

EAST HAMPSHIRE DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT, 1990

EAST HAMPSHIRE (HEATHSIDE HOSPITAL, PETERSFIELD)

TREE PRESERVATION ORDER (E.H.258) (1991)

WHEREAS A. The East Hampshire District Council is the District Planning Authority (hereinafter called "the Authority") for the area hereinafter described in the Parish of Petersfield.

B. It appears to the Authority that it is expedient in the interest of amenity to make provision for the preservation of the trees specified individually set out in the First Schedule hereto.

C. It further appears to the Authority that this Order should take effect immediately without previous confirmation.

NOW THEREFORE the Authority, in pursuance of the powers conferred in that behalf by Sections 198 and 201 of the Town and Country Planning Act 1990 and subject to the provisions of the Forestry Act 1967, hereby make the following Order:

1. In this Order -

"the Act" means the Town and Country Planning Act 1990;

"owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; the "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 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 and woodlands as defined in the manner indicated in the said First Schedule on the map annexed hereto which map shall, for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the First Schedule.

3. An application for consent made to the Authority under Article 2 of the 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 the 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 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 consequent 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 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 Secretary of State dispense with replanting, the Authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the party is felled the owner shall, subject to the provision 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 trees 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 or a drainage 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 or drainage 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 and of Section 107 of the Act adapted and modified for the purposes of this Order, shall apply in relation thereto.

9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequent 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 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 or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Development) Act 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1932, and

(b) any injurious affection to any land of the owner which would result from the felling of the trees the subject of the claim.

11. (1) A claim for compensation under this Order shall be made by serving it on the Authority, such service to be effected by delivering the claim at the offices of the Authority addressed to the Chief Executive thereof or by sending it by prepaid post addressed.

(2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the Authority, or of the Secretary of State, as the case may be, or where an appeal has been made to the Secretary of State against the decision of the Authority, from the date of the decision of the Secretary of State on the appeal.

12. Any question of disputed compensation shall be determined in accordance with the provisions of Section 118 of the Act.

13. 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 as from the date on which the Order is made 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 confirmed.

NOTE:

(1) 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 £20,000 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. (Section 210 Town and Country Planning Act 1990.)

(2) 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.

(3) In respect of trees in a woodland it shall be sufficient for the purposes of Section 206 and Section 207 of the Act to replace the trees removed, uprooted or destroyed by planting the same number of trees either on or near the land on which the trees removed, uprooted or destroyed stood or on such other land as may be agreed between the local planning authority and the owner of the land, and (in either case) in such places as may be designated by the local planning authority.

14. This Order may be cited as the East Hampshire (Heathside Hospital, Petersfield) Tree Preservation Order (E.H.258) 1991

FIRST SCHEDULE

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
T1	Fagus sylvatica 'Purpurem'	15 metres from south west corner
T2	Quercus robus	North west corner, rear garden, 8 Montague Gardens
Group 1 A)		7 metres from north west corner
B)	Pinus sylvestris	6 metres from north west corner
)		3 metres from A
C)		6 metres from north west corner 1.5 metres from B
T3	Betula pendula	0.76 metres from north boundary 9 metres from west boundary
T4	Sorbus aucuparia	1.5 metres from north boundary 15.75 metres from west boundary

T5	<i>Betula pendula</i>	South west corner, rear garden 21 Heathfield Road
T10	<i>Quercus robur</i>	41.5 metres from east boundary 22 metres from north boundary
Group 4 A)		43.5 metres from east boundary
)	<i>Quercus robur</i>	12.5 metres from north boundary
B)		41 metres from east boundary 15.5 metres from north boundary
Group 5 A)	Scots Pine	3 metres from east boundary and 54 metres from northern boundary
B)	Scots Pine	3 metres from east boundary and 56 metres from northern boundary
T11	<i>Pinus sylvestris</i>	15 metres from east boundary 38 metres from south boundary
T12	X <i>Cupressocyparis leylandii</i>	3 metres from east boundary 40 metres from south boundary
T13	<i>Fagus sylvatica</i>	3.5 metres from east boundary 25 metres from south east corner
T14	<i>Pinus nigra</i> var: <i>maritima</i>	11 metres from east boundary 3.5 metres from south boundary
Group 2 A)		4 metres from north boundary
)		44 metres from east boundary

	B)	<i>Quercus robur</i>	3 metres from north boundary
)		37 metres from east boundary
	C)		3 metres from north boundary
			32 metres from east boundary
T6		<i>Quercus robur</i>	4.5 metres from north boundary
			23 metres from east boundary
T7		<i>Quercus robur</i>	4 metres from east boundary
			13 metres from north boundary
Group 3 A)		<i>Castanea sativa</i>	13 metres from east boundary
			36.5 metres from north boundary
	B)		14.5 metres from east boundary
)	<i>Pinus sylvestris</i>	32.5 metres from north boundary
	C)		15 metres from east boundary
)		31.5 metres from north boundary
	D)		20.5 metres from east boundary
			31 metres from north boundary
T8		<i>Pinus sylvestris</i>	29 metres from east boundary
			28 metres from north boundary
T9		<i>Pinus sylvestris</i>	35.5 metres from east boundary
			34.5 metres from north boundary

each of them an opportunity of appearing before, being heard by, a person appointed by the Secretary of State for the purpose.

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

97.(1) Power to revoke or modify the consent under the Order

If it appears to the Authority that it is expedient to revoke or modify any consent under the Order granted on 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.

97.(3) & (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 have 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.

98.(1) An Order under this section shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such Order submitted to him either without modification or subject to such modifications as he considers expedient.

98.(2) Where an authority submit an order to the Secretary of State for his confirmation under this section, the Authority shall serve notice 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.

98.(3) (4) & (5) If within the period of twenty-eight days from the service of the notice any person on whom the notice is served so requires the Secretary of State, 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 Secretary of State for the purpose.

99. Unopposed revocation or modification of consent

99.(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 Secretary of State 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.

99.(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 Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose and (b) the period (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 Secretary of State, such Order may take effect by virtue of this section and without being confirmed by the Secretary of State.

99.(3) The Authority shall also serve notice, to the same effect on the persons mentioned in sub-section (1) above.

99.(6) The Authority shall send a copy of any advertisement published under sub-section (2) above to the Secretary of State, not more than three days after the publication.

99.(7) 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 Secretary of State as aforesaid the Secretary of State 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 Secretary of State as required by Section 98(1) of this Act.

99.(8) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State

under Part III of the Act, The Planning (Listed Buildings and Conservation Areas Act 1990) or The Planning (Hazardous Substances) Act 1990.

THE COMMON SEAL of the EAST HAMPSHIRE)
)
DISTRICT COUNCIL was hereunto affixed)
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this 2nd day of October One thousand)
)
Nine hundred and Ninety-One in the)
)
presence of:-----)

F. E. L.

Head of Legal and Administrative Services



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TOWN AND COUNTRY PLANNING ACT, 1990

EAST HAMPSHIRE (HEATHSIDE HOSPITAL, PETERSFIELD)

TREE PRESERVATION ORDER (E.H. 258) 1991

Tree Preservation order (EH 258) 1991
Heathside Hospital, Petersfield was
confirmed, amended, at the Planning
(South) Sub-Committee on 23rd February 1993.