TOWN AND COUNTRY PLANNING ACT 1990
THE COUNCIL OF THE BOROUGH OF RUSHMOOR

TREE WITHIN THE GROUNDS OF 134 VICTORIA ROAD, FARNBOROUGH (HAMPSHIRE)

TREE PRESERVATION ORDER (NO. 291) 1999

The Council of the Borough of Rushmoor being the local planning authority (in this Order called 'the Authority') in pursuance of the powers conferred in that behalf by Sections 197 to 202 (inclusive) of the Town and Country Planning Act, 1990 and subject to the provisions of Section 15 of the Forestry Act, 1967 and Section 39(2) of the Housing and Planning Act, 1986 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; a lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession; and "the Minister" means the Secretary of State for the Environment.

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

3. An application for consent made to the authority under Article 2 of this Order shall be in writing stating the reasons for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for 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 trees 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, and 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 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 Minister 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, 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 this Order, or on giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall if such condition or direction relates to land in respect of which byelaws made by the National Rivers Authority or Thames Water Utilities Limited by virtue of the Water Act, 1989 since the vesting day on First day of September 1989 or prior to this by a water authority since 31st March, 1974, by any other authority (whose functions are now exercised by a Water Authority) who at any time prior to 1st April, 1974 exercised the functions in respect of which the byelaw was made, by a drainage board, or by the Greater London Council in the exercise of its functions in relation to maintenance, improvement or construction of watercourses or of drainage works, restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the water authority or the drainage board under those byelaws and the condition or direction shall have effect accordingly.

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

9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions shall, if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority compensation in respect of such loss or damage.

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

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

    (a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 198 of the Act and under Section 60 of the Town and Country Planning Act, 1971 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 felling of the trees the subject of the claim.

11 (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority, such service to be effected by delivering the claim at the offices of the authority addressed to the Solicitor to the Council there of 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 Minister, as the case may be, or where an appeal has been made to the Minister against the decision of the authority, from the date of the decision of the Minister on the appeal.

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

13. 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 and, in the case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

    If a tree other than one to which an Order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by Section 198(6) of the Act relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the local planning authority 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.

14. It is hereby directed that the provisions of Section 201 of the Act shall apply to this Order and that this Order shall take effect provisionally on such date as may be specified in the Order and shall continue in force by virtue of Section 201 of the Act until the expiration of a period of six months beginning with the date on which the Order was made or the date on which the Order is confirmed by the Authority, whichever first occurs.

FIRST SCHEDULE

Trees Specified Individually
(encircled in black on the map)
T1 Yew

Trees Specified by Reference to an Area
(within a dotted black line on the map)
None

Groups of Trees
(within a broken black line on the map)
None

Woodlands
(within a continuous black line on the map)
None

SECOND SCHEDULE

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

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

(a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and as 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 or other working plan 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 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 1363X undertaking; or the lopping in pursuance of the power conferred on any operator of 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 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 or lopping is for the purpose of securing safety in the operation of the undertaking; and/or

(ii) an electricity board within the meaning of the Electricity Act, 1947, where such tree obstructs the

RUSHMOOR BOROUGH COUNCIL

DIRECTORATE OF ENVIRONMENTAL SERVICES

KEITH HOLLAND, BA, MRTPI
HEAD OF PLANNING SERVICES
COUNCIL OFFICES
FARNBOROUGH ROAD, FARNBOROUGH
HANTS, GU14 7JU
TEL: (01252) 398398

TREE PRESERVATION ORDER No 291

TREE SCHEDULE:

T1 Yew

Location

Tree within the grounds of 134 Victoria Road, Farnborough, Hampshire

Date: 29/4/1999 Map Reference: SU 86 55 NW
Scale: 1:1250

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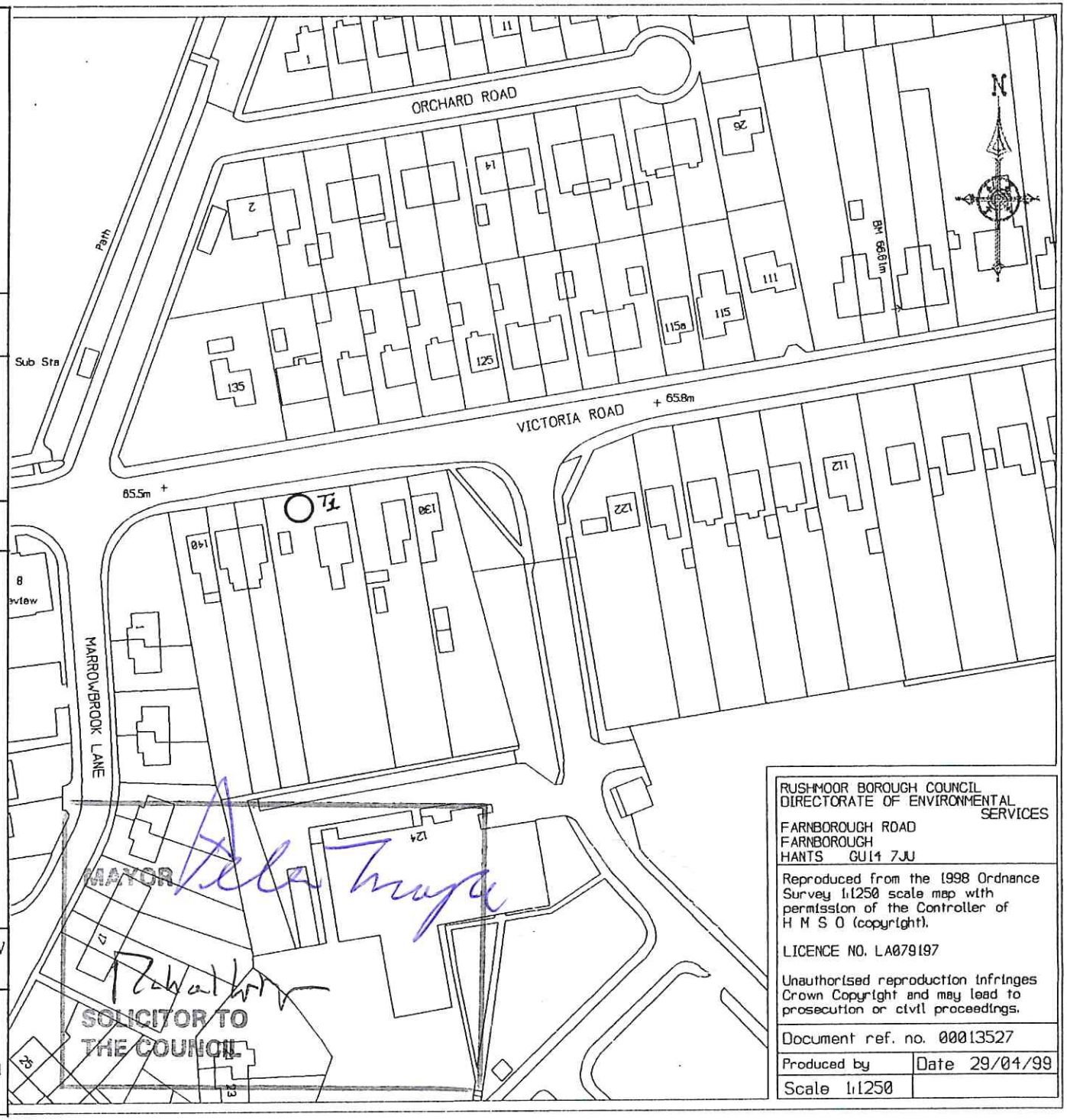

RUSHMOOR BOROUGH COUNCIL
DIRECTORATE OF ENVIRONMENTAL SERVICES
FARNBOROUGH ROAD
FARNBOROUGH
HANTS GU14 7JU

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

(iii) Thames Water Utilities Limited or other Water or Sewerage Undertakers established under the Water Act 1989; the National River Authority established under the Water Act, 1989, a drainage board 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 Thames Water Utilities Limited, or other Water or Sewerage Undertakers, the National Rivers Authority, or drainage board in relation to the maintenance improvement or construction of sewerage works water courses or of drainage works; and/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;

(e) where the trees are within the Thames catchment area in pursuance of the powers conferred on the National Rivers Authority established under the Water Act, 1989.

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. **Effect of Consents under the Order**

(1) Without prejudice to the following provisions 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 insofar as the consent otherwise provides) ensure for the benefit of the land and of all persons for the time being interested therein.

77. **Reference of Applications to the Minister**

(1) The Minister 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 Minister accordingly.

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

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

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

78. **Appeals against Decisions**

(1) Where an application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions, or where any certificate or direction is given by the authority, the applicant, if he is aggrieved by their decision on the application or by any such certificate, or the person directed, if he is aggrieved by the direction, may by notice under this section appeal to the Minister.

(2) A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Minister may allow.

(3) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Minister, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

(4) Before determining an appeal under this section, the Minister shall, if either the appellant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(5) The decision of the Minister on any appeal under this section shall be final.

78. **Appeal in default of Decision**

Where an application for consent under the Order is made to the authority, then unless within two months from the date of receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority:-

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

(b) give notice to him that the application has been referred to the Minister in accordance with directions given under Section 77 above;

The provisions of the last preceding section shall apply in relation to the application as if the consent to which it relates had been refused by the authority, and as if notification of their decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be.

97 & 98. **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) Subject to the provisions of Section 98 of the Act, an Order under this section shall not take effect unless it is confirmed by the Minister; and the Minister may confirm any such Order submitted to him either without modification or subject to such modifications as he considers expedient.

(3) Where an authority submit an Order to the Minister for his confirmation under this section, the authority shall furnish the Minister with a statement of their reason for making the Order and shall serve notice together with a copy of the aforesaid statement on the owner and on the occupier of the land affected, and on any other person who in their opinion will be affected by the Order, and if

within the period of twenty-eight days from the service thereof any person on whom the notice is served so requires, the Minister, before confirming the Order, shall afford to that person, and to the authority, an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(4) The power conferred by this section to revoke or modify a consent may be exercised at any time before the operations for which consent has been given have been completed provided that the revocation or modification of consent shall not affect so much of those operations as has been previously carried out.

(5) Where a notice has been served in accordance with the provisions of Sub-section (2) of Section 98, 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 Minister under Sub-section (1) of Section 98.

99. **Unopposed revocation or modification of Consent**

(1) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called 'such Order') under Section 97 of the Act revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Minister for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such Order have notified the authority in writing that they do not object to such Order.

(2) The Authority shall advertise the fact that such Order has been made and the advertisement shall specify (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Minister that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose and (b) the period (not less than fourteen days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Minister, such Order may take effect by virtue of this section and without being confirmed by the Minister.

(3) The authority shall also serve notices to the same effect on the persons mentioned in Sub-sections 1(b) above. (Sub-section 3).

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

(5) If within the period referred to in Sub-section (2)(a) above no person claiming to be affected by such Order has given notice to the Minister as aforesaid the Minister has not directed that such Order be submitted to him for confirmation such Order shall at the expiration of the period referred to in Sub-section (2)(b) of this section take effect by virtue of this section and without being confirmed by the Minister as required by Section 99 of the Act.

(6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Minister under Part III or Part IV or Part V of the Act.

THE COMMON SEAL OF THE COUNCIL
OF THE BOROUGH OF RUSHMOOR was)
hereunto affixed this 29 day)
of April nineteen)
hundred and ninety nine in the)
presence of:)

Mayor

Solicitor to the Council

118/99

THE Council of the Borough of Rushmoor in exercise of the powers conferred upon them by the Town and Country Planning (Tree Preservation Order) Regulations 1969 (as amended) hereby confirm the foregoing Order in respect of tree within the grounds of 134 Victoria Road 4 Boundary Road, Farnborough, Hants. (TPO 291) 1999

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed
this 8 day of OCTOBER 1999.

THE COMMON SEAL OF THE COUNCIL)
OF THE BOROUGH OF RUSHMOOR)
was hereunto affixed in the)
presence of:-)

Mayor

24/8/99

Solicitor to the Council

TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION ORDER) REGULATIONS 1969 (AS AMENDED)

THE COUNCIL OF THE BOROUGH OF RUSHMOOR
TREE WITHIN THE GROUNDS OF 134 VICTORIA ROAD, FARNBOROUGH (HAMPSHIRE)

TREE PRESERVATION ORDER 1999 (291)

1. The Council of the Borough of Rushmoor state that the above Order, a copy of which is enclosed was made on

2. The Council of the Borough of Rushmoor consider that the above Order should be confirmed:-

   (a) Because the trees referred to in the Order have great amenity value in an area that is being rapidly developed.

   (b) That the felling of these trees would seriously injure the outlook and amenities of this part of the Borough of Rushmoor.

   (c) With rapid expansion of the Borough a large number of trees have been felled over the last few years and the Council now consider that every effort should be made to preserve all remaining trees which have amenity value.

3. A certified copy of the Order and Map have been deposited at the Council Offices, Farnborough and may be inspected between the hours of 9 a.m. to 1 p.m. and 2 p.m. to 5 p.m. on Mondays to Thursdays and 9 a.m. to 1 p.m. and 2 p.m. to 4.30 p.m. on Fridays.

4. Objections or representations with respect to the Order may be made to the Council of the Borough of Rushmoor in accordance with Regulation 7 of the above Regulations, a copy of which Regulation is set out overleaf.

5. The Order contains a direction that Section 201 of the above Act shall apply to the Order. The effect of such Direction is that the Order shall take effect provisionally as from the date specified therein and shall continue in force provisionally until the expiration of a period of six months beginning with that date, or until the date on which the Order is or is not confirmed by the Authority whichever first occurs.

REGULATION 7 OF THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION ORDER) REGULATIONS 1969 (AS AMENDED)

(1) Every objection or representation with respect to an Order shall be made in writing to the Authority and shall state the grounds thereof and specify the particular trees, groups of trees or woodlands in respect of which it is made.

(2) An objection or representation shall be duly made if it complies with Paragraph (1) of this Regulation and is received by the Authority within 28 days from the date of the service of the Notice of the making of the Order.

THE COUNCIL OF THE BOROUGH OF RUSHMOOR

THE COUNCIL OF THE BOROUGH OF RUSHMOOR
TREE WITHIN THE GROUNDS OF 134 VICTORIA ROAD, FARNBOROUGH (HAMPSHIRE)

TREE PRESERVATION ORDER 1999 (NO. 291)

LIST OF ALL PERSONS SERVED WITH ORDER AND NOTICE

Conservertor of Forests, Forestry Commission, Great Eastern House, Tension Road, Cambridge, CB1 2DY

Terrier Officer, County Surveyer's Dept, Hampshire County Council

Land charges/DC/ADMIN

The Owner/ Occupier
132, 134 & 136 Victoria Road
Farnborough, Hants

Councillor Devereux, Frost & Possee