

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (TREE PRESERVATION) (ENGLAND) REGULATIONS 2012

THE TREE PRESERVATION ORDER NO. TPO/2022/010

Address: Land Adjacent 40 Finchland View South Woodham Ferrers Chelmsford Essex

The Chelmsford City Council, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 make the following Tree Preservation Order (“the Order”):-

Citation

1. This Order may be cited as the Chelmsford City Council Tree Preservation Order No. **TPO/2022/010**

Interpretation

2. (1) In this Order “the authority” means the Chelmsford City 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 is it 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 to 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, uprooting, lopping, 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.

Application to trees to be planted pursuant to a condition

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 13th day of September 2022

Signed on behalf of the Chelmsford City Council

David Green

Director of Sustainable Communities
Authorised by the Council to sign in that behalf

**SCHEDULE 1
THE PROPOSED CHELMSFORD
TREE PRESERVATION ORDER TPO/2022/010**

**TREES SPECIFIED INDIVIDUALLY
(ENCIRCLED IN BLACK ON THE MAP)**

T1 Norway maple (purple) - situated to the front of the site

**TREES SPECIFIED BY REFERENCE TO AN AREA
(WITHIN A DOTTED BLACK LINE ON THE MAP)**

None

**GROUPS OF TREES
(WITHIN A BROKEN BLACK LINE ON THE MAP)**

None

**WOODLANDS
(WITHIN A CONTINUOUS BLACK LINE ON THE MAP)**

None

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

PART 6

COMPENSATION

Compensation

24.-(1) If, on a claim under this regulation, a person establishes that loss or damage has been caused or incurred in consequence of-

(a) the refusal of any consent required under these Regulations;

(b) the grant of any such consent subject to conditions; or

(c) the refusal of any consent, agreement or approval required under such a condition, that person shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

(2) No claim, other than a claim made under paragraph (3), may be made under this regulation-

(a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or

(b) if the amount in respect of which the claim would otherwise have been made is less than £500.

(3) Where the authority refuse consent under these Regulations for the felling in the course of forestry operations of any part of a woodland area-

(a) they shall not be required to pay compensation to any person other than the owner of the land;

(b) they shall not be required to pay compensation if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is subject to an appeal to the Secretary of State, the date of the final determination of the appeal; and

(c) such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.

(4) In any case other than those mentioned in paragraphs (2) or (3), no compensation shall be payable to a person-

(a) for loss of development value or other diminution in the value of the land;

(b) for loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;

(c) for loss or damage reasonably foreseeable by that person and attributable to that person's failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or

(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under these Regulations or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 of the Forestry Act 1967(**22**) (terms of compensation on refusal of licence) shall apply to the assessment of compensation under paragraph (3) as they apply to the assessment of compensation where a felling licence is refused under section 10 of the Act(**23**) (application for felling licence and decision of Commissioners thereon), as if-

(a) for any reference to a felling licence there were substituted a reference to a consent required under these Regulations; and.

(b) for the reference to the Commissioners there were substituted a reference to the authority.

(6) Claims for payment of compensation by virtue of paragraph (1) shall be made in writing to and paid by the authority.

(a) This paragraph applies where-

(i) an authority have granted consent under regulation 17(1) and (3) for felling in the course of forestry operations all or any part of a woodland area to which an order applies;

(ii) such consent is granted subject to a condition under regulation 17(2)(a) requiring trees to be planted; and;

(iii) the Forestry Commissioners decide not to make a grant or loan under section 1 of the Forestry Act 1979(**24**) (finance for forestry) in respect of the planting required by such a condition as is mentioned in paragraph (ii) for the reason that such a condition frustrates the use of the woodland area for growing of timber or other forest products for commercial purposes and in accordance with the rules or practice of good forestry;

(b) where this paragraph applies, the Forestry Commissioners shall, at the request of the person under a duty to comply with such a condition as is mentioned in sub-paragraph (a)(ii), give a certificate stating whether they have decided not to make such a grant or loan as is mentioned in sub-paragraph (a)(iii) and, if so, the grounds for their decision.

(8) Any question of disputed compensation under this regulation shall be referred to and determined by the Upper Tribunal(**25**).

(9) In relation to the determination of any such question, the provisions of section 4 of the Land Compensation Act 1961(**26**) (costs for proceedings of Upper Tribunal) and sections 22 (Tribunal Procedure Rules) and 29 (costs or expenses) of the Tribunals, Courts and Enforcement Act 2007 shall apply subject to any necessary modifications and to the provisions of these Regulations.

(10) This regulation shall not apply to orders to which regulations 26(3) or 26(4) apply.

(11) In this regulation-

“development value” means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and “owner” has the meaning given by section 34 of the Forestry Act 1967(**27**) (meaning of “owner”).