broken black line on the map)

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

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</thead>
<tbody>
<tr>
<td>NONE</td>
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</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) ensure 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 76 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 (6) 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.
CASTLE POINT BOROUGH COUNCIL

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

TREE PRESERVATION ORDER

relating to

land
At

18 CRANBROOK AVENUE,
THUNDERSLEY,
ESSEX

11/1999
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 10/99

AT SEEVIC COLLEGE, RUNNYMEDE CHASE, THUNDERSLEY, ESSEX.

THIS IS A FORMAL NOTICE to let you know that the Council has made a new tree preservation order in respect of trees at the above site. This Order supersedes Tree Preservation Order 1/99 which has now expired.

This Order is identical to the Order it supersedes.

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 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 31st August 1999. 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 have previously submitted an objection to the Tree Preservation Order 1/99 comments and objections will be carried forward unless you indicate that you do not wish this to happen.

If you would like to make a fresh objection or other comments, please make sure we receive them in writing by 27th September 1999. 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.........
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 Carol Nicholls, 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: 31 August 1999

Signed: 

Director of Planning on behalf of CASTLE POINT BOROUGH COUNCIL

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

The SEEVIC COLLEGE, RUNNYMEDE CHASE, THUNDERSLEY, ESSEX 10/1999

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 make the following Order-

Citation

1. This Order may be cited as SEEVIC COLLEGE, RUNNYMEDE CHASE, THUNDERSLEY, ESSEX 10/1999.

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

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 31 December 1999.

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 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.

(a) 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.

(b) 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 the Act.

(c) 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).

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

(e) S.1. 1999/418.
(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

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-

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

- specify the work for which consent is sought; and

- 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-

- species;

- number of trees per hectare;

- the preparation of the relevant land prior to the replanting; and

- 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.

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 31st day of August 1999

Signed on behalf of the CASTLE POINT BOROUGH COUNCIL

[Signature]

I P Burchill, Director of Planning, Authorised by the Council to sign in that behalf
Plan referred to Castle Point
Tree Preservation Order No 10/1999

Signed: T.P. Bulpin
Director of Planning

Dated this 31st day of August 1999
Council Offices, Kiln Road, Benfleet, Essex, SS7 1TF
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
## 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 <em>(Quercus robur)</em></td>
<td>SEEVIC</td>
</tr>
<tr>
<td>T2</td>
<td>Oak <em>(Quercus robur)</em></td>
<td>Runnymede Chase</td>
</tr>
<tr>
<td>T3</td>
<td>Cherry <em>(Prunus)</em></td>
<td>Thundersley</td>
</tr>
<tr>
<td>T4</td>
<td>Lime <em>(Tilia)</em></td>
<td>Essex</td>
</tr>
<tr>
<td>T5</td>
<td>Lime <em>(Tilia)</em></td>
<td></td>
</tr>
<tr>
<td>T6</td>
<td>Oak <em>(Quercus robur)</em></td>
<td></td>
</tr>
<tr>
<td>T7</td>
<td>Lime <em>(Tilia)</em></td>
<td></td>
</tr>
<tr>
<td>T8</td>
<td>Oak <em>(Quercus robur)</em></td>
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</tr>
<tr>
<td></td>
<td>Oak <em>(Quercus robur)</em></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Lime <em>(Tilia)</em></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Hornbeam <em>(Carpinus)</em></td>
<td></td>
</tr>
<tr>
<td>T11</td>
<td>Lime <em>(Tilia)</em></td>
<td></td>
</tr>
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<td>T12</td>
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<td>Lime <em>(Tilia)</em></td>
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<td>T14</td>
<td>Oak <em>(Quercus robur)</em></td>
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<tr>
<td>T15</td>
<td>Lime <em>(Tilia)</em></td>
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<td>T16</td>
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<td>Oak <em>(Quercus robur)</em></td>
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<td>T20</td>
<td>Lime <em>(Tilia)</em></td>
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<td>T21</td>
<td>Oak <em>(Quercus robur)</em></td>
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<td>T22</td>
<td>Lime <em>(Tilia)</em></td>
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<tr>
<td>T23</td>
<td>Oak <em>(Quercus robur)</em></td>
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<td>T24</td>
<td>Lime <em>(Tilia)</em></td>
<td></td>
</tr>
<tr>
<td>T25</td>
<td>Lime <em>(Tilia)</em></td>
<td></td>
</tr>
</tbody>
</table>

### TREES SPECIFIED BY REFERNCE TO AN AREA

(Within a dotted black line on the map)

<table>
<thead>
<tr>
<th>Reference on Map.</th>
<th>Description.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>NONE</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>A group of 8 young Silver birch <em>(Betula pendula)</em></td>
<td>SEEVIC, Runnymede Chase, Thundersley, Essex</td>
</tr>
</tbody>
</table>

### WOODLAND*

(Within a continuous black line on the map)

<table>
<thead>
<tr>
<th>Reference on Map.</th>
<th>Description.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>NONE</td>
</tr>
</tbody>
</table>
(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 76 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 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 conviction.

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.
CASTLE POINT BOROUGH COUNCIL

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

TREE PRESERVATION ORDER

relating to

land
At
SEEVIC COLLEGE,
RUNNYMEDE CHASE,
THUNDERSLEY,
ESSEX

10/1999
CASTLE POINT BOROUGH COUNCIL

Town and Country Planning Act 1990

65 DENHAM ROAD, CANVEY ISLAND, ESSEX

TREE PRESERVATION ORDER 9/99

In this Order Castle Point Borough Council, Planning authority in pursuance of the powers conferred in that behalf by sections 198 and 199 ([and 201]*) [and] [300] of the Town and Country Planning Act 1990 and subject to the provisions of the Forestry Acts 1967 and 1978, hereby make the following Order:-

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

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

An application for consent made to the authority under Article 2 of this Order shall be in writing stating the reason for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for the carrying out of which consent is required.

4. (1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent:

Provided that where the application relates to any woodland specified in the First Schedule to this Order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

NOTE: Where appropriate this Order has been updated to reflect statutory amendments which have resulted in the need to show substitutions or repeals of prescribed form.

* Include only where Order contains a direction under section 201 of the Act.
# Map to be to a scale of not less then 25 inches to one mile (1:2500), except in the case of large woodlands when the scale shall be 6 inches to one mile (1:10000 or 1:10560).
^ NOTE: If it is proposed to fell any of the trees included in this Order and the felling requires a licence under the Forestry Act 1967, an application should be made in the first place to the Forestry Commission.
(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

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

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

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

(c) in the case of trees which are comprised in a group of trees or in a woodland, that the group of trees or the woodland, as the case may be, has an outstanding or special amenity value, but a certificate shall not be given in the case of trees falling within (c) above if the application in respect of them has been referred by the Forestry Commissioners under section 15(1)(b) or 15(2)(a) of the Forestry Act 1967.

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

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

(b) the authority with the approval of the Secretary of State dispense with replanting, the authority shall to the owner of the land on which the part of the woodland is situated issue a direction, in writing, specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provision of this Order and section 204 of the Act, replant the said land in accordance with the direction.

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

(a) species;

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

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

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

(e) protective measures against fire.

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

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

9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of such consent subject to conditions, shall, if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority compensation in respect of such loss or damage.
Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

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

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

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

11. -(1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority, such service to be effected by addressing the claim to the authority and leaving it at or sending it by post to the Director of Planning, Castle Point Borough Council, Council Offices, Kiln Road, Benfleet, Essex.

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

17. -Any question of disputed compensation shall be determined in accordance with the provisions of section 205 of the Act.

13. -[(1) The provisions of section 201 of the Act shall apply to this Order and the Order shall take effect on the 23rd June 1999]

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

NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding the prescribed sum— or twice the sum which appears to the court to be the value of the tree, whichever is the greater, or on indictment to fine. The penalty for any other contravention of this Order is a fine not exceeding Level 4 on the standard scale# on summary conviction and, in the case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

If a tree is removed, uprooted or destroyed in contravention of an order or, except in the case of a tree to which the Order applies as part of a woodland, is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by section 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.

* -This provision is not to be included unless it appears to the authority that the Order should take effect immediately.
~ -This provision may be included in relation to trees to be planted pursuant to a condition imposed under section 197 of the Act.
# -This sum is currently £2000 but provision is made under the Planning and Compensation Act 1991 for a fine on summary conviction not exceeding £20,000. In addition the provision for daily fines for continuing offences will be abolished.
These revised penalties will become operative on the coming into effect of section 23 of that Act.

#-£1000 but subject to alteration by Order.
# FIRST SCHEDULE

**TREES SPECIFIED INDIVIDUALLY***

(Encircled in black on the map)

<table>
<thead>
<tr>
<th>No. on Map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>T1</td>
<td>House Chestnut (Aesculus hippocastanum)</td>
<td>65 Denham Road, Canvey Island, Essex</td>
</tr>
<tr>
<td>T2</td>
<td>House Chestnut (Aesculus hippocastanum)</td>
<td>65 Denham Road, Canvey Island, Essex</td>
</tr>
</tbody>
</table>

**GROUPS OF TREES***

(Within a broken black line on the map)

<table>
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<tr>
<th>No. on Map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*The word "NONE" must be entered where necessary.*
WOODLAND*  
(within a continuous black line on the map)

No. on Map.   Description   Situation.

NONE.

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

SECOND SCHEDULE

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

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

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

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

(2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission a grant scheme under section 1 of the Forestry Act 1979 except a scheme which applies to a forestry dedication covenant

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

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

(b) by or at the request of

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

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

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

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

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

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

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

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

77. - Reference of applications to the Secretary of State. -

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

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

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

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

(5) Before determining an application referred to him under this section the Secretary of State shall, if either the applicant or the authority wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

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

78. Appeals against decisions or in default of decision. -

(1) Where an authority-

(a) refuse an application for consent under the Order or grant it subject to conditions, or

(b) give any certificate or direction, on granting consent, the applicant may by notice appeal to the Secretary of State.

(2) A person who has made an application for consent under the Order may also appeal to the Secretary of State if the authority have neither-

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

(b) given notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 77 above., within two months from the date of receipt of the application, or within such extended period. As may at any time be agreed upon in writing between the applicant and the authority.

(3) Any appeal under this section shall be made by notice in writing served within such time as is specified in subsection (4) below.

(4) The service of such a notice must be within-

(a) 28 days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Secretary of State may allow; or

(b) in the case of an appeal under subsection (2), 28 days or such longer period as the Secretary of State may allow from the end of the period of two months or, as the case may be, the extended period agreed.

(5) In relation to an appeal under subsection (2), it shall be assumed that the authority decided to refuse the application in question.
79. **Determination of appeals.**

(1) On an appeal under section 78 the Secretary of State may -
   
   (a) allow or dismiss the appeal,
   
   (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not), or
   
   (c) cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been 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.

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

97. **Power to revoke or modify the consent under the Order.**

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

(2) The power conferred by this section may be exercised at any time before the operations for which consent has been given have completed.

(3) The revocation or modification of consent shall not affect so much of those operations as has been previously carried out.

98. **Procedure for Section 97 Orders: opposed cases,**

(1) Except as provided in section 99, an Order under section 97 shall not take effect unless it is confirmed by the Secretary of State.

(2) Where an authority submit such an Order to the Secretary of State for confirmation, they shall provide the Secretary of State with a Statement of their reason for making the Order and shall serve notice together with a copy of the statement on -

   (a) the owner of the land affected,
   
   (b) the occupier of the land affected, and
   
   (c) any other person who in their opinion will be affected by the Order.

(3) The notice shall specify the period within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) If within that period such a person so requires, before the Secretary of State confirms the Order he shall give such an opportunity both to him and to the local planning authority.

(5) The period referred to in subsection (3) shall be 28 days from the service of notice.

(6) The Secretary of State may confirm an Order submitted to him under this section either without modification or subject to such modifications as he considers expedient.

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

(1) This section applies where-

(a) the authority have made an Order under section 97 above; and

(b) the owner and occupier of the land and all persons who in the land and persons who in the authority's opinion will be affected by the Order have notified the authority in writing that they do not object to it.

(2) Where this section applies, instead of submitting the Order to the Secretary of State for confirmation the authority shall advertise the fact that the Order has been made and the advertisement must specify-

(a) the period within which person affected by the Order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and

(b) the period at the expiration of which, if no such notice is given to the Secretary of State, the Order may take effect by virtue of this section without being confirmed by the Secretary of State.

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

(4) The period referred to in subsection 2(a) must be not less that 28 days from the date the advertisement first appears.

(5) The period referred to in subsection 2(b) must be not less than 14 days from the expiration of the period referred to in subsection (2)(a).

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

(7) If-

(a) no person claiming to be affected by the Order has given notice to the Secretary of State under subsection (2)(a) within the period referred to in that subsection, and

(b) the Secretary of State has not directed within that period that the Order be submitted to him for confirmation, the Order shall take effect at the expiry of the period referred to in subsection 2(b) without being confirmed by the Secretary of State as required by section 98(1).

(8) This section does not apply to an Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Part III, Part VII or Part VIII of the Act.

the 23 day of June 1999

Director of Planning
CASTLE POINT BOROUGH COUNCIL

TREE PRESERVATION ORDER 9/99

STATEMENT OF REASONS FOR THE MAKING OF THE ORDER

65 DENHAM ROAD, CANVEY ISLAND, ESSEX

1. The Council considers that the trees provide a significant degree of natural vegetation to the benefit of the area and the occupiers of neighbouring dwellings.

2. The Council considers that the trees form an essential part of the general amenity of this area.

DATED THIS 23 DAY OF June 1999

DIRECTOR OF PLANNING

Council Offices
Kiln Road
Benfleet
Essex
SS7 1TF
Plan referred to Castle Point
Tree Preservation Order No 9/99

Signed

Director of Planning

Dated this 23 day of June 1999
Council Offices, Kiln Road, Benfleet, Essex, SS7 1TF
CASTLE POINT BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

TREE PRESERVATION ORDER

relating to

65 DENHAM ROAD,
CANVEY ISLAND,
essex

9/99
CASTLE POINT BOROUGH COUNCIL

Town and Country Planning Act 1990

Hadleigh County Junior School, The Avenue, Hadleigh, Essex

TREE PRESERVATION ORDER 8/99

In this Order Castle Point Borough Council, Planning authority in pursuance of the powers conferred in that behalf by sections 198 and 199 [[and 201*] [and] 300] of the Town and Country Planning Act 1990 and subject to the provisions of the Forestry Acts 1967 and 1979, hereby make the following Order:-

1. In this Order:-
   "the Act" means the Town and Country Planning Act 1990;

   "the authority" means the Castle Point Borough Council, as the Planning Authority;

   "owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including a sublessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession;

   " the Secretary of State" means the [Secretary of State for the Environment]

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

3. -An application for consent made to the authority^ under Article 2 of this Order shall be in writing stating the reason for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for the carrying out of which consent is required.

4. -(1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent:

   Provided that where the application relates to any woodland specified in the First Schedule to this Order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

NOTE: Where appropriate this Order has been updated to reflect statutory amendments which have resulted in the need to show substitutions or repeals of prescribed form.

* Include only where Order contains a direction under section 201 of the Act.

# Map to be at a scale of not less than 25 inches to one mile (1:2500), except in the case of large woodlands when the scale shall be 6 inches to one mile (1:10000 or 1:10560).

^ NOTE: If it is proposed to fell any of the trees included in this Order and the felling requires a licence under the Forestry Act 1967, an application should be made in the first place to the Forestry Commission.
(2) - The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

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

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

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

(c) in the case of trees which are comprised in a group of trees or in a woodland, that the group of trees or the woodland, as the case may be, has an outstanding or special amenity value, but a certificate shall not be given in the case of trees falling within (c) above if the application in respect of them has been referred by the Forestry Commissioners under section 15(1)(b) or 15(2)(a) of the Forestry Act 1967.

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

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

(b) the authority with the approval of the Secretary of State dispense with replanting, the authority shall to the owner of the land on which the part of the woodland is situated issue a direction, in writing, specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provision of this Order and section 204 of the Act, replant the said land in accordance with the direction.

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

(a) species;

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

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

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

(e) protective measures against fire.

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

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

9. -Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of such consent subject to conditions, shall, if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority compensation in respect of such loss or damage:
Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

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

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

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

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

The Director of Planning, Castle Point Borough Council, Council Offices, Kiln Road, Benfleet, Essex.

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

17. -Any question of disputed compensation shall be determined in accordance with the provisions of section 205 of the Act.

13. -[(1) The provisions of section 201 of the Act shall apply to this Order and the Order shall take effect on 7 June 1999]*

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

NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding the prescribed sum— or twice the sum which appears to the court to be the value of the tree, whichever is the greater, or on indictment to fine. The penalty for any other contravention of this Order is a fine not exceeding Level 4 on the standard scale# on summary conviction and, in the case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

If a tree is removed, uprooted or destroyed in contravention of an order or, except in the case of a tree to which the order applies as part of a woodland, is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by section 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.

* -This provision is not to be included unless it appears to the authority that the Order should take effect immediately.

+ -This provision may be included in relation to trees to be planted pursuant to a condition imposed under section 197 of the Act.-

# -This sum is currently £2000 but subject to alteration by Order.
**FIRST SCHEDULE**
*TREES SPECIFIED INDIVIDUALLY* *(encircled in black on the map)*

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<tbody>
<tr>
<td>T1</td>
<td>Silver birch (Betula pendula)</td>
<td>Hadleigh County</td>
</tr>
<tr>
<td>T2</td>
<td>Silver birch (Betula pendula)</td>
<td>Junior School, The Avenue,</td>
</tr>
<tr>
<td>T3</td>
<td>Cherry (Prunus)</td>
<td>Hadleigh, Essex</td>
</tr>
<tr>
<td>T4</td>
<td>Cherry (Prunus)</td>
<td></td>
</tr>
<tr>
<td>T5</td>
<td>Silver birch (Betula pendula)</td>
<td></td>
</tr>
<tr>
<td>T6</td>
<td>Cherry (Prunus)</td>
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<td>Silver birch (Betula pendula)</td>
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</tr>
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**GROUPS OF TREES***
*(within a broken black line on the map)*

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

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

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

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

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

The Director of Planning, Castle Point Borough Council, Council Offices, Klin Road, Benfleet, Essex.

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

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

13. [(1) The provisions of section 201 of the Act shall apply to this Order and the Order shall take effect on 7 June 1999.]

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

NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding the prescribed sum or twice the sum which appears to the court to be the value of the tree, whichever is the greater, or on indictment to fine. The penalty for any other contravention of this Order is a fine not exceeding Level 4 on the standard scale on summary conviction and, in the case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

If a tree is removed, uprooted or destroyed in contravention of an order or, except in the case of a tree to which the order applies as part of a woodland, is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by section 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 destroyed, whichever is the greater, have been at any time.

* This provision is not to be included unless it appears to the authority that the Order should take effect immediately.

+ This provision may be included in relation to trees to be planted pursuant to a condition imposed under section 197 of the Act. - This provision may be included in relation to trees to be planted pursuant to a condition imposed under section 197 of the Act.

~ This sum is currently £2000 but provision is made under the Planning and Compensation Act 1991 for a fine on summary conviction not exceeding £20,000. In addition the provision for daily fines for continuing offences will be abolished.

These revised penalties will become operative on the coming into effect of section 23 of that Act.

# £1000 but subject to alteration by Order.
FIRST SCHEDULE
TREES SPECIFIED INDIVIDUALLY*
(encircled in black on the map)

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<tr>
<th>No. on Map</th>
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</thead>
<tbody>
<tr>
<td>T1</td>
<td>Silver birch (Betula pendula)</td>
<td>Hadleigh County Junior School,</td>
</tr>
<tr>
<td>T2</td>
<td>Silver birch (Betula pendula)</td>
<td>The Avenue, Hadleigh, Essex</td>
</tr>
<tr>
<td>T3</td>
<td>Cherry (Prunus)</td>
<td></td>
</tr>
<tr>
<td>T4</td>
<td>Cherry (Prunus)</td>
<td></td>
</tr>
<tr>
<td>T5</td>
<td>Silver birch (Betula pendula)</td>
<td></td>
</tr>
<tr>
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<td>Cherry (Prunus)</td>
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</tr>
<tr>
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<td>Silver birch (Betula pendula)</td>
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</tr>
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GROUPS OF TREES*
(within a broken black line on the map)

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*The word "NONE" must be entered where necessary.
SECOND SCHEDULE

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

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

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

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

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

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

   (b) by or at the request of

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

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

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

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

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

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

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

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

77. - Reference of applications to the Secretary of State. -

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

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

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

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

(5) Before determining an application referred to him under this section the Secretary of State shall, if either the applicant or the authority wish, give each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

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

78. Appeals against decisions or in default of decision. -

(1) Where an authority-
(a) refuse an application for consent under the Order or grant it subject to conditions, or
(b) give any certificate or direction, on granting consent, the applicant may by notice appeal to the Secretary of State.

(2) A person who has made an application for consent under the Order may also appeal to the Secretary of State if the authority have neither-
(a) given notice to the applicant of their decision on the application; or
(b) given notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 77 above, within two months from the date of receipt of the application, or within such extended period. As may at any time be agreed upon in writing between the applicant and the authority.

(3) Any appeal under this section shall be made by notice in writing served within such time as is specified in sub section (4) below.

(4) The service of such a notice must be within-
(a) 28 days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Secretary of State may allow; or
(b) in the case of an appeal under subsection (2), 28 days or such longer period as the Secretary of State may allow from the end of the period of two months or, as the case may be, the extended period agreed.

(5) In relation to an appeal under subsection (2). It shall be assumed that the authority decided to refuse the application in question.
Determination of appeals. -

(1) On an appeal under section 78 the Secretary of State may -
   (a) allow or dismiss the appeal,
   (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part or not), or
   (c) cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been 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.

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

Power to revoke or modify the consent under the Order. -

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

(2) The power conferred by this section may be exercised at any time before the operations for which consent has been given have completed.

(3) The revocation or modification of consent shall not affect so much of those operations as has been previously carried out.

Procedure for Section 97 Orders: opposed cases, -

(1) Except as provided in section 99, an Order under section 97 shall not take effect unless it is confirmed by the Secretary of State.

(2) Where an authority submit such an Order to the Secretary of State for confirmation, they shall provide the Secretary of State with a Statement of their reason for making the Order and shall serve notice together with a copy of the statement on -
   (a) the owner of the land affected,
   (b) the occupier of the land affected, and
   (c) any other person who in their opinion will be affected by the Order.

(3) The notice shall specify the period within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) If within that period such a person so requires, before the Secretary of State confirms the Order he shall give such an opportunity both to him and to the local planning authority.

(5) The period referred to in subsection (3) shall be 28 days from the service of notice.

(6) The Secretary of State may confirm an Order submitted to him under this section either without modification or subject to such modifications as he considers expedient.

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

Procedure for Section 97 Orders: unopposed cases. -

(1) This section applies where -
   (a) the authority have made an Order under section 97 above; and
(b) the owner and occupier of the land and all persons who in the land and persons who in the authority's opinion will be affected by the Order have notified the authority in writing that they do not object to it.

(2) Where this section applies, instead of submitting the Order to the Secretary of State for confirmation the authority shall advertise the fact that the Order has been made and the advertisement must specify-

(a) the period within which person affected by the Order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and

(b) the period at the expiration of which, if no such notice is given to the Secretary of State, the Order may take effect by virtue of this section without being confirmed by the Secretary of State.

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

(4) The period referred to in subsection 2(a) must be not less than 28 days from the date the advertisement first appears.

(5) The period referred to in subsection 2(b) must be not less than 14 days from the expiration of the period referred to in subsection 2(a).

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

(7) If-

(a) no person claiming to be affected by the Order has given notice to the Secretary of State under subsection 2(a) within the period referred to in that subsection, and

(b) the Secretary of State has not directed within that period that the Order be submitted to him for confirmation, the Order shall take effect at the expiry of the period referred to in subsection 2(b) without being confirmed by the Secretary of State as required by section 98(1).

(8) This section does not apply to an Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Part III, Part VII or Part VIII of the Act.

the 7 day of June 1999

[Signature]

Director of Planning
CASTLE POINT BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

TREE PRESERVATION ORDER

relating to

Hadleigh County Junior School,
The Avenue, Hadleigh, Essex

8/99
CASTLE POINT BOROUGH COUNCIL

TREE PRESERVATION ORDER 8/99

Hadleigh County Junior School, The Avenue, Hadleigh, Essex

STATEMENT OF REASONS FOR THE MAKING OF THE ORDER

1. The Council considers that the trees provide a significant degree of natural vegetation to the benefit of the area and the occupiers of neighbouring dwellings.

2. The Council considers that the trees form an essential part of the general amenity of this area.

DATED THIS 7 DAY OF June 1999

T.P. Burkill
DIRECTOR OF PLANNING

Council Offices
Kiln Road
Benfleet
Essex
SS7 1TF
Plan referred to Castle Point
Tree Preservation Order No 8/99

Signed: [Signature]
Director of Planning

Dated this 7th day of June 1999
Council Offices, Kiln Road, Benfleet, Essex, SS7 1TF
CASTLE POINT BOROUGH COUNCIL

Town and Country Planning Act 1990

Land next to 161 Kiln Road, Thundersley, Benfleet, Essex.

TREE PRESERVATION ORDER 7/99

In this Order Castle Point Borough Council, Planning authority in pursuance of the powers conferred in that behalf by sections 198 and 199 [and 201*] [and 300] of the Town and Country Planning Act 1990 and subject to the provisions of the Forestry Acts 1967 and 1979, hereby make the following Order:-

1. In this Order:-

"the Act" means the Town and Country Planning Act 1990;

"the authority" means the Castle Point Borough Council, as the Planning Authority;

"owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including a sublessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession;

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

3. -An application for consent made to the authority under Article 2 of this Order shall be in writing stating the reason for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for the carrying out of which consent is required.

4. -(1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent:

Provided that where the application relates to any woodland specified in the First Schedule to this Order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

NOTE: Where appropriate this Order has been updated to reflect statutory amendments which have resulted in the need to show substitutions or repeals of prescribed form.

* Include only where Order contains a direction under section 201 of the Act.

# Map to be a scale of not less than 25 inches to one mile (1:2500), except in the case of large woodlands when the scale shall be 6 inches to one mile (1:10000 or 1:10560).

^ NOTE: If it is proposed to fell any of the trees included in this Order and the felling requires a licence under the Forestry Act 1967, an application should be made in the first place to the Forestry Commission.
(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

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

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

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

(c) in the case of trees which are comprised in a group of trees or in a woodland, that the group of trees or the woodland, as the case may be, has an outstanding or special amenity value, but a certificate shall not be given in the case of trees falling within (c) above if the application in respect of them has been referred by the Forestry Commissioners under section 15(1)(b) or 15(2)(a) of the Forestry Act 1967.

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

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

(b) the authority with the approval of the Secretary of State dispense with replanting, the authority shall to the owner of the land on which the part of the woodland is situated issue a direction, in writing, specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provision of this Order and section 204 of the Act, replant the said land in accordance with the direction.

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

(a) species;

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

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

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

(e) protective measures against fire.

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

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

9. -Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of such consent subject to conditions, shall, if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority compensation in respect of such loss or damage:
Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

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

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

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

11. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority, such service to be effected by addressing the claim to the authority and leaving it at or sending it by post to the Director of Planning, Castle Point Borough Council, Council Offices, Kiln Road, Benfleet, Essex.

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

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

13. (1) The provisions of section 201 of the Act shall apply to this Order and the Order shall take effect on 31st December 1933.

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

NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or 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 fine. The penalty for any other contravention of this Order is a fine not exceeding Level 4 on the standard scale on summary conviction and, in the case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

If a tree is removed, uprooted or destroyed in contravention of an order or, except in the case of a tree to which the order applies as part of a woodland, is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by section 198(6)(a) of the Town and Country Planning Act 1990 relating to trees which are dying or dead or 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.

* - This provision is not to be included unless it appears to the authority that the Order should take effect immediately.

+ - This provision may be included in relation to trees to be planted pursuant to a condition imposed under section 197 of the Act.

--- This sum is currently £2000 but provision is made under the Planning and Compensation Act 1991 for a fine on summary conviction not exceeding £20,000. In addition the provision for daily fines for continuing offences will be abolished. These revised penalties will become operative on the coming into effect of section 23 of that Act.

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*The word "NONE" must be entered where necessary.*
SECOND SCHEDULE

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

1. the cutting down of any tree on land which is subject to a forestry dedication covenant where
   (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
   (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.

2. the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under a grant scheme under section 1 of the Forestry Act 1979 except a scheme which applies to a forestry dedication covenant

3. the cutting down, uprooting, topping or lopping of a tree
   (a) by or at the request of the Post Office where the land on which the tree is situated is land which has been acquired for the purpose of the Post Office’s undertaking and either works on such land cannot otherwise be carried out or the cutting down, uprooting, topping or lopping is for the purpose of securing safety in the operation of the undertaking; or the lopping in pursuance of the power conferred on any operator of a telecommunications code system by virtue of paragraph 19 of Schedule 2 to the Telecommunications Act 1984;
   (b) by or at the request of
      (i) a statutory undertaker or a holder of a licence under section 6(1) of the Electricity Act 1989 where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, uprooting, topping or lopping is for the purpose of securing safety in the operation of the undertaking;
      (ii) a licence holder within the meaning of Part I of the Electricity Act 1989, where such tree obstructs the construction by the licence holder of any electric line within the meaning of Part I of the said Act of 1989 or interferes or would interfere with the maintenance or working of such line;
      (iii) the National Rivers Authority or an internal drainage board established under the Water Act 1989, where the tree interferes or would interfere with the exercise of any of the functions of such authority or drainage board in relation to the maintenance, improvement or construction of water courses or of drainage works; or a water undertake or sewerage undertaking appointed under section 11 of the Water Act 1989 in relation to their duties as such undertakers; or
      (iv) the Secretary of State for Defence, the Secretary of State for Transport, the Civil Aviation Authority, or in relation to any airport managed by a company to which any property, rights or liabilities have been transferred in pursuance of a scheme made under section 1 or 15 of the Airports Act 1986, the person for the time being having the management of the airport, where in the opinion of such Secretary of State, Authority or person the tree obstructs the approach of aircraft to, or their departure from, any airport or hinders the safe and efficient use of aviation or defence technical installations;
   (c) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;
   (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.