

Town and Country Planning Act 1990
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999
TPO 371A

**Trees adjacent to 3 – 41 Farnborough Road & 1 – 19 Maitland
Road, Farnborough, Hampshire, 2004.**

Rushmoor Borough Council, exercise of the powers conferred on them by sections 198, 201^(a) and 203 of the town and Country Planning Act 1990 ^(b) and Regulations 1999, hereby make the following Order –

Citation

1. This Tree Preservation Order shall be cited as TPO 371A, Trees adjacent to 3 – 41 Farnborough Road & 1 – 19 Maitland Road, Farnborough, Hampshire, 2004.

Interpretation

2. In this Order “the authority” means Rushmoor Borough Council and unless the context otherwise requires, any reference in this Order to a number section is a reference to the section so numbered in the Town and County Planning Act 1990.

Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Variation Order, and accordingly, this Order shall take effect provisionally on 22.12.04

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation order)^(c)(c) or subsection (3) of section 200 (orders affecting land where Forestry Commissioners interested), and subject to article 5, no person shall –

^(a) Under section 199(1), tree preservation orders generally do not take effect until confirmed, but a direction may be given under section 201 for an order to take provisional effect immediately.

^(b) Where the Order is to be made under the sections cited and section 300 of the Town and Country Planning Act 1990, all those provisions should be cited, as should the fact of the consent of the appropriate authority. As to the circumstances in which the consent of the Forestry Commission is required (and should be cited) see section 200(1) of that Act.

^(c) Subsection (6) of section 198 exempts from the application of tree preservation orders the cutting down, uprooting, topping or lopping of trees which are dying, dead or have become dangerous, or the undertaking of those acts 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. Subsection (7) of that section makes section 198 subject to section 39(2) of the Housing and Planning Act 1986 (c.63) (saving for effect of section 2(4) of the Opencast Act 1967 1958 on land affected by a tree preservation order despite its repeal) and section 15 of the Forestry Act 1967 (c.10) (licences under that Act to fell trees comprised in a tree preservation order).

- (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 Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

5. (1) Nothing in article 4 shall prevent –

- (a) the cutting down, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land^(d) of the statutory undertaker and the work is necessary –
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995^(a)
- (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
- (c) the pruning in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
- (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
- (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995.

^(d) See section 263 of the town and Country Planning Act 1990.

^(a) S.I. 1995/418.

- (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991^(b); or
- (g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989^(c).
- (2) In paragraph (1), "statutory undertaker" means any of the following –
- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,
 - a relevant airport operator (within the meaning of Part V of the Airports Act 1986)^(d)
 - the holder of a licence under section 6 of the Electricity Act 1989,
 - a public gas transporter,
 - the holder of a licence under section 7 of the Telecommunications Act 1984^(e) to whom the telecommunications code (within the meaning of that Act) is applied.
 - a water or sewerage undertaker,
 - the Civil Aviation Authority or a body acting on behalf of that Authority,
 - the Post Office.

Applications for consent under the Order

6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall –

- (a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
- (b) specify the work for which consent is sought; and
- (c) contain a statement of the applicant's reasons for making the application.

Application of provisions of the Town and Country Planning Act 1990

(b) 1991 c.59, see section 72.

(c) 1989 c.29.

(d) 1986 c.31.

(e) 1984 c.12.

(1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part 1 of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting

8. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

(3) A direction under paragraph (1) may include requirements as to –

- (a) species;
- (b) number of trees per hectare;
- (c) the preparation of the relevant land prior to the replanting; and
- (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

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

- (a) the refusal of any consent required under this Order; or
- (b) the grant of any such consent subject to conditions,

he 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 article –

- (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 this Order for the felling in the course of forestry operations or any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and 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 other case, 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 statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, 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 his 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 this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article –

“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 to it by section 34 of the Forestry Act 1967.

TREE PRESERVATION ORDER 2004 (No. 371/ 371A)

LIST OF ALL PEOPLE SERVED WITH ORDER AND NOTICE

The Owner/ Occupier,
23 – 41 (odds) & 3 – 13 (odds) Farnborough Road,
Farnborough,
Hants GU14 6BD.

The Owner/Occupier,
1 – 5, 18, 19 Maitland Road,
Farnborough,
Hants GU14 6BE.

Defence Estates,
South East Business Unit,
Blandford House,
Aldershot,
Hants Gu11 2HA.

Pavilion Housing Association Ltd.,
Gordon House,
Gordon Road,
Aldershot,
Hants GU11 1LD.

TAG Farnborough Airport Ltd.,
Farnborough,
Hants GU14 6XA.

Rushmoor Borough Council,
Property Services,
Council Offices,
Farnborough Road,
Farnborough,
Hants GU14 7JU

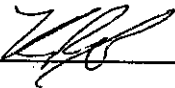
St Marks Ward Councillors: N.M. Baines, D.B. Bedford, J.L. Starling.

TREE PRESERVATION ORDER: 371

**Trees adjacent to 3 – 41 Farnborough Road & 1 – 19 Maitland Road,
Farnborough, Hampshire, 2004.**

It is expedient in the interest of amenity to make provision for the preservation of trees on the above site and that a Tree Preservation Order should be issued in respect of the above site.

Signed _____



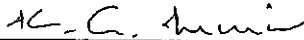
Head of Planning Services

Dated: _____

23.12.04

Agreed

Signed _____



Solicitor to the Council

Dated: _____

4/1/05

Dated 4th day of January 2004/5

The Common Seal of *Rushmoor Borough Council*
was hereunto affixed in the presence of –

405

J. H. Ward
.....
Leader of the Council or appropriate Council Member.

K. C. ...
.....
Solicitor to the Council

SCHEDULE 1

Article 4

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

Reference on map	Description	Situation
T1	Oak	Adj. 41 Farnborough Rd
T2	Oak	Adj. 29 Farnborough Rd
T3	Sycamore	Adj. 27 Farnborough Rd
T4	Oak	Adj. 23 Farnborough Rd
T5	Oak	Adj. 13 Farnborough Rd
T6	Oak	Adj. 11 Farnborough Rd
T7	Sycamore	Adj. Farnborough Road
T8	Horse Chestnut	Adj. Farnborough Road
T9	Oak	Adj. Farnborough Road
T10	Oak	Adj. Farnborough Road
T11	Oak	Adj. Farnborough Road
T12	Oak	North of El. Sub Station
T13	Oak	North of El. Sub Station
T14	Oak	Adj. 7 Farnborough Rd
T15	Oak	Adj. 7 Farnborough Rd
T16	Oak	West of El. Sub Station
T17	Oak	West of El. Sub Station
T18	Oak	3 Farnborough Road
T19	Birch	19 Maitland Road
T20	Oak	9 Farnborough Road
T21	Oak	9 Farnborough Road
T22	Birch	33 Farnborough Road

Trees specified by reference to an area
(within a dotted black line on the map)

Reference on map	Description	Situation
	NONE	

Groups of trees
(within a broken line on the map)

Reference on map	Description (including a number of trees in the group)	Situation
	NONE	

Woodlands
(within a continuous black line on the map)

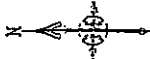
Reference on map	Description	Situation
	NONE	



RUSHMOOR BOROUGH COUNCIL

DIRECTORATE OF ENVIRONMENTAL SERVICES

KEITH HOLLAND, BA, MRTP
HEAD OF PLANNING SERVICES
COUNCIL OFFICES
FARNBOROUGH ROAD, FARNBOROUGH
HANTS, GU14 7JU
TEL: (01252) 398398



TREE PRESERVATION ORDER No 371 A

TREE SCHEDULE: Please refer to schedule 1

T1 - T23 INDIVIDUAL TREES
G1 GROUP OF TREES

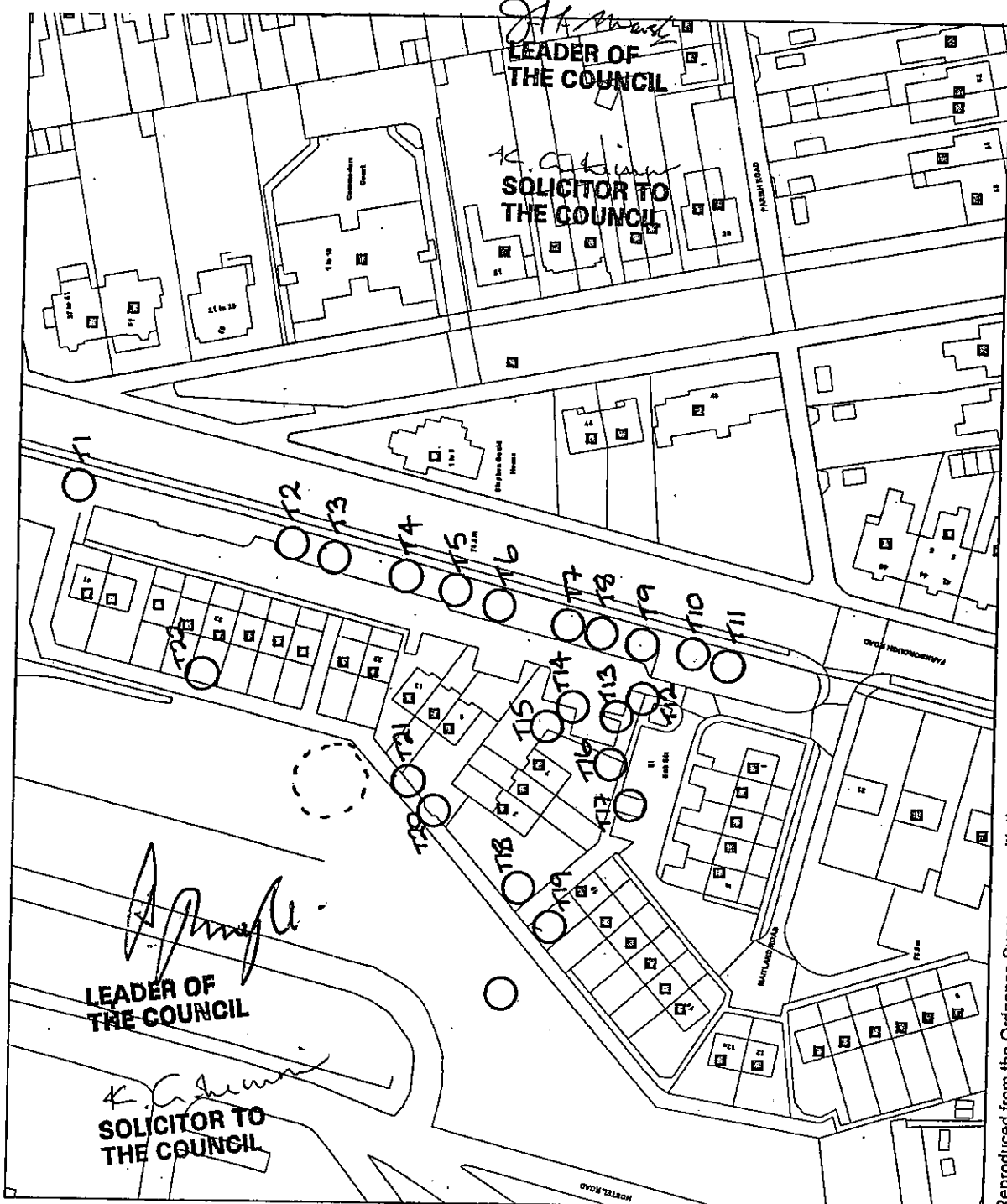
Location: -

Trees adjacent to 3 - 41 Farnborough Road
& 1 - 19 Maitland Road,
Farnborough,
Hampshire

Date: 22/12/2004 Map Reference: E.486877 N.153825
Scale: 1:1250

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**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 199)
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999**

RUSHMOOR BOROUGH COUNCIL

TPO 371A

**Trees adjacent to 3 – 41 Farnborough Road & 1 – 19 Maitland Road,
Farnborough, Hampshire, 2004.**

Under the provisions of Section 199 of the Town and Country Planning Act 1990 and the Town and Country Planning (Trees) Regulations 1999, Rushmoor Borough Council having considered one representation received in respect of the above Tree Preservation Order, this Order is hereby confirmed with modification as TPO 371A.

Signed.....

Head of Planning Services

Dated...20.6.05.....

AGREED

Signed.....

Solicitor to the Council

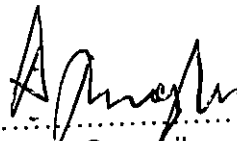
Dated...23/6/05.....

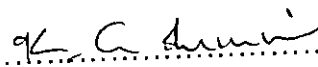
CONFIRMATION OF ORDER 371A

This Order was confirmed by Rushmoor Borough Council with the following modifications:

T23, an Oak tree and G1, a group comprising 2 Oaks and 1 Birch, all on the Farnborough Airfield, have been deleted from Schedule 1 and are therefore no longer protected within this Order.

on the 23rd day of June, 2005


.....
Leader of the Council or appropriate Council Member


.....
Solicitor to the Council

23/9/05



Your reference

Our reference IM/TPO 371

Contact Ian May

Direct line (01252)398737

Extension imay@rushmoor.gov.uk

Date 07 October 2004

Rushmoor Borough Council
Property Services
Council Offices
Farnborough Road
Farnborough
Hants GU14 7JU

Dear Sir/Madam,

IMPORTANT - THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

**TOWN & COUNTRY PLANNING ACT 1990
TOWN & COUNTRY PLANNING (TREES) REGULATIONS 1999**

**Re: REVOCATION ORDER (TPO) No. 132 and replacement TREE
PRESERVATION ORDER No. 371, TREES ADJACENT TO 3 – 41
FARNBOROUGH ROAD & 1 – 19 MAITLAND ROAD, FARNBOROUGH,
HAMPSHIRE. 2005.
RUSHMOOR BOROUGH COUNCIL**

The Government has advised all Councils to review their older Tree Preservation Orders (TPOs) and in particular those that include trees protected by Area designation. This is because significant changes may have occurred in the years since the original TPO was served and so the TPO is likely to now be out of date. In most cases the process is best served by Revoking (removing) the old Order and replacing it with a new up to date Tree Preservation Order. As an affected party with protected trees on or adjoining your land, I am writing to let you know that following a recent tree survey, we have decided that TPO No.132 should be revoked because it no longer adequately reflects the current situation in respect of trees protected by that order and those having grown up since.

THIS IS A FORMAL NOTICE

1. that on 4 January 2005 the Council revoked Tree Preservation Order No. 132. A copy of the Revocation Order along with the map of the old order is enclosed.
2. and that on 4 January 2005 the Council made a replacement Tree Preservation Order No. 371. (The law requires TPOs to be served on the land on which the tree is situated and any land adjoining thereto).

A copy of the new Tree Preservation order is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping any trees described in the First Schedule and shown on the map without the Council's consent.

visit our website at www.rushmoor.gov.uk

Some explanatory guidance on tree preservation orders is given in the enclosed leaflet, *Protected Trees: A Guide to Tree Preservation Orders*, produced by the Office of the Deputy Prime Minister.

The Order was considered necessary to give the Council the opportunity to offer guidance should any work ever be required to these visually prominent trees.

The order took effect, on a provisional basis on 4 January 2005. It will continue in force on this basis for a further 6 months or until the order is confirmed by the council, whichever first occurs.

The Council will now consider whether the order should be confirmed, that is to say, whether it should take effect formally. Before this decision is made, the people affected by the order have the right to make objections or other representations about any of the trees, groups of trees or woodlands covered by the order.

If you would like to make any objections or other comments in respect of the new Tree Preservation Order, please make sure we receive them in writing by **7th February 2005**. Your comments must comply with regulation 4 of the Town & Country Planning (Trees) Regulations 1999, a copy of which is provided at the end of this notice. Please send your comments to the Conservation Section at the Council Offices. All valid objections and representations are carefully considered before a decision on whether to confirm the order is made.

The Council will write to you again when a decision has been made. In the meantime, if you would like any further information or have any questions about this letter, please do not hesitate to contact me on 01252 398 737.

Yours sincerely



IAN MAY
Arboricultural Officer (Planning Services)

**COPY OF REGULATION 4 OF THE TOWN & COUNTRY PLANNING (TREES)
REGULATIONS 1999**

Objections and representations

4 (1) Subject to paragraph (2), objections and representations -

(a) shall be made in writing and -

(i) delivered to the authority not later than the date specified by them under regulation 3(2)(c); or

(ii) sent to the authority in a properly addressed and pre-paid letter posted at such a time that, in the ordinary course of post, it would be delivered to them not later than that date;

(b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and

(c) in the case of an objection, shall state the reasons for the objection.

4 (2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.



Your reference

Contact **Ian May**

Our reference **IM/TPO 371A**

Direct line **01252 398737**

Rushmoor Borough Council
Property Services
Council Offices
Farnborough Road
Farnborough
Hants GU14 7JU

e-mail **imay@rushmoor.gov.uk**

Date **28 June 2005**

Dear Sir or Madam,

IMPORTANT - THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

**TOWN & COUNTRY PLANNING ACT 1990
TOWN & COUNTRY PLANNING (TREES) REGULATIONS 1999**

**Re: TREE PRESERVATION ORDER No. 371A, TREES ADJACENT TO 3 – 41
FARNBOROUGH ROAD & 1 – 19 MAITLAND ROAD, FARNBOROUGH, HAMPSHIRE. 2004.
RUSHMOOR BOROUGH COUNCIL**

THIS IS A FORMAL NOTICE to remind you that on 4th January 2005 the Council made the above tree preservation order, and sent you a copy.

The Council, in deciding whether or not the order should be confirmed (or, in other words, made permanent), has considered two representations made about the order before reaching its decision. On **23rd June 2005** the Council decided **to confirm the order subject to modification**: T23, an Oak tree and G1, a group comprising 2 Oaks and 1 Birch, all on the Farnborough Airfield, have been deleted from Schedule 1 and are therefore no longer protected within this order.

A copy of the modified order TPO 371A is enclosed. In simpler terms, it prohibits anyone from cutting down, topping or lopping any remaining trees described in the First Schedule and shown on the map of the modified order, without the Council's consent.

Some explanatory guidance on tree preservation orders is given in the previously sent leaflet, *Protected Trees: A Guide to Tree Preservation Orders*, produced by the Department of Transport, Local Government and the Regions.

If you disagree with our decision you can challenge it by applying to the High Court under sections 284 and 288 of the Town and Country Planning Act 1990. You can apply to the High Court if you believe:

(1) the order is not within the powers of the Town and Country Planning Act 1990; or

(2) the requirements of the 1990 Act or Town and Country Planning (Trees) Regulations 1999 have not been met.



INVESTOR IN PEOPLE

visit our website at www.rushmoor.gov.uk

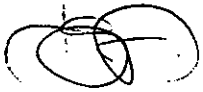


Awarded for excellence

You must apply to the High Court within six weeks from the date of our decision.

For more information about our decision or if you have any questions about this letter, please do not hesitate to contact me on 01252 398 737.

Yours faithfully



 **IAN MAY**
Arboricultural Officer (Planning Services)