RUNNYMEDE BOROUGH COUNCIL

INTER OFFICE MEMORANDUM

My Ref: GM/cmw/54.22  Date: 8 October 1992
FROM: Borough Secretary  TO: Borough Planning Officer/
                                Local Land Charges Registrar

TREE PRESERVATION ORDER NO 5 - VARIATION ORDER
RE: LAND ADJOINING GUILDFORD ROAD, CHOBHAM ROAD AND CROSS LANE, OTTERSHAW

Further to my memorandum dated 5 August 1992, I write to inform you that the above Order had been confirmed subject to the modifications indicated on the enclosed copy.

G. Maon
G Marson
for Borough Secretary

enc

8.10M2
CHERTSEY URBAN DISTRICT COUNCIL.

TREE PRESERVATION ORDER NO. 5.

TOWN AND COUNTRY PLANNING ACT, 1947.

WHEREAS by an Agreement under their Common Seal made on the eighth day of July 1948 the County Council of the Administrative County of Surrey as the Local Planning Authority under the Town and Country Planning Act, 1947 in respect of the said County did in pursuance of their statutory powers delegate to the Chertsey Urban District Council the functions of the said County Council under Part III of the said Act as specified in such Agreement and including the power to make and enforce tree preservation orders in respect of areas within the said Urban District.

NOW THEREFORE the CHERTSEY URBAN DISTRICT COUNCIL (in this Order called "the authority") in pursuance of the powers conferred in that behalf by Section 28 of the Town and Country Planning Act, 1947 (hereinafter called "The Act") and delegated to the Authority as aforesaid hereby make the following Order:

1. In this Order "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.

2. Subject to the exemption specified in the Second Schedule to this Order, no person shall, except with the consent of the authority cut down, top, lop, or wilfully destroy or cause or permit the cutting down, topping, lopping, or wilful destruction of any part of the woodland areas specified in the First Schedule hereto, shown numbered and coloured green on the map annexed hereto; which map shall 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 paragraph 2 of this Order shall be in writing stating the reasons for making the application, and shall specify the woodland area(s) to which the application relates, and the operations for the carrying out of which consent is required, and where necessary for the identification of such woodland area(s) shall be accompanied by a map or plan of a size or on a scale sufficient for the purpose.

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 as the authority may think fit, or may refuse consent.

Provided that where the application relates to any woodland area specified in the First Schedule to this Order, the authority shall grant consent in accordance 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.

(2) Where an application for consent under this Order relates to any woodland area specified in the First Schedule to this Order, the Minister of Town and Country Planning (hereinafter called "the Minister") may direct the authority to consult the Forestry Commission before deciding such application.

(3) 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 therein, any directions as to replanting of woodland areas, and any compensation awarded in consequence of such decision; and every such register shall be available for inspection by the public at all reasonable hours.

5. Where an application for consent under this Order relates to felling any part of a woodland area, the authority, having regard to the need for bringing the amenity and forestry aspects of the woodland area into a proper relation, may draw up a plan of forestry operations for the woodland area, and incorporate it in the decision on the application, and such plan may include provisions deferring felling for a specified period or periods.

6. Where the authority refuse consent under this Order or grant such consent subject to conditions, they may, when refusing or granting consent certify that in respect of any woodland area for which they have so refused or granted consent, that they are satisfied that

(a) other more suitable consents could be granted, and would be so granted under this Order if application were made for the purpose; or

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

(c) it has an outstanding amenity value in relation to the woodland character of the area; or

(d) there is a special amenity served by the woodlands other than amenity in relation to the woodland character of the neighbourhood.

7(1) Where any part of a woodland area is felled in accordance with consent granted under this Order, the owner of the land on which the woodland is situated shall subject to any directions that may be given by the authority replant that part;

Provided that

(a) where the Minister considers it expedient to dispense with any such requirement as to replanting he may at any time do so to such extent as he may think fit upon representation being made to him for the purpose by either the authority or the owner.

(b) where any part of a woodland area is so felled for the purpose of enabling development to be carried out in accordance
with a permission to develop land under Part III of the Act, it shall not be necessary to replant that part.

(2) Where consent is granted under this Order to fell any part of a woodland area, the authority may give directions to the owner of the land on which the woodland is situated as to the manner in which that part should be replanted and any such directions may include requirements as to
   (a) species;
   (b) planting distances;
   (c) the erection and maintenance of fencing necessary for protection of the replanted trees;
   (d) the preparation of ground, draining, removal of brushwood, lop and top; and
   (e) protective measures against fire.

8. The provisions set out in the Third Schedule to this Order, being the provisions of Part III of the Act as adapted and modified for the purposes of this Order, shall apply in relation to any application made to the authority for consent under the Order and to any decision of the authority thereon.

9. Subject to the provisions of this Order, any person who has suffered damage or has incurred expenditure in consequence of any refusal of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim within the time limited for the purpose by this Order, be entitled to recover from the authority compensation in respect of such damage or expenditure.

Provided that no compensation shall be payable in respect of damage suffered or expenditure incurred by reason of such refusal or grant of consent in the case of any woodland area, the subject of a certificate in accordance with paragraph 6 of this Order.

10. In assessing compensation payable under the last preceding paragraph, account shall be taken of
   (a) any compensation or contribution which has been paid in respect of the same woodland areas under the terms of this or any other Tree Preservation Order under Section 28 of the Town and Country Planning Act, 1947, 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 woodlands, the subject of the claim, and regard shall be had to any plan of forestry operations drawn up under paragraph 5 of this Order.

11. A claim under this Order for compensation shall be made by serving on the authority a notice in writing stating the grounds of the claim and the amount claimed.
within six months of 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, of the date of the decision of the Minister on the appeal.

12. Any question of disputed compensation payable in accordance with the terms of this Order shall be determined in accordance with the provisions of Section 110 of the Act.

**FIRST SCHEDULE.**

<table>
<thead>
<tr>
<th>No. on Plan</th>
<th>Description of Woodland areas</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>W1, W2, W3, W4</td>
<td>Mixed growth including: Oak, Silver Birch, Chestnut, Firs, Beech, Ash, Spruce</td>
<td>Areas lying within 200 feet of the centre of Guildford Road, Ottershaw on the west side abutting on the length of Guildford Road extending from a point approximately 1100 feet north of the boundary of the Urban District of Chertsey in a northerly direction to the junction of Guildford Road and Cross Lane.</td>
</tr>
<tr>
<td>W5.</td>
<td>-- do --</td>
<td>An area lying within 200 feet of the centre of Chobham Road, Ottershaw on the south east side abutting on the length of Chobham Road extending from a point approximately 910 feet northeast of the boundary of the Urban District of Chertsey in a north-easterly direction to the junction of Chobham Road and Cross Lane.</td>
</tr>
<tr>
<td>W6, W7.</td>
<td>-- do --</td>
<td>Areas lying within 200 feet of the centre of Cross Lane Ottershaw on the south side abutting on Cross Lane.</td>
</tr>
</tbody>
</table>

**SECOND SCHEDULE.**

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

1. to the cutting down, topping or lopping of any tree that is dying or dead or has become dangerous,

2. to the cutting down, topping or lopping of any woodland area,

   (a) in compliance with an obligation imposed by or under an Act of Parliament;

   (b) in pursuance of the power conferred on the Postmaster General by virtue of Section 5 of the Telegraph (Construction) Act, 1908;
CHERTSEY URBAN DISTRICT COUNCIL

TREE PRESERVATION

ORDER No. 5
(c) in pursuance of the powers conferred by Section 24 of the Regulation of Railways Act, 1868;
(d) for the purpose of preventing or abating a nuisance;
(e) in the case of a statutory undertaker where the land on which the woodland areas are situated, is operational land as defined by the Act and where works on such land cannot otherwise be carried out; or where the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking.

THIRD SCHEDULE.

Provisions of Part III of the Act as adapted and modified to apply to this Order.

Reference of applications to the Minister.

15(1) The Minister may give directions to the authority requiring that any application for consent under the order, or all such applications of any class specified in the directions, shall be referred to the Minister instead of being dealt with by the authority, and any such applications shall be so referred accordingly.

(2) Where an application for consent under the order is referred to the Minister under this section, the provisions of paragraphs 4 to 7 of the Order shall apply in relation to the determination of the application by the Minister as they apply in relation to the determination of such applications by the authority.

Provided that before determining any such application the Minister shall, if either the applicant or the authority so desire, afford to them an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.

(3) The decision of the Minister on all applications referred to him under this section shall be final.

Appeals to the Minister.

16(1) Where 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, then if the applicant is aggrieved by their decision on the application, or by any such certificate or direction he may, by notice in writing served within 28 days from the receipt of notification of their decision, certificate or direction, or such longer period as the Minister may allow, appeal to the Minister.

(2) When an appeal is brought under this section from a decision, certificate or direction of the authority, the Minister may allow or dismiss the appeal or may reverse or vary any part of the decision of the authority, whether or not the appeal relates to that part, or may vary any certificate or direction, and may deal with the application as if it has been made to him in the first instance, and the provisions of the last foregoing section shall apply, subject to any necessary modifications in relation to the
determination of an application by the Minister on appeal under this section as they apply in relation to the determination by the Minister of an application referred to him under that section.

(3) Unless within two months from the date of receipt of an application for consent under the Order, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either:

(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 the directions given by him under the last foregoing section the provisions of subsection (1) of this 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 expiration of the said period of two months or the extended period agreed upon as aforesaid, as the case may be.

Revocation or modification of consent under the Order.

21(1) Subject to the provisions of this section, if it appears to the authority that it is expedient that any consent under the Order granted on an application made in that behalf should be revoked or modified, they may by order revoke or modify the consent to such extent as appears to them to be expedient as aforesaid:

Provided that no such order shall take effect unless it is confirmed by the Minister, and the Minister may confirm any order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.

(2) Where an authority submit an order to the Minister for his confirmation under this Section, that authority shall furnish the Minister with a statement of their reasons for making the order and shall serve notice of the making of the Order on the owner of the land, and on any other person who in their opinion will be affected by the order, and if within the period of 28 days from the service thereof any person on whom the notice is served so requires, the Minister shall, before confirming the order, afford to him and to the authority an opportunity of appearing before and being heard by a person appointed by the Minister for that purpose.

(3) 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 carried out before the date on which the order was confirmed as aforesaid.

(4) 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 Minister under subsection (1) of this Section.

22(1) Where any person is affected by an order under the last foregoing Section, revoking or modifying a consent as confirmed by the Minister, or where any person is affected by a notice served on him under sub-section (2) of the foregoing section when the order is not confirmed, then, if on a claim made to the authority within two months of the date of the Minister's decision, it is shown that he has incurred expenditure in carrying out work which is rendered abortive by the revocation, or modification, or stay of operations, as the case may be, or has otherwise suffered loss or damage which is directly attributable to the revocation, or modification, or stay of operations, the authority shall pay to that person compensation in respect of that expenditure, loss or damage;

(2) For the purposes of this section any expenditure incurred on matters preparatory to acting on the consent shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid, no compensation shall be paid under this section in respect of any work carried out before the grant of consent which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of the depreciation in value of any interest in land) arising out of anything done or omitted to be done before the grant of that consent.

23(1) If it appears to the authority that any cutting down, topping or lopping or wilful destruction of woodland areas has been carried out after the coming into operation of the Order without the grant of consent required in that behalf under the Order or that any conditions subject to which such consent was granted have not been complied with, or that in respect of any part of a woodland area there has been a failure to replant or to comply with any directions as to replanting given by the authority, then, subject to any directions given by the Minister, the authority may within one year of such cutting down, topping, lopping or wilful destruction, or such failure or non-compliance as the case may be, if they consider it expedient so to do, in the interest of amenity, serve on the owner of the land on which the woodland areas are situated and, except in the matter of replanting woodland areas, on any person entitled to fell trees, a notice under this section.

(2) Any notice served under this section (hereinafter called an "enforcement notice") shall specify the acts alleged to have been done as aforesaid, or, matters in respect of which it is alleged that any such conditions as aforesaid have not been complied with, or in what respect there has been a failure to replant or to comply with any directions as to replanting, as the case may be, and may require such steps as may be specified in the notice to be taken within such period as may be so specified.
for securing that operations, in so far as still practicable, shall be carried out in such manner as might have been required had the woodland areas to which the notice relates been the subject of an application for grant of consent under this Order, or for securing compliance with the conditions or for securing replanting or compliance with the directions as to replanting, as the case may be; and in particular any such notice may, for the purpose aforesaid, require the immediate discontinuance of any cutting down, topping, lopping or destruction of woodland areas or of any replanting operations.

(3) Subject to the provision of the next following subsection, an enforcement notice shall take effect forthwith.

Provided that—

(a) if within the period of 14 days after the service thereof, an application is made to the authority under this Order for consent to cut down, top, lop or to fell any woodland area to which the enforcement notice relates, the notice, except in so far as it may require the discontinuance of cutting down, topping, lopping or destruction of woodland areas, shall be of no effect pending the final determination of the application, and if and to the extent such consent as aforesaid is granted on that application, the notice shall not take effect;

(b) if within the period of 14 days after the service thereof an appeal is made to the Court under the following provisions of this section by a person on whom the enforcement notice was served, the notice, except in so far as it may require the discontinuance of cutting down, topping, lopping or wilful destruction of woodland areas, shall be of no effect pending the final determination or withdrawal of the appeal.

(4) If any person on whom an enforcement notice is served under this section is aggrieved by the notice, he may, at any time within the period mentioned in the last foregoing subsection, appeal against the notice to a court of summary jurisdiction for the petty sessional division or place within which the land to which the notice relates is situated; and on any such appeal the court—

(a) if satisfied that consent was granted under this Order for the cutting down, topping or lopping or destruction of the woodland areas to which the notice relates, or that no such consent was required in respect thereof, or that the conditions subject to which consent was granted have been complied with or that there had not been a failure to replant, or to comply with any directions as to replanting, as the case may be, shall quash the notice to which the appeal relates.

(b) if not so satisfied, but satisfied that the requirements of the notice exceed
what is necessary for compliance with
the conditions attached to the consent,
or what is necessary to comply with
the directions in regard to replanting, or
what might have been required had
application for consent to the cutting down,
topping, lopping or destruction been made
in respect of the woodland areas to which
the notice relates, shall vary the notice
accordingly;

(c) in any other case shall dismiss the appeal.

(5) Any person aggrieved by a decision of a court
of summary jurisdiction under the last foregoing
subsections may appeal against that decision to a
court of quarter sessions.

24(1) If within the period specified in an
enforcement notice, or within such extended period
as the authority may allow, any steps required by
the notice to be taken (other than discontinuance
of cutting down, topping, lopping or willful
destruction of any woodland areas) have not been
taken, the authority may enter on the land on which
the woodland areas are situated and take those steps,
and may recover as a simple contract debt in any
court of competent jurisdiction from the person who
is then the owner of the land, or except where the
notice relates to replanting of woodland areas,
the person who is entitled to fell the trees, any
expenses reasonably incurred by them in that behalf,
and if that person having been entitled to appeal
in the court under the last foregoing section,
failing to make such an appeal, he shall not be
entitled in proceedings under this subsection to
dispute the validity of the action taken by the
authority upon any ground which could have been
raised by such an appeal.

(2) Where a person other than the owner of any
land is entitled to fell trees to which an enforcement
notice under the last foregoing section relates, any
expenses incurred by the owner of such land for the
purpose of complying with such enforcement notice
and any sum paid by the owner of any land under the
foregoing subsection in respect of the expenses of
the authority in taking steps required to be taken
by such notice, shall be deemed to be incurred or
paid for the use and at the request of the person
entitled to fell trees as aforesaid.

(3) Where by virtue of an enforcement notice,
you cutting down, topping, lopping, or destruction
of woodland areas is required to be discontinued, or
any conditions are required to be complied with in
respect of any cutting down, topping or lopping,
or any replanting is required to be discontinued,
or any directions as to replanting are required to
be complied with, then if any person without the
grant of consent in that behalf under this Order,
contraves or permits the contravention of the
notice in respect of the aforesaid matters, he
shall be guilty of an offence and liable on summary
conviction to a fine not exceeding fifty pounds;
and if the contravention is continued after the
conviction, he shall be guilty of a further offence
and liable on summary conviction, to a fine not exceeding twenty pounds for every day on which he continues to contravene the notice.

In pursuance of a Resolution of the Meeting of the Chertsey Urban District Council held on the 24th day of May 1949 the Common Seal was hereunto affixed in the presence of:

(Sgd) Arthur L. Lodge
Chairman of the Council.

(Sgd) A. R. Runnicles
Clerk of the Council.

Certified that the Order of which this is a duplicate was submitted to the
Minister of Town and Country Planning, this 25th day of
May 1949.

(Sgd) A. L. Lodge
Deputy Clerk of the Council

10th August 1949

The Minister of Town and Country Planning in
pursuance of the power conferred upon him by subsection (2)
of Section 25 of the Town and Country Planning Act, 1947,
hereby confirms the above Order.

L. S.

G. W. Pogson
Authorised for the Minister &
M.V. in accordance

10. G. W. Pogson
Authorised for the Minister &
M.V. in accordance
TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
RUNNYMEDE BOROUGH COUNCIL
TREE PRESERVATION ORDER NO. 5
LAND ADJOINING GUILDFORD ROAD, CHOBHAM ROAD AND CROSS LANE, OTTERTSHAW
VARIATION ORDER

On 10th August 1949 the Minister of Town and Country Planning confirmed Tree Preservation Order Number 5 made by the Chertsey Urban District Council on the 24th May 1949 ('the Original Order') in respect of woodland trees, situated on areas of land shown on the plan attached to the Original Order, being within 200 feet of the centre of Guildford Road, Chobham Road and Cross Lane, Ottershaw, Surrey.

In accordance with the Town and Country Planning (Tree Preservation Order) (Amendment) Regulations 1988 the Runnymede Borough Council ('the Council') as the Local Planning Authority for the purposes of Sections 333(7) and 198 of the Town and Country Planning Act 1990 (as amended) ('the Act') hereby make the following Order:-

1. This Order varies the 1949 Original Order in the following respects namely that Article 6 of the Original Order shall be replaced in its entirety by the following Article:

6. 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.

2. In all other respects the Original Order shall remain in full force and effect

NOTICE IS HEREBY GIVEN THAT this variation is made pursuant to Sections 198 and 333(7) of the Act and in accordance with Section 201 of the Act will take effect upon the 31st day of July 1992

GIVEN under the COMMON SEAL of
the RUNNYMEDE BOROUGH COUNCIL
this 31st day of July 1992

Borough Secretary

Civic Offices
Station Road
Addlestone
Surrey
KT15 2AH

The Runnymede Borough Council in exercise of the powers conferred upon it by the Town and Country Planning Act, 1990, hereby confirms the foregoing Order subject to the modifications shown in red.