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The Chief Planning Officer
South Oxfordshire District Council
Benson Lane
Crowmarsh Gifford
Wallington
Oxon OX10 8QS

16th December 2010

Dear Sir

**TOWN & COUNTRY PLANNING ACT 1990
TOWN & COUNTRY PLANNING (TREES) REGULATIONS 1999
(as amended by the Town and Country Planning (Trees) (Amendment)
(England) Regulations 2008)
SOUTH OXFORDSHIRE DISTRICT COUNCIL (CHOLSEY AREA)
TREE PRESERVATION ORDER No. 33/2010**

OBJECTION

On behalf of my client, Wates Developments Ltd., I wish to formally object to the imposition of the above Tree Preservation Order.

The grounds upon which the Council considered that the Order should be made were stated in the Regulation 3 notice as follows: **“the Council has recently considered the preservation of four individual and one group of trees which are located in the parcel of land that constitutes the garden of the property known as Waterways, 2 Winterbrook, Wallingford, as it is of the view that the trees have a high amenity value.”**

This objection is made in respect of the four individual trees included in the order; no objection is made to the inclusion of the group of trees in the Order.

1. These four trees are not of particular amenity value, and are certainly not of “high” amenity value. Their removal would not have a significant impact on the local environment or on its enjoyment by the public, and as such no reasonable degree of public benefit will accrue from this Tree Preservation Order.
2. The birch tree (T1) is a small ornamental specimen, currently only 8.5m in height, and while it is readily visible from the road opposite this property being only 6.3m from the outer edge of the boundary wall, it is not a significant component of the landscape. Due to the presence of other trees to the north and south it is not visible for more than an approximately 120m stretch of Winterbrook running northwards from No. 13; and where it is visible it is mainly seen against the backdrop of the existing fir, magnolia and Lawson cypress and the other Silver birch which are standing 12m or so to the west of it. Accordingly it is not a significant feature in the landscape and the character of the area would not be diminished by its removal.
3. The Magnolia (T2) is an ornamental specimen, currently 9.5m in height and small in relation to the adjacent fir, birch and hornbeams. It has a very one-sided crown which grows mainly to the north. Genetically magnolia is not capable of developing into a large tree; and this specimen is unlikely to attain a significantly greater size or become an important component of the local landscape. It is not a prominent feature in the street scene as it is situated 19.5m from the road, and views of it from the north and south are restricted by the other trees surrounding it and by the adjacent buildings. It is only readily visible from opposite Nos. 1, 3, 5, 7 and 9 Winterbrook.
4. The birch (T3) is also screened or partially screened in views from north and south by other trees and buildings and is only readily visible from opposite Nos. 1 to 9 Winterbrook. It is currently of some size (14m in height) and therefore readily visible against the sky behind, but due to trees in the distance, the Community Hospital and No. 2 itself, its removal would not be of major detriment to the character or appearance of the road, from which it is over 19m away. Furthermore, it is a self-seeded specimen that has grown

between the flag stones in a small paved area, probably once used for seating. The trunk leans to the south by approximately 25° and is located entirely above these stones, with prominently fluted buttress roots growing into gaps between them and over the edge of the step to the north. Hence the tree is less well rooted than if growing in open soil; and the asymmetrical canopy is becoming increasingly wind exposed now it has grown taller than adjacent house. This is likely to restrict the life expectancy of this specimen, as it will be at greater risk of instability than had it been able to root in an unrestricted manner.

5. The alder (T4) is a young tree, currently only 8m in height, and is not visible in views from Reading Road or Winterbrook when approaching from the north until a point 7m to the north of Orchard Close, as it is screened behind the three TPO trees in Group G1 and behind Brook Lodge. It is situated 24.6m from the closest point of the road, and consequently makes an insignificant contribution to the street scene. Whilst the top of its canopy can just be discerned in views from opposite Brook Lodge when the hornbeams and sycamore are not in leaf, it would be invisible from this direction when those trees are fully foliated. It is only visible against the backdrop of much larger trees in the grounds of the Community Hospital to the north-west between a point 7m to the north of Orchard Close to outside No. 7 Winterbrook, and therefore it is not a feature in the landscape. From the front of No. 7 Winterbrook, and consequently to the front of Nos. 9 and 11, the top half of the crown is visible against a clear sky behind, but due to its size and distance from the road is not a significant component of the landscape. From further to the south the tree again becomes screened, this time by the fir tree T1 and the two yews nos. 89 and 90. It is accepted, however, that this tree is an appropriate species for its location close to the stream and could in the future become a significant component in the landscape.
6. Three of these trees are of no great future potential. Neither Silver birch nor magnolia are of particularly long-lived species; furthermore, both species are poor at compartmentalisation and have a high propensity for decay following pruning or wounding. The birch tree T1 is growing only 3.8m from the

adjacent overhead cables, and as it grows larger it will have to be pruned to clear it from these: this will diminish its value and introduce several pruning wounds into its crown.

7. None of these trees have any particular screening value: they do not screen an eyesore or any commercial or industrial buildings or sites, and are most unlikely to do so in the future. Their removal would not open up views that would be detrimental to the visual amenities of this section of Winterbrook.
8. The trees are not of any rare or uncommon species: to the contrary they are all extremely common varieties.
9. None of the trees are of special value as a wildlife habitat.
10. We have assessed the suitability of these trees for inclusion in a TPO using "TEMPO", a nationally recognised and commonly used method of evaluating the suitability of trees for a Preservation Order. This method was devised to assist managers of trees in assessing trees for inclusion within new Tree Preservation Orders. It has no direct statutory or legal status, but has become recognised within the arboricultural profession as a useful guide to decision making, and has been adopted by many local planning authorities for the purposes of evaluating trees for inclusion in Tree Preservation Orders, as it helps to demonstrate that they have assessed trees in a structured and consistent way.
11. The TEMPO method uses a cumulative point scoring system based on condition, remaining longevity, relative public visibility, other (special) factors and expediency, whereby the higher the numerical rating, the more suitable a tree is for inclusion within a TPO. A final rating is given for each tree which relates to its suitability for inclusion. The final categories, which are designed to serve as a guide when making TPOs, are as follows:

0 Do not apply TPO.

1-6 TPO indefensible

- 7-11 Does not merit TPO
- 12-15 Possibly merits TPO
- 16+ Definitely merits TPO

12. The results of this exercise are attached to this letter. They suggest that none of these trees definitely merit a TPO.

13. The birch tree T1 scores only 8 points and does not merit a TPO in any event.

14. The magnolia and the birch T2 and T3 score 15 and 14 points respectively. However, five of these points are earned on the grounds of “expediency”, in that the recently submitted plans for the development of this site shows them to be removed, and there is therefore a “known threat” to them. The system overplays expediency in my view, as the government’s key criteria for the making of a TPO do not include this factor. Government guidance¹ does state that “It may be expedient to make a TPO if the LPA believe there is a risk of the tree being cut down or pruned in ways which would have a significant impact on the amenity of the area”; but as has been demonstrated above, the removal of neither of these trees would have a significant impact on the local amenity, and therefore expediency should not properly be taken into account in a consideration of their suitability for a TPO. When these trees were assessed purely on the grounds of condition, remaining longevity, relative public visibility and other special factors, they would lose four points and score only 11 and 10 respectively, placing them in the “Does not merit a TPO” bracket.

15. In comparison, the alder tree T4 scores 13 points without there being a known threat to it; but this still falls short of definitely meriting a TPO, and as has been noted above, its current size and lack of visibility means that currently it is not of any significant impact in the local landscape.

¹ DEPARTMENT OF THE ENVIRONMENT, TRANSPORT AND THE REGIONS. (2000). Tree Preservation Orders. A Guide to the Law and Good Practice.

As such, the imposition of a Tree Preservation Order on these four specimens does not comply with government guidelines on the expediency of making TPO's as laid down in the Town and Country Planning Act 1990, the Town & Country Planning (trees) Regulations 1999 and the DETR Guide to the Law and Good Practice "Tree Preservation Orders" (March 2000).

I thus respectfully ask that this Tree Preservation Order is not confirmed in its current form.

Yours sincerely

SIMON JONES

Appendix: Guidance on the making of Tree Preservation Orders

The DETR publication: Tree Preservation Orders – A Guide To The Law And Good Practice (2000). This guidance, which takes into account the Town & Country Planning (Trees) Regulations (1999) states,

“In the Secretary of State’s view, TPO’s should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. LPA’s should be able to show that a reasonable degree of public benefit would accrue before TPO’s are made or confirmed. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath, although, exceptionally, the inclusion of other trees may be justified.”

The guidance advises planning authorities to take into account the following indicators of amenity:-

***i) Visibility:** The extent to which the trees or woodlands can be seen by the general public will inform the LPA’s assessment of whether its impact on the local environment is significant. If they can not be seen or are just barely visible from a public place, a TPO might only be justified in exceptional circumstances;*

***ii) Individual Impact:** The mere fact that a tree is publicly visible will not itself be sufficient to warrant a TPO. The LPA should also assess the tree’s particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value as a screen or contribution to the character or appearance of a conservation area. In relation to a group of trees or woodland, an assessment should be made of its collective impact.*

***iii) Wider Impact:** The significance of the trees in their local surroundings should also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.*

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):

SURVEY DATA SHEET & DECISION GUIDE

Date: December 2010	Surveyor: Matthew Rew
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Tree details TPO Ref: 33/2010 T1 Owner (if known): Location: Waterways, 2 Winterbrook, Wallingford	Tree/Group No: SJA T95	Species: Birch
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95	T1 TPO 33	8m	165mm	Young	Average	Moderate	Recently planted ornamental tree, single trunk, twin-stemmed from 3m with tight fork and beginnings of included bark. Slightly asymmetrical crown as formerly suppressed by adjacent specimens, and formative pruning necessary if retained. Of moderate quality, but currently of low value: visible from the road, but only for a short distance directly opposite the site, and not of sufficient size to be a particular feature in the street scene. Of medium-term potential.	C (1)
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Part 1: Amenity assessment

a) Condition & suitability for TPO:

Refer to Guidance Note for definitions

- | | |
|-----------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Unsafe | Unsuitable |
| 0) Dead | Unsuitable |

Score & Notes 3

b) Remaining longevity (in years) & suitability for TPO:

Refer to 'Species Guide' section in Guidance Note

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10 | Unsuitable |

Score & Notes 2

c) Relative public visibility & suitability for TPO:

Consider realistic potential for future visibility with changed land use; refer to Guidance Note

- | | |
|--|-------------------------|
| 5) Very large trees, or large trees that are prominent landscape features | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or larger trees with limited view only | Just suitable |
| 2) Small trees, or larger trees visible only with difficulty | Unlikely to be suitable |
| 1) Young, v. small, or trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes 2

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | | |
|--|--|
| 5) Principal components of arboricultural features, or veteran trees | Score & Notes
1 (no special factors) |
| 4) Members of groups of trees important for their cohesion | |
| 3) Trees with identifiable historic, commemorative or habitat importance | |
| 2) Trees of particularly good form, especially if rare or unusual | |
| 1) Trees with none of the above additional redeeming features | |

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify; refer to Guidance Note

- 5) Known threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only
- 0) Tree known to be an actionable nuisance

Score & Notes n/a

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

Add Scores for Total: 8

Decision: Does not merit a TPO
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TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):

SURVEY DATA SHEET & DECISION GUIDE

Date: December 2010	Surveyor: Matthew Rew
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Tree details TPO Ref: 33/2010 T2 Owner (if known): Location: Waterways, 2 Winterbrook, Wallingford	Tree/Group No: SJA T93	Species: Magnolia
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93	T2 TPO 33	9.5m	360mm @arf	Middle aged	Average	Moderate	Ornamental tree of moderate quality, but currently of low value due to small size. Visible from the road, but set back from frontage and not a prominent or essential component of the street scene. Of medium-term potential.	C (1)
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Part 1: Amenity assessment

a) Condition & suitability for TPO:

Refer to Guidance Note for definitions

- | | |
|-----------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Unsafe | Unsuitable |
| 0) Dead | Unsuitable |

Score & Notes

5

b) Remaining longevity (in years) & suitability for TPO:

Refer to 'Species Guide' section in Guidance Note

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10 | Unsuitable |

Score & Notes

2

c) Relative public visibility & suitability for TPO:

Consider realistic potential for future visibility with changed land use; refer to Guidance Note

- | | |
|--|-------------------------|
| 5) Very large trees, or large trees that are prominent landscape features | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or larger trees with limited view only | Just suitable |
| 2) Small trees, or larger trees visible only with difficulty | Unlikely to be suitable |
| 1) Young, v. small, or trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes

2

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | |
|--|
| 5) Principal components of arboricultural features, or veteran trees |
| 4) Members of groups of trees important for their cohesion |
| 3) Trees with identifiable historic, commemorative or habitat importance |
| 2) Trees of particularly good form, especially if rare or unusual |
| 1) Trees with none of the above additional redeeming features |

Score & Notes

1 (no special factors)

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify; refer to Guidance Note

- | |
|--|
| 5) Known threat to tree |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| 1) Precautionary only |
| 0) Tree known to be an actionable nuisance |

Score & Notes

5 points

Tree shown to be removed on current plans for development .

Part 3: Decision guide

Any 0	Do not apply TPO
1-6	TPO indefensible
7-11	Does not merit TPO
12-15	TPO defensible
16+	Definitely merits TPO

Add Scores for Total: 15

Decision: TPO defensible

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):

SURVEY DATA SHEET & DECISION GUIDE

Date: December 2010	Surveyor: Matthew Rew
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Tree details		
TPO Ref: 33/2010 T3	Tree/Group No: SJA T115	Species: Birch
Owner (if known):		
Location: Waterways, 2 Winterbrook, Wallingford		

115	T3 TPO 33	14m	335mm (over ivy)	Middle aged	Average	Indifferent	Self-seeded specimen, has grown between flag stones and trunk is located entirely above area of these, with prominent fluted buttress and buttress roots growing over stones into gaps between them and over edge of step to north, hence tree less well rooted than if growing in open soil; trunk ivy-covered to 7m, leans to south at approx. 25°. Ascends to 4-5m where corrects to vertical, forming an asymmetrical canopy, becoming wind exposed now has grown taller than adjacent house. Some small dead wood throughout. Of low quality due to poor rooting habit and leaning trunk; of moderate value as visible from the road, but only from directly opposite the site, and set back from frontage and not a prominent or essential component of the street scene. Of reduced but possibly medium-term potential.	C(2)
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Part 1: Amenity assessment

a) Condition & suitability for TPO:

Refer to Guidance Note for definitions

- | | |
|-----------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Unsafe | Unsuitable |
| 0) Dead | Unsuitable |

Score & Notes
3

b) Remaining longevity (in years) & suitability for TPO:

Refer to 'Species Guide' section in Guidance Note

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10 | Unsuitable |

Score & Notes
2

c) Relative public visibility & suitability for TPO:

Consider realistic potential for future visibility with changed land use; refer to Guidance Note

- | | |
|--|-------------------------|
| 5) Very large trees, or large trees that are prominent landscape features | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or larger trees with limited view only | Just suitable |
| 2) Small trees, or larger trees visible only with difficulty | Unlikely to be suitable |
| 1) Young, v. small, or trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes
3

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Members of groups of trees important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes 1 (no special factors)
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Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify; refer to Guidance Note

- 5) Known threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only
- 0) Tree known to be an actionable nuisance

Score & Notes 5 points Tree shown to be removed on current plans for development .

Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

Add Scores for Total: 14

Decision: TPO defensible

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):

SURVEY DATA SHEET & DECISION GUIDE

Date: December 2010	Surveyor: Matthew Rew
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Tree details TPO Ref: 33/2010 T4 Owner (if known): Location: Waterways, 2 Winterbrook, Wallingford	Tree/Group No: SJA T111	Species: Alder
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111	T4 TPO 33	8m	140mm	Young	Average	Moderate	Recently planted and readily replaceable. Of only low-level screening value, of moderate quality, but currently of low value due to small size. Of moderate quality but low value, of medium-term potential.	C (1)
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Part 1: Amenity assessment

a) Condition & suitability for TPO:

Refer to Guidance Note for definitions

- 5) Good Highly suitable
- 3) Fair Suitable
- 1) Poor Unlikely to be suitable
- 0) Unsafe Unsuitable
- 0) Dead Unsuitable

Score & Notes 5

b) Remaining longevity (in years) & suitability for TPO:

Refer to 'Species Guide' section in Guidance Note

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10 Unsuitable

Score & Notes 4

c) Relative public visibility & suitability for TPO:

Consider realistic potential for future visibility with changed land use; refer to Guidance Note

- 5) Very large trees, or large trees that are prominent landscape features Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or larger trees with limited view only Just suitable
- 2) Small trees, or larger trees visible only with difficulty Unlikely to be suitable
- 1) Young, v. small, or trees not visible to the public, regardless of size Probably unsuitable

Score & Notes 2

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Members of groups of trees important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes 1 (no special factors)
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Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify; refer to Guidance Note

- 5) Known threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only
- 0) Tree known to be an actionable nuisance

Score & Notes 1

Part 3: Decision guide

Any 0	Do not apply TPO
1-6	TPO indefensible
7-11	Does not merit TPO
12-15	TPO defensible
16+	Definitely merits TPO

Add Scores for Total: 13

Decision: TPO defensible

TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999
As amended by the Town and Country Planning (Trees) (Amendment)
(England) Regulations 2008

TOWN AND COUNTRY PLANNING ACT 1990

TREE PRESERVATION ORDER No. 33/2010
CHOLSEY AREA

The South Oxfordshire District Council, in exercise of the powers conferred on them by sections 198, [201] and 203 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation

1. This Order may be cited as the Tree Preservation Order No. 33/2010 Cholsey Area.

Interpretation

2. In this Order “the authority” means the South Oxfordshire 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 24 November 2010.

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 (1) of section 200 (tree preservation orders: Forestry Commissioners), 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 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 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;
- (aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);
 - (ab) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;
 - (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 work 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 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,
- the Post Office.

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 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—

- (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 has 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.

[Application to trees to be planted pursuant to a condition

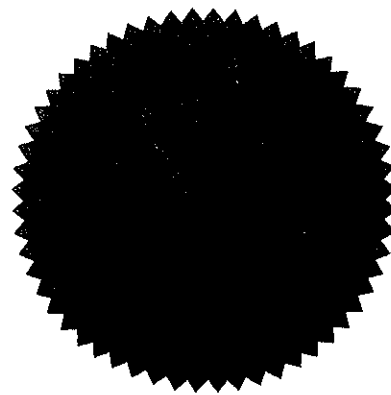
[10.] In relation to the tree[s] identified in the first column of Schedule 1 by the letter “C”, being [a tree] [trees] to be planted pursuant to a condition (being a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees)), this Order takes effect as from the time when [that tree is planted] [those trees are planted].]

Dated this twenty-fourth day of November 2010

The Common Seal of South Oxfordshire
District Council was hereunto affixed
under the authentication of -



.....
Authorised by the Council to sign in that behalf



758/10

[CONFIRMATION OF ORDER

[This Order was confirmed by the [*insert name of Council*] without modification on the [] day of [*insert month and year*]

OR

[This Order was confirmed by the [*insert name of Council*], subject to the modifications indicated by [*state how indicated*], on the [] day of [*insert month and year*]

.....
Authorised by the Council to sign in that behalf]

[DECISION NOT TO CONFIRM ORDER

[A decision not to confirm this Order was taken by [*insert name of Council*] on the [] day of [*insert month and year*]

.....
Authorised by the Council to sign in that behalf]

[VARIATION OF ORDER

[This Order was varied by the [*insert name of Council*] on the [] day of [*insert month and year*] under the reference number [*insert reference number of the variation order*]

.....
Authorised by the Council to sign in that behalf]

[REVOCATION OF ORDER

[This Order was revoked by the [*insert name of Council*] on the [] day of [*insert month and year*] under the reference number [*insert reference number of the revocation order*]

.....
Authorised by the Council to sign in that behalf]

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Birch	Located in the parcel of land that constitutes the garden of the property known as Waterways, 2 Winterbrook, Wallingford as shown on the accompanying plan at grid reference: SU 6059 8866.
T2	Magnolia	Located in the parcel of land that constitutes the garden of the property known as Waterways, 2 Winterbrook, Wallingford as shown on the accompanying plan at grid reference: SU 6057 8866.
T3	Birch	Located in the parcel of land that constitutes the garden of the property known as Waterways, 2 Winterbrook, Wallingford as shown on the accompanying plan at grid reference: SU 6057 8867.

T4	Alder	Located in the parcel of land that constitutes the garden of the property known as Waterways, 2 Winterbrook, Wallingford as shown on the accompanying plan at grid reference: SU6057 8868.
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Trees specified by reference to an area
(within a dotted black line on the map)

Reference on map	Description	Situation
	NONE	

Groups of trees
(within a broken black line on the map)

Reference on map	Description (including number of trees in the group)	Situation
G1	A group of trees consisting of 2 Sycamore and 1 Hornbeam	Located in the parcel of land that constitutes the garden of the property known as Waterways, 2 Winterbrook, Wallingford as shown on the accompanying plan at grid reference: SU 6059 8868.

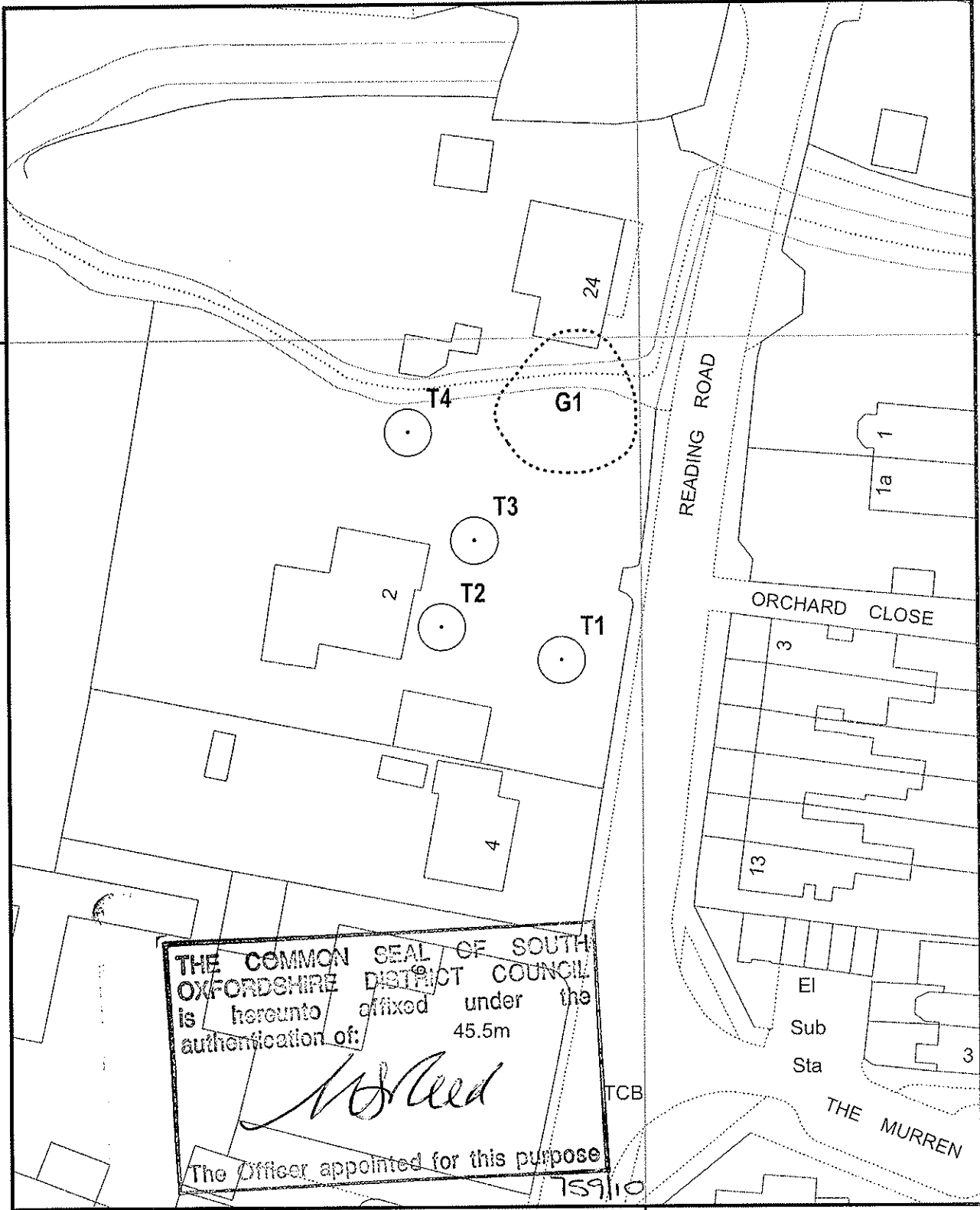
Woodlands
(within a continuous black line on the map)

Reference on map	Description	Situation
	NONE	

460600

188700

188700



THE COMMON SEAL OF SOUTH OXFORDSHIRE DISTRICT COUNCIL is hereunto affixed under the authentication of: 45.5m

[Handwritten Signature]

The Officer appointed for this purpose

TCB

159/10

460600



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 South Oxfordshire District Council 100018668/2010.

South Oxfordshire District Council
 Cholsey Area

Listening Learning Leading

Tree Preservation Order No.33/2010