THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND) REGULATIONS 2012, SI No. 605

TREE PRESERVATION ORDER APPEAL QUESTIONNAIRE

This appeal is being processed under the Fast Track regulations. Please complete this questionnaire and aim to return it to the Planning Inspectorate by 22 April 2016. Please send a copy of this form to the Appellant/Appellant's Agent.

1. Details of the Appeal

Appellant's name and address:	**Mr N Apps, 13 Grosvenor Road, Chandlers Ford, Eastleigh, SO53 5BU**
Agent's name and address:	**N/A**
Details of appeal:	**Felling of 1 Birch tree**
Pins reference:	**APP/TPO/W1715/5137**

2. Background information

	Yes	No
(a) Is the appeal tree/ are the appeal trees located in a conservation area?		✓
(b) Is the appeal site subject to a separate live planning application or appeal to the secretary of state?		✓
If yes, please provide the name of the conservation area or your reference for the planning application:		
(c) Is the site readily accessible for close inspection from public land, a public footpath, the roadside or is/are the tree(s) in a front garden?	✓	

Copies of the following are enclosed:

Item	Yes	No	Already submitted
(c) The tree preservation order (TPO)	✓		
(d) A plan/map showing the location of the relevant TPO tree(s)	✓		
(e) **Evidence** that the order was confirmed *	✓	Not applicable	
(f) An up-to-date plan/map (1:1250) of the area showing the site and major roads	✓		
(g) An up-to-date map of the Conservation Area showing the site marked (if applicable)		N/A	
(h) The council officers or committee's report on the application (if any)	✓		
(i) Third party representations		N/A	

** This is a mandatory requirement. If the TPO has not yet been confirmed, you should have advised us of the anticipated date of confirmation already. If you have not done so, can you please say now. We cannot proceed with the case until the TPO is confirmed.*

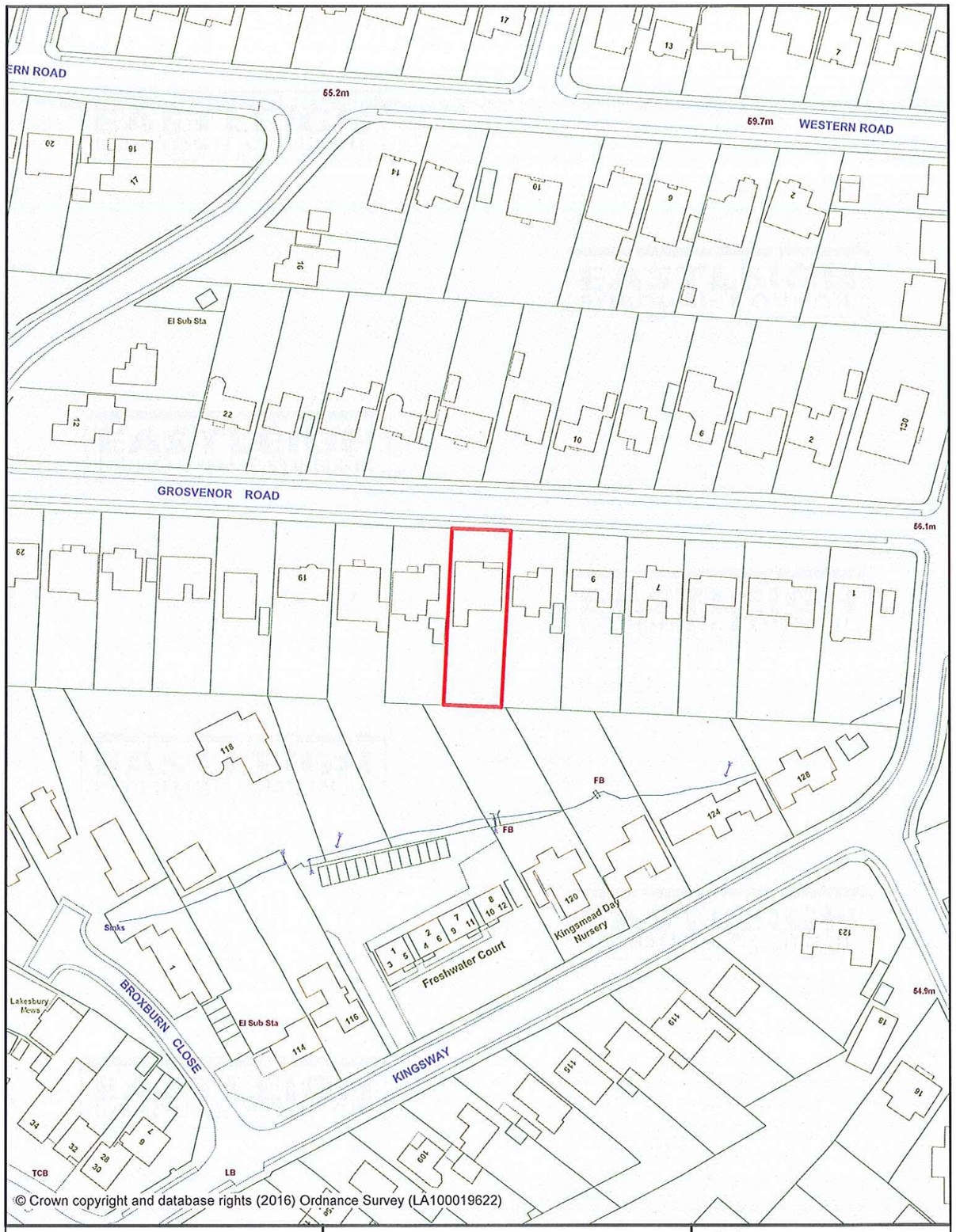
3. Conditions

It is important that you set out any conditions you would like the Inspector to impose if allowing the appeal in part or in full, particularly with regard to replanting if the appellant is seeking consent to fell.
IF APPEAL IS ALLOWED, REPLANT WITH A 'SORBUS' SPECIES. APPROXIMATE SIZE 12-14 CM DIAMETER.

4. Copy to appellant

Please tick this box to confirm **a copy of this questionnaire and background papers** have been sent to the appellant ☑

Name:	ANGELA RAINGER	Date:	19/04/16
Signature:	Angela Rainger	Tel:	02380 688258



EASTLEIGH BOROUGH COUNCIL

T/15/77691

Title:

13 Grosvenor Road,

Chandler's Ford, SO53 5BU

Scale:
1:1250

Map Ref:
SU4422SW

Date:
18/04/2016

N

Eastleigh Borough Council Preservation Order and Conservation Area Application Assessment Form

Site Visit Date: 12/01/2016

Address: 13 Grosvenor Road Chandler's Ford, SO53 5BU

Application Number: T/15/77691

Case Officer: B Athow

Work Request/Notification:

Felling of 1no. Birch to front

Reason For Application:

Refer to app.

Comments:

Comments/ observations following site visit of 12/01/2016:

1 x Birch - Front garden specimen, very attractive and an important part of the street scene. Highly visible from the public realm. The tree appears in good health. Birch is a highly characteristic tree of the area. Removal would be detrimental to the amenity of the area. Chandlers Ford is highly populated with Birch, it is endemic to the area. Whilst I sympathise with the applicant it seems unreasonable to remove important trees on the basis of allergies, in an area such as Chandlers Ford this could mean removal of all Birch, Willow etc. as every tree will impact on someone's life to some degree.

Decision:

Refuse

Decision Comments:

Refuse -
Felling of 1 x Birch.

Conditions:

Notes to applicant:

None

Parish Comments:

No comments had been received at the time of inspection

Public Objection/support Support Qty: 0 Objection Qty: 0

No correspondence relating to the application had been received at the time of inspection

EASTLEIGH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

TREE PRESERVATION ORDER NO.257

Grosvenor Road, 2-15 Western Road, 127-149, 130-136 Kingsway, Chandlers Ford

Eastleigh Borough Council
in this Order called "the authority", in pursuance of the powers conferred in that behalf by Sections 198, 199, 201 and 300 of the Town and Country Planning Act 1990, and subject to the provisions of the Forestry Acts 1967 AND 1979, 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; a 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; and

"the Secretary of State" means the Secretary of State for the Environment.

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 or in a woodland therein specified, the position of which trees, groups of trees and woodlands is 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 said First Schedule.

3. An application for consent made to the authority under Article 2 of this 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 this 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 the 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 consequence 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 certify in respect of any trees for which they are so 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 [illegible] outstanding or special amenity [illegible]
(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 part is felled the owner shall, subject to the provisions 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 (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 condition or direction relates to the land in respect of which byelaws made by the National Rivers Authority, an internal drainage board, a water undertaker or a sewerage undertaker (as defined in the Water Act 1989) or any other authority whose functions are now exercised by the above bodies, 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 condition or direction has effect subject to the requirements of the 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:

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 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 infection 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 205 of the Act.

13. The provisions of Section 201 of the Act shall apply to this Order and the Order shall take effect on the date on which this Order is made.

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 the prescribed sum 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.

If a tree is removed, uprooted or destroyed in contravention of an order or, except in the case of a tree to which the [illegible] is [illegible] Planning Act 1990 [illegible]ating 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. In respect of trees in a woodland it is sufficient 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 or on such other land as may be agreed between the authority and the owner of the land, and (in either case) in such places as may be designated by the authority.

FIRST SCHEDULE

Trees Specified Individually

(Encircled black on map)

(T,G,A,W)	SPECIES	LOCATION
T1	Birch	within the curtilage of Gable End, Western Road, on the frontage.
T2	Oak	within the curtilage of Gable End, Western Road, at the rear.
T3	Birch	within the curtilage of Gable End, Western Road, at the rear.
~~T4~~	~~Beech~~	~~within the curtilage of 7 Western Road, on the frontage.~~
T5	Larch	within the curtilage of 7 Western Road, at the rear towards the common boundary with 3 Western Road.
T6	Birch	within the curtilage of 7 Western Road, towards the rear boundary.
T7	Birch	within the curtilage of 9 Western Road, on the frontage.
T8	Rowan	within the curtilage of 9 Western Road, on the frontage.
T9	Rowan	within the curtilage of 11 Western Road, at the rear towards the centre of the garden.
T10	Rowan	within the curtilage of 11 Western Road, towards the rear boundary.
T11	Oak	within the curtilage of 15 Western Road, adjacent to the common boundary with Western Road and Marlborough Road.
T12	Rowan	within the curtilage of 15 Western Road, adjacent to the common boundary with 13 Western Road.
T13	Birch	within the curtilage of 2 Western Road, on the frontage.
T14	Birch	within the curtilage of 2 Western Road, at the rear adjacent to the common boundary with 4 Western Road.
T15	Beech	within the curtilage of 2 Western Road, adjacent to the rear boundary.

(T,G,A,W)	SPECIES	LOCATION
T16	Sycamore	within the curtilage of 4 Western Road, at the rear towards the common boundary with 2 Western Road.
T18	Beech	within the curtilage of 12 Western Road, at the rear adjacent to the common boundary with 10 Western Road.
T19	Acer	within the curtilage of 14 Western Road, on the frontage towards the common boundary with Western Road.
T20	Oak	within the curtilage of 14 Western Road, to the side adjacent to the common boundary with Thorold Road.
T21	Birch	within the curtilage of 2 Grosvenor Road, at the rear.
T25	Birch	within the curtilage of 14 Grosvenor Road, on the frontage.
T26	Oak	within the curtilage of 14 Grosvenor Road, at the rear.
T27	Horse Chestnut	within the curtilage of 14 Grosvenor Road, adjacent to the rear boundary.
T28	Beech	within the curtilage of 18 Grosvenor Road, adjacent to the rear boundary.
T29	Rowan	within the curtilage of 18 Grosvenor Road, at the rear towards the common boundary with 16 Grosvenor Road.
T32	Scots Pine	within the curtilage of 20 Grosvenor Road, at the rear adjacent to the common boundary with 22 Grosvenor Road.
T33	Yew	within the curtilage of 29 Grosvenor Road, on the frontage.
T34	Birch	within the curtilage of 29 Grosvenor Road, adjacent to the rear boundary.

(T,G,A,W)	SPECIES	LOCATION
T35	Yew	within the curtilage of 27 Grosvenor Road, on the frontage.
T36	Rowan	within the curtilage of 27 Grosvenor Road, at the rear towards the centre of the garden.
T37	Sweet Chestnut	within the curtilage of 27 Grosvenor Road, at the rear adjacent to the common boundary with 29 Grosvenor Road.
T38	Yew	within the curtilage of 27 Grosvenor Road, adjacent
T39	Acer	within the curtilage of 23 Grosvenor Road, on the frontage.
T40	Yew	within the curtilage of 23 Grosvenor Road, at the rear adjacent to the common boundary with 21 Grosvenor Road.
T41	Oak	within the curtilage of 19 Grosvenor Road, towards the rear boundary.
T42	Oak	within the curtilage of 19 Grosvenor Road, at the rear towards the common boundary with 118 Kingsway.
T43	Birch	within the curtilage of 19 Grosvenor Road, at the rear adjacent to the common boundary with 118 Kingsway.
T44	Birch	within the curtilage of 19 Grosvenor Road, at the rear towards the centre of the garden.
T45	Birch	within the curtilage of 17 Grosvenor Road, at the rear.
T46	Rowan	within the curtilage of 17 Grosvenor Road, at the rear.
T47	Birch	within the curtilage of 17 Grosvenor Road, at the rear towards the centre of the garden.
T48	Oak	within the curtilage of 15 Grosvenor Road, adjacent to the rear boundary.
T49	Oak	within the curtilage of 15 Grosvenor Road, at the rear.
T50	Birch	within the curtilage of 15 Grosvenor Road, at the rear towards the common boundary with 17 Grosvenor Road.

(T,G,A,W)	SPECIES	LOCATION
T51	Beech	within the curtilage of 15 Grosvenor Road, at the rear towards the common boundary with 17 Grosvenor Road.
T52	Birch	within the curtilage of 13 Grosvenor Road, on the frontage.
T53	Birch	within the curtilage of 7 Grosvenor Road, towards the rear boundary.
T55	Acer	within the curtilage of 3 Grosvenor Road, on the frontage.
T56	False Acacia	within the curtilage of 3 Grosvenor Road, to the side.
T57	Rowan	within the curtilage of 1 Grosvenor Road, at the rear towards the common boundary with 3 Grosvenor Road.
T59	Birch	within the curtilage of 141 Kingsway, adjacent to the rear boundary.
T60	Beech	within the curtilage of 135 Kingsway, at the rear adjacent to the common boundary with 137 Kingsway.
T62	Sycamore	within the curtilage of 131 Kingsway, at the rear.
T63	Oak	within the curtilage of 129 Kingsway, adjacent to the rear boundary.
T64	Oak	within the curtilage of 127 Kingsway, towards the Thornbury Wood side of the property.
T65	Birch	within the curtilage of 127 Kingsway, to the Thornbury Wood side of the property.
T66	Sweet Chestnut	within the curtilage of 127 Kingsway, on the frontage.
T67	Oak	within the curtilage of 132 Kingsway, towards the rear boundary.
T68	Birch	within the curtilage of 130 Kingsway, on the corner with Kingsway and Grosvenor Road.

Group of Trees

(Within a broken black line on the map)

(T,G,A,W)	SPECIES	LOCATION
G1	3 Oak	within the curtilage of Gable End, Western Road, towards the rear boundary.
G2	2 Birch	within the curtilage of Gable End, Western Road, at the rear.
G3	5 Birch	within the curtilage of 7 Western Road, at the [illegible] curtilage of 15 Western Road, adjacent to the common boundary with Marlborough Road.
G5	3 Birch	within the curtilage of 8 Western Road, at the rear.
G7	2 Oak	within the curtilage of 4 & 6 Grosvenor Road, at the rear.
G8	2 Rowan	within the curtilage of 29 Grosvenor Road, at the rear.
G9	3 Birch	within the curtilage of 27 Grosvenor Road, at the rear adjacent to the common boundary with 25 Grosvenor Road.
G10	2 Birch	within the curtilage of 23 Grosvenor Road, on the frontage.
G11	2 Birch	within the curtilage of 19 Grosvenor Road, towards the rear boundary.
G12	16 Birch	within the curtilage of 19 Grosvenor Road, at the rear.
G13	3 Oak	within the curtilage of 19 Grosvenor Road, at the rear.
G14	2 Birch	within the curtilage of 15 Grosvenor Road, on the frontage.
G15	2 Rowan	within the curtilage of 15 Grosvenor Road, at the rear.
G16	2 Birch	within the curtilage of 9 Grosvenor road, towards the rear boundary.

TPO257

(T,G,A,W)	SPECIES	LOCATION
T69	Yew	within the curtilage of 130 Kingsway, to the side adjacent to the common boundary with Grosvenor Road.
T70	Birch	within the curtilage of 149 Kingsway, on the frontage.
T71	Oak	within the curtilage of the land adjacent to 149 Kingsway, towards the front edge of the property.
T72	Birch	within the curtilage of the land adjacent to 149 Kingsway, towards the [illegible] of the property and adjacent to the [illegible] with the footpath.
T73	Yew	within the curtilage of the land adjacent to 149 Kingsway, towards the rear of the property adjacent to the boundary with 149 Kingsway.
T74	Yew	within the curtilage of the land adjacent to 149 Kingsway, adjacent to the rear boundary.

(T.G.A.W)	SPECIES	LOCATION
G17	6 Rowan	within the curtilage of 5 Grosvenor Road, at the rear.
G18	3 Birch	within the curtilage of 1 Grosvenor Road, to the side adjacent to the common boundary with Kingsway.
G19	3 Birch	within the curtilage of 147 Kingsway, at the rear.
G20	2 Birch 2 Rowan	within the curtilage of 145 Kingsway, adjacent to the rear boundary.
G21	2 Birch	within the curtilage [illegible] on the frontage.
G22	2 Sweet Chestnut	within the curtilage of 135 Kingsway, at the rear.
G23	2 Birch	within the curtilage of 135 Kingsway, at the rear.
G24	2 Beech	within the curtilage of 135 Kingsway, to the side of the property.
G25	1 Larch 1 Acer	within the curtilage of 131 Kingsway, on the frontage.
G26	2 Birch	within the curtilage of 131 Kingsway, adjacent to the rear boundary.
~~G27~~	~~3 Birch~~	~~within the curtilage of 127 Kingsway, at the rear.~~
~~G28~~	~~2 Poplar~~	~~within the curtilage of 127 Kingsway, to the side of the property.~~
G29	2 Birch	within the curtilage of 149 Kingsway, at the rear adjacent to the common boundary with 147 Kingsway.
G30	7 Birch	within the curtilage of the land adjacent to 149 Kingsway, at the rear of the property.

SECOND SCHEDULE

This order shall not apply 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 a grant scheme under Section 1 of the Forestry Act 1979 except a scheme which applies to a forestry dedication covenant.

(3) The cutting down, uprooting, topping or lopping of a tree

(a) by or at the request of the Post Office where the land on which the tree is situated is land which has been acquired for the purpose of the Post Office's undertaking and either works on such land cannot otherwise be carried out or the cutting down, uprooting, topping or lopping is for the purpose of securing safety in the operation of the undertaking; or the lopping in pursuance of the power conferred on any operator of a telecommunications code system by virtue of paragraph 19 of Schedule 2 to the Telecommunications Act 1984;

(b) by or at the request of

(i) a statutory undertaker or a holder of a licence under section 6(1) of the Electricity Act 1989 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, uprooting, topping or lopping is for the purpose of securing safety in the operation of the undertaking;

(ii) a licence holder within the meaning of the Electricity Act 1989, where such tree obstructs the construction by the licence holder or any electric line within the meaning of Part I of the said Act of 1989 or interferes or would interfere with the maintenance or working of any such line;

(iii) the National Rivers Authority or an internal drainage board established under the Water Act 1989, where the tree interferes or would interfere with the exercise of any of the functions of such authority or drainage board in relation to the maintenance, improvement or construction of water courses or of drainage works; or a water undertaker or sewerage undertaker appointed under section II of the Water Act 1989 in relation to their duties as such undertakers; or

(iv) the Secretary of State for Defence, the Secretary of State for Transport, the Civil Aviation Authority or in relation to any airport managed by a company to which any property, rights or liabilities have been transferred in pursuance of a scheme made

under section 1 or 15 of the Airports Act 1986, the person fc
the time being having the management of the airport, where in th
opinion of such Secretary of State, Authority or person the tre
obstructs the approach of aircraft to, or their departure from
any airport or hinders the safe and efficient use of aviation o
defence technical installations;

(c) where immediately required for the purpose of carrying out developmen
authorised by the planning permission granted on an application mad
under Part III of the Act, or deemed to have been granted for any o
the purposes of that Part;

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

THIRD SCHEDULE

Provisions of the following parts of part III of the Town and Country Planning Act 1990 as adapted and modified to apply to this Order.

75. (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 in it.

77. Reference of applications to the Secretary of State (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.

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

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

(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 such an application which falls to be determined by the authority.

(5) Before determining an application referred to him under this section the Secretary of State shall, if either the applicant or the authority 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.

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

78. Appeals against decisions or in default of decision (1) Where an authority -

(a) refuse an application for consent under the Order or grant it subject to conditions; or

(b) give any certificate or direction, on granting consent,

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

(2) A person who has made an application for consent under the Order may also appeal to the Secretary of State if the authority have neither -

(a) given notice to the applicant of their decision on the application; nor
(b) given notice to him that the application has been referred to the Secretary of State in accordance with directions given under Section 77 above,

within two months from the date of receipt of the application, or within such extended periods as may at any time be agreed upon in writing between the applicant and the authority.

(3) Any appeal under this section shall be made by notice in writing served within such time as is specified in subsection (4) below.

(4) The service of such a notice must be within -

(a) 28 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; or
(b) in the case of an appeal under subsection (2), 28 days or such longer period as the Secretary of State may allow from the end of the period of two months or, as the case may be, the extended period agreed.

(5) In relation to an appeal under subsection (2), it shall be assumed that the authority decided to refuse the application in question.

79. Determination of Appeals (1) On an appeal under section 78 the Secretary of State may -

(a) allow or dismiss the appeal,
(b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not), or
(c) cancel any certificate or cancel or vary any direction,

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.

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

97. Power to revoke or modify the consent under the Order (1) If it appears to the authority that it is expedient to revoke or modify any consent under the Order granted on an 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.

(3) The power conferred by this section may be exercised at any time before the operations for which consent has been given have been completed.

(4) The revocation or modification of consent shall not affect so much of those operations as has been previously carried out.

98. **Procedure for s.97 Orders: opposed cases** - (1) Except as provided in section 99, an Order under section 97 shall not take effect unless it is confirmed by the Secretary of State.

(2) Where an authority submit such an Order to the Secretary of State for confirmation, they shall provide the Secretary of State with a statement of their reason for making the Order and shall serve notice together with a copy of the statement on -

(a) the owner of the land affected,
(b) the occupier of the land affected, and
(c) any other person who in their opinion will be affected by the Order.

(3) The notice shall specify the period within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) If within that period such a person so requires, before the Secretary of State confirms the Order he shall give such an opportunity both to him and to the local planning authority.

(5) The period referred to in subsection (3) shall be 28 days from the service of the notice.

(6) The Secretary of State may confirm an Order submitted to him under this section either without modification or subject to such modifications as he considers expedient.

(7) Where a notice has been served in accordance with the provisions of subsection (2) of this section, no operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Secretary of State under this section.

99. **Procedure for s.97 Orders: unopposed cases** - (1) This section applies where -

(a) the authority have made an order under section 97 above; and
(b) the owner and occupier of the land and all persons who in the authority's opinion will be affected by the Order have notified the authority in writing that they do not object to it.

(2) Where this section applies, instead of submitting the Order to the Secretary of State for confirmation the authority shall advertise the fact that the Order has been made and the advertisement must specify -

(a) the period within which persons affected by the 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 at the expiration of which, if no such notice is given to the Secretary of State, the Order may take effect by virtue of this section without being confirmed by the Secretary of State.

(3) The authority shall also serve notice to the same effect on the persons mentioned in subsection (1)(b).

(4) The period referred to in subsection (2)(a) must not be less than 28 days from the date the advertisement first appears.

(5) The period referred to in subsection (2)(b) must not be less than 14 days from the expiration of the period referred to in subsection (2)(a).

(6) The authority shall send a copy of any advertisement published under subsection (2) to the Secretary of State not more than three days after the publication.

(7) If -

(a) no person claiming to be affected by the Order has given notice to the Secretary of State under subsection (2)(a) within the period referred to in that subsection, and

(b) the Secretary of State has not directed within that period that the Order be submitted to him for confirmation,

the Order shall take effect at the expiry of the period referred to in subsection (2)(b) without being confirmed by the Secretary of State as required by section 98(1).

(8) This section does not apply to an Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Part III, Part VII or Part VIII of the Act.

THE COMMON SEAL of LS

THE EASTLEIGH BOROUGH COUNCIL

was hereunto affixed the N R SMITH (SGD)

thirty first day of March 1993

in the presence of

Borough Solicitor

Dated 31 MARCH 1993

EASTLEIGH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

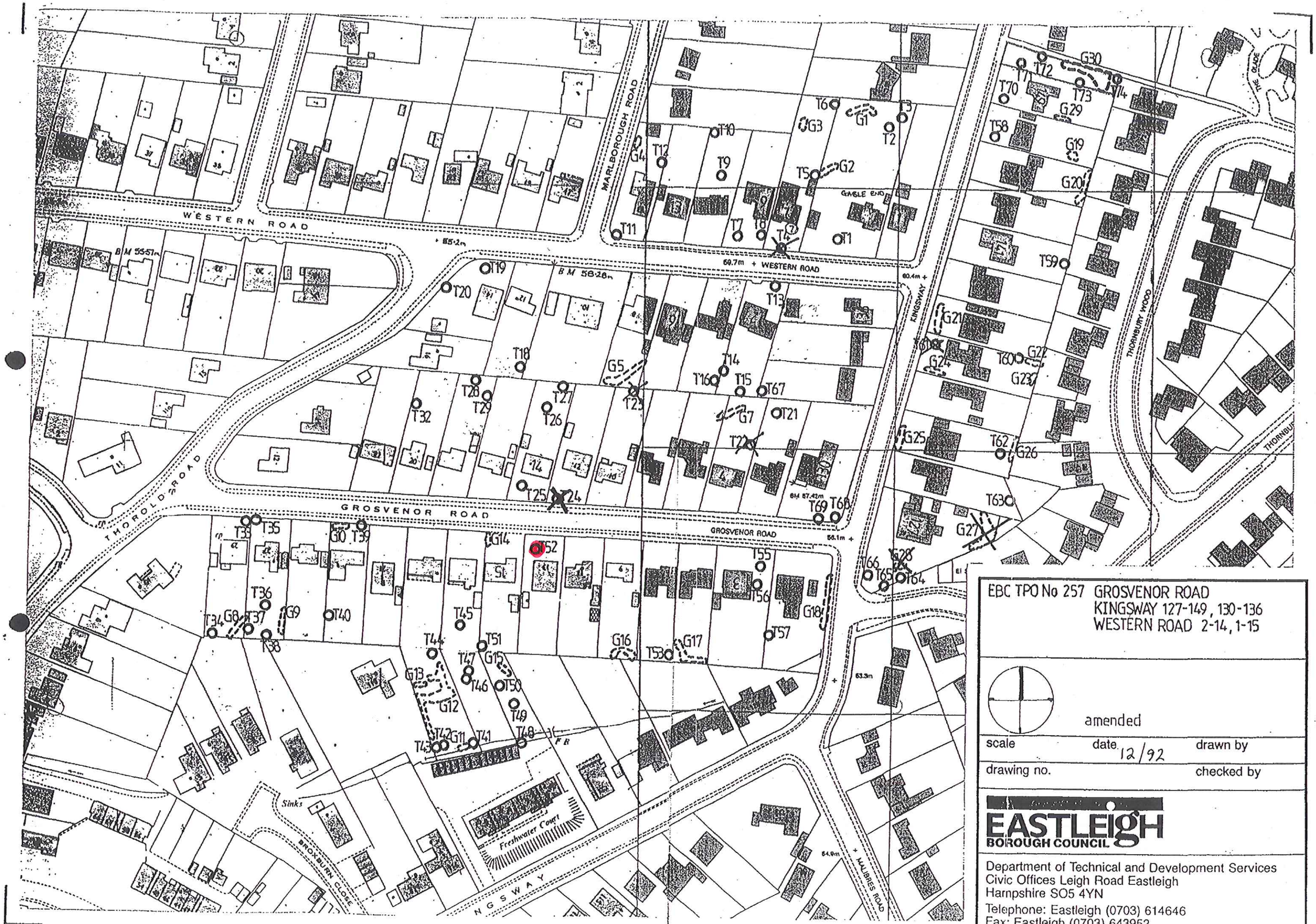
==========

TREE PRESERVATION ORDER NO.257

relating to

Grosvenor Road, 2-15 Western Road, 127-149, 130-136 Kingsway, Chandlers Ford

==========



EBC TPO No 257 GROSVENOR ROAD
KINGSWAY 127-149, 130-136
WESTERN ROAD 2-14, 1-15

amended

scale | date 12/92 | drawn by

drawing no. | checked by

EASTLEIGH BOROUGH COUNCIL

Department of Technical and Development Services
Civic Offices Leigh Road Eastleigh
Hampshire SO5 4YN
Telephone: Eastleigh (0703) 614646
Fax: Eastleigh (0703) 643952

EASTLEIGH BOROUGH COUNCIL

C. Tapp
Chief Executive

Technical & Development Services
Civic Offices Leigh Road Eastleigh
Hampshire SO5 4YN
Telephone: Eastleigh (0703) 614646
Fax No: Eastleigh (0703) 643952

Tom Calverley
Director of Technical and
Development Services

Elizabeth Mitchell
Head of Strategic
Planning

The Occupier
1-29 Grosvenor Road
2-15 Western Road
130-136, 127-149 Kingsway
Chandlers Ford

My ref: HR/CT/TPO257
Your ref:
Date: 10 January 1994

Please ask for Mrs H Richards
Extension 2240
Direct Dial – (0703) 622240

Dear Sir/Madam

CONFIRMATION OF TREE PRESERVATION ORDER NO.257

Enclosed is a copy of the notice of confirmation of the Tree Preservation Order affecting your property. In addition there are substitute pages to be inserted into your copy of the order. I would recommend that you dispose of the others to avoid confusion. You are entitled to make an application for carrying out work on a preserved tree any time you wish, the relevant forms are available from this department's reception area on request.

Yours faithfully,

HEATHER RICHARDS
Strategic Planning Division

Enc

EASTLEIGH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

TOWN AND COUNTRY PLANNING (TREE PRESERVATION ORDERS)

REGULATIONS 1969

To: The Occupier
1-29 Grosvenor Road
2-15 Western Road
130-136, 127-149 Kingsway
Chandlers Ford

TAKE NOTICE that the Eastleigh Borough Council acting in pursuance of their powers as local planning authority under section 199 of the Town and Country Planning Act 1990 have today confirmed subject to modifications Tree Preservation Order Number 257 relating to the land at Grosvenor Road, 2-15 Western Road, 127-149, 130-136 Kingsway, Chandlers Ford.

The modifications are as enclosed:

DATED: 10 January 1994

N R SMITH

Borough Solicitor and Secretary

regs.hr