The Surveyor

Local Land Charges Clerk

DCTPO

23rd September, 1969

Tree Preservation Order No. 29

I attach for your record purposes a copy of Tree Preservation Order No. 29 which was confirmed by the Council at its Meeting on the 18th September, 1969

Clerk of the Council
CHERTSEY URBAN DISTRICT COUNCIL

No. 29...TREE PRESERVATION ORDER, 19...
CHERTSEY URBAN DISTRICT COUNCIL

No. 29 TREE PRESERVATION ORDER, 1969.

TOWN AND COUNTRY PLANNING ACT, 1962 AND 1968

WHEREAS by an Agreement under their Common Seal made on the 31st day of May 1967, the County Council of the Administrative County of Surrey (in this Order called "the Authority") as the Local Planning Authority under the Town and Country Planning Act, 1962, 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 pursuance of the powers conferred in that behalf by Section 29 of the Town & Country Planning Act, 1962, and subject to the provisions of Section 15 of the Forestry Act, 1967, hereby make the following Order:

1. In this Order "the Act" means the Town and Country Planning Act, 1962; "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 tenancy or lease is three years or more; and a mortgagee in possession; and "the Minister" means the Minister of Housing and Local Government.

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 or willfully destroy or cause or permit the cutting down, topping, lopping 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 "Chertsey Urban District Council No. 29 Tree Preservation Order, 1969" and signed by the Clerk of the Chertsey Urban District Council, a certified copy of which has been deposited for inspection at the Council Offices, Station Road, Addlestone, in the County of Surrey, 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 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 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 the replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

5. Where the Authority refuses 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 woodlands, that the trees have an outstanding or special amenity value.

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, 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

(c) protective measures against fire.

7. On imposing any conditions 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 byelaws made by a river authority, a drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board, 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 river authority, drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board under those byelaws 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 and section 90 of the Town and Country Planning Act, 1966, adopted 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 in 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 29 of 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 provisions 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 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 Clerk 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 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 128 of the Act.
13. Any person contravening the provisions of this Order is guilty of an offence under sub-section (1) of Section 62 of the Act and liable on summary conviction to a fine not exceeding fifty pounds; and if in the case of a continuing offence the contravention is continued after conviction he is guilty of a further offence thereunder and liable on summary conviction to an additional fine not exceeding forty shillings for every day on which the contravention is so continued.

Under sections 13, 14, and 15 of the Civic Amenities Act 1967, if a tree is willfully cut down or destroyed or if topping or lopping is carried out in such a way as to be likely to destroy the tree the fine is £250 or twice the value of the tree whichever is the greater. If a tree other than one which is part of woodland is removed or destroyed in contravention of the Order it is the duty of the owner of the land, unless on his application the local authority dispense with the requirements to plant another tree of appropriate size and species, at the same place as soon as he reasonably can.

13. This Order may be cited as the CHESTNEY URBAN DISTRICT COUNCIL No. 29 TREE PRESERVATION ORDER 1969.
## 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>T 1</td>
<td>Oak</td>
<td>The east bank of the River Way Navigation at New Haw</td>
</tr>
<tr>
<td>T 2</td>
<td></td>
<td></td>
</tr>
<tr>
<td>T 3</td>
<td></td>
<td></td>
</tr>
<tr>
<td>T 4</td>
<td></td>
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<tr>
<td>T 5</td>
<td></td>
<td></td>
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<td>T 9</td>
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<td>T 11</td>
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<tr>
<td>T 12</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Trees Specified by References to an Area
(within a dotted block line on the map)

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

Groups of Trees
(within a broken block line on the map)

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

Woodlands
(within a continuous block line on the map)

<table>
<thead>
<tr>
<th>No. on Map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>W 1</td>
<td>Predominately Oak</td>
<td>The east bank of the River Way Navigation at New Haw</td>
</tr>
</tbody>
</table>
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 operation approved by the Forestry Commission under such deed

(2) the cutting down of any tree which is in accordance with a plan of operation approved by the Forestry Commission under
    the approved woodlands scheme.

(3) the cutting down, topping or lopping of any tree exempted from the provisions of this order by Section 29(7) of the Act
    namely a tree which is dying or dead or has become dangerous, or the cutting down, topping or lopping of which is in
    compliance with obligations imposed by or under an Act of Parliament or is so far as may be necessary for the purpose of
    preventing or abating a nuisance.

(4) the cutting down, topping or lopping of any tree
   (a) in pursuance of the power conferred on the Postmaster General by virtue of Section 5 of the Telegraph (Construction)
       Act, 1908;
   (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;

      (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 of other electric line within the meaning respectively of the Electricity (Supply)
           Act, 1919, and the Electrical Lighting Act, 1882, or interferes or would interfere with the maintenance or working of
           any such line; or

      (iii) a river authority established under the Water Resources Act 1963 or a drainage board constituted or treated as
           having been constituted under the Land Drainage Act 1930, the Conservators of the River Thames or the Lee
           Conservancy Catchment Board, where the tree interferes or would interfere with the exercise of any of the functions
           of such river authority, drainage board, Conservators of the River Thames or Lee Conservancy Catchment Board, in relation
           to the maintenance improvement or construction of water courses or of drainage works; or

      (iv) the Minister of Defence for the Royal Air Force, The Minister of Technology or the Board of Trade where
           in the opinion of such Minister of Board, 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.

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

(e) in pursuance of the powers conferred on the Conservators of the River Thames by virtue of Section 105 of the Thames Conservancy Act 1932.
THIRD SCHEDULE

Provisions of the following parts of (a) Part III of the Town and Country Planning Act 1962 and (b) section 80 of the Town and Country Planning Act 1968 as adapted and modified to apply to this Order.

(a) Part III of the Town and Country Planning Act, 1962

21. - (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 in so far as the consent otherwise provides), ensure for the benefit of the land and of all persons for the time being interested therein,

Reference of applications to the Minister

22. - (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

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

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

22. - (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.

22. - (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.

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

Appeals against decisions.

23. - (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.

23. - (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.

23. - (4) 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.
23.—— (5) 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.

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

Appeal in default of decision.

24. 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 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 directions given under section 22 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.

Power to revoke or modify the consent under the Order.

27.—— (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.

27.—— (2) Subject to the provisions of section 16 of the Civic Amenities Act 1967 and section 80 of the Town and Country Planning Act 1968 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.

27.—— (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.

27.—— (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.

27.—— (5) Where a notice has been served in accordance with the provisions of subsection (3) 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 (2)
of this section.

(b) Town and Country Planning Act, 1968

80. - (1) The following provisions shall have effect where the
local planning authority have made an Order (hereinafter called
"such Order") under section 27 above 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.

80. - (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 14 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.

80. - (3) The authority shall also serve notices to the same
effect on the persons mentioned in subsections (1) above.

80. - (4) If within the period referred to in subsection (2)
(a) above no person claiming to be affected by such Order has
given notice to the Minister as aforesaid and the Minister has
not directed that such Order be submitted to him for confirm-
ation, such Order shall at the expiration of the period
referred to in subsection (2)(b) of this section take effect
by virtue of this section and without being confirmed by the
Minister as required by section 27(2) of the Town and Country
Planning Act, 1962.

80. - (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 of Part IV of the Town and
Country Planning Act 1962, or under Part II or Part V of the

GIVEN under the Common Seal of THE CHERTSEY URBAN DISTRICT
COUNCIL on the 18th day of September 1969

THE COMMON SEAL of the CHERTSEY URBAN DISTRICT COUNCIL was
hereunto affixed in the presence of:-

[Signature]

Clerk
CIVIC AMENITIES ACT 1967

The following provisions of Part II of the Civic Amenities Act 1967 came into force on 27th August 1967 and have effect in relation to tree preservation orders:

Section 13 - (1) If any tree in respect of which a tree preservation order is for the time being in force, other than a tree to which the order applies as part of a woodland, is removed or destroyed in contravention of the order or is removed or destroyed or dies at a time when its cutting down is authorised only by the provisions of section 29(7) of the Planning Act relating to trees which are dying or dead or have become dangerous, it shall be the duty of the owner of the land, unless on his application the local planning authority dispense with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

(2) In relation to any tree planted pursuant to this section, the relevant tree preservation order shall apply as it applied to the original tree.

(3) The duty imposed by subsection (1) of this section on the owner of any land shall attach to the person who is from time to time the owner of the land and may be enforced as provided by section 14 of this Act and not otherwise.

Section 14 - (1) If it appears to the local planning authority that the provisions of section 13 of this Act, or any conditions of a consent given under a tree preservation order which require the replacement of trees, are not complied with in the case of any tree or trees, that authority may, at any time within four years from the date of the alleged failure to comply with the said provisions or conditions, serve on the owner of the land a notice requiring him, within such period as may be specified in the notice, to plant a tree or trees of such size and species as may be so specified.

(2) Subject to the following provisions of this section, a notice under this section shall take effect at the end of such period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.

(3) A person on whom a notice under this section is served may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Minister against the notice on the ground -

(a) that the provisions of the said section 13 or the conditions aforesaid are not applicable or have been complied with;

(b) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified therein;

(c) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry;

(d) that the place on which the tree is or trees are required to be planted is unsuitable for that purpose;

and subsections (2) to (5) of section 46 and section 120 of the Planning Act (procedure and powers of Minister on appeal, and appeals to the High Court from decision of Minister) shall apply in relation to any such appeal as they apply in relation to an appeal against an enforcement notice.
(4) In section 48 of the Planning Act: (execution by local planning authority of works required by an enforcement notice) and in section 49 of that Act (supplementary provisions as to enforcement notices) and any regulations in force under that section, references to an enforcement notice and an enforcement notice served in respect of development shall include references to a notice under this section; and in relation to such a notice the reference in subsection (1) of the said section 49 to the person by whom the development was carried out shall be construed as a reference to any person, other than the owner, responsible for the cutting down, destruction or removal of the original tree or trees.

Penalties. Section 15 — (1) In relation to an offence of cutting down or wilfully destroying a tree, or of topping or lopping a tree in such a manner as to be likely to destroy it, being an offence committed after the commencement of this Act, section 62(1) of the Planning Act shall have effect as if for the words "fifty pounds" there were substituted the words "two hundred and fifty pounds or twice the sum which appears to the court to be the value of the tree, whichever is the greater".
This map marked "Chertsey Urban District Council No. 29 Tree Preservation Order 1969" referred to under the Annexed Order.

Clerk of the Council