BS/BY/360

The Conservator,
Forestry Commission,
N.E. England Conservancy,
1a Grosvenor Terrace,
York.
YO1 7BD

2nd October 1990.

Dear Sirs,

Re: Town and Country Planning Acts 1971/74
Town and Country Planning (Tree Preservation Order) Regulations 1969
The Borough of Castle Morpeth (Lilac Cottage, Ellington) Tree Preservation Order 1990

I refer to my letter of the 8th August concerning the above and write to advise you that the above Order which relates to trees on the south-eastern corner of "Lilac Cottage", Cresswell Road, Ellington has now been confirmed by the Council in the form as previously supplied to you.

Yours faithfully,

MAURICE COLE
Chief Executive

Mrs Stroughton

BOROUGH OF CASTLE MORPETH

TOWN AND COUNTRY PLANNING ACTS 1971-74

THE BOROUGH OF CASTLE MORPETH

(LILAC COTTAGE, ELLINGTON)

TREE PRESERVATION ORDER 19 90

The Borough Council of Castle Morpeth (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 by 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 make the following Order:-

1. In this Order -

"The Act" means the Town & Country Planning Act, 1971.

"Owner" means the owner of fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; a lessee (including a sub-lease) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession.

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 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 (incuding 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 of replanting.

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

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

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

(b) in the case of trees, other than trees comprised in a group of trees or 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(c).

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 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 (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 this 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 water authority since 31 March 1974, by any other authority (whose functions are now exercised by a water authority) who at any time prior to 1 April 1974 exercised the functions in respect of which the byelaw was made or by a drainage 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 water authoirty and the drainage 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 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 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 and, if applicable, Section 61 of the Act or having effect as if so made or under the terms of any Interim Preservation Order made under Section 8 of the Town & 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 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.

12. Any question of disputed compensation shall be determined in accordance with 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 Eighth day of August 19 90

14. This Order may be cited as the Borough of Castle Morpeth. (Lilac Cottage, Ellington) Tree Preservation Order, 1990.

Given under the Common Seal of the Borough Council of Castle Morpeth this Eighth day of August 19 90

NOTE: Any persons 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 manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding £400 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 be 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

The plan referred to is based on the 1:2500 Ordnance Survey Northumberland Edition of 19, Plan No. NZ 2892. The area covered by the Order is situated in the south eastern corner of the property known as 'Lilac Cottage', Cresswell Road and is wholly within the Borough of Castle Morpeth in the County of Northumberland.

TREES SPECIFIED INDIVIDUALLY

No. referred to on plan	Description	Situation
		The following tree is measured from the most southerly corner of the garden where it abuts the northern boundary of 'Woodside'.
T1	Multi-stemmed Silver Birch	This tree is measured in a north easterly direction 30.0m from the said corner and offset 5.0m to the west.

TREES SPECIFIED BY REFERENCE TO AN AREA

A1	This defined area contains Oak and Silver Birch.	The group spreads from the said corner 25.0m north west and 25.0m north east. It forms a segment with a varying radius of between 23.0m and 25.0m.

GROUPS OF TREES

None

WOODLANDS

None

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 or 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 the Post Office by virtue of Section 5 of the Telegraph (Construction) Act 1908 and Section 21 of the Post Office Act 1969, or by or at the request of the Post Office where the land on which the tree is situated in operational land as defined by the Post Office Operational Land Regulations 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

(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;

(iii) a water authority established under the Water Act 1973, or a drainage board constituted or treated as having been constituted under the Land Drainage Act, 1930 where the tree interferes or would interfere with the exercise of any of the functions of such water authority on drainage board in relation to the maintenance improvement or construction of water courses or of drainage works; or

THE COMMON SEAL OF THE MAYOR)
COUNCILLORS & INHABITANTS OF)
THE BOROUGH OF CASTLE MORPETH)
was hereunto affixed in the)
presence of:-)

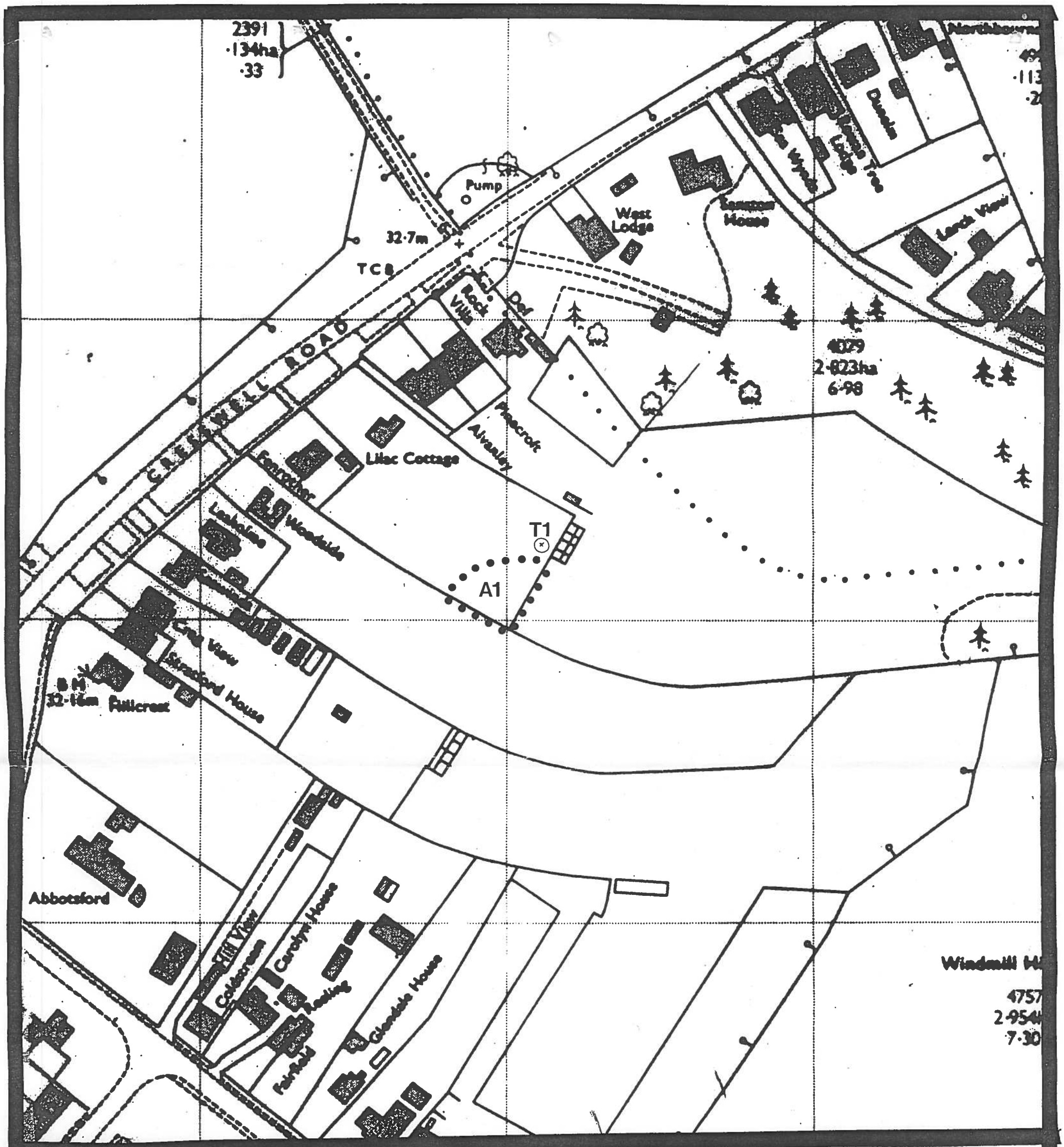


Seal No 5551

Clive Temple.

MAYOR

CHIEF EXECUTIVE



BOROUGH OF CASTLE MORPETH

LILAC COTTAGE

CRESSWELL ROAD, ELLINGTON

TREE PRESERVATION ORDER 1990

SCALE

1:1250

J.A.WOODCOCK BA MRTPI