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Confirmed.
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21st April, 1976

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TOWN AND COUNTRY PLANNING ACT 1971

THE BOROUGH COUNCIL OF HINCKLEY AND BOSWORTH

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HINCKLEY (MIDDLEFIELD LANE)

Tree Preservation Order 1971

The Hinckley and Bosworth Borough Council in this order called "the authority" in pursuance of the powers conferred in that behalf by section 60 of the Town and Country Planning Act 1971, and subject to the provisions of the Forestry Act 1967, hereby makes the following order:-

1. In this Order -
"the Act" means the Town and Country Planning Act 1971;
"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 Minister" means the Secretary of State for the Environment,

2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop or wilfully destroy or cause or permit the cutting down, topping, lopping 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 if 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

NOTE. If it is desired to fell any of the trees included in this Order, whether included as trees, groups of trees or woodlands, and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application should be made NOT to the authority for consent under this Order but to the Conservator of Forests for a licence under that Act (section 15(5)).

Ck.107

necessary in the interests of amenity to maintain the special character of the woodlands or the woodlands character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

5. Where the authority refuse consent under this Order or grant such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are so refusing or granting consent that they are satisfied -

(a) that the refusal or condition is in the interests of good forestry; or

(b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.

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 Minister 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 175 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;

(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 giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall if such conditions or direction relates to land in respect of which byelaws made by a river authority, a drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the river authority, drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board under those byelaws and the condition or direction shall have effect accordingly.

8. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Act and of section 46 of the Town and Country Planning Act 1971 adapted and modified for the purposes of this Order, shall apply in relation thereto.

9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority compensation in respect of such loss or damage:

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

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

(a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under section 60 of the Act or under the terms of any Interim Preservation Order made under section 8 of the Town and Country Planning (Interim Development) Act 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1932, and

NOTE: Any person contravening the provisions of this Order is guilty of an offence under section 102 of the Act and liable on summary conviction to a fine not exceeding fifty pounds; and if in the case of a continuing offence the contravention is continued after conviction he is guilty of a further offence thereunder and liable on summary conviction to an additional fine not exceeding two pounds for every day on which the contravention is so continued. Under sections 102, 103 of the Act if a tree is wilfully cut down or destroyed, or if topping or lopping is carried out in such a way as to be likely to destroy the tree the fine is £400 or twice the value of the tree whichever is the greater. If a tree other than one which is part of woodland is removed or destroyed in contravention of the Order it is the duty of the owner of the land, unless on his application the local authority dispense with the requirement to plant another tree of appropriate size and species, at the same place as soon as he reasonably can.

(b) any injurious affection to any land of the owner which would result from the felling of the trees the subject of the claim.

11. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority, such service to be effected by delivering the claim at the offices of the authority addressed to the General Manager - Administration thereof or by sending it by prepaid post so addressed.

(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 Minister, as the case may be, or where an appeal has been made to the Minister against the decision of the authority, from the date of the decision of the Minister on the appeal.

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

13. The provisions of Section 61 of the Act shall apply to this Order and the Order shall take effect on the date on which it is Sealed with the Common Seal of the Borough Council.

FIRST SCHEDULE

Trees Specified Individually

(Encircled in black on the map)

No. on Map	Description	Situation
T1	Chestnut	on the ground fronting Middlefield Lane in the grounds of Middlefield House
T2	Elm	

Trees Specified by Reference to an Area.

(Within a dotted black line on the map)

No. on Map	Description	Situation
NIL		

Groups of Trees

(Within a broken black line on the map)

No. of Map	Description	Situation
NIL		

Woodlands

(Within a continuous black line on the map)

No. of Map	Description	Situation
NIL		

SECOND SCHEDULE

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

(1) the cutting down of any tree on land which is subject to a forestry dedication covenant where

(a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;

(b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.

(2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme.

*(3) the cutting down, topping or lopping of a tree exempted from the provisions of the Order by section 60 (6) of the Act namely a tree which is dying or dead or has become dangerous, or the cutting down, topping or lopping of which is in compliance with obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.

(4) the cutting down, topping or lopping of a tree

(a) in pursuance of the power conferred on the Postmaster General by virtue of section 5 of the Telegraph (Construction) Act 1908;

(b) by or at the request of

(i) a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking;

(ii) an electricity board within the meaning of the Electricity Act 1947, where such tree obstructs the construction by the board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act 1919 and the Electric Lighting Act 1882 or interferes or would interfere with the maintenance or working of any such line;

*NOTE: Section 62 (1) of the Act requires, unless on the application of the owner the local authority dispense with the requirement, that any tree removed or destroyed under section 60 (6) of the Act shall be replaced by another tree of appropriate size and species. In order to enable the local planning authority to come to a decision, on whether or not to dispense with the requirement, notice of the proposed action should be given to the local planning authority which except in a case of emergency shall be of not less than five days

(iii) a river authority established under the Water Resources Act 1963, a drainage board constituted or treated as having been constituted under the Land Drainage Act 1930, The Conservators of the River Thames, or the Lee Conservancy Catchment Board, where the tree interferes or would interfere with the exercise of any of the functions of such river authority, drainage board, Conservators of the River Thames or Lee Conservancy Catchment Board in relation to the maintenance, improvement or construction of water courses or of drainage works; or

(iv) the Secretary of State for Defence, the Secretary of State for Trade & Industry or the Board of Trade where in the opinion of such Secretary of State or Board the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations;

(c) where immediately required for the purposes 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 (a) Part III of the Town and Country Planning Act 1971 and (b) section 46 of the Town and Country Planning Act 1971 as adapted and modified to apply to this Order.

(a) PART III OF THE TOWN AND COUNTRY PLANNING ACT 1971

33. (1) Without prejudice to the following provisions as to the revocation or modification of consents, any consent under the Order, including any direction as to replanting given by the authority on the granting of such consent, shall (except in so far as the consent otherwise provides), enure for the benefit of the land and of all persons for the time being interested therein.

35. (1) The Minister 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 applicatios 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 Minister accordingly.

(4) Where an application for consent under the Order is referred to the Minister under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the authority.

(5) Before determining an application referred to him under this section the Minister shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

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

36. (1) Where an application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions, or where any certificate or direction is given by the authority, the applicant if he is aggrieved by their decision on the application, or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Minister.

(2) A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Minister may allow.

(3) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Minister, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

(4) Before determining an appeal under this section, the Minister shall, if either the appellant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(6) The decision of the Minister on any appeal under this section shall be final.

37. Where an application for consent under the Order is made to the authority, then unless 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, the authority either -

(a) give notice to the applicant of their decision on the application, or

(b) give notice to him that the application has been referred to the Minister in accordance with directions given under section 35 above;

the provisions of the last preceding section shall apply in relation to the application as if the consent to which it relates had been refused by the authority, and as if notification of their decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be.

45. (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.

(2) (Subject to the provisions of section 61 of the Act and section 46 of the Act) an Order under this section shall not take effect unless it is confirmed by the Minister, and the Minister may confirm any such Order submitted to him either without modification or subject to such modifications as he considers expedient.

(3) Where an authority submit an Order to the Minister for his confirmation under this section, the authority shall furnish the Minister with a statement of their reason for making the Order and shall serve notice together with a copy of the aforesaid statement on the owner and on the occupier of the land affected, and on any other person who in their opinion will be affected by the Order, and if within the period of twenty-eight days from the service thereof any person on whom the notice is served so requires, the Minister, before confirming the Order shall afford to that person, and to the authority, an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(4) The power conferred by this section to revoke or modify a consent may be exercised at any time before the operations for which consent has been given have been completed:

Provided that the revocation or modification of consent shall not affect so much of those operations as has been previously carried out.

(5) Where a notice has been served in accordance with the provisions of subsection (3) 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 Minister under subsection (2) of this section.

(b) TOWN AND COUNTRY PLANNING ACT 1971

46. (1) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called "such Order") under section 45 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Minister for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such Order have notified the authority in writing that they do not object to such Order.

(2) The authority shall advertise the fact that such Order has been made and the advertisement shall specify (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Minister that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose and (b) the period (not less than 14 days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such

notice is given to the Minister, such Order may take effect by virtue of this section and without being confirmed by the Minister.

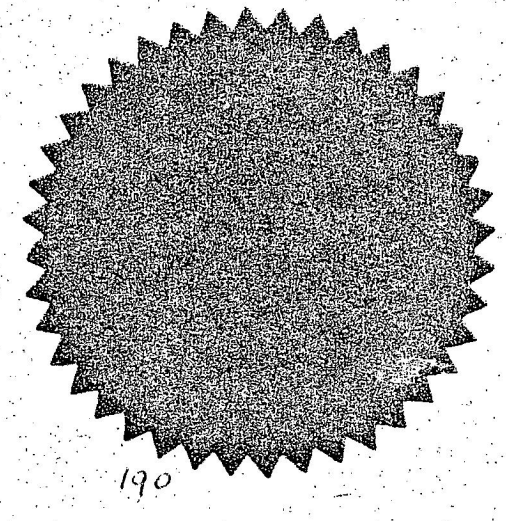
(3) The authority shall also serve notice to the same effect on the persons mentioned in subsection (1) above.

(4) The authority shall send a copy of any advertisement published under subsection (2) above to the Minister, not more than three days after the publication.

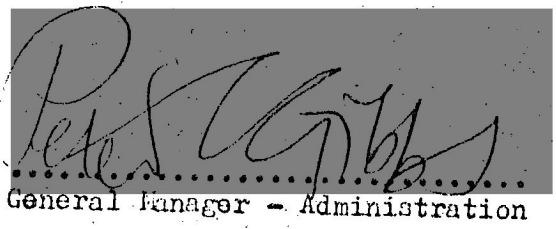
(5) If within the period referred to in subsection (2)(a) above no person claiming to be affected by such Order has given notice to the Minister as aforesaid and the Minister has not directed that such Order be submitted to him for confirmation, such Order shall at the expiration of the period referred to in subsection (2)(b) of this section take effect by virtue of this section and without being confirmed by the Minister as required by section 45 (2) of the Town and Country Planning Act 1971.

(6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Minister under Part II of this Act or under Part IV or Part V of the Act.

The Common Seal of the
Borough Council of Hinckley and Bosworth
was hereunto affixed on the thirty first
day of January One Thousand
nine hundred and Seventy Five



in the presence of:-



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General Manager - Administration

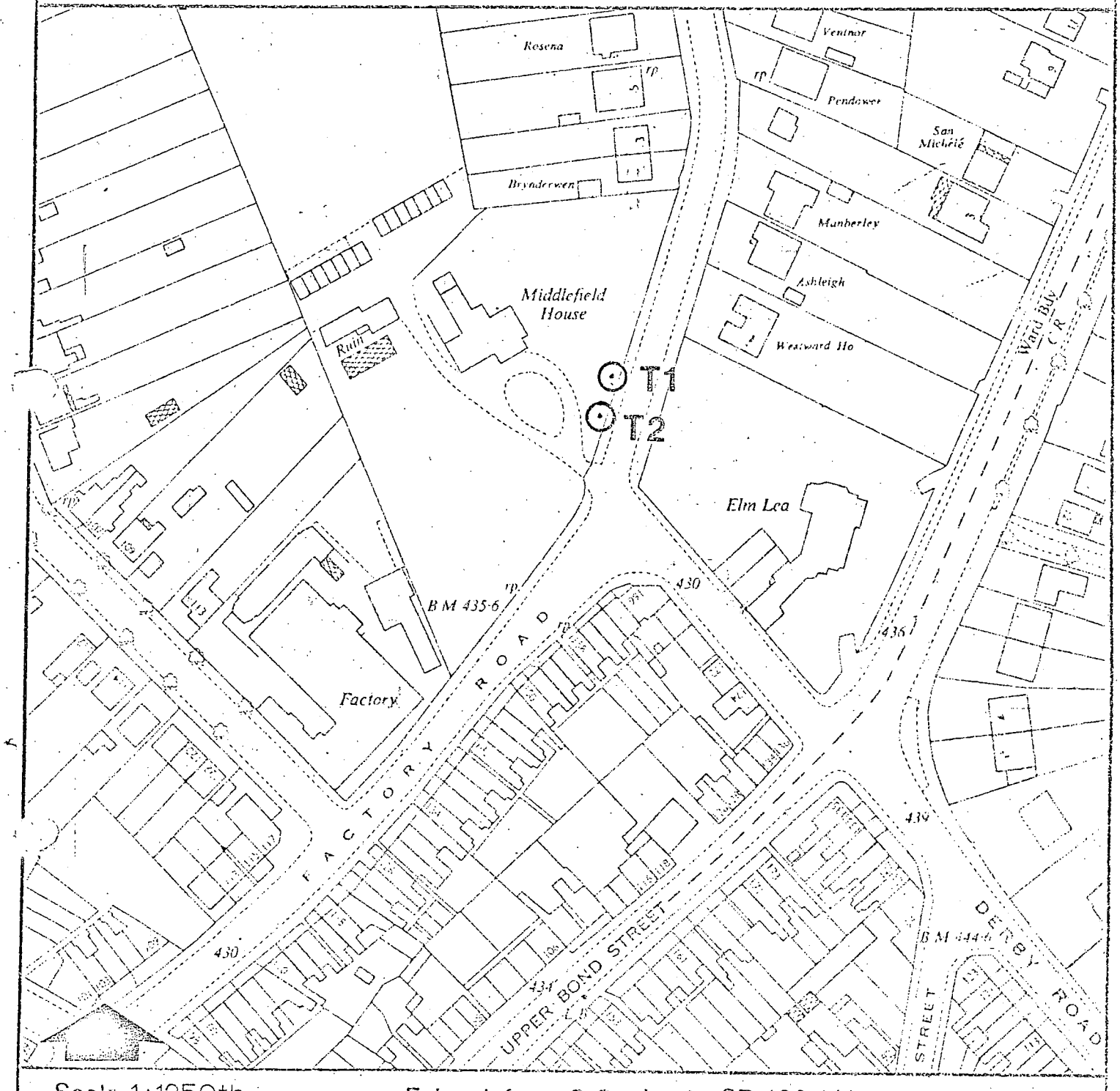
0201/11/05

Town and Country Planning Act 1971

THE BOROUGH COUNCIL OF HINCKLEY & BOSWORTH

HINCKLEY (MIDDLEFIELD LANE)

Tree Preservation Order 1974



Scale 1:1250th Extract from O.S. sheet SP 4294·N

The Common Seal of the Borough Council of Hinckley & Bosworth was hereunto affixed this . . . . . day of . . . . . .One thousand nine hundred and seventy . . . in the presence of:—

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General Manager, Administration