



Miller Homes

Leicester Lane, Desford

Arboricultural Assessment

May 2026

FPCR Environment and Design Ltd

Registered Office: Lockington Hall, Lockington, Derby DE74 2RH

Company No. 07128076. [T] 01509 672772 [F] 01509 674565 [E] mail@fpcr.co.uk [W] www.fpcr.co.uk

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1.0 INTRODUCTION

- 1.1 This report has been prepared by FPCR Environment and Design Limited on behalf of Miller Homes to present the findings of an Arboricultural Assessment and survey of trees located at land off Leicester Lane, Desford (hereafter referred to as the site), OS Grid Ref SK 486 037.

Site Description

- 1.2 The site is located to the east of the village of Desford and is comprised of an individual field parcel.
- 1.3 Land beyond the site boundary to the south and east are of agricultural use, to the north lies an individual residential plot and the west a recently developed residential area.
- 1.4 Tree cover across the site was typical of that within an agricultural context being limited to site boundaries.

Scope of Assessment

- 1.5 A tree survey and assessment of existing trees was carried out by FPCR Environment and Design on the 18th April 2024 in accordance with guidance contained within British Standard 5837:2012 'Trees in Relation to Design, Demolition and Construction - Recommendations' (hereafter referred to as BS5837).
- 1.6 This report has been produced to accompany an detailed planning application for a residential development.
- 1.7 The purpose of this report is therefore to firstly, present the results of this assessment of the existing trees' arboricultural value, based on their current condition and quality and to secondly, provide an assessment of impact arising from the proposed development of the site.

2.0 PLANNING POLICY

National Planning Policy Framework December 2024

- 2.1 National Planning Policy is defined by the National Planning Policy Framework (NPPF). This sets out the Government's most current and up to date planning policies for England and how these should be applied. The current NPPF is dated December 2024.
- 2.2 In relation to arboriculture, the NPPF states that:
- 136 '*Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined (footnote 52), that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways*

standards and the needs of different users'. (footnote 52: unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate)

- 193 (c) *'development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons (footnote 70) and a suitable compensation strategy exists'*.
- and provides specific guidance that:
- 193 (d) *'development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate'*.

- 2.3 With reference to paragraph 193 (c), examples of what is deemed to be 'wholly exceptional' are included within Footnote 70 and provides the examples of 'infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat'.

3.0 SURVEY METHODOLOGY

- 3.1 The survey of trees has been carried out in accordance with the criteria set out in Chapter 4 of BS5837. The survey has been undertaken by a suitably qualified and experienced arboriculturist and has recorded information relating to all those trees within the site and those adjacent to the site which may be of influence to any proposals. Trees were assessed for their arboricultural quality and benefits within the context of the proposed development in a transparent, understandable, and systematic way.
- 3.2 Trees have been assessed as groups or hedgerows where it has been determined appropriate.
- The term group has been applied where trees form cohesive arboricultural features either aerodynamically, visually or culturally including biodiversity or habitat potential for example parkland or wood pasture.
 - For the purposes of this assessment, a hedgerow is described as any boundary line of trees or shrubs less than 5m wide at the base and are managed under a regular pruning regime.
 - For the purposes of this assessment woodland is described as a habitat where 'trees are the dominant plant form. The individual tree canopies generally overlap and interlink, often forming a more or less continuous canopy'¹. Woodlands however, are not just formed of trees and generally include a great variety of other plants. These will include 'mosses, ferns and lichens, as well as small flowering herbs, grasses and shrubs'².
- 3.3 An assessment of individual trees within groups and hedgerows has been made where a clear need to differentiate between them, for example, to highlight significant variation between attributes including physiological or structural condition or where a potential conflict may arise.

¹ http://www.countrysideinfo.co.uk/woodland_manage/whatis.htm

² http://www.countrysideinfo.co.uk/woodland_manage/whatis.htm

BS5837 Categories

- 3.4 Trees, groups and hedgerows have been divided into one of four categories based on Table 1 of BS5837, '*Cascade chart for tree quality assessment*'. For a tree to qualify under any given category it should fall within the scope of that category's definition (see below).
- 3.5 Category U trees are those which would be lost in the short term for reasons connected with their physiology or structural condition. They are, for this reason not considered in the planning process on arboricultural grounds.
- 3.6 Categories A, B and C are applied to trees that should be of material consideration in the development process. Each category also having one of three further sub-categories (i, ii, iii) which are intended to reflect arboricultural, landscape and cultural or conservation values accordingly.
- 3.7 **Category (U) – (Red):** Trees which are unsuitable for retention and are in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years. Trees within this category are:
- Trees that have a serious irremediable structural defect such that their early loss is expected due to collapse and includes trees that will become unviable after removal of other category U trees.
 - Trees that are dead or are showing signs of significant, immediate or irreversible overall decline.
 - Trees that are infected with pathogens of significance to the health and/ or safety of other nearby trees or are very low quality trees suppressing adjacent trees of better quality.
 - Certain category U trees can have existing or potential conservation value which may make it desirable to preserve.
- 3.8 **Category (A) – (Green):** Trees that are considered for retention and are of high quality with an estimated remaining life expectancy of at least 40 years with potential to make a lasting contribution. Such trees may comprise:
- Sub category (i) trees that are particularly good examples of their species, especially if rare or unusual, or are essential components of groups such as formal or semi-formal arboricultural features for example the dominant and/or principal trees within an avenue.
 - Sub category (ii) trees, groups or woodlands of particular visual importance as arboricultural and / or landscape features.
 - Sub category (iii) trees, groups or woodlands of significant conservation, historical, commemorative or other value for example veteran or wood pasture.
- 3.9 **Category (B) – (Blue):** Trees that are considered for retention and are of moderate quality with an estimated remaining life expectancy of at least 20 years with potential to make a significant contribution. Such trees may comprise:
- Sub category (i) trees that might be included in category A but are downgraded because of impaired condition for example the presence of significant though remediable defects, including unsympathetic past management and storm damage.

- Sub category (ii) trees present in numbers, usually growing as groups or woodlands, such that they attract a higher collective rating than they might as individuals or trees occurring as collectives but situated so as to make little visual contribution to the wider locality.
- Sub category (iii) trees with material conservation or other cultural value.

3.10 **Category (C) – (Grey):** Trees that are considered for retention and are of low quality with an estimated remaining life expectancy of at least 10 years or young trees with a stem diameter below 150mm. Such trees may comprise:

- Sub category (i) unremarkable trees of very limited merit or such impaired condition that they do not qualify in higher categories.
- Sub category (ii) trees present in groups or woodlands, but without this conferring on them significantly greater collective landscape value or trees offering low or only temporary / transient screening benefits.
- Sub category (iii) trees with no material conservation or other cultural value.

Ancient and Veteran Trees

3.11 Various published methodologies are currently available for the identification of Ancient and Veteran trees which, due to the complexity and subjectivity of the process of defining and assessing these trees, often have conflicting definitions.

3.12 This assessment and the criterion for defining a veteran tree is based upon the definition within BS:5837.

“Tree that, by recognized criteria, shows features of biological, cultural or aesthetic value that are characteristic of, but not exclusive to, individuals surviving beyond the typical age range for the species concerned”.

NOTE These characteristics might typically include a large girth, signs of crown retrenchment and hollowing of the stem

3.13 Stem girth is the most reliable guide when determining the age of trees and in normal growing conditions, ancient and veteran trees are those which have a large girth by comparison with other trees of the same species. To inform the assessment of chronological age reference has been made to the chart provided within Lonsdale (2013) (shown below in Figure 1).

3.14 BS:5837 does not provide a definition for ancient trees and therefore the assessment and the criterion being used for identifying ancient tree is based upon government guidance on, *Ancient woodland, ancient trees and veteran trees: advice for making planning decisions*³ which states.

“All ancient trees are veteran trees, but not all veteran trees are ancient. The age at which a tree becomes ancient, or veteran will vary by species because each species ages at a different rate.”

³ Ancient woodland, ancient trees and veteran trees: advice for making planning decisions - GOV.UK (www.gov.uk)

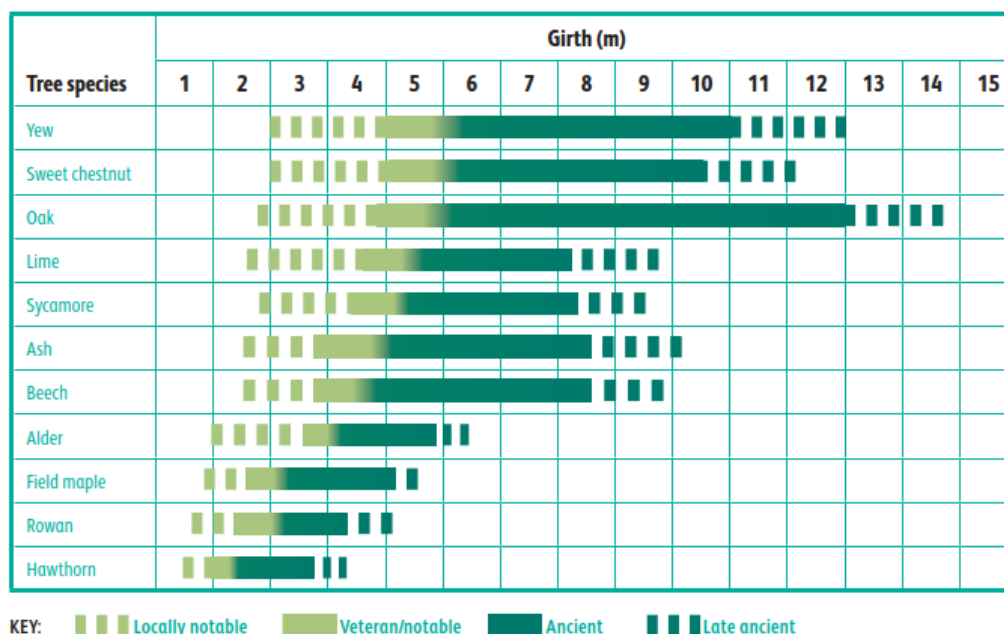


Figure 1: The chart of girth in relation to age and development classification of trees, as shown in Lonsdale (2013)⁴.

- 3.15 Ancient and veteran trees are also material considerations within the planning process and their importance is specifically recognised within the National Planning Policy Framework (NPPF) 2023, which includes its own definition of ancient and veteran trees:

‘A tree which, because of its age, size, and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.’⁵

Considerations and Limitations of the Tree Survey

- 3.16 The survey was completed from ground level only and from within the boundary of the site. Aerial tree inspections or an assessment of the internal condition of the stem/s or branches were not undertaken at this stage as this level of survey is beyond the scope of the initial assessment.
- 3.17 The statements made in this report regarding the assessed applies to the date of survey and cannot be assumed to remain unchanged. It will be necessary to review all comments and observations made within this report, in accordance with sound arboricultural practice, within two years of the date of survey (unless explicitly stated elsewhere within this report). Further review may also be necessary where site conditions change or works to trees are carried out which have not been specified in detail within this report.
- 3.18 Hedgerows are identified as a Habitat of Principal Importance (HPI) as listed within Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. The tree survey conducted, in accordance with BS5837, does not assess hedgerows against the Hedgerow Regulations 1997 or specifically from an ecological perspective, and is outside the scope of this assessment.

⁴ Lonsdale, D. (Ed.). 2013). Ancient and other veteran trees: further guidance on management. London: The Tree Council.

⁵ Ministry of Housing, Communities and Local Government. (2019). *National Planning Policy Framework*. London: Ministry of Housing, Communities and Local Government.

- 3.19 It may be necessary during detailed design to undertake further assessment and accurate positioning of woody species within tree groups and hedgerows to assist structural calculations for foundation design of structures in accordance with NHBC Chapter 4.2 Building near Trees.

4.0 RESULTS

- 4.1 A total of nine individual trees, five groups of trees and three hedgerows were surveyed as part of the Arboricultural Assessment. Trees were surveyed as individual trees, groups, and hedgerows as per the survey methodology.
- 4.2 Appendix A presents details of all individual trees, groups and hedgerows recorded during the assessment including heights, diameters at 1.5m from ground level, crown spread (given as a radial measurement from the stem), age class, comments as to the overall condition at the time of inspection, BS5837 category of quality and suitability for retention and the root protection area (RPA), calculated in accordance with Annex C, D and Section 4.6 of BS5837:2012.
- 4.3 General observations particularly of structural and physiological condition for example the presence of any decay and physical defect and preliminary management recommendations have also been recorded where appropriate.
- 4.4 The individual positions of trees, groups and hedgerows have been shown on the Tree Survey Plan. The positions of trees are based on a topographical / land survey, as far as possible, supplied by the client. Where topographical information has not identified the position of trees these have been plotted using a global positioning system and aerial photography to provide approximate locations. The crown spread, root protection area and shade pattern (where appropriate) are also indicated on this plan.

Results Summary

- 4.5 Tree cover across the site was predominantly recorded as category C, low value in terms of arboricultural quality.
- 4.6 Species surveyed during the assessment were typical of that found within the local area and in an agricultural setting. Individual trees were predominantly ash *Fraxinus excelsior* and mixed native species hedgerows.
- 4.7 Table 1 below summarises the trees assessed and several of the trees have been discussed in more detail following the table, owing to their physical condition or arboricultural significance.

Table 1: Summary of Trees by Retention Category

	Individual Trees	Total	Groups of Trees	Total
Category U - Unsuitable	T2	1		0
Category A (High Quality / Value)	T7	1		0
Category B (Moderate Quality / Value)	T8	1	G4	1
Category C (Low Quality / Value)	T1, T3, T4, T5, T6, T9	6	G1, G2, G3, G5, H1, H2, H3	7

- 4.8 One category A and one category B individual trees were recorded as part of the assessment although these were located outside of the site boundaries in residential gardens to the north. These were beech *Fagus sylvatica* and white poplar *Populus alba* of mature proportions. The root protection areas of these trees did not extend into the confines of the site although the crown of T8 extended over the site by c. 3 metres.
- 4.9 T1, T3, T4 and T5 were all ash specimens recorded as category C. These were all mature trees and found to be in fair to poor condition in terms of their physiological and structural condition. Areas of dieback were observed within the crowns and a detailed visual inspection of the trees was difficult due to dense ivy cover.
- 4.10 T2 was recorded as category U, unsuitable for retention due to being a dead tree.
- 4.11 G1 consisted of a linear of group of planted semi mature ash to the south west of the site. These varied in condition with some individuals exhibiting crown dieback. These were regarded as category C trees, low in arboricultural and landscape value.
- 4.12 Boundary groups G2 and G3 contained hawthorn *Crataegus monogyna*, English Elm *Ulmus procera* and blackthorn *Prunus spinosa*. These were low value in terms of arboricultural quality being predominantly elm with many dead stems throughout.
- 4.13 Three hedgerows were recorded all being regarded as category C. H1 and H2 were maintained while H1 had been left to become outgrown attaining a height of up to four metres.

Ancient and Veteran Trees

- 4.14 None of the assessed trees were considered as ancient or veteran trees in accordance with our veteran survey methodology.

Statutory Considerations

- 4.15 Local authorities have a Duty under the Town and Country Planning Act to create Tree Preservation Orders (TPO) to protect and preserve specific trees and woodlands that bring significant amenity benefit to a particular site or location.
- 4.16 Under a TPO it is a criminal offence to cut down, top, lop, uproot or wilfully destroy a tree protected by that Order, or to cause or permit such actions, if carried out without the prior written consent of the acting LPA.
- 4.17 No direct consultation with the Local Planning Authority has taken place, however, it is understood having used the online search facility on the website for the Local Planning Authority, Hinkley and Bosworth Borough Council that there are Tree Preservation Orders that would apply to trees present on, or in close proximity to the assessment site and therefore statutory constraints would apply to the development in respect of trees. Before any tree works are undertaken confirmation of the online information should be sought from the Local Authority.
- 4.18 Information provided on Tree Preservation Orders and Conservation Areas is accurate to the date of this assessment and cannot be assumed to remain unchanged. The last check was carried out on the 17th May 2024.
- 4.19 Table 2 below details which trees are included in the Hinkley and Bosworth Borough Council Tree Preservation Order, TPO 93/00002/TPORD.

Table 2: Tree Preservation Order details

Tree No. taken from FPCR	TPO reference no.
T6, T7, T8, T9	93/00002/TPORD (No. on map A1)

5.0 ARBORICULTURAL IMPACT ASSESSMENT

- 5.1 The following paragraphs present a summary of the tree survey and discussion of particular trees and groups recorded in the context of any proposed development in the form of an Arboricultural Impact Assessment in accordance with section 5.4 of BS5837. Any final tree retentions will need to be reconciled with the advice contained within this report.
- 5.2 The AIA has been based upon the Technical Planning Layout and seeks to outline the relationship between the proposals and the existing trees and hedgerows. The drawing shows the proposals for a residential development.
- 5.3 An overlay of the layout has been incorporated in the Tree Retention Plan to assist in identifying the relationship and any potential conflicts between the proposals and the existing trees and hedgerows. The plan also identifies which trees would be required to be removed or retained as part of the proposed development.
- 5.4 Table 3 below summarises the impact on tree stock and these impacts have been discussed in more detail following the table.

Table 3: Summary of Impact on Tree Stock

	Trees to be Retained	Total	Trees to be Removed in full or part	Total
Category U - Unsuitable	T2	1		0
Category A (High Quality / Value)	T7	1		0
Category B (Moderate Quality / Value)	T8, G4	2		0
Category C (Low Quality / Value)	T1, T3, T4, T5, T6, T9, G2, G3, G5, H1, H2	11	G1, H3 – Partial removal	2

- 5.5 By virtue of all the existing tree cover being confined to the site boundaries; some of which were recorded as being within third party ownership and offsite yet in close proximity, in order to facilitate the proposed development as per the above plan no significant tree or hedgerow loss will be required.
- 5.6 The removal of three individual trees from G1 and a short section of H3 is shown to allow for access into the southwest corner of the site. These were regarded as category C for their arboricultural quality and the loss of these should not pose a constraint to development from an arboricultural perspective.
- 5.7 Openings in hedgerow H3 are proposed to provide pedestrian connectivity into the adjoining site. These will be kept to the minimum size required.
- 5.8 After appraising the proposals for arboricultural implications, it can be stated that the impacts upon the existing tree stock is minimal and by developing this parcel of land there is opportunity to increase the overall canopy cover and arboricultural value of the site.

Impacts to TPO Trees

- 5.9 Table 4 below summarises the impact on tree stock afforded protection by Hinkley and Bosworth Borough Council Tree Preservation Order, 93/00002/TPORD.

Table 4: Impacts to TPO Trees

Tree No. taken from FPCR	TPO/Conservation Area reference no.	To be Removed
T6, T7, T8, T9	A1	No

- 5.10 The granting of full planning permission would override the protection afforded by the Tree Preservation Order or Conservation Area Designation to those trees shown as removed to facilitate the proposals within the approved plans and there would be no need to ask for separate consent for works to these trees.
- 5.11 Prior to any tree surgery and / or felling of protected trees not identified as removed within approved plans it will be necessary to apply to the relevant local planning authority to gain consent for the works.

6.0 NEW TREE AND HEDGEROW PLANTING

- 6.1 The success of any landscaping scheme relies on an adequate provision of a high-quality rooting environment within which trees can thrive and reach their full potential. Planting trees with due care and consideration can, in the long term, provide a greater return on a schemes green investment and ensure trees remain healthy and grow to mature proportions.
- 6.2 Wherever possible, following discussions with the developer and utility companies, common service trenches should be specified to minimise land take associated with underground service provision and facilitation access for future maintenance.
- 6.3 Tree planting should be avoided where they may obstruct overhead power lines or cables. Any underground apparatus should be ducted or otherwise protected at the time of construction to enable trees to be planted without resulting in future conflicts.
- 6.4 The landscaping scheme should consider the use of both native tree species (for their low maintenance requirements and nature conservation value) and ornamental species (for their contribution to urban design and amenity value). Species choices should be selected on the basis of their suitability for the final site use. Furthermore, during the design process consultation should be made with the Local Planning Authority to obtain information on their tree strategy and incorporate the planting proposals with any local policies and initiatives and/or Biodiversity Action Plans (BAP).
- 6.5 When deciding upon suitable tree species, careful consideration would need to be given to the following: ultimate height and canopy spread, form, habit, density of crown, potential shading effect, colour, water demand, soil type and maintenance requirements in relation to both the built form of the new development and existing properties.
- 6.6 Through careful species selection, the landscape scheme shall reduce the risk of trees being removed in the future on the grounds of nuisance. Nuisance can be perceived in a number of ways and vary from person to person however most commonly, within the context of trees, low overhanging branches, excessive shading, seasonal leaf fall and the misinformed perception that trees close to buildings cause damage.
- 6.7 Hedgerows are identified as a Habitat of Principal Importance (HPI) as listed within Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. Consequently, it is important that the proposed scheme delivers a net gain in terms of linear hedgerows through new planting to compensate for any losses. Species should be native, and characteristic of the locality.

Rooting Environment and Soil Volumes

- 6.8 The success of any landscaping scheme relies on an adequate provision of a high-quality rooting environment within which trees can thrive and reach their full potential. Planting trees with due care and consideration can, in the long term, provide a greater return on a schemes green investment and ensure trees remain healthy and grow to mature proportions. Healthy mature trees integrate well into the built environment; increase the maturity of the landscape; help provide a natural green and leafy urban environment in which people would want to reside whilst also benefiting local wildlife.

- 6.9 The planting of trees within confined urban environments should consider the use of appropriately designed planting pits specifically engineered to promote tree health and longevity. Crucially the aim will be to provide an adequate volume of quality soil for roots to suitably develop by calculating the amount of available soil volumes needed and selecting species whose mature size is compatible with the site. This is an integral component of the planning stage (Lindsey & Bassuk, 1991).

General Planting Recommendations

- 6.10 Wherever possible, following discussions with the developer and utility companies, common service trenches should be specified to minimise land take associated with underground service provision and facilitation access for future maintenance.
- 6.11 Tree planting should be avoided where they may obstruct overhead power lines or cables. Any underground apparatus should be ducted or otherwise protected at the time of construction to enable trees to be planted without resulting in future conflicts.

7.0 TREE PROTECTION MEASURES

- 7.1 Retained trees should be adequately protected during works through the erection of the requisite tree protection measures. These protection measures should be detailed as part of a site-specific Arboricultural Method Statement, which could be imposed as a condition of planning approval.
- 7.2 Measures to protect trees should follow the guidance in BS5837 and be applied where necessary for the purpose of protecting trees within the site whilst allowing sufficient access for the implementation of the proposed layout. These have been broadly summarised below.

General Information and Recommendations

- 7.3 All trees retained on site should be protected by suitable barriers or ground protection measures around the calculated RPA, crown spread of the tree or other defined constraints of this assessment as detailed by section 6 and 7 of BS5837.
- 7.4 Barriers should be erected prior to commencement of any construction work and once installed, the area protected by fencing or other barriers will be regarded as a construction exclusion zone.
- 7.5 Any trees that are not to be retained as part of the proposals should be felled prior to the erection of protective barriers. Particular attention needs to be given by site contractors to minimise damage or disturbance to retained specimens.
- 7.6 Construction access may take place within the root protection area if suitable ground protection measures are in place. This may comprise single scaffold boards over a compressible layer laid onto a geo-textile membrane for pedestrian movements. Vehicular movements over the root protection area will require the calculation of expected loading and the use of proprietary protection systems.

Tree Protection Barriers

- 7.7 Tree protection fencing should be fit for the purpose of excluding any type of construction activity and suitable for the degree and proximity of works to retained trees. Barriers must be maintained to ensure that they remain rigid and complete for the duration of construction activities on site.
- 7.8 In most situations, fencing should comprise typical construction fencing panels attached to scaffold poles driven vertically into the ground, as illustrated in Appendix B.
- 7.9 Where site circumstances and the risk to retained trees do not necessitate the default level of protection an alternative will be specified appropriate to the level / nature of anticipated construction activity.

Protection outside the exclusion zone

- 7.10 Once the areas around trees have been protected by the barriers, any works on the remaining site area may be commenced providing activities do not impinge on protected areas.
- 7.11 All weather notices should be attached to the protective fencing to indicate that construction activities are not permitted within the fenced area. The area within the protective barriers will then remain a construction exclusion zone throughout the duration of the construction phase of the proposed development.
- 7.12 Wide or tall loads etc should not come into contact with retained trees. Banksman should supervise transit of vehicles where they are near retained trees.
- 7.13 Oil, bitumen, cement or other material that is potentially injurious to trees should not be stacked or discharged within 10m of a tree stem. No concrete should be mixed within 10m of a tree. Allowance should be made for the slope of ground to prevent materials running towards the tree.
- 7.14 Notice boards, telephone cables or other services should not be attached to any part of a retained tree.
- 7.15 Any trees which need to be felled adjacent to or are present within a continuous canopy of retained trees, must be removed with due care (it may be necessary to remove such trees in sections).

8.0 TREE MANAGEMENT

- 8.1 All retained trees should be subjected to sound arboricultural management as recommended within section 8.8.3 of BS5837 *Post Development Management of Existing Trees*, where there is a potential for public access to satisfy the landowner's duty of care.
- 8.2 Landowners responsible for trees, especially those within the public domain, have a legal 'duty of care' to ensure that visitors and neighbours of their land are reasonably safe and that nobody comes to harm or injury, by his or her negligence, through taking measures to reduce risks as far as is 'reasonably practical' (The Health and Safety at Work Act 1974).
- 8.3 To ensure that risks are reduced as far as is 'reasonably practicable' it will be necessary that, a review of the relationship between retained trees and the new development should be

undertaken by a qualified arboriculturist to assess the retained tree cover and prepare a schedule of tree works.

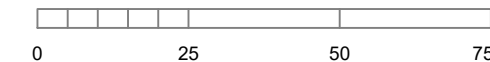
- 8.4 The Occupiers Liability Act (1957 and 1984) also places a 'duty of care' to ensure that no reasonably foreseeable harm takes place due to tree defects. That duty of care should be reasonable, proportionate, and reasonably practicable when managing the risk⁶.
- 8.5 It is currently expected that a suitably qualified Arboriculturist or tree surveyor should inspect trees with an appropriate level of regularity. The purpose of the inspections is to determine whether a tree could foreseeably cause harm by virtue of its size and physical condition.
- 8.6 All tree works undertaken should comply with British Standard 3998:2010 and should therefore be carried out by skilled tree surgeons. It would be recommended that quotations for such work be obtained from Arboricultural Association Approved Contractors as this is the recognised authority for certification of tree work contractors.
- 8.7 All vegetation and, particularly, woody vegetation proposed for clearance should be removed outside of the bird-breeding season (March - September inclusive) as all birds are protected under the Wildlife and Countryside Act, 1981 (as amended) whilst on the nest. Where this is not possible, vegetation should be checked for the presence of nesting birds prior to removal by an experienced ecologist.

⁶ The Health and Safety at Work Act 1974



T1 (A)
G1 (A)

Scale 1:1250 @ A3



All dimensions to be verified on site. Do not scale this drawing, use figured dimensions only. All discrepancies to be clarified with project Arboriculturalist. Drawing to be read in conjunction with Arboricultural Assessment and Appendix A - Tree Schedule.

Drawing has been produced in colour and is based on digital information in .dwg format, aerial images and/or GPS location where appropriate. A monochrome copy should not be relied upon. The exact position of individual trees or species included as part of a tree group, woodland or hedgerow should be checked and verified on site prior to any decisions for foundation design, tree operations or construction activity being undertaken. Further survey work would be required for calculating foundation depths.

Trees are living organisms that change over time, the condition of all trees illustrated herein, are to be checked by the project Arboriculturalist should works commence 12 months after the date of this survey.

SOME TREES MAY BE SUBJECT TO STATUTORY CONSTRAINTS. IT IS THEREFORE ADVISED THAT NO WORKS SHOULD BE UNDERTAKEN TO ANY TREES ILLUSTRATED HEREIN WITHOUT FIRST OBTAINING THE RELEVANT AUTHORISATION TO DO SO UNLESS AGREED AS PER THE APPROVED PLANS THROUGH PLANNING CONSENT.

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-	18.04.24	First Issue	RG
rev	date	description	by



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arboriculture ■ Lockington
 Derby DE74 2RH

t: 01509 672772
e: mail@fpcr.co.uk
w: www.fpcr.co.uk

client

Miller Homes

projec

Leicester Lane
Desford

drawing title

TREE SURVEY PLAN

scale
1:1250 @ A3

drawn/checked
RG

date
April 2024

drawing number

REV

12485-T-01

CAD file: L:\12400\12485\ARB\AA\Plans\Tree Survey Plan.dwg



KEY

-  Tree/Group to be Retained
-  Tree/Group proposed to be removed subject to relevant permissions
-  Category U - Unsuitable for retention on arboricultural grounds
-  Hedgerow Proposed to be Retained and Incorporated into the New Development
-  Hedgerow proposed to be removed subject to relevant permissions
-  Root Protection Area (Shown for retained trees only)
-  Individual / Group Number and BS Category
-  Individual / Group Number to be Removed and BS 5837:2012 Category
-  Indicative Shade Pattern (in accordance with BS5837:2012 where appropriate)

Scale 1:1250 @ A3



NOTES

All dimensions to be verified on site. Do not scale this drawing, use figured dimensions only. All discrepancies to be clarified with project Arboriculturalist. Drawing to be read in conjunction with Arboricultural Assessment and Appendix A - Tree Schedule.

Drawing has been produced in colour and is based on digital information in .dwg format, aerial images and/or GPS location where appropriate. A monochrome copy should not be relied upon. The exact position of individual trees or species included as part of a tree group, woodland or hedgerow should be checked and verified on site prior to any decisions for foundation design, tree operations or construction activity being undertaken. Further survey work would be required for calculating foundation depths.

Trees are living organisms that change over time, the condition of all trees illustrated herein, are to be checked by the project Arboriculturalist should works commence 12 months after the date of this survey.

SOME TREES MAY BE SUBJECT TO STATUTORY CONSTRAINTS. IT IS THEREFORE ADVISED THAT NO WORKS SHOULD BE UNDERTAKEN TO ANY TREES ILLUSTRATED HEREIN WITHOUT FIRST OBTAINING THE RELEVANT AUTHORISATION TO DO SO UNLESS AGREED AS PER THE APPROVED PLANS THROUGH PLANNING CONSENT.

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-	18.04.24	First Issue	RG
A	27.10.25	Update Layout	RG
B	31.03.26	Update Layout	RG
C	07.05.26	Update Layout	RG

rev	date	description	by
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- masterplanning
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 - architecture
 - arboriculture
- FPCR Environment and Design Ltd
Lockington Hall
Lockington
Derby DE74 2RH

t: 01509 672772
e: mail@fpcr.co.uk
w: www.fpcr.co.uk

client
Miller Homes

project
Leicester Lane
Desford

drawing title
TREE RETENTION PLAN

scale
1:1250 @ A3

drawn/checked
RG/HR

date
May 26

drawing number
12485-T-02

rev
C

Appendix A - Tree Schedule

Measurements	Age Classes	Quality Assessment of BS Category	ULE (relates to BS Category)
Height - Measured using a digital laser clinometer (m)	YNG: Establishing, typically with good vigour and fast growth rates and strong apical dominance; c. less than 1/3 life expectancy	Category U - Trees in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years.	<10 years
Stem Dia. - Diameter measured (mm) in accordance with Annex C of the BS5837	SM: Semi-mature trees less than 1/3 life expectancy	Category A - Trees of high quality with an estimated remaining life expectancy of at least 40 years.	40+ years
Crown Radius - Measured using a digital laser clinometer radially from the main stem (m)	EM: Established, typically vigorous and increasing in apical height and lateral spread; 1/3 - 2/3 life expectancy. Offers landscape significance	Category B - Trees of moderate quality with an estimated remaining life expectancy of at least 20 years.	20-40 years
Abbreviations est - Estimated stem diameter avg - Average stem diameter for multiple stems upto - Maximum stem diameter of a group	M: Fully established over 2/3 life expectancy, generally good vigour and achieving full height potential with crown still spreading	Category C - Trees of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter below 150mm.	10-20 years
	OM: Fully mature, at the extremes of expected life expectancy, vigour decreasing, declining or moribund	Sub-categories: (i) - Mainly arboricultural value (ii) - Mainly landscape value (iii) - Mainly cultural or conservation value	
	V: biological, cultural or aesthetic value comprising niche saproxylic habitat. Individuals of large proportions (stem girth) in comparison to trees of the same species/surviving beyond the typical age range for their species.	The BS category particular consideration has been given to the following: • The presence of any structural defects in each tree/group and its future life expectancy • The size and form of each tree/group and its suitability within the context of a proposed development • The location of each tree relative to existing site features e.g. its screening value or landscape features • Age class and life expectancy	

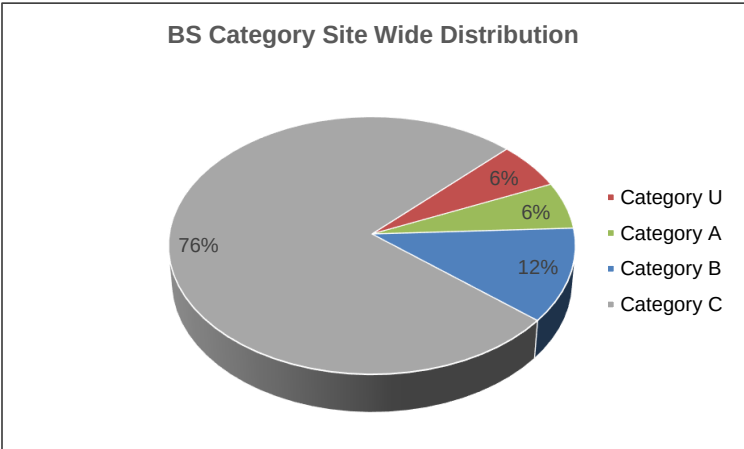
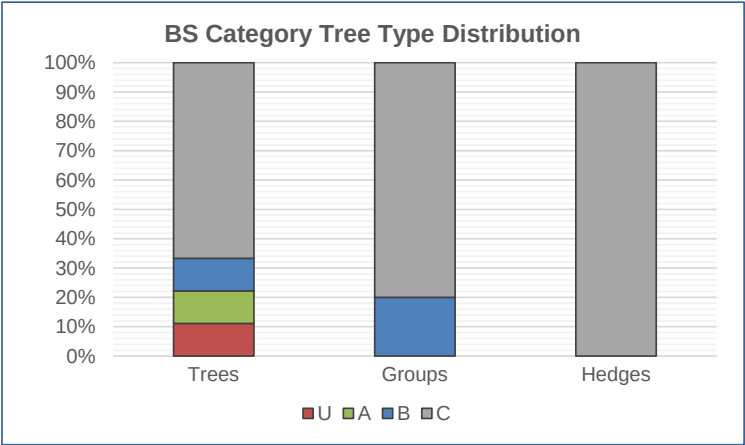
Structural Condition	Physiological Condition	Root Protection Area (RPA)
Good - No significant structural defects	Good - No significant health problems	• The RPA Radius column provides the extent of an equivalent circle from the centre of the stem (m). • The RPA is calculated using the formulae described in paragraph 4.6.1 of British Standard 5837: 2012 and is indicative of the rooting area required for a tree to be successfully retained. Tree roots extend beyond the calculated RPA in many cases and where possible a greater distance should be protected. • Where veteran trees have been identified the RPA has been calculated in accordance with Natural England guidance i.e. 15x the stem diameter, uncapped.
Fair - Structural defects that can be remediated	Fair - Symptoms of ill-health that can be remediated	
Poor - Significant defects beyond remediation, present a risk of failure in the foreseeable future	Poor - Significant ill-health. Unlikely the tree will recover in the long term	
Dead - Dead tree with structural integrity of tree severely compromised	Advanced Decline / Dead - Advanced state of decline and unlikely to recover or Dead	

Appendix Summary

	Individual Trees	Totals	Tree Groups and Hedgerows	Totals
Category U	T2	1		0
Category A	T7	1		0
Category B	T8	1	G4	1
Category C	T1, T3, T4, T5, T6, T9	6	G1, G2, G3, G5, H1, H2, H3	7
	Total	9	Total	8

BS Category Tree Type Distribution displays the proportion of trees assessed in each type to enable a better understanding of the category distribution.

BS Category Site Wide Distribution shows the proportion of trees assessed in each category across the whole site which allows an interpretation of the site's overall quality.



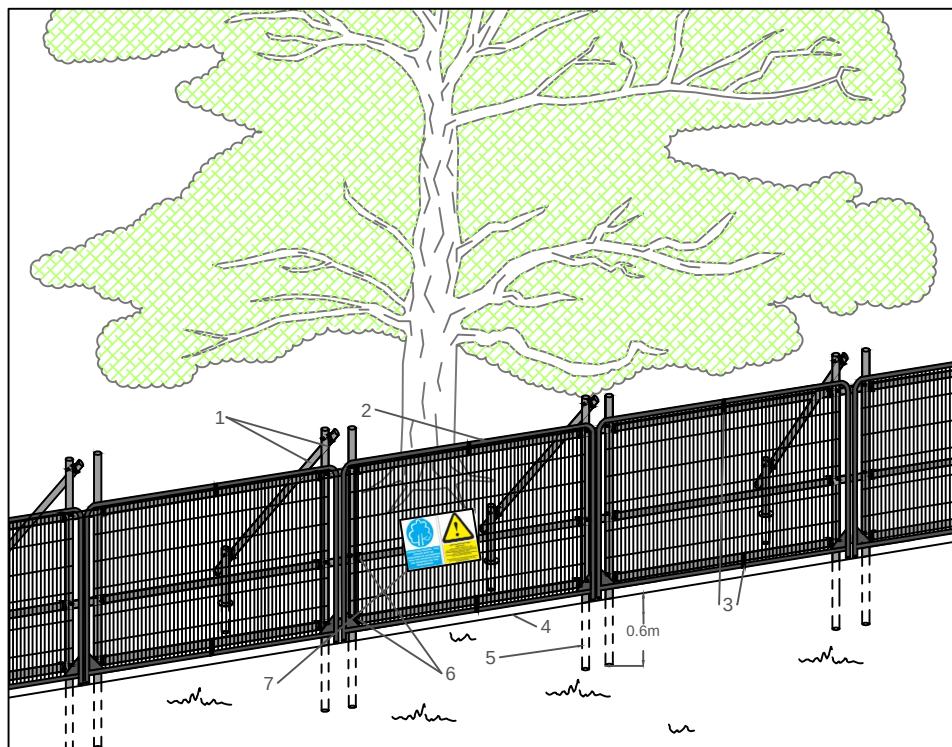
Tree No	Species	Height	Stem Dia.	Crown Radius	Age Class	Overall Condition	Structural Condition	RPA	RPA Radius	BS5837 Cat
INDIVIDUAL TREES										
T1	Ash Fraxinus excelsior	9	300 150 300 100 200	6	M	F	Base obscured Broken branches evident Coppiced form Dense ivy cover on main stem Minor dead wood evident in the crown (<75mm) Multi stemmed from base	114	6.0	C (i)
T2	Apple Malus domestica	6	400	3	M	D	Dead tree	N/A	N/A	U
T3	Ash Fraxinus excelsior	14	900	6	M	P	Basal suckers present Broken branches evident Heartwood exposed Limited future potential Major dead wood evident in the crown (>75mm) Minor dead wood evident in the crown (<75mm) Storm damage present Main stem failed at c. 5m	366	10.8	C (i)
T4	Ash Fraxinus excelsior	15	300 300 300	6	M	F	Broken branches evident Coppiced form Established ivy cover Minor dead wood evident in the crown (<75mm) Multi stemmed from base	122	6.2	C (i)
T5	Ash Fraxinus excelsior	13	450	5	M	P	Dense ivy cover on main stem Dieback of the crown observed Epicormic growth evident within the crown Minor dead wood evident in the crown (<75mm)	92	5.4	C (i)
T6	Japanese Cherry Prunus spp.	4	200	4	EM	G	Off site garden tree Overhang site boundary 2m	18	2.4	C (i)
T7	Beech Fagus sylvatica	20	est 1100	7	M	G	Characteristic for species Situated offsite	547	13.2	A (i)

Tree No	Species	Height	Stem Dia.	Crown Radius	Age Class	Overall Condition	Structural Condition	RPA	RPA Radius	BS5837 Cat
T8	White Poplar Populus alba	22	est 800	9	M	F	Characteristic for species Major dead wood evident in the crown (>75mm) Minor dead wood evident in the crown (<75mm) Situated offsite Overhangs site boundary 3m	290	9.6	B (i)
T9	Hawthorn Crataegus monogyna	5	est 250	3	M	P	Outgrown hedgerow tree Predominantly ivy	28	3.0	C (i)

Group No	Species	Height	Stem Dia.	Crown Radius	Age Class	Overall Condition	Structural Condition	RPA	RPA Radius	BS5837 Cat
GROUPS OF TREES										
G1	Ash Fraxinus excelsior	6	avg 100	2	SM	P / F	Linear group of recently planted ash Variable condition between individual trees	7	1.5	C (ii)
G2	Hawthorn Crataegus monogyna English Elm Ulmus procera	6	avg 100	1	SM / EM	D / P	Predominantly elm stems with many dead stems throughout	5	1.2	C (ii)
G3	Blackthorn Prunus spinosa Hawthorn Crataegus monogyna English Elm Ulmus procera	7	avg 100	2	SM / EM / M	D / P / F	Dead trees noted Boundary group predominantly elm	5	1.2	C (ii)
G4	Ash Fraxinus excelsior Goat Willow Salix caprea Silver Birch Betula pendula Wild Cherry Prunus avium Hornbeam Carpinus betulus Laural Prunus Laurocerasus Austrian Pine Pinus nigra ssp. Nigra Lawson Cypress Chamaecyparis lawsoniana	13	avg 300	3	SM / EM / M	F	Off site group	41	3.6	B (ii)

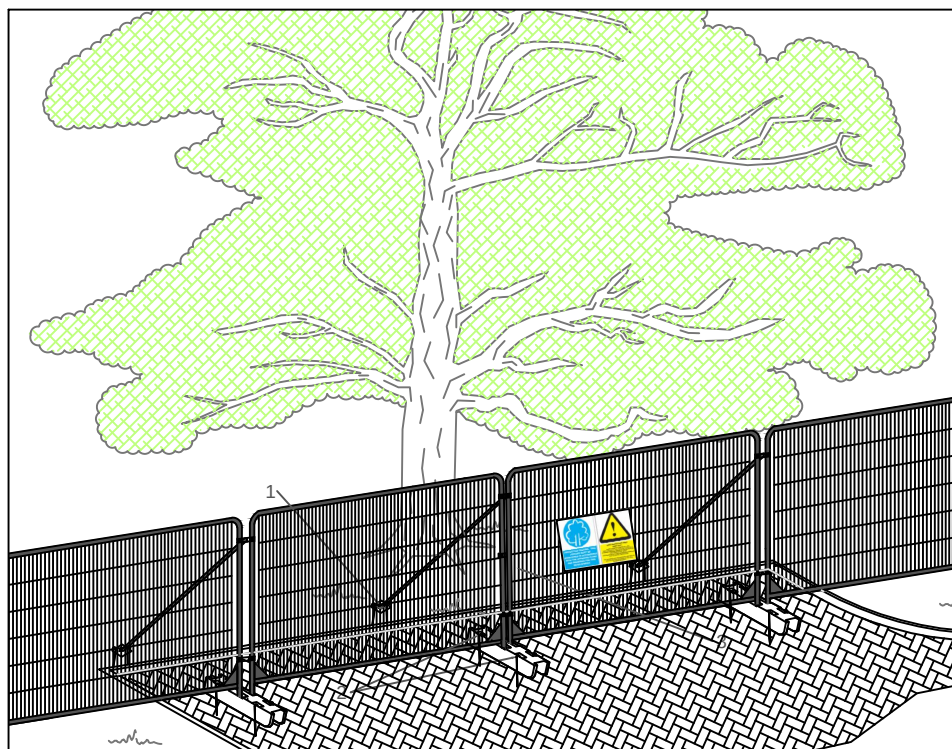
Group No	Species	Height	Stem Dia.	Crown Radius	Age Class	Overall Condition	Structural Condition	RPA	RPA Radius	BS5837 Cat
G5	Hawthorn Crataegus monogyna English Elm Ulmus procera Yew Taxus baccata	5	avg 100	2	SM / EM	D / P	Out grown boundary group Dead elm stems present	5	1.2	C (ii)

Hedge No	Species	Height	Stem Dia.	Crown Radius	Age Class	Overall Condition	Structural Condition	RPA	RPA Radius	BS5837 Cat
HEDGEROWS										
H1	Blackthorn Prunus spinosa Field Maple Acer campestre Hawthorn Crataegus monogyna English Elm Ulmus procera	4	avg 6x 50	1.5	EM	F	Outgrown hedgerow	7	1.5	C (ii)
H2	Hawthorn Crataegus monogyna	1.5	avg 6x 50	0.5	EM	F	Maintained hedgerow Planted off site behind wire fence	7	1.5	C (ii)
H3	Ash Fraxinus excelsior Blackthorn Prunus spinosa Elder Sambucus nigra Hawthorn Crataegus monogyna	2	avg 6x 50	1	EM	F	Maintained hedgerow	7	1.5	C (ii)



Standard specification for protective barrier

1. Standard scaffold poles
2. Heavy gauge 2m tall galvanized tube and welded mesh infill panels
3. Panels secured to scaffold frame with wire ties
4. Ground level
5. Uprights driven into the ground until secure (min depth of 0.6m)
6. Standard scaffold clamps
7. Construction Exclusion Zone signs



Above ground stabilising systems

1. Stabiliser strut with base plate secured with ground pins
2. Feet blocks secured with ground pins
3. Construction Exclusion Zone signs

NOTES

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 ecology ■ Lockington Hall
 architecture ■ Lockington
 arboriculture ■ Derby DE74 2RH

t: 01509 672772
 f: 01509 674565
 e: mail@fpcr.co.uk
 w: www.fpcr.co.uk

drawing title

APPENDIX B PROTECTIVE FENCING SPECIFICATIONS

CAD file: S:\Arb resources\Basic Templates\Tree Protection\Appendix B - Protective Fencing A4.dwg

Town and Country Planning Act 1990

Insert title of
Order

DESFORD (Station Road)

TREE PRESERVATION ORDER, 19₉₃

Insert name
of local
planning
authority

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

in this Order called "the authority", in pursuance of the powers conferred in that behalf by sections 198 and 199 ~~[[and] 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; 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] ~~[Secretary of State for Wales]~~.

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.

NOTE: Where appropriate this Order has been updated to reflect statutory amendments which have resulted in the need to show substitutions or repeals of the prescribed form.

* Include only where Order contains a direction under section 201 of the Act.

‡ Map to be to a scale of not less than 25 inches to one mile (1:2500), except in the case of large woodlands when the scale shall be 6 inches to one mile (1:10000 or 1:10560).

¶ NOTE: If it is proposed to fell any of the trees included in this Order and the felling requires a licence under the Forestry Act 1967, an application should be made in the first place to the Forestry Commission.

(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 in a woodland, that the trees have an outstanding or special amenity value; or
- (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 provision 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 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:

Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

10.—In assessing compensation payable under the last preceding Article account shall be taken of:

- (a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under section 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.—[(1) The provisions of section 201 of the Act shall apply to this Order and the Order shall take effect on *14th July 1993*.]*

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

NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding 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 Order applies as part of a woodland, is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by section 198(6)(a) of the Town and Country Planning Act 1990 relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the local planning authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than 5 days previous notice of the removal, etc., should be given to the authority to enable the latter to decide whether or not to dispense with the requirement. 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 stood 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.

* This provision is not to be included unless it appears to the authority that the Order should take effect immediately.

† This provision may be included in relation to trees to be planted pursuant to a condition imposed under section 197 of the Act.

§ This sum is currently £2000 but provision is made under the Planning and Compensation Act 1991 for a fine on summary conviction not exceeding £20,000. In addition the provision for daily fines for continuing offences will be abolished. These revised penalties will become operative on the coming into effect of section 23 of that Act.

‡ £1000 but subject to alteration by Order.

FIRST SCHEDULE
TREES SPECIFIED INDIVIDUALLY*

(encircled in black on the map)

<i>No. on Map.</i>	<i>Description.</i>	<i>Situation.</i>
--------------------	---------------------	-------------------

NONE

TREES SPECIFIED BY REFERENCES TO AN AREA*

(within a dotted black line on the map)

<i>No. on Map.</i>	<i>Description</i>	<i>Situation.</i>
--------------------	--------------------	-------------------

A1	The several trees of whatever species standing in the area numbered A1 on the map	Station Road, Desford
----	---	-----------------------

GROUPS OF TREES*

(within a broken black line on the map)

<i>No. on Map.</i>	<i>Description.</i>	<i>Situation.</i>
--------------------	---------------------	-------------------

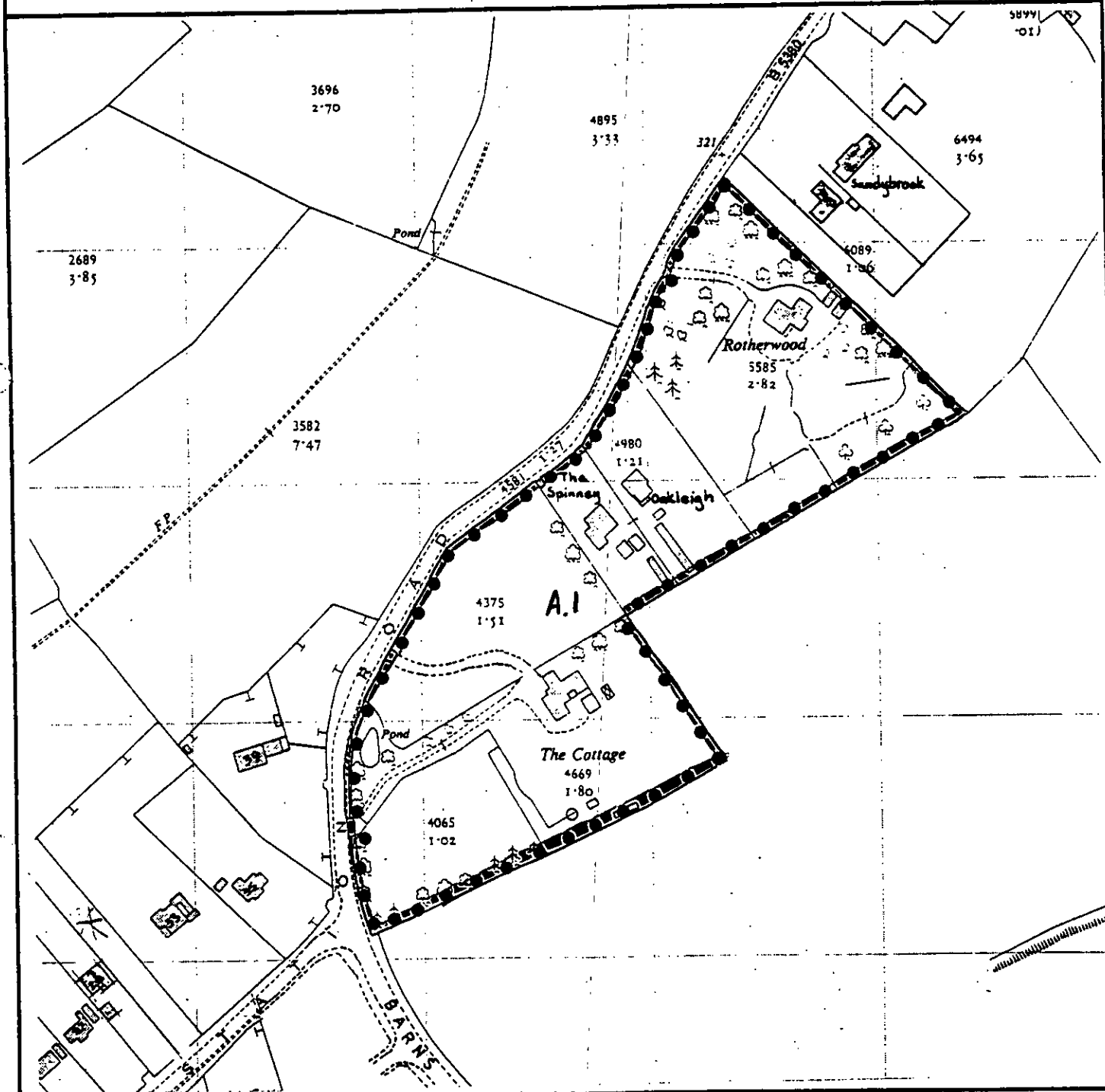
NONE

* The word "NONE" must be entered where necessary.

Town and Country Planning Act 1990

THE BOROUGH COUNCIL OF HINCKLEY & BOSWORTH DESFORD (Station Road)

Tree Preservation Order 1993



Scale 1:2500

Extract from O.S. sheet SP 4803

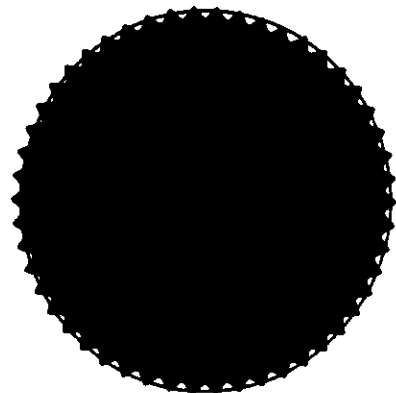
The Common Seal of the Borough Council of Hinckley & Bosworth
was hereunto affixed the *21st* day of *July*

One thousand nine hundred and ninety*three* in the presence of:-

huer

District Secretary.

7630



WOODLANDS*

(within a continuous black line on the map)

*No. on Map.**Description**Situation.*

NONE

* The word "NONE" must be entered where necessary.

SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority to

- (1) the cutting down of any tree on land which is subject to a forestry dedication covenant where
 - (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
 - (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.
- (2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under 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 Part I of the Electricity Act 1989, where such tree obstructs the construction by the licence holder of 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 11 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 for the time being having the management of the airport, where in the opinion of such Secretary of State, Authority or person the tree obstructs the approach of aircraft to, or their departure from, any airport or hinders the safe and efficient use of aviation or defence technical installations;
 - (c) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;
 - (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

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), enure 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 period 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 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 be not less than 28 days from the date the advertisement first appears.

(5) The period referred to in subsection 2(b) must be not 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.

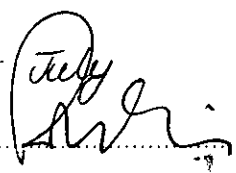
(7) If—

- (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,

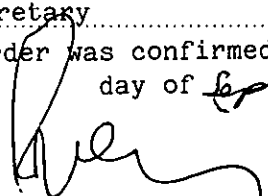
the Order shall take effect at the expiry of the period referred to in subsection 2(b) without being confirmed by the Secretary of State as required by section 98(1).

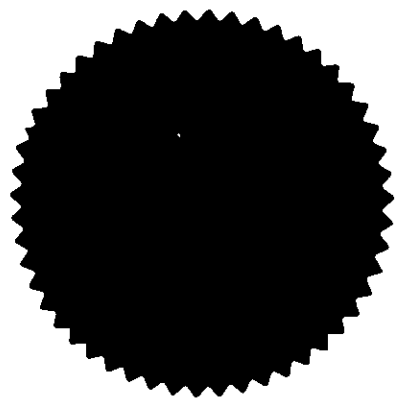
(8) This section does not apply to an Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Part III, Part VII or Part VIII of the Act.

GIVEN under the Common Seal of the
HINCKLEY AND BOSWORTH BOROUGH COUNCIL

the 14th day of July 1993


District Secretary
The foregoing Order was confirmed by the Council
on the 7th day of September 1993


DISTRICT SECRETARY



7630

Dated 14th July

1993 .

HINCKLEY AND BOSWORTH BOROUGH COUNCIL
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TOWN AND COUNTRY PLANNING ACT 1990

TREE PRESERVATION ORDER

relating to

Station Road, Desford in the County of
Leicester

Argents Mead,
Hinckley
Leicestershire