

DATED 16 August 1995

WINCHESTER CITY COUNCIL

Town and Country Planning Act, 1990

TREE PRESERVATION ORDER
No 1569

SSTD0175
(12/1991)

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990

WINCHESTER CITY COUNCIL

TREE PRESERVATION ORDER NO. 1569

The Winchester City Council (in this Order called the Authority) in pursuance of the powers conferred in that behalf by Sections 197 - 201 of the Town and Country Planning Act, 1990 and subject to the provisions of the Forestry Act, 1967 hereby make the following Order:-

1. In this Order the Act means the Town and Country Planning Act 1990; owner means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession; and the Secretary of State means the Secretary of State for the Environment.
2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the Authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, wilful damage, or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups of trees and woodlands is defined in the manner indicated in the said First Schedule on the map annexed hereto marked Tree Preservation Order No 1569 and deposited for inspection at the office of the Chief Solicitor, City Offices, Colebrook Street, Winchester, Hampshire, which map shall, for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the First Schedule.
3. An application for consent made to the Authority under Article 2 of this Order shall be in writing stating the reasons for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for 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.

(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 this 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 refusal or condition is in the interests of good forestry;
or
- (b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value
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 give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall subject to the provisions of this Order and Section 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;
- (c) the erection and maintenance of fencing necessary for protection of the replanting;
- (d) the preparation of ground, drainage, 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 (or any predecessor having similar statutory powers) or a flood defence committee 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 such condition or direction has effect subject to the requirements of such body under those bye-laws and the condition or direction shall have effect accordingly.

NOTE If it is desired to fell any of the trees included in this Order, whether included as trees, groups of trees or woodlands, and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application should be made not to the Authority for consent under this Order but to the Conservator of Forests for a licence under that Act (Section 15(5)).

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 any such consent subject to conditions, shall, if he makes a claim on the Authority within the time and in the manner prescribed by this Order, be entitled to recover from the Authority compensation in respect of such loss or damage:
- Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.
10. In assessing compensation payable under the last preceding Article account shall be taken of
- (a) any compensation or contribution which has been paid, whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under the Act or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Development) Act, 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act, 1932; and
 - (b) any injurious affection to any land of the owner which would result from the felling of the trees subject of the claim.
11. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the Authority, such service to be effected by delivering the claim at the offices of the Authority addressed to the Chief solicitor thereof or by sending it by prepaid post so addressed.

- (2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the Authority, or of the Secretary of State, as the case may be, or where an appeal has been made to the Secretary of State against the decision of the Authority, from the date of the decision of the Secretary of State on the appeal.
12. Any question of disputed compensation shall be determined in accordance with the provisions of Section 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 date on which this Order is made.
- (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.
14. This Order may be cited as the Winchester City Council Tree Preservation Order No 1569.

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 £2,000.00 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 £1,000.00 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 £5.00 for every day on which the contravention is so continued. If a tree other than one to which an Order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by Section 198(6) of the Town and Country Planning Act 1990 relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the local planning authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than 5 days previous notice of the removal, etc, should be give to the authority to enable the latter to decide whether or not to dispense with the requirement.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY (encircled in black on the map)

No. on Map	Description	Situation
NONE		

TREES SPECIFIED BY REFERENCES TO AN AREA
(within a dotted black line on this map)

No. on Map	Description	Situation
NONE		

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

No. on Map	Description	Situation
NONE		

WOODLANDS
(within a continuous black line on the map)

No. on Map	Description	Situation
W1	WOODLAND CONSISTING OF MIXED DECIDUOUS AND CONIFEROUS TREES	DAGWELLS COPSE SHEDFIELD HAMPSHIRE

SECOND SCHEDULE

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

- (1) the cutting down of any tree on land which is subject to a forestry dedication covenant where;
 - (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
 - (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.
- (2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme or other grant scheme under Section 4 of the Forestry Act 1967, except a scheme which applies to a forestry dedication covenant;
- (3) the cutting down, uprooting, topping or lopping of a tree

(a) in pursuance of the power conferred on British Telecommunications by virtue of Section 5 of the Telegraph (Construction) Act 1908 and Section 11 of the British Telecommunications Act 1981, or by or at the request of British Telecommunications where the land on which the tree is situated is operational land as defined by the Post Office Operational Land Regulation (as applied to British Telecommunications under Section 88 and paragraph 1 of Schedule 4 to the British Telecommunications Act 1981 and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing in the operation of the undertaking

(b) by or at the request of;

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

(ii) an electricity board within the meaning of the Electricity Act 1947, where such tree obstructs the construction by the board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act 1919 and the Electric Lighting Act 1882 or interferes or would interfere with the maintenance of working of any such line;

(iii) The National Rivers Authority established under the Water Act 1989, a Flood Defence Committee constituted or treated as having been constituted under the Land Drainage Act 1976 where the tree interferes or would interfere with the exercise of any of the functions of such National Rivers Authority or Flood Defence Committee in relation to the maintenance, improvement or construction of watercourses or of the drainage works; or

(iv) the Secretary of State for Defence, the Secretary of State for Trade, the Civil Aviation Authority or the British Airports Authority where in the opinion of such Secretary of State or Authority the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations;

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

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

THIRD SCHEDULE

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

75. (i) Without prejudice to the following provisions as to the revocation or modification of consents, any consent under the Order including any direction as to re-planting given by the Local Planning Authority, on the granting of such consent shall (except in so far as the consent otherwise provides), enure for the benefit of the landlord of all persons for the time being interested in it.
77. (1) The Secretary of State may give directions requiring applications for consent under the Order to be referred to him instead of being dealt with by the Local Planning Authority
77. (2) A direction under this section -
- (a) may be given either to a particular local planning authority or to local planning authorities generally, and
 - (b) may relate either to a particular application or to applications of a class specified in the direction
77. (3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly
77. (4) Subject to subsection (5), where an application for consent under the Order is referred to the Secretary of State under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the Local Planning Authority
77. (5) Before determining an application referred to him under this section the Secretary of State shall, if either the Applicant or the Local Planning 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
77. (7) The decision of the Secretary of State on any application referred to him under this section shall be final.
78. (1) Where a Local Planning Authority -
- (a) refuse an application for consent under the 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 consent or grant it subject to conditions;
- the applicant may by notice appeal to the Secretary of State.
- (2) A person who has made such an application for consent may also appeal to the Secretary of State if the Local Planning Authority have neither -
- (a) given notice to the applicant of their decision on the application; nor
 - (b) given notice to him that the application has been referred to the Secretary of State in accordance with directions given under Section 77,

within such period as may be prescribed by the development order 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 served within such time and in such manner as may be prescribed by a development order.
- (4) The time prescribed for the service of such a notice must not be less than -
 - (a) 28 days from the date of notification of the decision; or
 - (b) in the case of an appeal under subsection (2), 28 days from the end of the period prescribed as mentioned in subsection (2) or, as the case may be, the extended period mentioned in that subsection.
- (5) For the purposes of an appeal under subsection (2), it shall be assumed that the authority decided to refuse the application in question.

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

- (a) allow or dismiss the appeal, or
- (b) reverse or vary any part of the decision of the Local Planning 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.

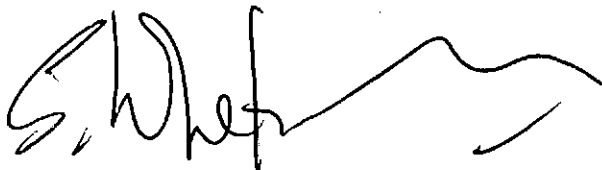
- (2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the Local Planning Authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (4) Subject to subsection (2), the provisions of Articles 4 and 5 of the Order shall apply in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent which falls to be determined by the Local Planning 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

97. (1) If it appears to the Local Planning 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 Local Planning Authority may by order revoke or modify the consent to such extent as they consider expedient.

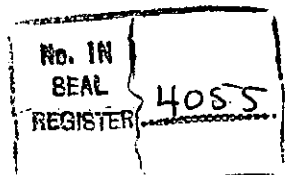
- (2) In exercising their functions under subsection (1) the authority shall have regard to the development plan and to any other material considerations.
 - (3) The power conferred by this section may be exercised at any time before the operations for which consent has been given have been completed
 - (4) The revocation or modification of consent for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.
- 98.
- (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 a Local Planning Authority submit such an order to the Secretary of State for confirmation, they shall serve notice 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) must not be less than 28 days from the service of the 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 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 subsection (6) of this section
- 99.
- (1) This section applies where -
 - (a) the Local Planning Authority have made an order under section 97; and
 - (b) the owner and the occupier of the land and all 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 in the prescribed manner the fact that the order has been made, and the advertisement must specify -
- (a) the period within which persons 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 not be less than 28 days from the date the advertisement first appears.
- (5) The period referred to in subsection (2)(b) must not be 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 or Part VIII of the Act.

THE COMMON SEAL OF WINCHESTER)
 CITY COUNCIL was hereunto)
 affixed this sixteenth)
 day of August in the year)
 Nineteen hundred and Ninety)
 five in the presence of:-)



Chief Solicitor



TREE PRESERVATION ORDER NO. 1569

THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION ORDER)
REGULATIONS 1969 (AS AMENDED)

TO Planning Department

NOTICE IS HEREBY GIVEN that the Winchester City Council acting in pursuance of the powers conferred on it by Section 182(2) of the Local Government Act 1972 have made an Order under Sections 198 - 201 of the Town and Country Planning Act 1990 subject to the provisions of the Forestry Act 1967 for the preservation of trees situated at Dagwells Copse Shedfield Hampshire.

(a copy of the said Order and of the Map annexed thereto are enclosed herewith).

The grounds for making the Order are as follows:-

"The Woodland is an important amenity feature adding greatly to the character to the area."

A certified copy of the Order and the Map have been deposited at the offices of the Council's City Secretary at the City Offices, Colebrook Street, Winchester and may be inspected at that address during normal office hours.

Every objection or representation with respect to the Order shall be made in writing to the Chief Solicitor, Winchester City Council, City Offices, Colebrook Street, Winchester, Hampshire and shall state the grounds thereof and specify the particular tree, area of trees, group of trees, or woodlands in respect of which it is made.

Any objection or representation shall be duly made if it complies with the previous paragraph of this Notice and is received by the Chief Solicitor within twenty-eight days from the date of the service of this Notice.

Section 201 of the Town and Country Planning Act 1990 shall apply to the Order and it is therefore immediately effective. An opposed Order must be submitted to the Winchester City Council for confirmation and will cease to be effective after six months if not by then confirmed or at an earlier date if the Winchester City Council gives notice that it does not propose to confirm the Order.

An Order if unopposed may be confirmed by the Winchester City Council who made it after a period of forty-two days.

Dated this 16th day of August 1995



Chief Solicitor

MEMORANDUM

TO: PLANNING DEPARTMENT
FROM: CITY SECRETARY & SOLICITOR
REF: NKB.PLA1/9/569
DATE: 15 January 1996

...CHESTER CITY COUNCIL Planning Department	
18 JAN 1996	
ACTION	VF/ME
PASSED TO	
FILE NO.	

TPO CONFIRMATION

Tree Preservation No. 1569 relating to land at Dagwells Copse, Shedfield in Hampshire was confirmed as an opposed Order on 15 January 1996.



City Secretary & Solicitor