

RECORDED DELIVERY
FIRST CLASS MAIL

THE URBAN DISTRICT COUNCIL OF HOYLAKE

TOWN AND COUNTRY PLANNING ACT 1971

THE URBAN DISTRICT COUNCIL OF HOYLAKE
CALDY ROAD WEST KIRBY

TREE PRESERVATION ORDER 1973

To; Guardian Housing Association Ltd.,
c/o David Parry, Quiggin & Gee Associates,
Refuge Assurance House,
Lord Street,
Liverpool, L2 1UD.

NOTICE IS HEREBY GIVEN that the Urban District Council of Hoylake have made the above-named Tree Preservation Order in respect of Trees on land which you are the owner/occupier, on the ground that the protection of the trees is necessary to preserve the amenity of the area.

A copy of the Order and Map is attached and a certified copy thereof has been placed on deposit at the Town Hall, Market Street, Hoylake, and may be inspected during normal office hours.

Objections and representations with respect to the Order may be made to the Secretary of State for the Environment, Whitehall, London SW1, in accordance with Regulation 7 of the Town and Country Planning (Tree Preservation Order) Regulations 1969, a copy of which is set out below.

If no objections or representations are duly made or any so made are withdrawn, then not less than forty-two days from the date of the service of this Notice of the making of the Order, the Order may then be confirmed without modification as an unopposed Order by the Urban District Council of Hoylake.

The Order contains a direction under section 61 of the Town and Country Planning Act 1971, the effect of which is that the Order takes effect on 28 August 1973, and will continue to take effect provisionally for a period of six months from the date the Order was made or, in the event of objections or representations being submitted to the Secretary of State for the Environment, until the Secretary confirms the Order, or notifies the Council that he does not propose to confirm it, or the Order is confirmed by the Council as an unopposed Order, whichever first occurs.

Dated the Twenty-eighth day of August

1973

MR. Keithley
Clerk of the Council

Town Hall,
HOYLAKE,
Wirral.

NOTE:

REGULATION 7 OF THE TOWN AND COUNTRY PLANNING (TREE
PRESERVATION ORDER) REGULATIONS 1969

Objections and representations

7 - (1) Every objection or representation with respect to an Order shall be made in writing to the Secretary, and shall state the grounds thereof and the name of the authority who made the Order, and specify the particular tree, group of trees, or woodlands in respect of which it is made.

(2) An objection or representation shall be duly made if it complies with paragraph (1) of this regulation and is received by the Secretary within 28 days from the date of the Service of the Notice of the making of the Order.

(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 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 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 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;
- (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 river 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 river 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 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.

FIRST SCHEDULE

Trees Specified Individually

None

Trees Specified by References to an Area
(within a dotted black line on the map.)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
A1	The several Sycamore, Elm and Holly trees standing in the area numbered A1 on the map.	Between No. 1 Caldy Road and boundary with the adjacent property, No. 4 Village Road.

Groups of Trees
(within a ~~broken~~ black line on the map.)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
G1	Group consisting of 3 Sycamore, 2 Elm and 1 Beech.	On the western boundary on No.'s 1 and 2 Caldy Road, adjoining Caldy Road.
G2	Group consisting of 11 Sycamore, 4 Evergreen oak, 3 Elm, 1 Beech, 2 Whitebeam, and 1 Birch.	On the souther boundary of No.'s 1 and 3 Caldy Road, adjoining Kirby Park and Caldy Road.
G3	Group consisting of 2 Elm.	Within the grounds of No.'s 1 and 3 Caldy Road, 50ft. east of Caldy Road.
G4	Group consisiting of 5 Sycamore.	On the eastern boundary of No.'s 1 and 3 Caldy Road, and to the north of No. 3.

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 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, topping or lopping of a tree exempted from the provisions of this order by Section 60(6) of the Act namely a tree which is dying or dead or has become dangerous, or the cutting down, 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.
- (4) the cutting down, 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 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 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 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), the Secretary of State for Trade and Industry 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;

* NOTE: Section 62 of the Act requires, unless on the application of the owner the local authority dispense with the requirement, that any tree removed or destroyed under section 60(6) of the Act shall be replaced by another tree of appropriate size and species. In order to enable the local planning 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 local planning authority which except in a case of emergency shall be of not less than five days.

37. Where an application for consent 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 either—

Appeal in default of decision

(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 the last preceding section 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.—(1) If it appears to the authority 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 authority may by order revoke or modify the consent to such extent as they consider expedient.

Power to revoke or modify the consent under the order.

(2) (Subject to the provisions of Section 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 an authority 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 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 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.

46.—(1) The following provisions shall have effect where the local planning 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 such Order.

(2) The authority 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 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.

