TOWN AND COUNTRY PLANNING ACT 1990
THE NORTH NORFOLK DISTRICT COUNCIL
(HORNING) TREE PRESERVATION ORDER 2002 NO 6

The North Norfolk District Council, in exercise of the powers conferred on them by sections 198 ,201 and 203 of the Town and Country Planning Act 1990 hereby make the following Order:-

Citation

1. This Order may be cited as the North Norfolk District Council (Horning) Tree Preservation Order 2002 No 6.

Interpretation

2. In this Order "the authority" means the North Norfolk District Council and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 24 April 2002.

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) [or subsection (3) of section 200 (orders affecting land where Forestry Commissioners interested)], and subject to article 5, no person shall:-

   (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

   (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

   any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

5. (1) Nothing in article 4 shall prevent:-

   (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary:-

      (i) in the interests of the safe operation of the undertaking;

      (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or

      (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General permitted Development) Order 1995;

(b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;

(c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;

(d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been grated (whether for the purposes of that Part or otherwise);

(e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;

(f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction or watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or

(g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.

(2) In paragraph (1), "statutory undertaker" means any of the following:-

- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,
- a relevant airport operator (within the meaning of Part V of the Airports Act 1986),
- the holder of a licence under section 6 of the Electricity Act 1989,
- a public gas transporter,
- the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,
- a water or sewerage undertaker,
- the Civil Aviation Authority or a body acting on behalf of that Authority,
- the Post Office.

Applications for consent under the Order

6. An applications for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall:-

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

(b) specify the work for which consent is sought; and

(c) contain a statement of the applicant's reasons for making the application.

Application of provisions of the Town and Country Planning Act 1990

7. (1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to Replanting

8. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the matter in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

(3) A direction under paragraph (1) may include requirements as to:-

(a) species;

(b) number of trees per hectare

(c) the preparation of the relevant land prior to the replanting; and

(d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9. (1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of:-

(a) the refusal of any consent required under this Order; or

(b) the grant of any such consent subject to conditions,

he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

(2) No claim, other than a claim made under paragraph (3), may be made under this article:-

(a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or

(b) if the amount in respect of which the claim would otherwise have been made is less than £500.

(3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.

(4) In any other case, no compensation shall be payable to a person –

(a) for loss of development value or other diminution in value of the land;

(b) for loss or damage which, having regard to the statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, was not reasonably foreseeable when consent was refused or was granted subject to conditions;

(c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or

(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

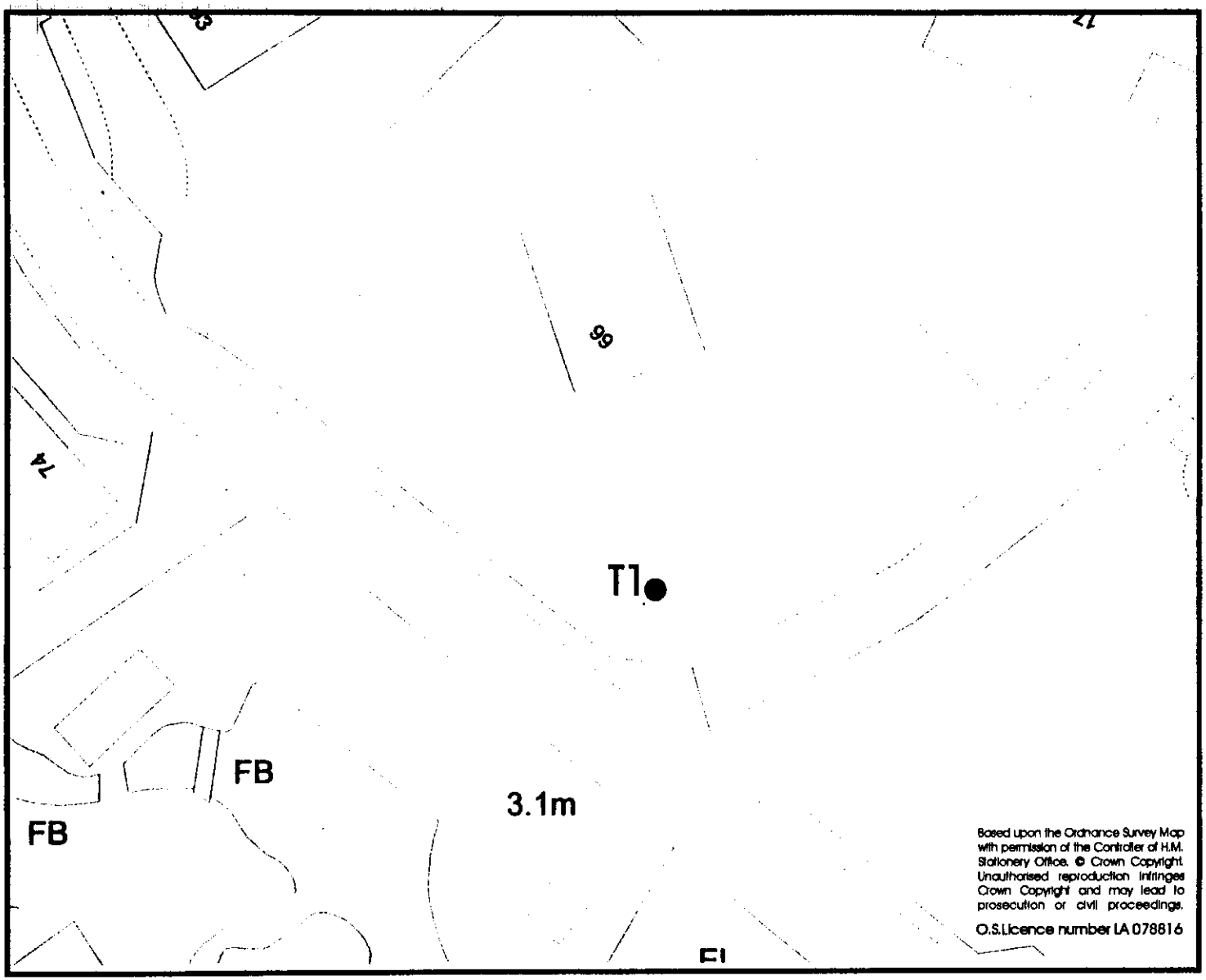
(6) In this article:-

"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

"owner" has the meaning given to it by section 34 of the Forestry Act 1967.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY (encircled in black on the map)		
No. on Map	**Description**	**Situation**
T1	Horse Chestnut	Petersfield Hotel, 101, Lower Street Horning Norwich
GROUPS OF TREES (within broken black line on the map)		
No. on map	**Description**	**Situation**
	None	
TREES SPECIFIED BY REFERENCE TO AN AREA (within dotted black line on the map)		
No. on map	**Description**	**Situation**
	None	
WOODLANDS (within continuous black line on the map)		
No. on map	**Description**	**Situation**
	None	



Legend

INDIVIDUALLY
(Each tree - T1, T2 etc. - encircled in black on map.)

NNDC
(Horning)
Tree Preservation Order
No.2, 2002

Site at -
Petersfield Hotel,
101 Lower Street,
Horning

TG 34220/17230
Date - 05/04/2002

Scale 1:500

NORTH NORFOLK DISTRICT COUNCIL

678

Dated this 8th day of April 2002

The COMMON SEAL of NORTH)
NORFOLK DISTRICT COUNCIL)
was hereunto affixed in the)
presence of:-)

101884

Chairman Chief Executive

CONFIRMATION OF ORDER

This Order was confirmed by the North Norfolk District Council without modification on the 4th day of APRIL 2005

OR

This Order was confirmed by the North Norfolk District Council, subject to the modifications indicated by [state how indicated], on the day of

.....
Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by the North Norfolk District Council on the day of

.....
Authorised by the Council to sign in that behalf

VARIATION OF ORDER

This Order was varied by the North Norfolk District Council on the day of under the reference number [*insert reference number of the variation order*]

.....
Authorised by the Council to sign in that behalf

REVOCATION OF ORDER

This Order was revoked by the North Norfolk District Council on the day of under the reference number [*insert reference number of the revocation order*]

.....
Authorised by the Council to sign in that behalf

Legal223/tpo horning6