

- (a) species;
- (b) number of trees per acre (hectare);
- (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 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 a condition or direction relates to land in respect of which byelaws made by a water authority since 31 March 1974, by any other authority (whose functions are now exercised by a water authority) who at any time prior to 1 April 1974 exercised the functions in respect of which the byelaw was made, by a drainage board, or by the Greater London Council in the exercise of any of its functions in relation to the maintenance, improvement or construction of watercourses or of drainage works 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 water authority, the drainage board, or the Greater London Council 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 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 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 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 any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under section 60 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 in writing and shall be made by serving it on the authority, such service to be effected by addressing the claim to the authority and leaving it at or sending it by post to the principal office of the authority.

(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.

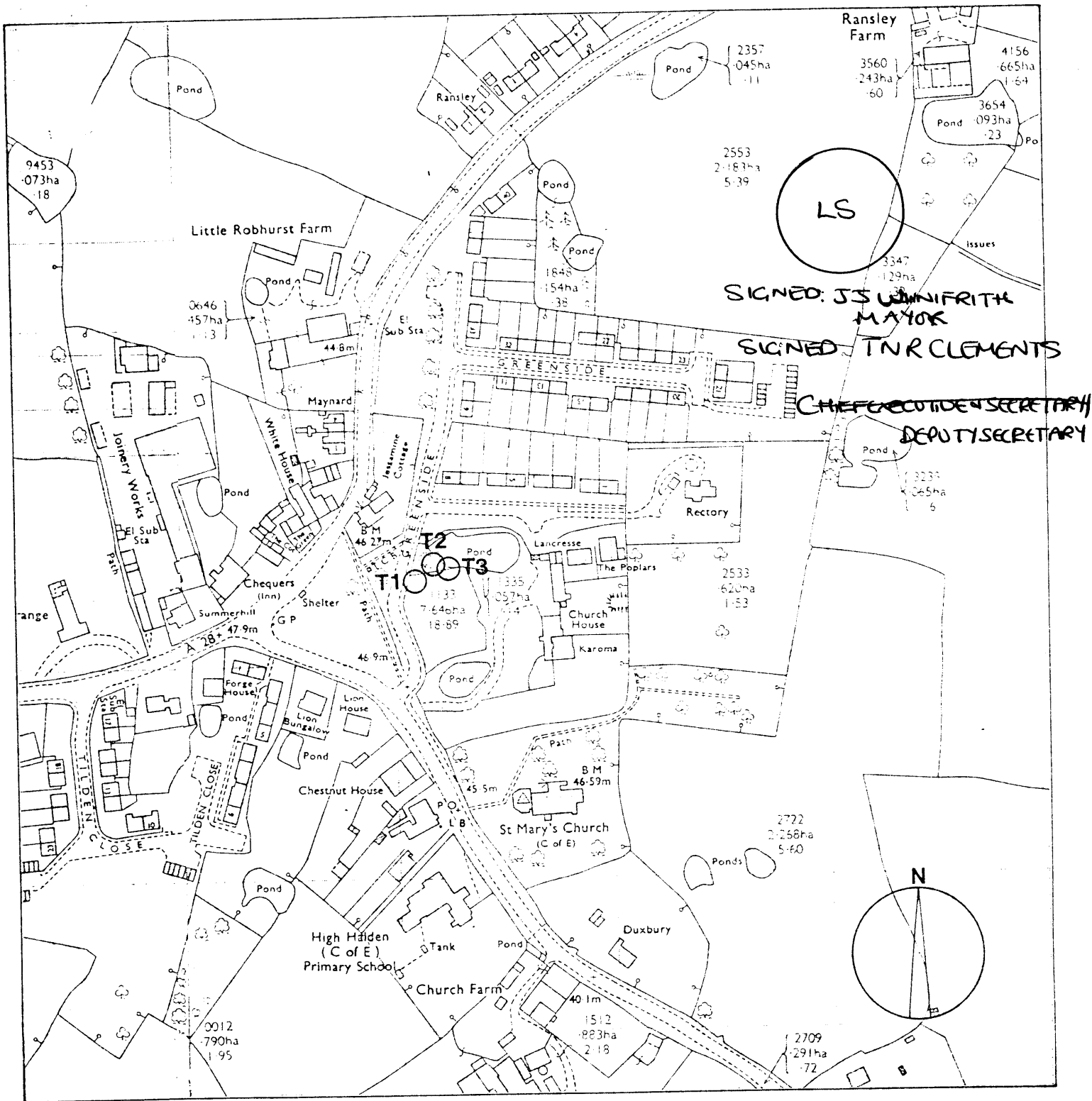
12. Any question of disputed compensation shall be determined in accordance with the provisions of section 179 of the Act.

13. (1) The provisions of section 61 of the Act shall apply to this Order and the Order shall take effect on 3rd October 1983.

~~(2) This order shall apply to any tree specified in the First Schedule hereto, which is to be planted as mentioned therein, as from the time when that tree is planted.~~

NOTE: 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 £1000 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 £200 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.

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 60(6) of the Town and Country Planning Act 1971 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.



ASHFORD BOROUGH COUNCIL
 TREE PRESERVATION ORDER NO. 10, 1983.
 Land adjacent to Church House, High Halden.

Anthony Slack, MRTPI,
 Borough Planning Officer,
 Civic Centre,
 Tannery Lane,
 Ashford,
 Kent.

October
 Date. ~~September~~ 1983
 Scale. 1:2500

Drawing No. TB/83/44

REPRODUCED FROM THE ORDNANCE SURVEY MAP
WITH THE PERMISSION OF THE CONTROLLER OF
H.M. STATIONERY OFFICE

Crown Copyright Reserved Licence No. 1A971706

FIRST SCHEDULE

No. on Map	Description*	Situation
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(Every heading should be included in the schedule, and the word "NONE" written in where necessary)

*Insert :-

<p>"TREES SPECIFIED INDIVIDUALLY" (encircled in black on the map),</p>	<p>"TREES SPECIFIED INDIVIDUALLY" (encircled in black on the map)</p> <table border="0"> <tr> <td>T1</td> <td>Horse Chestnut</td> <td>East Side of Pond</td> </tr> <tr> <td>T2</td> <td>Oak</td> <td>East Side of Pond</td> </tr> <tr> <td>T3</td> <td>Oak</td> <td>East Side of Pond</td> </tr> </table>	T1	Horse Chestnut	East Side of Pond	T2	Oak	East Side of Pond	T3	Oak	East Side of Pond
T1	Horse Chestnut	East Side of Pond								
T2	Oak	East Side of Pond								
T3	Oak	East Side of Pond								
<p>"TREES SPECIFIED BY REFERENCE TO AN AREA" (within a dotted black line on the map),</p>	<p>"TREES SPECIFIED BY REFERENCE TO AN AREA" (within a dotted black line on the map)</p> <p style="text-align: center;">NONE</p>									
<p>"GROUPS OF TREES" (within a broken black line on the map),</p>	<p>"GROUPS OF TREES" (within a broken black line on the map)</p> <p style="text-align: center;">NONE</p>									
<p>"WOODLANDS" (within a continuous black line on the map) as may be.</p>	<p>"WOODLANDS" (within a continuous black line on the map)</p> <p style="text-align: center;">NONE</p>									

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 operations approved by the Forestry Commission under such deed.
- (2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme or other grant scheme under section 4 of the Forestry Act 1967 except a scheme which applies to a forestry dedication covenant;
- (3) the cutting down, uprooting, topping or lopping of a tree

- (a) in pursuance of the power conferred on the Post Office by virtue of section 5 of the Telegraph (Construction) Act 1908 and section 21 of the Post Office Act 1969,

or by or at the request of the Post Office where the land on which the tree is situated in operational land as defined by the Post Office Operational Land Regulations* 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

* (a) S.I. 1973/310

- (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 or other electric line within the meaning respectively of the Electricity (Supply) Act 1919 and the Electric Lighting Act 1882 or interferes or would interfere with the maintenance of working of any such line;
 - (iii) a water authority established under the Water Act 1973, a drainage board constituted or treated as having been constituted under the Land Drainage Act 1930, or the Greater London Council, where the tree interferes or would interfere with the exercise of any of the functions of such water authority, drainage board, or Council in relation to the maintenance, improvement or construction of watercourses or of drainage works; or

(iv) the Secretary of State for Defence, the Secretary of State for Trade, the Civil Aviation Authority or the British Airports Authority where in the opinion of such Secretary of State or Authority 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;

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

(where the trees are within the Thames catchment area)

(e) in pursuance of the powers of the Thames Water Authority under section 105 of the Thames Conservancy Act 1932)

THIRD SCHEDULE

Provisions of the following parts of Part III of the Town and Country Planning Act 1971 as adapted and modified to apply to this Order.

33.-(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.

35.-(1) The Secretary of State 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.

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

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

35.-(4) Where an application for consent under the Order is referred to the Secretary of State 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.

35.-(5) Before determining an application referred to him under this section the Secretary of State 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 Secretary of State for the purpose.

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

36.-(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 Secretary of State.

36.-(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 Secretary of State may allow.

