(LONG SUTTON)

TREE PRESERVATION ORDER NO 33 2006

I hereby confirm that this is a true
copy of the above Tree Preservation Order

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Head of Legal and Member Services

1. This Order may be cited as the South Holland District Council (Long Sutton) Tree Preservation Order No. 33 2006.

Interpretation

2. In this Order "the authority" means the South Holland 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 the 18th day of August 2006.

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 the First Schedule 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

(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 granted (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 of 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

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 the Second Schedule 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 manner 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:-

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 the 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.

Reference on map	Description	Situation
T1	Horse Chestnut	At grid reference TF543708 323580 situated on an area of land immediately to the south of the property currently known as 54 Little London, Long Sutton and more particularly situated to the east south east of the property
T2	Horse Chestnut	At grid reference TF 543667 323624 situated on an area of land fronting the property currently known as the Butterfly and Wildlife Park, Little London, Long Sutton and more particularly situated immediately to the north of the main entrance to the Park
T3	Horse Chestnut	At grid reference TF 543665 323662 situated on an area of land fronting the property currently known as the Butterfly and Wildlife Park, Little London, Long Sutton and more particularly situated adjacent to the north-western corner of the grounds of the property

Trees specified by reference to an area

		situated on an area of land immediately to the south of the property currently known as 54 Little London, Long Sutton (hereinafter called "the Land")
G1	Group consisting of 10 Lime	The group extends from grid reference TF 543672 323547 for approximately 45 metres in a northerly direction within and on the frontage of the Land
G2	Group consisting of 1 Horse Chestnut 1 Walnut	The group is situated at grid reference TF 543695 323590 (approximately) and is more particularly located to the north of the Land and immediately to the south east of the property currently known as 54 Little London, Long Sutton

Woodlands
(within a continuous black line on the map)

NONE


323600N
323500N
T2
G2
T1
G1
Hall Marsh F
Butterfly an
Falconry P
Sea Lane
Warehouse
543600E
543700E

, in such manner as may be prescribed by a development order,",
"such" in the second place where it appears, and "as may be so prescribed"; and
(ii)substitute "matters relevant to tree preservation orders made by the authority" for "applications for planning permission".

(b) In subsection (2) :-
(i) after "contain" insert ", as regards each such order"; and
(ii) for paragraphs (a) and (b) substitute -
"(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.".

(c) Omit subsections (3) and (4) (as required by section 198(4)).

Section 70 (determination of applications: general considerations)

(a) In subsection (1) -
(i) substitute -
"Subject to subsections (1A) and (1B), where" for "Where";
"the authority" for "a local planning authority";
"consent under a tree preservation order" for "planning permission" where those words first appear; and
"consent under the order" for "planning permission" in both of the other places where those words appear;
(ii) after "think fit", insert
"(including conditions limiting the duration of the consent or requiring the replacement of

woodland character of the area.
(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).".
(c) Omit subsections (2) and (3).

Section 75 (effect of planning permission)

(a) In subsection (1) substitute -
(i) "Any" for the words from "Without" to "any";
(ii) "consent under a tree preservation order" for "planning permission to develop land";
(iii) "the consent" for "the permission"; and
(iv) "the land to which the order relates" for "the land".
(b) Omit subsections (2) and (3).

Section 78 (right to appeal against planning decisions and failure to take such decisions)

(a) In subsection (1) substitute -
(i) "the authority" for "a local planning authority";
(ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear;
(iii)"consent under such an order" for "planning permission" in the second place where those words appear;
(iv) for paragraph (c) substitute -
"(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or
(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the

	of the authority's decision or direction or within such longer period as the Secretary of State may allow; (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.". (d) For subsection (4), substitute- "(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).". (e) For subsection (5), substitute- "(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.".
Section 79 (determination of appeals)	(a) In subsections (1) and (2), substitute "the authority" for "the local planning authority". (b) Omit subsection (3). (c) In subsection (4), substitute- (i) "section 70(1), (1A) and (1B)" for "sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5"; (ii) "consent under a tree preservation order" for "planning permission"; and (iii) "the authority." for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by

(1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.

(2) The register shall contain, as regards each such order-

(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

.....

(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

(1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent
under a tree preservation order-

(a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
(b) they may refuse consent under the order.

(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry

(a) refuse an application for consent under a tree preservation order or grant it subject to conditions;

(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;

(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or

(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

.....

(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served:-

(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;

(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).

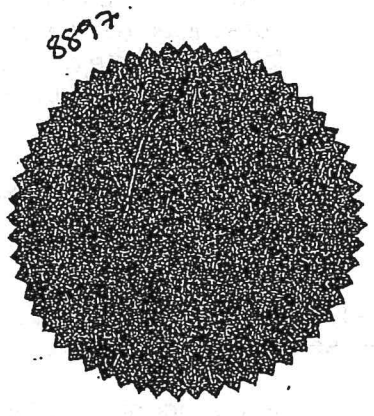
(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

(5) The decision of the Secretary of State on such an appeal shall be final.

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(7) Schedule 6 applies to appeals under section 78.

The Common Seal of the South Holland
District Council was hereunto affixed
this 18th day of August 2006



Head of Legal and Member Services