

TRAFFORD BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACTS 1971 - 74.

OAKFIELD/ASHLANDS, SALE

TREE PRESERVATION ORDER 1974 (NUMBER 70)

THE TRAFFORD BOROUGH 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 and subject to the provisions of the Forestry Act 1967, hereby make the following Order.

1. In this Order -

"the 1971 Act" means the Town and Country Planning Act 1971;

"the 1974 Act" means the Town and Country Amenities Act 1974;

"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; a lessee (including a sub-lessee) or tenant in possession the unexpired portion of whose lease or tenancy is three years or more and a mortgagee in possession;

"the Secretary of State" means the Secretary of State for the Environment.

2.-(1) Subject to the provisions of this Order and to all 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, uproot, or wilfully destroy or cause or permit the cutting down, uprooting 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.

2.-(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, wilfully damage any tree referred to under paragraph (1) of this Article or top or lop same in such a manner as to be likely to destroy it, or cause or permit the wilful damage of any tree referred to under paragraph (1) of this Article or the topping or lopping of same in such a manner as to be likely to destroy it.

3. An application for consent made 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 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 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 or replanting.

4.-(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.

(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)).

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 interest 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 1971 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 provision of this Order and Section 175 of the 1971 Act) replant the said land in accordance with the direction.

6.-(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, 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 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 Water Authority or 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 Authority or 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 1971 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 1971 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 effected by delivering the claim at the offices of the Authority addressed to the Chief Executive Officer and Town Clerk thereof or by sending it by prepaid post so addressed.

11.-(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 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 1971 Act.

13.-(1) The provisions of Section 61 of the 1971 Act shall apply to this Order and the Order shall take effect on the 18th day of December 1974.

(Note: Any person who, in contravention of this Order, cuts down, uproots or wilfully destroys a tree, or wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it, is guilty of an offence under Section 102(1) of the 1971 Act, as amended by Section 10(3) of the 1974 Act, and liable (a) on summary conviction to a fine not exceeding £400 or twice the value of the tree whichever is the greater, or (b) on conviction on indictment, to a fine, and, in determining the amount of any fine to be imposed on a person convicted on indictment, the court shall in particular have regard to any financial benefit which has been accrued or appears likely to accrue to him in consequence of the offence.

A person who contravenes the provision of the Order otherwise than in the manner mentioned in Sub-Section 1, as amended shall also be guilty of an offence and liable, on summary conviction, to a fine not exceeding £200. In the case of a continuing offence, if the contravention is continued after conviction, a person will be guilty of a further offence and liable, on summary conviction, to an additional fine not exceeding £5 for each day on which the contravention is continued. If a tree other than one which is part of a woodland is removed or destroyed in contravention of the Order, it is the duty of the owner of the land, unless on his application the Authority dispense with the requirements, to plant another tree of appropriate size and species at the same place as soon as he reasonable can.)

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY (Encircled in black on the map)		
NO. ON MAP	DESCRIPTION	SITUATION
	- NONE -	
TREES SPECIFIED BY REFERENCE ON AN AREA (Within a dotted black line on map), <i>but excluding that area hatched red.</i>		
NO. ON MAP	DESCRIPTION	SITUATION
A1	The several trees of whatever species within the boundary shown on the map and numbered A1	Within the area of Oakfield and Ashlands bordered by part of Ashton Lane, <i>but excluding all the trees in the grounds of 43, Ashton Lane, Sale.</i>
GROUPS OF TREES (within a broken line on the map)		
NO. ON MAP	DESCRIPTION	SITUATION
	- NONE -	
WOODLANDS (within a continuous black line on map)		
NO. ON MAP	DESCRIPTION	SITUATION
	- 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 of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme.
- (3) the cutting down, uprooting, topping or lopping of a tree exempted from the provisions of this Order by Section 60(6) of the 1971 Act, as amended by Section 10(2)(a) of the 1974 Act, namely a tree which is dying or dead or has become dangerous, or the cutting down, uprooting, topping or lopping of which is 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.

(Note: Section 62 of the 1971 Act requires, unless on the application of the owner the Authority dispense with the requirement, that any tree removed, uprooted or destroyed under Section 60(6) of the 1971 Act, as amended by Section 10(2)(a) of the 1974 Act, shall be replaced by another tree of appropriate size and species. In order to enable the Authority to come to a decision on whether or not to dispense with the requirement, notice of the proposed action should be given to the Authority which except in a case of emergency shall be of not less than five days.)

- (4) the cutting down, uprooting, topping or lopping of a tree
 - (a) in pursuance of the power conferred on the Minister of Posts and Telecommunications 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 1971 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 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 or 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 (Royal Air Force) or the Secretary of State for Trade and Industry where in the opinion of such Secretary of State 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 1971 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 Sections of Part III of the 1971 Act as adapted and modified to apply to this Order.

33. Provisions as to effect of planning permission

(1) Without prejudice to the following provisions as to the duration, revocation or modification of planning permission, any grant of permission under the Order (including any direction as to replanting given by the Authority on the granting of such permission) shall (except in so far as the permission otherwise provides) enure for the benefit of the land and of all persons for the time being interested therein.

35. Reference of applications to Secretary of State.

(1) The Secretary of State may give directions to the Authority requiring applications for permission 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. Appeals against planning decisions

(1) Where an application is made for consent under the Order and that consent is refused by the Authority or is granted by them subject to conditions, the applicant, if he is aggrieved by their decision, 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.

(3) Where an appeal is brought under this Section from a decision 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, 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 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.

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

37. Appeal in default of planning decision

Where an application for permission 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 may 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 Section 36 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. Power to revoke or modify planning permission

(1) If it appears to the Authority that it is expedient to revoke or modify any permission under the Order granted on an application made under Article 3 of the Order, the Authority, subject to the following provisions of this Section, may by order revoke or modify the permission to such extent as they consider expedient.

(2) Except as provided in Section 46 of this Act, an Order made 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 the Authority submits an Order to the Secretary of State for his confirmation under this Section, the Authority shall serve notice 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 permission may be exercised at any time before the operations for which permission has been given have been completed, provided that the revocation or modification of permission shall not affect so much of those operations as has been previously carried out.

46 Unopposed revocation or modification

(1) The following provisions shall have effect where the 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 the 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 the Order.

(2) The Authority shall advertise the fact that the Order has been made and the advertisement shall specify (a) the period (not being less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by the 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 being less than fourteen 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, the 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 subsection (1) above.

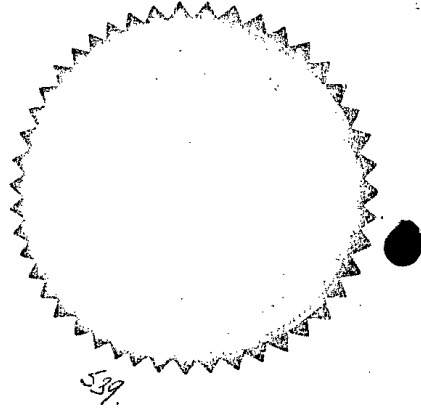
(4) The Authority shall send a copy of any advertisement published under subsection (2) above to the Secretary of State, not more than three days after the publication.

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

(6) This Section does not apply to an Order revoking or modifying a permission granted or deemed to have been granted by the Secretary of State under Parts III, IV or V of the 1971 Act.

DATED this 18th day of December, 1974

THE COMMON SEAL of THE TRAFFORD)
BOROUGH COUNCIL was hereunto)
affixed in the presence of:-)



Deputy Town Clerk (Legal)

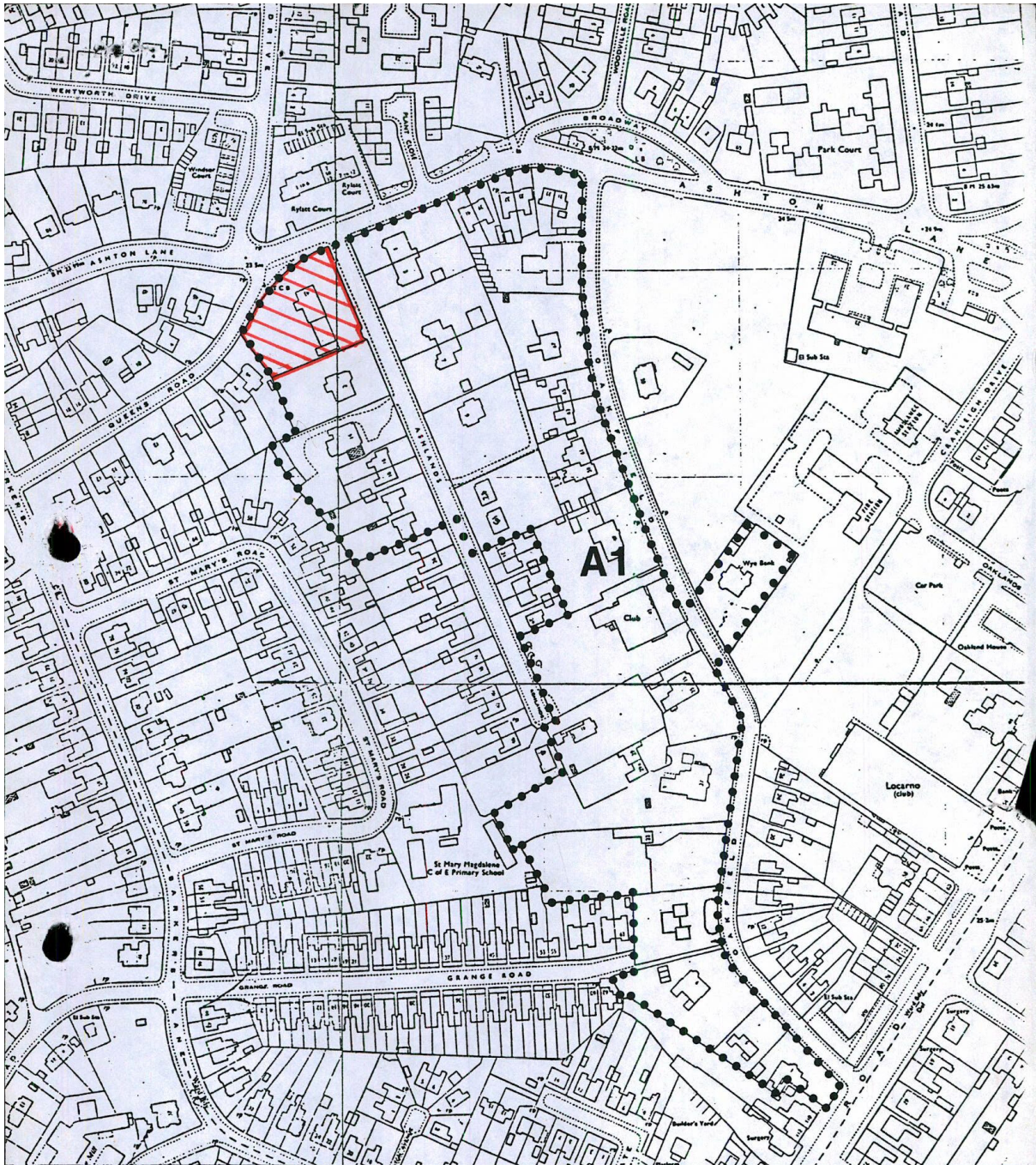
The Secretary of State for the Environment hereby confirms the foregoing Order, subject to the modifications shown in red ink thereon.

Signed by authority of the
Secretary of State
23rd June 1976.

An authorised officer in the
Department of the Environment.

TREE NUMBER

16753



BOROUGH OF TRAFFORD
Planning Department

G.Mercer BA.MCD.MRTPi
 Chief Planning Officer

Tree Preservation Order 1974

**Oakfield / Ashlands
 Sale**



Scale 1:2500

Author **E/DEN**
 Drawn by **MJV**

Date **SEPT 74**
 File / Drawing No. **33 - 070**

BOROUGH OF TRAFFORD

- MEMORANDUM

From:- Chief Executive Officer
and Town Clerk
Ref: L/CK/091305

To:- Chief Planning
Officer
Ref: E/MA

Subject:

Date: 30th June, 1976

Tree Preservation Order 1974
Oakfield/Ashlands, Sale

... The above T.P.O. was confirmed with modifications by the Secretary of State for the Environment on June 23rd, 1976. A copy of the Order as confirmed is enclosed for your information. It differs from the original Order in that the trees in the grounds of 43 Ashton Lane, Sale have been excluded.

[Redacted signature]

Chief Executive Officer
and Town Clerk

AE

TRAFFORD PLANNING DEPARTMENT	
-2 JUL 1976	
C P O.....	CAU.....
SACPO (P).....	SAO (DC).....
ACPO (E) 2/7 ✓	[Redacted] ✓ 5/7
ACPO (LP&D).....	[Redacted] ✓ 5/7
C B S.....	
REPLIED	FILE REF. 33 - - -