

# Public Document Pack



**WOKINGHAM  
BOROUGH COUNCIL**

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To:- All Planning Committee Members

## **PLANNING COMMITTEE - WEDNESDAY, 11TH SEPTEMBER, 2019**

I am now able to enclose, for consideration at the next Wednesday, 11th September, 2019 meeting of the Planning Committee, the following report that was marked as 'to follow' on the agenda sent out recently.

<b>Agenda No</b>	<b>Item</b>
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<b><u>40.</u></b>	<b><u>Tree Preservation Order (TPO) - Coombes Woods, TPO 1684/2019 (Pages 3 - 38)</u></b>
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Report by Chris Hannington

**Recommendation:** That the Committee confirm the making of TPO 1684/2019

Yours sincerely

Susan Parsonage  
Chief Executive

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# Agenda Item 48.

Application Number	Expiry Date	Parish	Ward
TPO 1684/2019 (Confirmation)	Expiry of TPO 8 <sup>th</sup> October 2019	Arborfield and Newland, Barkham	Arborfield Barkham

<b>Applicant</b>	WBC TPO confirmation
<b>Site Address</b>	The Coombes Woodland Barkham
<b>Proposal</b>	Confirmation of TPO 1684/2019
<b>Type</b>	N/A
<b>PS Category</b>	N/A
<b>Officer</b>	Chris Hannington
<b>Reason for determination by committee</b>	Requested by Head of Planning

<b>FOR CONSIDERATION BY</b>	Planning Committee on Meeting 11 <sup>th</sup> September 2019
<b>REPORT PREPARED BY</b>	Trees and Landscape Team Manager

SUMMARY
The Committee is requested to confirm that they authorise officers to confirm TPO 1684/2019 (appendix 1). The new TPO offers protection to all species in woodland across a wider area than TPO 371/1988 (appendix 2) which covers only certain species

PLANNING STATUS
<ul style="list-style-type: none"> <li>• Designated Countryside</li> <li>• Adjacent to Bearwood Park Registered Historic Park and Garden</li> <li>• Article 4 Direction</li> </ul>

RECOMMENDATION
<b>That the Committee authorise the confirmation of the TPO subject to modifications as suggested in Appendix 3 to address concerns raised by adjacent owners during the 28 day consultation period</b>

TPO PLANNING HISTORY		
Application Number	Proposal	Decision
TPO 371/1988	TPO protects only certain woodland species and a new TPO was served when reports of tree unauthorised felling of unprotected woodland trees ( <u>Ilex aquifolium</u> – holly and <u>Acer pseudoplatanus</u> - sycamore) were received during the last quarter of 2018. Other felling involved removal of <u>Rhododendron ponticum</u> , a non-native, highly invasive weed species. This TPO remains in force and, apart from the variation, is unchallenged.	TPO served 22nd April 1988.

Variation to TPO 371/1988	Following a site visit and report by the Trees and Landscape team manager (dated 19th December 2018). A variation to TPO 371/1988 was served on 20th December 2018. This variation was challenged by Quiet Waters Consultancy on behalf of one woodland plot owner Mr Dean Thomson. QWC threatened Judicial Review over concerns that the council has wrongly stated that the variation, which added trees to the order, took immediate effect when the order was made. In law the new order would only have taken effect upon confirmation.	TPO served on 20th December 2018 and, following threat of JR, this was allowed to lapse.
TPO 1679/2019	In order to ensure protection of trees and avoid a JR a new order, TPO 1679/2019, was served on 8 <sup>th</sup> February 2019. This TPO was challenged by Quiet Waters Consultancy on behalf of Mr Dean Jules and Mrs Candice Jules the owners of a plot of land in the Coombes woodland, who threatened Judicial Review on the basis that a clerical error had been made when serving the TPO not allowing the full 28 day consultation period. This TPO was allowed to lapse.	TPO served on 8 <sup>th</sup> February 2019 and, following threat of JR, this was allowed to lapse
TPO 1684/2019	In order to ensure protection of trees and avoid a JR a new order, TPO 1684/2019 was served. The new TPO protects all tree species in the woodland. Representations were received from landowners see elsewhere in this report.	TPO served 11 <sup>th</sup> April 2019. Date for confirmation 8 <sup>th</sup> October 2019.

**SUMMARY INFORMATION**

**For Commercial**

Woodland area – approximately 57 hectares

Previous woodland area – approximately 37 hectares

Change in area protected – approximately 20 hectares

NB All species (of trees) to be protected under the new TPO

**CONSULTATION RESPONSES**

N/A. The council is not required to consult on the serving of TPOs

But NB Parish Council and local ward members support the TPO

**REPRESENTATIONS**

**Town/Parish Council:** No comments received

**Local Members:** No comments received

**Neighbours:** See appendix 3

**APPLICANTS POINTS**

This is an important woodland from a wildlife and landscape amenity perspective. Public rights of way cross and border the woodland and it therefore has recreational amenity also. There is a clear threat to the fabric of the woodland from the felling of tree species not covered by the original 1988 TPO following sub-division of the land and selling on as wood lots.

**PLANNING POLICY**

National Policy	<b>NPPF</b>	National Planning Policy Framework
Adopted Core Strategy DPD 2010	<b>CP1</b>	Sustainable Development
	<b>CP3</b>	General Principles for Development
	<b>CP7</b>	Biodiversity
	<b>CP8</b>	Thames Basin Heaths Special Protection Area
Adopted Managing Development Delivery Local Plan 2014	<b>CC01</b>	Presumption in Favour of Sustainable Development
	<b>CC02</b>	Development Limits
	<b>CC03</b>	Green Infrastructure, Trees and Landscaping
	<b>TB21</b>	Landscape Character
	<b>TB23</b>	Biodiversity and Development

**PLANNING ISSUES**

**Description of Development:**

1. New TPO

**History of Site:**

2. See section on 'TPO Planning History' above.
3. Enforcement and Development planning in the area of the woodland is important here as, although planning approval would have the effect of overriding it (where tree works or removal were required to implement a permission), the new TPO would be a material consideration in determining any application. The new TPO will also be relevant given the Article 4 Direction (see below).
4. An injunction was granted in the High Court v Candice and Dean Jules on 14<sup>th</sup> December 2019 regarding storage of building materials, building works, engineering operations and works to protected trees.
5. An injunction was granted in the High Court v Candice and Dean Jules on 28<sup>th</sup> January 2019 regarding occupancy of an unauthorised dwelling – occupants to vacate the site by 5<sup>th</sup> April 2019
6. A further injunction was granted in the High Court v Candice and Dean Jules on 3 April 2019 regarding occupancy of an unauthorised dwelling – occupants to vacate the site by 4<sup>th</sup> May 2019
7. An Enforcement Notice requiring removal of a ditch culvert, (RFS/2019/085075), was served on Mr Dean Thomson on 21<sup>st</sup> May 2019. The ditch culvert was removed and the woodland bund restored
8. An Article 4 Direction was served on 19<sup>th</sup> July 2019 and confirmed on 31<sup>st</sup> July
9. An Enforcement Notice requiring the removal of an extension to an above ground Victorian water tank (RFS/2019/085025) was served on 31<sup>st</sup> July 2019. It is understood that an appeal is to be submitted
10. Several planning applications have been received since the serving of the Article 4 Direction relating to new fencing of woodland plots

**Principle of the TPO:**

11. The National Planning Policy Framework has an underlying presumption in favour of sustainable development which is carried through to the local Development Plan. The Managing Development Delivery Local Plan (MDD) Policy CC01 states that planning applications that accord with the policies in the Development Plan for Wokingham Borough will be approved without delay, unless material considerations indicate otherwise
12. The principle of the TPO is in accordance with the Town and Country Planning Act (1990). Paragraph 198(1) states that:  
If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area,

they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order

13. The TPO is in accordance with the government guidance on serving and confirming TPOs
14. Paragraphs 170 of the National Planning Policy Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of ... trees and woodland’.
15. The new TPO would contribute to and enhance the natural and local environment in accordance with the NPPF

**Character of the Area:**

16. The Wokingham District Landscape Character Assessment (WLDCA 2004) as being a high quality landscape that is sensitive to change. The area was formerly designated an Area of Special Landscape Interest (ASLI) under the Wokingham District Local Plan (2004) and although no saved policy relates to this it is indicative of the importance of this high quality landscape
17. The Wokingham Borough Landscape Character Assessment 2004 (WDLCA) identifies the site as falling within Landscape Character area (LCA) L1: Bearwood Wooded Sand and Gravel Hills. The assessment describes key characteristics of the landscape including undulating upland hills, heavily wooded, smaller scale intimate rural patchwork of deciduous woodland and sheep pasture, recreational use including horse riding, and a relatively secretive landscape.
18. The landscape quality is described as high with a strong character and of good condition. The landscape strategy is to conserve and strengthen the existing character. The landscape overall is of moderate sensitivity which means that some changes may be accommodated without being visually apparent albeit that is within the wooded context and ‘private’ secluded character. It is hard to see how tree felling on a large scale could be accommodated in this way given that it is the wooded context itself that must be relied on to accommodate changes. This point is important, particularly as this is not a vast area of commercial forestry or woodland management where larger coups might be expected to be felled.
19. The Barkham Village Design Statement (adopted SPD) refers to the parish of Barkham lying principally in open farmland which rises gently toward the ridge known as Barkham Hill. The parish boasts a number of significant landscape features and views recorded in the Statement.
20. Although the council has not conducted a full formal Valued Landscape Assessment, research to date strongly supports the view that this landscape is ‘valued’ for the purposes of paragraph 170 and particularly 170a) of the NPPF (2018).
21. It is key to the understanding of ‘valued landscape’ that the wider landscape is assessed, ie the landscape in which the site sits, and not just the landscape of the site itself. Having briefly taken this wider approach to assessing the landscape I

consider it to be 'valued'. This is because of the important and high quality landform; landscape quality and condition; the high scenic quality; the representativeness of features and elements; the higher than normal wildlife, geological and historic interest of the landscape; the high recreational value for walking and riding; tranquillity; the associations with the Walter family of Bearwood and others; and historic events of importance that have taken place in this landscape.

**Policy background:**

22. The Council has duties under paragraph 40(1) of the NERC Act (2006) 'in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity' and this includes conserving habitats. Paragraph 40(3) confirms that 'Conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat'.
23. The Combes, including the area of the TPO encompasses a Local Wildlife Site (woodland) and a Local Geological Site (important for stratigraphical reasons - one of the few good examples of the younger Palaeogene beds in Berkshire) Policy and decisions protecting and enhancing such sites is referred to in the new NPPF (2018). See policy section below.
24. The Council has duties under paragraph 198 of the Town and Country Planning Act (1990): If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.
25. The duty of the Council in regard to a valued landscape is set out in paragraphs 170 and 170a) (valued landscape) and b) (countryside) of the NPPF (2018).
26. There is a requirement that planning decisions should 'contribute to and enhance the natural and local environment by' (170) 'protecting and enhancing valued landscapes, sites of biodiversity or geological value' (170 a)) and 'recognising the intrinsic character and beauty of the countryside' (170 b)). It is clear that contributing to and enhancing valued landscapes and also ordinary or 'mere countryside' (in the words of Mr Justice Ouseley in *Stroud v SoSCLG*) is a policy objective of the NPPF.
27. Core Strategy Policies CP1 and CP3 seek to maintain or enhance the high quality of the environment and ensure that there is no detrimental impact upon the landscape amongst other things.
28. Local Plan policy CCO3 protects green infrastructure trees and landscape and includes that proposals should show how they 'protect and enhance the Borough's Green Infrastructure networks' and 'Protect and retain existing trees, hedges and other landscape features'. The policy is clear that 'Development proposals which would result in the loss, fragmentation or isolation of areas of green infrastructure will not be acceptable'.
29. Local Plan Policy TB21 requires that proposals demonstrate how they have addressed the WDLCA including landscape quality, strategy, sensitivity and key

issues and also that they shall retain or enhance the condition character and features that contribute to the landscape.

30. I consider that a new TPO would be expedient and would accord with the Framework, the policy and legislation discussed above.

**Potential harm:**

31. The operations I have seen on site give me concern that they either are already, or are likely in the future, to be damaging to wildlife and landscape amenity and probably geological interests as well if earth moving and excavation to create access tracks is carried out in the woodland. As well as protecting the woodland for its visual amenity, confirmation of the woodland TPO would offer some protection to other elements of amenity (wildlife amenity for example) and would secure the fabric of tree roots, trunks branches and shoots, as well as regenerating saplings.
32. The varied or newly made TPO will protect all natural regeneration of native species but will not preclude removal of *Rhododendron ponticum* agg. as this species could not be considered a tree species. It would preclude removal of *Acer platanoides* and *A pseudoplatanus* and other invasive aliens without an application and subsequent permission. However management plans can be agreed for TPO woodland and the Council would look at management plans that are sensitive to landscape amenity and wildlife conservation in a favourable light.

**Government Guidance on TPOs:**

33. Guidance from the government is held online at <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>. Included are the following paragraphs by subject matter:

34. What are a tree owner's responsibilities?

Owners of protected trees must not carry out, or cause or permit the carrying out of, any of the prohibited activities without the written consent of the local authority. As with owners of unprotected trees, they are responsible for maintaining their trees, with no statutory rules setting out how often or to what standard. The local planning authority cannot require maintenance work to be done to a tree just because it is protected. However, the authority can encourage good tree management, particularly when determining applications for consent under a Tree Preservation Order. This will help to maintain and enhance the amenity provided by protected trees.

Arboricultural advice from competent contractors and consultants, or the authority, will help to inform tree owners of their responsibilities and options. It is important that trees are inspected regularly and necessary maintenance carried out to make sure they remain safe and healthy.

Paragraph: 002 Reference ID: 36-002-20140306

Revision date: 06 03 2014

35. When should the woodland category be used?

The woodland category's purpose is to safeguard a woodland as a whole. So it follows that, while some trees may lack individual merit, all trees within a woodland

that merits protection are protected and made subject to the same provisions and exemptions. In addition, trees and saplings which grow naturally or are planted within the woodland area after the Order is made are also protected by the Order. It is unlikely to be appropriate to use the woodland classification in gardens. The woodland category should not hinder beneficial woodland management. Whether or not they make an Order, authorities can consider encouraging landowners to bring their woodlands into proper management under the grant schemes run by the Forestry Commission. If a woodland subject to an Order is not brought into such a scheme, authorities can still encourage applications to manage the trees in ways that would benefit the woodland without making a serious impact on local amenity, for example by making a single application for regularly repeated operations.

Paragraph: 028 Reference ID: 36-028-20140306

Revision date: 06 03 2014

### **The Public Sector Equality Duty (Equality Act 2010)**

*In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that the protected groups identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts upon protected groups as a result of the development. **(Delete/amend as appropriate: If impacts upon persons with protected characteristics are identified please seek further guidance. The impacts must be detailed in this section, consideration must be given to potential mitigation and all issues given weight in the planning balance).***

### **CONCLUSION**

The TPO confirmation is necessary to prevent removal of trees in an area where the evidence points to first intentions of new purchasers being to develop the land along with supporting infrastructure. The confirmation of the new TPO is relevant to planning in that it will protect an area of countryside in line with Council policy and the National Planning Policy Framework. The confirmation of the TPO will make the protection of the woodland more enforceable as it covers a wider area of land and a wider range of species that make up the current woodland. The confirmation of the TPO will be precise and reasonable in all other respects.

The TPO confirmation will not undermine sound woodland management and it will not prevent the removal of weed species. Although it will require that any proposed works are subject to a tree works application. This will enhance the quality of the work as the council's qualified and experienced arboriculturalists will have an opportunity to advise and comment and, finally, to make the delegated decision on any application.

11<sup>th</sup> April 2019

Town and Country Planning Act 1990

Town and Country Planning  
(Tree Preservation) (England) Regulations 2012

**THE WOKINGHAM BOROUGH COUNCIL  
(PARISHES OF ARBORFIELD AND BARKHAM)**

**TREE PRESERVATION ORDER NO. 1684/2019**

**(Order made in accordance with  
Section 198 of the Act)**

**Relating to trees located on land at and adjacent to Bear Wood Golf Course, East of Mole Road, Sindlesham, RG41 5DP and on land at and adjacent to The Coombes, Barkham and Ellis Hill Farm, Ellis's Hill, Sindlesham, Wokingham, Berks, RG2 9JG and to the north and east of Alexion House, Coombes Lane, Barkham, RG41 4SU and Hazeltons Copse, north side of Cole Lane, Arborfield**

**TOWN AND COUNTRY PLANNING (TREE PRESERVATION)  
(ENGLAND) REGULATIONS 2012**

**THE WOKINGHAM BOROUGH COUNCIL**

**TREE PRESERVATION ORDER NO. 1684/2019**

Regulation 3(1)

Town and Country Planning Act 1990

Tree Preservation Order: 1684/2019

Wokingham Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

**Citation**

1. This Order may be cited as Tree Preservation Order 1684/2019

**Interpretation**

2. - In this Order “the authority” means Wokingham Borough Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

**Effect**

3. – (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

- (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this *ELEVENTH* day of *APRIL* in the year two thousand and nineteen.

The Common Seal of Wokingham Borough Council was hereunto affixed to this Order in the presence of -

*Forrell*.....

Solicitor  
Signed on behalf of the Wokingham Borough Council



**SCHEDULE**  
**Specification of trees**

**Trees specified individually**

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

**Trees specified by reference to an area**

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

**Groups of trees**

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

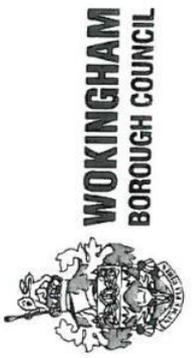
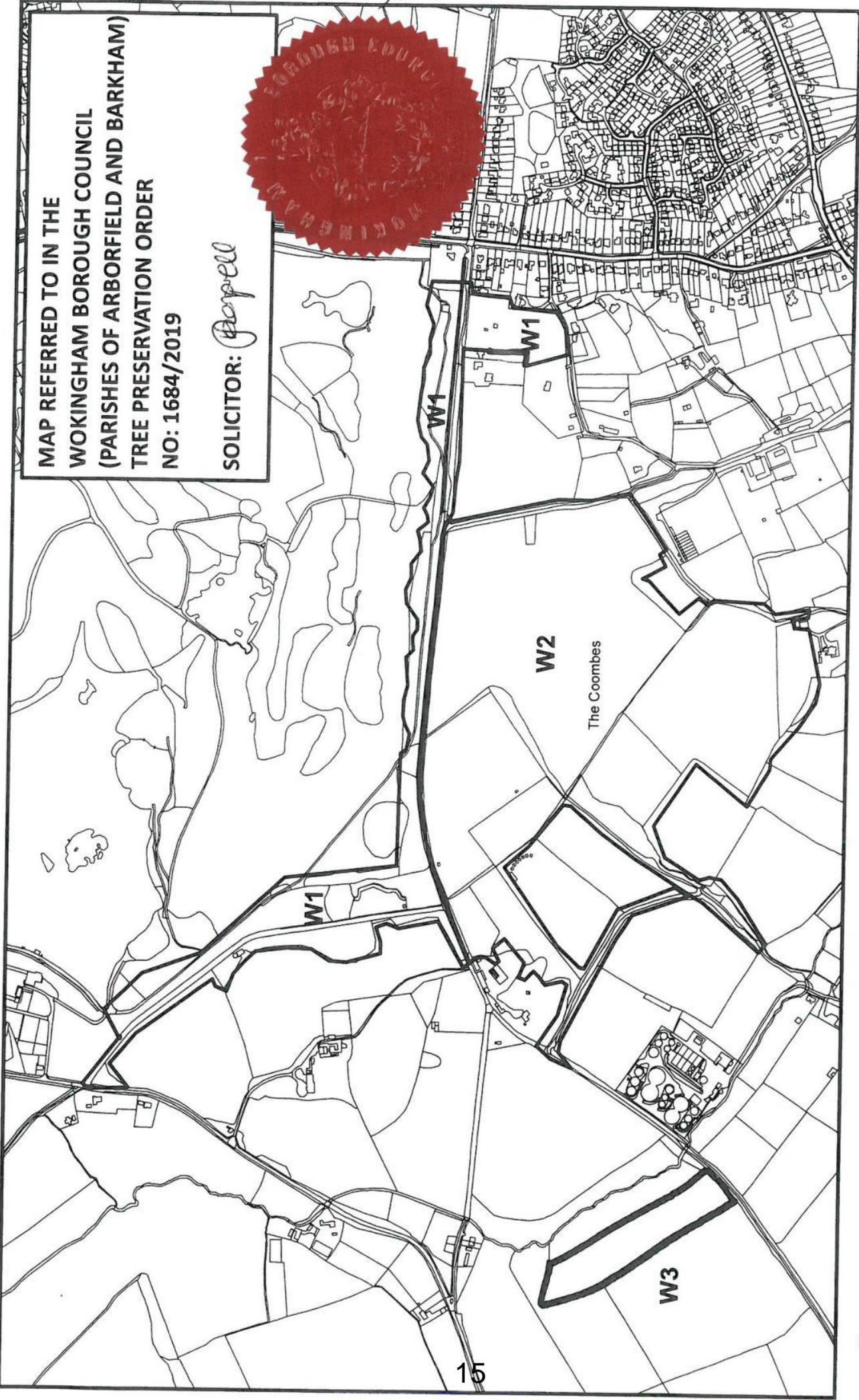
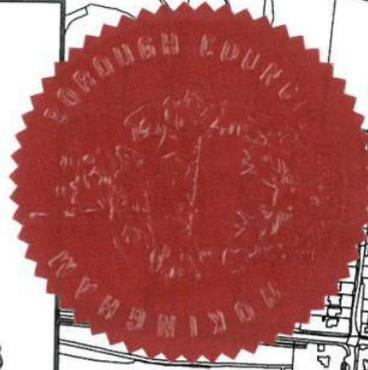
**Woodlands**

(within a continuous black line on the map)

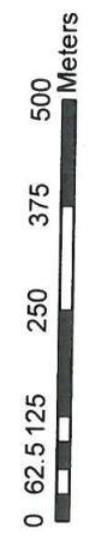
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
W1	All trees of all species located within W1.	Located on land at and adjacent to the Bear Wood Golf Course, East of Mole Road, Sindlesham, RG41 5DP and Gravelpit Hill.
W2	All trees of all species located within W2.	Located on land at and adjacent to The Coombes, Barkham and Ellis Hill Farm, Ellis's Hill, Sindlesham, Wokingham, Berks, RG2 9JG and to the north and east of Alexion House, Coombes Lane, Barkham, RG41 4SU
W3	All trees of all species located within W3.	Located on land at Hazeltons Copse, north side of Cole Lane, Arborfield, median co-ordinates SU67536 76538

30758

MAP REFERRED TO IN THE  
WOKINGHAM BOROUGH COUNCIL  
(PARISHES OF ARBORFIELD AND BARKHAM)  
TREE PRESERVATION ORDER  
NO: 1684/2019  
SOLICITOR: *Poppe*



**WOKINGHAM**  
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1:8,999 MAP 1



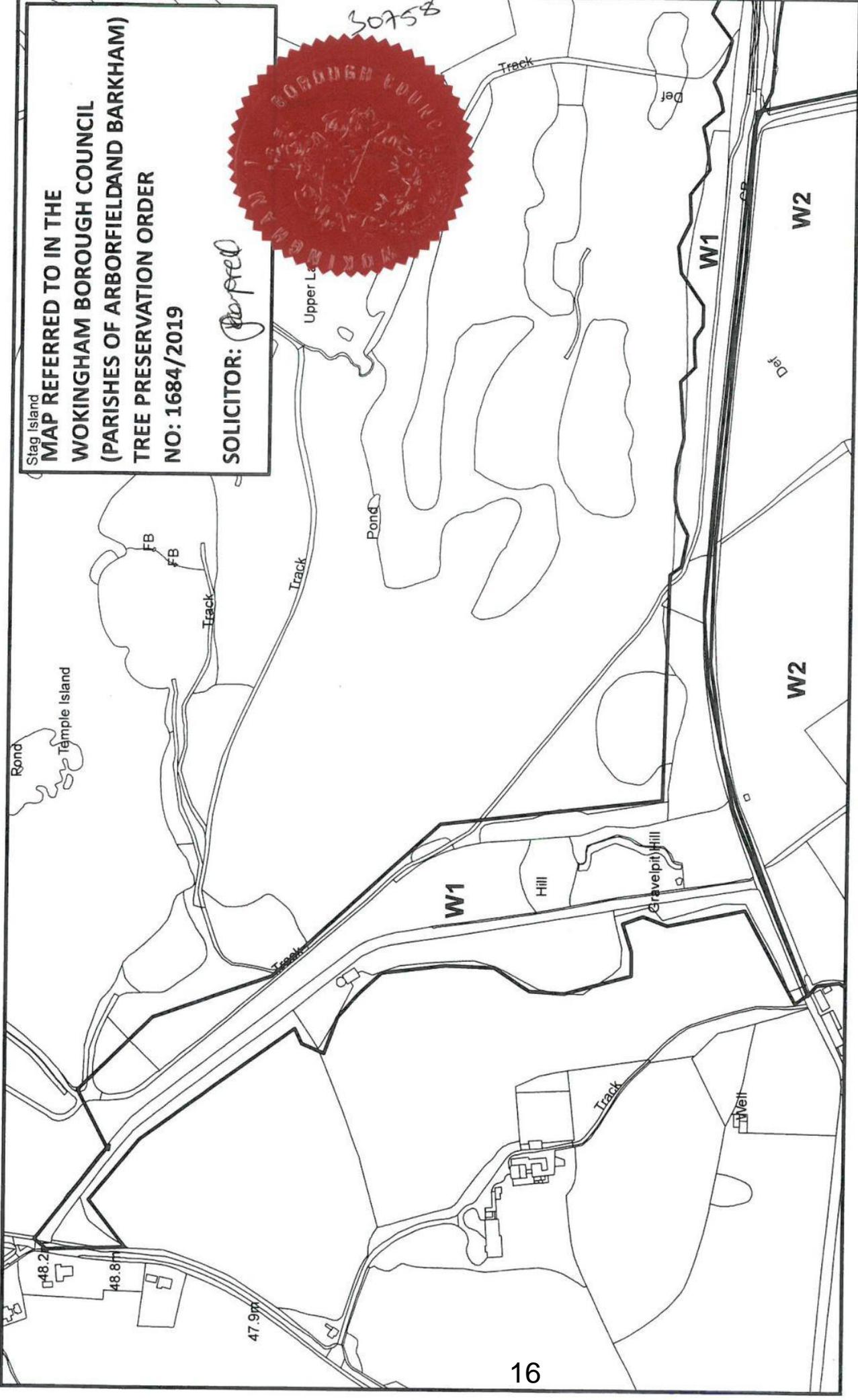
Stag Island

**MAP REFERRED TO IN THE  
WOKINGHAM BOROUGH COUNCIL  
(PARISHES OF ARBORFIELD AND BARKHAM)  
TREE PRESERVATION ORDER  
NO: 1684/2019**

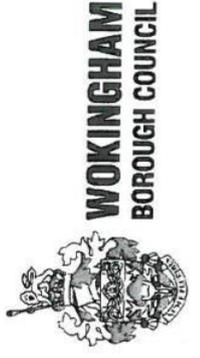
**SOLICITOR:** *Barped*



85508



1:4,497 **MAP 2**



**WOKINGHAM  
BOROUGH COUNCIL**

30758

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WOKINGHAM BOROUGH COUNCIL  
(PARISHES OF ARBORFIELD AND BARKHAM)  
TREE PRESERVATION ORDER  
NO: 1684/2019

*Barrell*



1:4,497 MAP 3



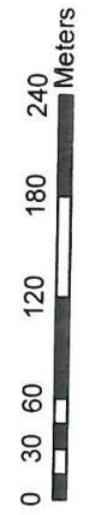
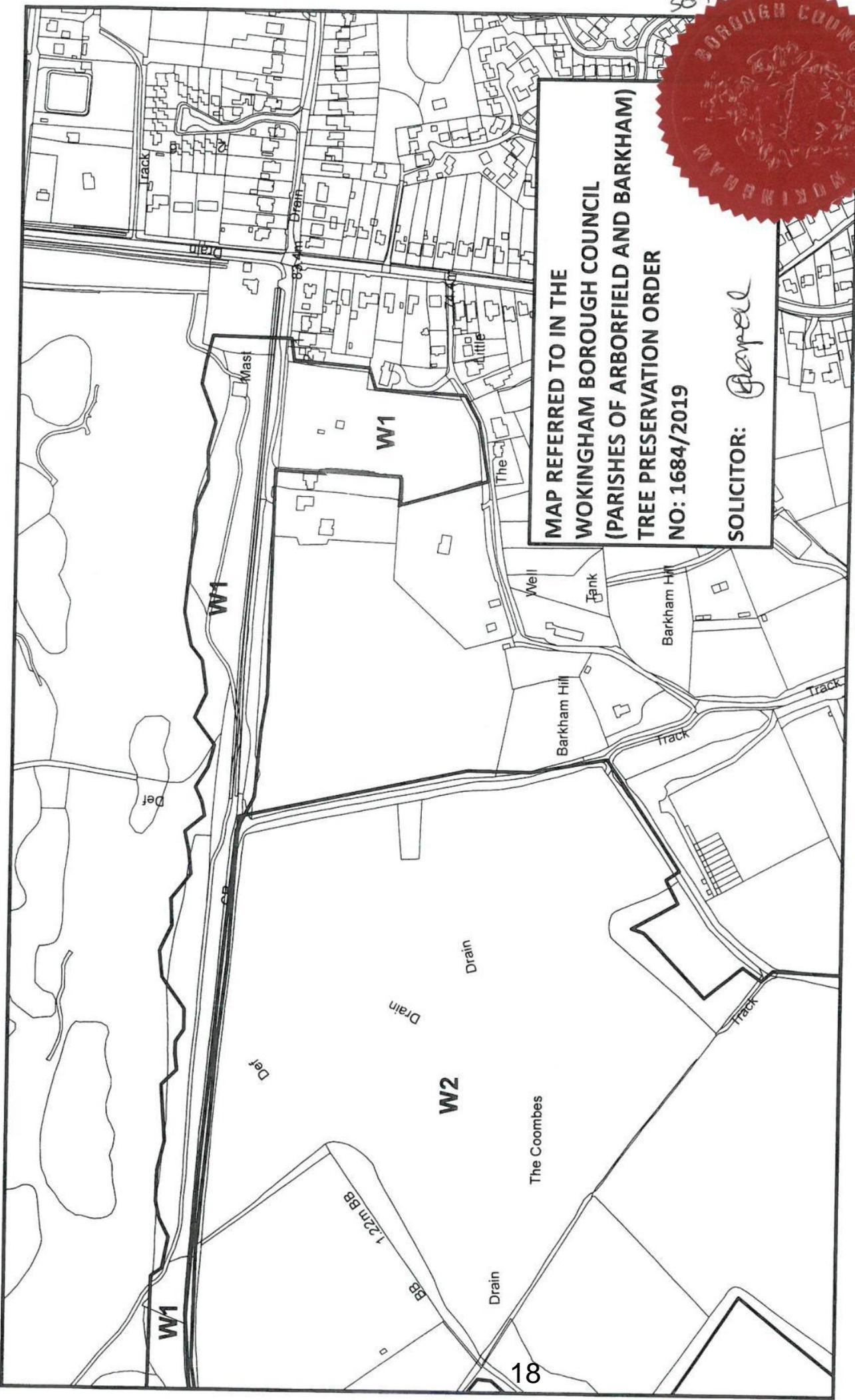
**WOKINGHAM**  
BOROUGH COUNCIL



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**MAP REFERRED TO IN THE  
WOKINGHAM BOROUGH COUNCIL  
(PARISHES OF ARBORFIELD AND BARKHAM)  
TREE PRESERVATION ORDER  
NO: 1684/2019**

**SOLICITOR:** *Penpell*



**1:4,497 MAP 4**



# Order

TPO 371 / 1988

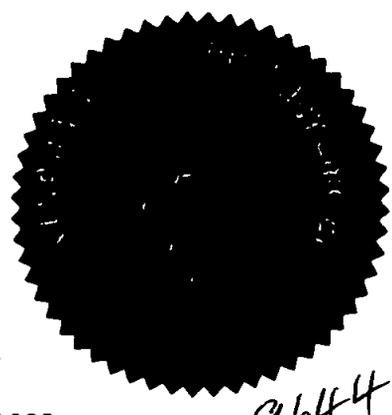
THE WOKINGHAM DISTRICT COUNCIL in  
exercise of the powers conferred  
on them in that behalf hereby  
confirm the foregoing Order without  
modification.

IN WITNESS whereof the Common Seal  
of the WOKINGHAM DISTRICT COUNCIL was  
hereunto affixed in the presence of

*J. Marshall*

District Secretary

Dated: 24th June 1988



9644

22nd April 1988

Town and Country Planning Acts 1971 - 1974

Local Government Planning and Land Act 1980

THE WOKINGHAM DISTRICT COUNCIL

(PARISH OF BARKHAM)

TREE PRESERVATION ORDER NO. 371/1988

Relating to trees situated on land  
at the Coombes  
Barkham  
Berkshire

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACTS 1971-74  
LOCAL GOVERNMENT PLANNING AND LAND ACT 1980

WOKINGHAM DISTRICT COUNCIL

PARISH OF BARKHAM

TREE PRESERVATION ORDER NO. 371/1988

The Wokingham District 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 (as amended by Section 10(1) of the Town and Country Amenities Act 1974 and Section 90 and Schedule 15 of the Local Government Planning and Land Act 1980) 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 sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession; and 'the Secretary of State' means the Secretary of State for the Environment.

2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the Authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, wilful damage, or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups of trees and woodlands as 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 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 interest of amenity to maintain the special character of the woodland or the

woodland character of the area and shall not impose conditions on such consent requiring replacement or replanting.

- (2) The Authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the Authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands, and every such register shall be available for inspection by the public at all reasonable hours.
5. Where the Authority refuse consent under this Order or grant such consent subject to conditions, they may, when refusing or granting consent, certify in respect of any trees for which they are so refusing or granting consent that they are satisfied:-
- (a) that 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 Secretary of State dispense with replanting.

The Authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall subject to the provisions of this Order and Section 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, drainage, 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 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.

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)).

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 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
  - (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 affected by delivering the claim at the offices of the Authority,

addressed to the District Secretary 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 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 179 of the Act.
13. 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.
14. This Order may be cited as the Wokingham District Council (Parish of Barkham) Tree Preservation Order No. 371/1988

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 £2000 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 £200 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 other than one to which an Order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by Section 60(6) of the Town and Country Planning Act 1971 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.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

(encircled in black on the map)

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

NONE

TREES SPECIFIED BY REFERENCE TO AN AREA

(Within a dotted black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
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None

GROUPS OF TREES

(Within a broken line on the map)

<u>No.</u> <u>on Map</u>	<u>Description</u>	<u>Situation</u>
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NONE

WOODLANDS

(Within a continuous black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
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WOODLAND AREA W.1                      Contains a mixture of the following species:

Sweet Chestnut	- Castanea sativa of varying age groups scattered throughout the area
Oak	- Quercus robur of various age group
Turkey Oak	- Quercus cerris of various age groups
Birch	- Betula pendula of various age groups
Alder	- Alnus glutinos of various age groups located mainly in the wetter areas of the woodland
Beech	- Fagus sylvatica relatively mature specimens
Scots Pine	- Pinus sylvestris, mature specimens in isolated groups within the woodland
Larch	- Larix decidua, mature specimens situated solely in compartments 'a' and 'b'

The understorey is a mixture of Hazel - Corylus aellena and Rhododendron - Rhododendron ponticum

The approximate grid Reference for the centre of Woodland W.1 is SU 47750 -16760

Woodland Area W.2 contains a mixture of

Lime	- Tilia x Europea, all mature specimens
Sweet Chestnut	- Castanea sativa, of varying age groups
Oak	- Quercus Robur, of varying age groups together with a few Birch pendula and Sycamore
	- Acer pseudoplatanus, the majority of which are mature specimens

The approximate grid reference for the centre of Woodland W.2 is SU 47750 - 16790

## 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 and 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 or other grant scheme under Section 4 of the Forestry Act 1967, except a scheme which applies to a forestry dedication covenant;
- (3) the cutting down, uprooting, topping or lopping of a tree
  - (a) in pursuance of the power conferred on British Telecommunications by virtue of Section 5 of the Telegraph (Construction) Act 1908 and Section 11 of the British Telecommunications Act 1981, or by or at the request of British Telecommunications where the land on which the tree is situated is operational land as defined by the Post Office Operational Land Regulation (as applied to British Telecommunications under Section 88 and paragraph 1 of Schedule 4 to the British Telecommunications Act 1981) and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing in the operation of the undertaking
  - (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, 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 of working of any such line;
    - (iii) a river authority established under the Water Resources Act 1963, or a drainage board constituted or treated as having been constituted under the Land Drainage Act 1980, 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 a 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, the Civil Aviation Authority or the British Airports Authority where in the opinion of such Secretary of State or Authority 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 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, 1971, as adapted and modified to apply to this Order.

- 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 insofar as the consent otherwise provides), enure for the benefit of the land and all persons for the time being interested therein.
- 35. (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 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 so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
  - (6) The decision of the Secretary of State 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 Secretary of State.

- (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 Secretary of State may allow.
- (3) Where an appeal is brought under this Section from a decision, certificate or direction of the Authority, the Secretary of State, 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 vary any direction, and may deal with the application as if it has been made by him in the first instance.
- (4) Before determining an appeal under this section, the Secretary of State 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 Secretary of State for the purpose.
- (6) The decision of the Secretary of State 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 Secretary of State 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 46 and 61 of the Act) an Order under this section shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State 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 Secretary of State for his confirmation under this section, the Authority shall furnish

the Secretary of State 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 Secretary of State, 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 Secretary of State 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 serviced in accordance with the provisions of sub-section (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 Secretary of State under sub-section (2) of this section.

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 Secretary of State for confirmation by him, and 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 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 (not less than 14 days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no notice is given to the Secretary of State, such Order may take effect by virtue of this section and without being confirmed by the Secretary of State.

- (3) The Authority shall also serve notices to the same effect on the persons mentioned in sub-section (1) above.

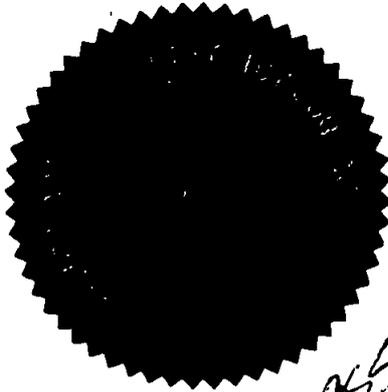
- (4) The Authority shall send a copy of any advertisement published under sub-section (2) above to the Secretary of State, not more than three days after the publication.

- (5) If within the period referred to in sub-section (2)(a) above no person claiming to be affected by such Order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that such Order be submitted to him for confirmation, such Order shall at the expiration of the period referred to in

sub-section (2)(b) of this section take effect by virtue of this section and without being confirmed by the Secretary of State as required by Section 45(2) of the Town and Country Planning Act 1971.

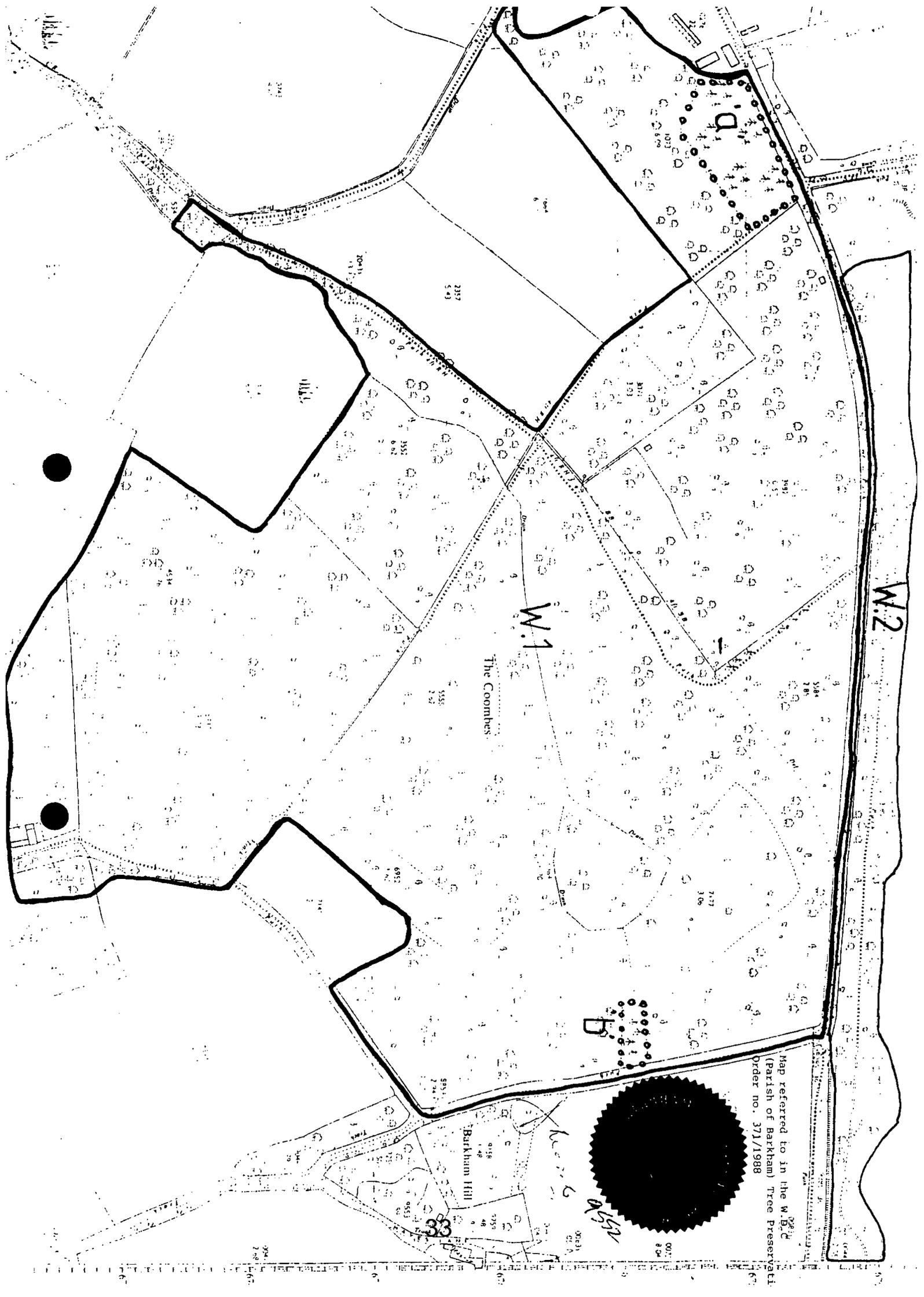
- (6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Parts III, IV or V of the Town and Country Planning Act 1971.

THE COMMON SEAL OF THE  
WOKINGHAM DISTRICT COUNCIL  
was hereunto affixed this  
22nd day of April in the  
year Nineteen hundred and eighty eight  
in the presence of:-



*[Handwritten signature]*  
District Secretary

*[Handwritten initials]*



W.1

W.2

The Coombes

Barkham Hill

Map referred to in the W.B.C.  
(Parish of Barkham) Tree Preservation  
Order no. 371/1988



33

Kerr's

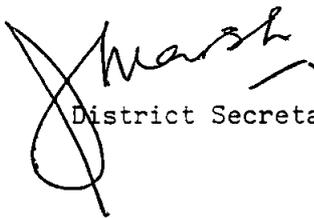
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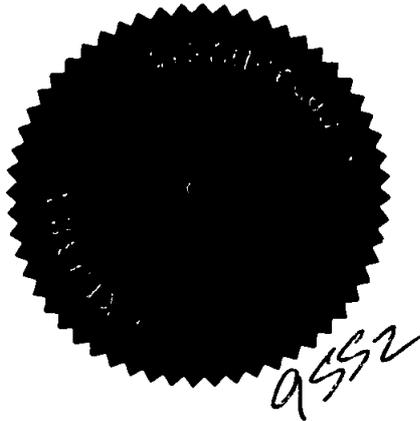


sub-section (2)(b) of this section take effect by virtue of this section and without being confirmed by the Secretary of State as required by Section 45(2) of the Town and Country Planning Act 1971.

- (6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Parts III, IV or V of the Town and Country Planning Act 1971.

THE COMMON SEAL OF THE  
WOKINGHAM DISTRICT COUNCIL  
was hereunto affixed this  
22nd day of April in the  
year Nineteen hundred and eighty eight  
in the presence of:-

  
District Secretary



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### Appendix 3 Landowner and Neighbour comments:

Only five representations have been received and all except one are from owners of houses adjacent to the area of the TPO. The third representation below\*, has led to a commitment by the Head of Planning to bring this confirmation to Committee.

name and address	Objection/comment	action taken	reasoning (action prior to TPO confirmation)
2 Coombes Lane Wokingham RG41 4SU	1) Is laurel and holly included? 2) Site boundary incorrect on our plans 3) no trees at the front of his site 4) Wish to have replanted TPO 371/1988 woodland removed from TPO	Trees and & Landscape (T&L) team manager telephone call 26.4.19	1) holly is included, laurel not 2) boundaries could be corrected prior to confirmation so long as they don't include additional trees. 3) confirmed veteran tree destroyed by wind. NB Not on TPO 371/1988 4) woodland in old TPO removed by predecessor and kindly replanted by Mr Vieira stays in the new TPO.
37 Alexion House Coombes Lane Wokingham RG41 4SU	Received 29.4.19 1) Why is his house named on the order 2) does the req for info need to be returned again 3) did others get the req for info 4) boundary clarification 5) will the council prune the trees	T&L email reply 9.5.19	1) It's a notable place near the extremity of the order, bounded on 2 sides by the TPO 2) yes, it's a new order 3) yes, everyone was served with the order 4) go to Land Registry 5) ownership does not transfer - trees are the owner's responsibility
Resident*	No objection made but the head of planning committed that the TPO would be taken to planning committee for consideration	Head of Planning confirms TPO confirmation will be discussed in planning committee	

The Cottage  
Hayes Lane  
Wokingham  
RG41 4TA

Received 18.4.19

1) Drawn boundary of the TPO is not accurate

acknowledged TPO to be considered before confirmation 1.5.19

1)Boundaries could be corrected prior to confirmation so long as they don't include additional trees.

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Silent Springs  
Hayes Lane  
Barkham  
RG41 4TA

Received 18.4.19

1) Drawn boundary of the TPO is not accurate  
2) they have removed conifers under good management  
3) they want to weed their garden of oak saplings

acknowledged will be considered before confirmation 2.5.19

1)Boundaries could be corrected prior to confirmation so long as they don't include additional trees.  
2)TWA could be used  
3)TWA could be used