

TREE PRESERVATION ORDER

TOWN AND COUNTRY PLANNING ACT 1990

The Shoreham College, St Julian's Lane, Shoreham-by-Sea
Tree Preservation Order 2001 13.53/3/00(SU)

The Adur District Council, in exercise of the powers conferred on them by sections 198, 200 and 203 of the Town and Country Planning Act 1990 hereby make the following Order –

Citation

1. This Order may be cited as The Shoreham College, St Julian's Lane, Shoreham-by-Sea Tree Preservation Order 2001 Number 13.53/3/00(SU)

Interpretation

2. In this Order "the authority" means the Adur 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.

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 in a woodland so specified, except with the consent of the authority and, where such consent is given subject to condition, 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 works 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 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 light-house 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 application 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 in column (2).
- (2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part III 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 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 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.

Article 4

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually

(encircled in black on the map)

Reference on map	Description	Situation
T1	Sycamore	
T2	Holm Oak	
T3	Holm Oak	North East Corner of site. Eastern end of Northern boundary of Shoreham College grounds adjacent to Southern boundary of St Julian's Lane.
T4	Sycamore	- ditto -
T5	Lime	- ditto -
T6	Horse Chestnut	- ditto -
T7	Lime	- ditto -
T8	Ash	- ditto -
T9	Ash	- ditto -
T10	Horse Chestnut	- ditto -
T11	Holm Oak	- ditto -
T12	Poplar	Eastern boundary of site. Northern end of Eastern boundary of Shoreham College grounds adjacent to Western boundary of Kingston Lane.
T13	Holm Oak	- ditto -
T14	Holm Oak	- ditto -
T15	Holm Oak	- ditto -
T16	Ash	Eastern boundary of site. Southern end of Eastern boundary of Shoreham College grounds adjacent to Western boundary of Kingston Lane.
T17	Ash	- ditto -
T18	Ash	- ditto -
T19	Ash	- ditto -
T20	Sycamore	- ditto -

T21	Holm Oak	South Eastern corner of site. Southern end of Eastern boundary of Shoreham College grounds adjacent to Western boundary of Kingston Lane.
T22	Holm Oak	- ditto -
T23	Sycamore	Southern boundary of site. Eastern end of Southern boundary of Shoreham College grounds adjacent to Railway embankment.
T24	Sycamore	- ditto -
T25	Ash	- ditto -
T26	Ash	- ditto -
T27	Holm Oak	Southern boundary of site. Centre of Southern boundary of Shoreham College grounds adjacent to Railway embankment.
T28	Holm Oak	- ditto -
T29	Sycamore	Southern boundary of site. Western half of Southern boundary of Shoreham College grounds adjacent to Railway embankment.
T30	Rowan	- ditto -
T31	Rowan	- ditto -
T32	Rowan	- ditto -
T33	Rowan	- ditto -
T34	Sycamore	- ditto -
T35	Poplar	- ditto -
T36	Holly	Western boundary of site. Southern end of Western boundary of Shoreham College grounds.
T37	Sycamore	- ditto -
T38	Ash	- ditto -
T39	Elm	- ditto -
T40	Ash	- ditto -
T41	Ash	- ditto -
T42	Holm Oak	Western boundary of site. Southern half of Western boundary of Shoreham College grounds.
T43	Holm Oak	- ditto -
T44	Holm Oak	- ditto -
T45	Holm Oak	- ditto -

T46	Mulberry	Near Western boundary of site. Approx. 25 metres East of Western boundary of Shoreham College grounds and approx. 56 metres North of Southern boundary of Shoreham College grounds.
T47	Rowan	Near Western boundary of site. Approx. 13 metres East of Western boundary of Shoreham College grounds and approx. 106 metres North of Southern Boundary of Shoreham College grounds.
T48	Holm Oak	Near Western boundary of site. Approx. 13 metres East of Western boundary of Shoreham College grounds and adjacent to Eastern boundary of 105 Church Green.
T49	Holm Oak	Near Western boundary of site. Approx. 13 metres East of Western boundary of Shoreham College grounds and approx. 112 metres North of Southern boundary of Shoreham College grounds.
T50	Sycamore	Near Western boundary of site. Approx. 13 metres East of Western boundary of Shoreham College grounds and approx. 112 metres North of Southern boundary of Shoreham College grounds.
T51	Horse Chestnut	North Western corner of site. North Western corner boundary of Shoreham College grounds and adjacent to Eastern boundary of 123 Church Green.
T52	Holm Oak	North Western corner of site. Western end of Northern boundary of Shoreham College grounds and close to Eastern boundary of 123 Church Green.

T53	Horse Chestnut	- ditto -
T54	Holm Oak	- ditto -
T55	Holm Oak	- ditto -
T56	Holm Oak	- ditto -
T57	English Oak	In the grounds of Shoreham College adjacent to Southern wall of Western end of main building approx. 137 metres from Southern boundary of the site.
T58	Sycamore	In the grounds of Shoreham College adjacent to Southern wall of Western end of main building approx. 100 metres from Southern boundary of the site and approx. 75 metres from Western boundary of the site.
T59	Holm Oak	In the grounds of Shoreham College South East of main building approx. 97 metres from Southern boundary of the site.
T60	Holm Oak	In the grounds of Shoreham College in open space approx. 50 metres from Southern boundary of the site and approx. 69 metres from Eastern boundary of the site.
T61	Holm Oak	In the grounds of Shoreham College in open space approx. 50 metres from Southern boundary of the site and approx. 69 metres from Eastern boundary of the site.
T62	Holm Oak	In the grounds of Shoreham College in open space approx. 50 metres from Southern boundary of the site and approx. 69 metres from Eastern boundary of the site.

Trees specified by reference to an area

Group of trees

(within a broken line on the map)

<i>Reference on map</i>	<i>Description (including number of trees in the group)</i>	<i>Situation</i>
G1	19 Poplar; 2 Holly; 2 Holm Oak; 3 Ash; 14 Sycamore	South Western corner of grounds of Shoreham College. In an area running from the South West corner for approx. 75 metres East along Southern boundary.
G2	5 Elm	South Western corner of grounds of Shoreham College. In an area approx. 57 metres North of Southern boundary and 37 metres East of Western boundary of the site.
G3	6 White Poplar	Western boundary of grounds of Shoreham College. In an area running along the Western boundary North from a point approx. 87 metres North of the South West corner of the site.
G4	16 Elm; 1 Rowan; 1 Sycamore	Western boundary of grounds of Shoreham College. In an area running along the Western boundary South from a point approx. in line with the South Eastern corner of land known as 105 Church Green.
G5	5 Elm	In the grounds of Shoreham College adjacent to Western boundary of the swimming pool.

Article 7

SCHEDULE 2

PART I

PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990 APPLIED WITH ADAPTATIONS OR MODIFICATIONS

Provisions of the Town and Country Planning Act 1990	Adaptation or modification
Section 69 (registers)	(a) In subsection (1) – (i) omit – “, 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 other”; 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

TREE PRESERVATION ORDER 13.53 / 3 / 00 / SU



SHOREHAM COLLEGE ST JULIANS LANE, SHOREHAM by SEA

SYCAMORE T1; T4; T20; T23; T24; T29;
T34; T37; T50; T58;

HOLM OAK T2; T3; T11; T13; T14; T15;
T21; T22; T27; T28; T42; T43; T44; T45; T48; T49;
T52; T54; T55; T56; T59; T60; T61; T62;

LIME T5; T7;

HORSE CHESTNUT T6; T10; T51; T53;

ASH T8; T9; T16; T17; T18; T19;
T25; T26; T38; T40; T41;

POPLAR T12; T35;

ROWAN T30; T31; T32; T33; T47

HOLLY T36;

ELM T39;

MULBERRY T46;

ENGLISH OAK T57.

G1 19 Poplar, 2 Holly, 2 Holm Oak,
3 Ash, 14 Sycamore

G2 5 Elm

G3 6 White Poplar

G4 16 Elm, 1 Rowan, 1 Sycamore

G5 5 Elm.

DEVELOPMENT SERVICES DEPARTMENT

D.J.WADE

Chief Officer Planning and Development Services

Civic Centre, Ham Road, Shoreham - by - Sea, Sussex. BN4 6PR

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	duration of the consent or requiring the replacement of trees); and (iii) omit "subject to sections 91 and 92,". (b) After subsection (1) insert – "(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 operations (but may give directions for securing and 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 authority,". (b) Omit subsection (2). (c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order." substitute – "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." (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 virtue of section 65 or 71."

	(d) Omit subsections (6) and (6A).
	(e) In subsection (7), omit the words after "section 78".

PART II

PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

- (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 operations (but may give directions for securing replanting).

Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) ensure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78

- (1) Where the authority –
 - (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 eight weeks beginning with the date on which the application was received by the authority,the applicant may be 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.

Section 79

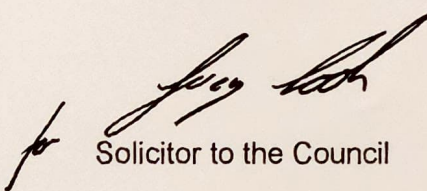
- (1) On an appeal under section 78 the Secretary of State may –
 - (a) allow or dismiss the appeal, or
 - (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),and may deal with the application as if it had been made to him in the first instance.
- (2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.
- (4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

- (5) The decision of the Secretary of State on such an appeal shall be final.
(7) Schedule 6 applies to appeals under section 78.

GIVEN under the Common Seal of

ADUR DISTRICT COUNCIL

the 10th day of January 2001


Solicitor to the Council

**Town and Country Planning Act 1990
Town and Country Planning (Tree Regulations) 1999**

Ref: JC/AP/T.11/80

TO: The Headmaster
Shoreham College
St Julians Lane
Shoreham-by-Sea
BN43 6YW

Notice of Confirmation of Tree Preservation Order

NOTICE IS HEREBY GIVEN that the ADUR DISTRICT COUNCIL

in pursuance of their powers as Local Planning Authority under the Town and Country Planning Act 1990 have (on the 13th day of August 2001) confirmed [without modification] [as an unopposed order] the Tree Preservation Order made by the said Council on the 10th day of January 2001.

DATED this 21st day of August 2001

Signed.....*Sc.*.....

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Acting Solicitor to the Council