

WALLASEY COUNTY BOROUGH COUNCIL

TYPE PRESERVATION ORDER

NO.17 - 1968.

Down Hill,  
WALLASEY.

A. G. HARRISON,  
Down Hill.

15

1967

"owner" means the owner in fee simple, either in possession of 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; and

"the Minister" means the Minister of Housing and Local Government.

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, cut down, top, lop or wilfully destroy or cause or permit the cutting down, topping, lopping or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees therein specified the position of which trees and groups of trees 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 authority 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 to the authority under this Order, the authority may grant such consent either unconditionally or subject to such conditions (including conditions requiring the replacement of any trees by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent.

(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, and any compensation awarded in consequence of such decision, 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 that the refusal or condition is in the interests of good forestry, or that the trees have an outstanding or special amenity value.

5. The provisions set out in the Third Schedule to this Order, being provisions of Parts III ~~and VIII~~ of the Act adapted and modified for the purposes of this Order, shall apply in relation thereto.

7. Subject to the provisions of this Order, any person who has suffered damage or has incurred expenditure in consequence of any refusal 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 damage or expenditure.

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

8 In assessing compensation payable under the last preceding Article or under Section 118 of the Act as applied by this Order account shall be taken of:-

*whether to the claimant or any other person*

- (a) any compensation or contribution which has been paid in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 29 of the 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.

9.(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 Clerk thereof or by sending it by prepaid post so addressed.

(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 Minister, as the case may be, or where an appeal has been made to the Minister against the decision of the authority, from the date of the decision of the Minister on the appeal.

10. Any question of disputed compensation shall be determined in accordance with the provisions of Section 128 of the Act.

11. Any person contravening the provisions of this Order is guilty of an offence under subsection (1) of Section 62 of the Act and liable on summary conviction to a fine not exceeding fifty pounds; and if in the case of a continuing offence the contravention is continued after conviction he is guilty of a further offence thereunder and liable on summary conviction to an additional fine not exceeding forty shillings for every day on which the contravention is so continued.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY (~~Uncoloured~~ and encircled in black on the Map)

<u>NO. ON MAP</u>	<u>DESCRIPTION</u>	<u>SITUATION</u>
P.1.	Sycamore (Acer Pseudoplatanus)	Immediately behind the Mount Road frontage wall and at a point approximately 32 ft. from the northern boundary wall.
P.2.	Sycamore (Acer Dasycarpum)	As above but approximately 48 feet from the northern boundary.
P.3.	Sycamore (Acer Pseudoplatanus)	As above but approximately 74 feet from the northern boundary.
P.4.	Pear (Pyrus Communis)	At a distance of approximately 25 feet to the rear of the Mount Road frontage wall and at a point approximately 17 feet from the southern boundary wall.

*Groups of Trees*  
**NONE**

*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

(a) which is dying or dead or has become dangerous;

(b) in compliance with an obligation imposed by or under an Act of Parliament;

(c) for the purpose of preventing or abating a nuisance;

(d) in pursuance of the power conferred on the Postmaster General by virtue of section 5 of the Telegraph (Construction) Act 1908;

(e) 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 1902 or interferes or would interfere with the maintenance or working of any such line; or

(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;

(c) (f) where immediately required for the purposes 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) (g) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

~~SECOND SCHEDULE~~

~~which shall not apply so as to require the consent of the authority~~  
~~... of any tree that is~~

- (a) in compliance with an obligation imposed by or under an Act of Parliament;
- (b) in pursuance of the power conferred on the Postmaster General by virtue of Section 5 of the Telegraph (Construction) Act 1908;
- (c) in pursuance of the power conferred by Section 24 of the Regulation of Railways Act 1868;
- (d) for the purpose of preventing or abating a nuisance;
- (e) in the case of 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;
- (f) by or at the request of 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;
- (g) where immediately required for the purpose of carrying out a development authorised by a 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.

THIRD SCHEDULE

*The following parts of*

Provisions of Parts III and VII of the Act as adapted and modified to apply to this Order.

Reference  
of applica-  
tions to the  
Minister.

22. (1) The Minister may give directions to the authority requiring applications for consent under the Order, to be referred to him instead of being dealt with by the authority.

22. (2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.

22. (3) Any application in respect of which a direction under this section has effect shall be referred to the Minister accordingly.

22. (4) Where an application for consent under the Order is referred to the Minister 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.

22. (5) Before determining an application referred to him under this section the Minister 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 Minister for the purpose.

1. *Pharmaceuticals*  
 2. *Medical Devices*  
 3. *Biotechnology*  
 4. *Healthcare Services*  
 5. *Medical Research*  
 6. *Healthcare Infrastructure*  
 7. *Medical Education*  
 8. *Healthcare Policy*  
 9. *Medical Ethics*  
 10. *Healthcare Economics*  
 11. *Medical Law*  
 12. *Healthcare Management*  
 13. *Medical History*  
 14. *Healthcare Communication*  
 15. *Medical Innovation*  
 16. *Healthcare Quality*  
 17. *Medical Regulation*  
 18. *Healthcare Access*  
 19. *Medical Research Ethics*  
 20. *Healthcare Equity*  
 21. *Medical Research Funding*  
 22. *Healthcare Innovation*  
 23. *Medical Research Collaboration*  
 24. *Healthcare Research*  
 25. *Medical Research Partnerships*  
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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 Minister, 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 Minister for the purpose.

27.(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.

27.(5) Where a notice has been served in accordance with the provisions of subsection (3) of this section, no operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Minister under subsection (2) of this section.

Supplement  
ary provisions  
as to revoca-  
tion and modi-  
fication

~~118.(1) Where any person is affected by an order under section 27 of this Act, or by a notice served on him under subsection (3) of the said section in a case where the order is not confirmed then, if, on a claim made to the authority within the time and in the manner prescribed by Article 9 of the Order, it is shown that he -~~

- ~~(a) has incurred expenditure in carrying out work which is rendered abortive by the revocation, or modification, or stay of operations as the case may be, or~~
- ~~(b) has otherwise sustained loss or damage which is directly attributable to the revocation, modification, or stay of operations,~~

~~the authority shall pay to that person compensation in respect of that expenditure, loss or damage.~~

~~118.(2) For the purposes of this section any expenditure incurred on matters preparatory to acting on the consent shall be taken to be included in the expenditure incurred in carrying out that work.~~

~~118.(3) Subject to the last preceding subsection, no compensation shall be paid under this section in respect of any work carried out in the period after the making of the Order and before the grant of consent which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of depreciation of the value of an interest in land) arising out of anything done or omitted to be done during that period.~~

THE COMMON SEAL of THE MAYOR  
ALDERMEN AND BURGESSES OF THE  
COUNTY BOROUGH OF WALLASEY was  
hereto affixed the 16<sup>th</sup>  
day of MAY 1900.  
in the presence of:-

*Charles B. B. B. B.* Mayor

*Wm. B. B. B.* Town Clerk.

(3) the cutting down, toppling or toppling of any tree created from the provisions of this act or by section 29(1) of the Act namely a tree which is dying or dead or has become dangerous, or the cutting down, toppling or toppling of which is in compliance with obligations imposed by or under an Act of Parliament or is so far as may be necessary for the purpose of preventing or abating a nuisance.

(4) the cutting down, toppling or toppling of any tree

(a) in pursuance of the power conferred on the Localities Council by virtue of Section 5 of the Cologne (Conservation) Act 1905;

(b) by or at the request of



# COUNTY BOROUGH OF WALLASEY



MAP AS ANNEXED TO THE FIRST SCHEDULE TO TREE PRESERVATION ORDER N°17.

SCALE : 1/1250

DATE: APRIL 1968

MAP N° T.P. 58/68

SITE LOCATION

NAT. GRID REF.

SJ 3008 9364

F. RODGETT, M.Eng., C.Eng., A.M.I.C.E., A.M.I.Mun.E., Dip.T.P.

BOROUGH ENGINEER AND SURVEYOR

TOWN HALL

WALLASEY