Confirmed 12/10/81.

THE SOUTH STAFFORDSHIRE DISTRICT COUNCIL

TREE PRESERVATION ORDER NO.59 (1981)

TOWN AND COUNTRY PLANNING ACT 1971

LAWNSWOOD DRIVE, WORDSLEY

The South Staffordshire District Council in this order called "the Council" in pursuance of the powers conferred in that behalf by Section 60 (and 61) of the Town and Country Planning Act 1971, and subject to the provisions of the Forestry Act, 1967, hereby make the following Order:-

1. In this Order:-
"the Act" means the Town and Country Planning Act 1971;
"owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more and a mortgage 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 Council 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 specified therein, 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 Council under clause 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. - Where the Council 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 either that the refusal or condition is in the interests of good forestry or in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.

5.(a)Where an application for consent is made to the Council 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 Council may think fit, or may refuse consent.

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

9. - In assessing compensation payable under the last preceding Clause 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, Section 29 of the Town and Country Planning Act 1962 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 comepnsation 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.

10(a)A claim for compensation under this Order shall be in writing and shall be made by serving it on the Council, such service to be effected by delivering the claim at the offices of the Council addressed to the Chief Executive and Clerk or by sending it by recorded delivery post so addressed.

(b)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 Council, 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 Council, from the date of the decision of the Secretary of State on the appeal.

11.- 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.

12.- Any question of disputed compensation shall be determined in accordance with the provisions of Section 179 of the Act.

13((a)The provisions of section 61 of the Act shall apply to this Order and the Order shall take effect on 21st July 1981)

~~((b)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.~~)

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 £1,000 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.

SECOND SCHEDULE

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

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

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

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

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

(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, uprooting, 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 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 1930, where the tree interferes or would interfere with the exercise of any of the functions of such river authority, drainage 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 and Industry or the Board of Trade where in the opinion of such Secretary of State or Board the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations;

(c) where immediately required for the 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 Part III of the Act 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 Council on the granting of such consent, shall (except in so far as the consent otherwise provides), enure for the benefit of the land and of all persons for the time being interested therein.

35. Reference of applications to the Secretary of State - (1) The Secretary of State may give directions to the Council requiring applications for consent under the Order to be referred to him instead of being dealt with by the Council.

(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 seciton, the provisions of clause 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the Council.

(5) Before determining an application referred to him under this section the Secretary of State shall, if either the applicant or the Council 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. Appeals against decisions - (1) Where an application is made to the Council for consent under the Order and that consent is refused by that Council or is granted by them subject to conditions, or where any certificate or direction is given by the Council, 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 Council, the Secretary of State, subject to the following provisions of this seciton, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the Council, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

(4) Before determining an appeal under this section, the Secretary of State shall, if either the appellant or the Council 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.

(5) The decision of the Secretary of State on any appeal under this section shall be final.

37. Appeal in default of decision - Where an application for consent under the Order is made to the Council 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 Council, the Council 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 of the Act;

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 Council, 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. Power to revoke or modify the consent under the order - (1) If it appears to the Council 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 Council may by Order revoke or modify the consent to such extent as they consider expedient.

(2) Subject to the provisions of sections 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 a Council 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 Council, 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 served in accordance with the provisions of sub-section (3) of this section, the 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 Section (2) of this section.

46. Unopposed revocation or modification of consent - (1) The following provisions shall have effect where the Council 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 the owner and the occupier of the land and all persons who in the Council's opinion will be affected by such Order have notified the Council in writing that they do not object to such Order.

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

(4) The Council 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 Act.

(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 Part III, Part IV or Part V of the Act.

IN WITNESS WHEREOF the Council have caused their Common Seal to be hereunto affixed this 21st day of July 1981, in the presence of

No. in seal Register 250/81

W. J. Brownlee

Chairman of the Council

Chief Executive and Clerk

OUTH STAFFORDSHIRE DISTRICT COUNCIL

'REE PRESERVATION ORDER Nº 59, 1981

.awnswood Drive, Wordsley.

.S. sheets SO 8786/87 Scale 1:2500

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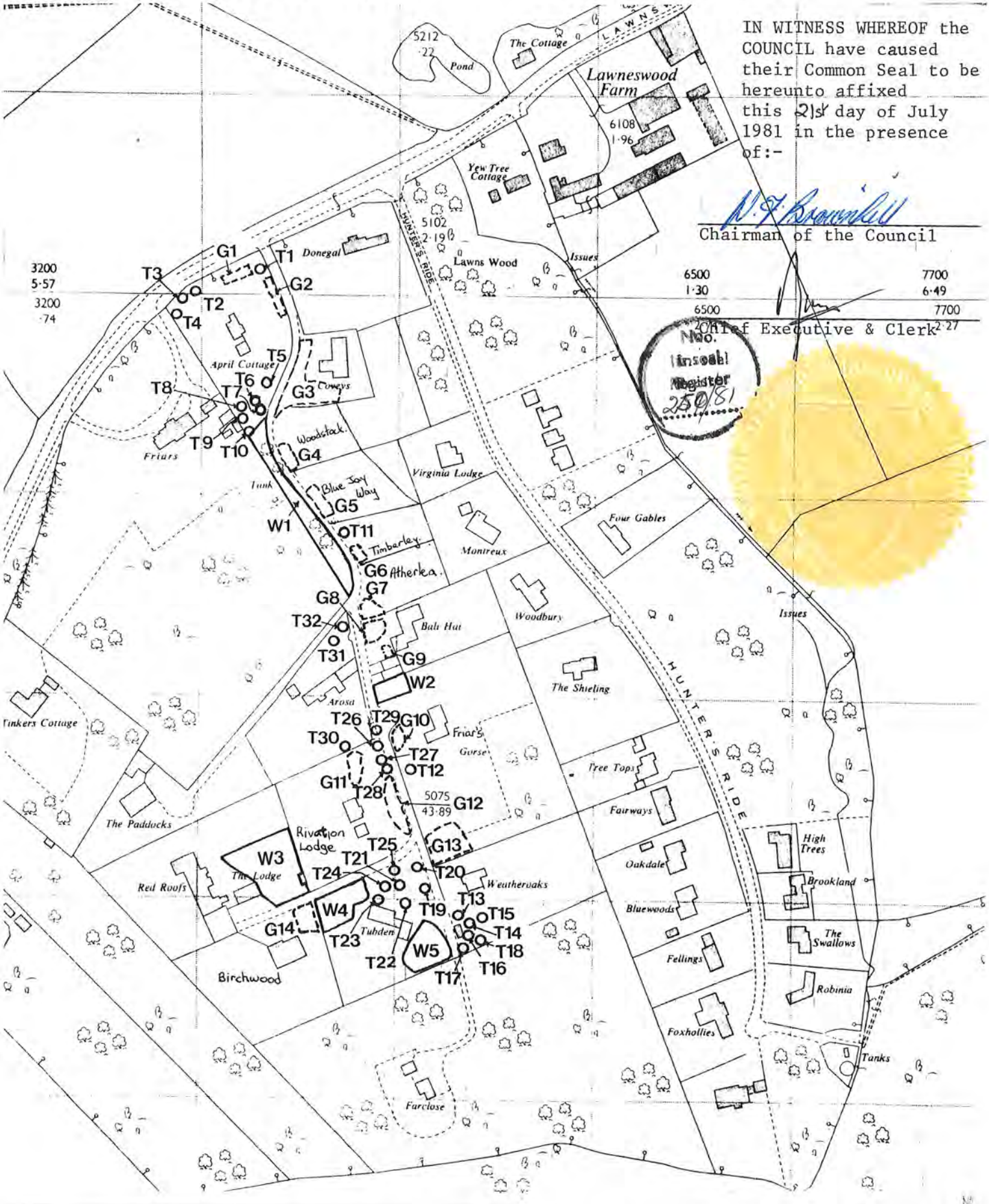
IN WITNESS WHEREOF the COUNCIL have caused their Common Seal to be hereunto affixed this 21st day of July 1981 in the presence of:-

W. T. Brownhill

Chairman of the Council

Chief Executive & Clerk

No. in seal Register 250/81



SOUTH STAFFORDSHIRE DISTRICT COUNCIL

TREE PRESERVATION ORDER NO. 59, 1981

FIRST SCHEDULE

NOTE: All the trees, groups of trees and woodlands described in this Schedule are situated in the Parish of Kinver, South Staffordshire District. All locations referred to are on Ordnance Survey 25 in. sheets SO 8786 and 8787.

TREES SPECIFIED INDIVIDUALLY
(encircled in black on the map)

No. on Map	Description	Situation
T1	Birch	April Cottage, Lawnswood Drive
T2	Birch	April Cottage
T3	Oak	April Cottage
T4	Oak	April Cottage
T5	Sycamore	April Cottage
T6	Sweet Chestnut	April Cottage
T7	Sweet Chestnut	April Cottage
T8	Sweet Chestnut	April Cottage
T9	Sweet Chestnut	April Cottage
T10	Sycamore	April Cottage
T11	Sweet Chestnut	Timberley
T12	Cherry	Friars Gorse
T13	Oak	Weatheroaks
T14	Oak	Weatheroaks
T15	Oak	Weatheroaks
T16	Birch	Weatheroaks
T17	Birch	Weatheroaks
T18	Oak	Weatheroaks
T19	Oak	Tubden
T20	Oak	Tubden
T21	Oak	Tubden
T22	Robinia	Tubden
T23	Oak	Tubden
T24	Birch	Tubden
T25	Oak	Tubden
T26	Birch (multi-stemmed)	Rivaton Lodge
T27	Sweet Chestnut	Rivaton Lodge

No. on Map	Description	Situation
T28	Sweet Chestnut	Rivaton Lodge
T29	Birch	Outside Arosa
T30	Spruce	Arosa
T31	Spruce	Arosa
T32	Spruce	Arosa

TREES SPECIFIED BY REFERENCE TO AN AREA
(within a dotted black line on the map)

No. on Map	Description	Situation
- - - - - - NONE - - - - - -		

GROUPS OF TREES
(within a broken black line on the map)

No. on Map	Description	Situation
G1	Group consisting of 4 birches	April Cottage
G2	Group consisting of 7 birches	April Cottage
G3	Group consisting of 10 birches, 1 ash and 1 sweet chestnut	Coveys
G4	Group consisting of 5 sweet chestnuts, 4 sycamore and 1 oak	Woodstock
G5	Group consisting of 3 birches, 1 oak, 1 sycamore, 1 sweet chestnut (multi-stemmed)	Blue Jay Way
G6	Group consisting of 7 sweet chestnuts	Timberley
G7	Group consisting of 4 oaks and 1 sycamore	Atherlea
G8	Group consisting of 1 oak and 3 birches	Bali Hai
G9	Group consisting of 3 birches (multi-stemmed)	Bali Hai
G10	Group consisting of 2 birches (multi-stemmed)	Friar's Gorse
G11	Group consisting of 7 birches, 3 sweet chestnuts and 1 oak	Rivaton Lodge
G12	Group consisting of 8 oaks, (3 multi-stemmed), 5 birches and 2 sweet chestnuts (1 multi-stemmed)	Rivaton Lodge
G13	Group consisting of 6 oaks and 4 cypress	Friar's Gorse
G14	Group consisting of 5 birches and 3 multi-stemmed oaks	Birchwood

WOODLANDS
(within a continuous black line on the map)

No. on Map	Description	Situation
W1	Woodland consisting of mixed broadleaves	April Cottage
W2	Woodland consisting of mixed broadleaves	Friar's Gorse
W3	Woodland consisting of mixed broadleaves	Red Roofs
W4	Broadleaved woodland consisting of mainly oak and birch	Tubden
W5	Woodland consisting of mixed broadleaves.	Tubden