

METROPOLITAN BOROUGH OF WIRRAL

TOWN AND COUNTRY PLANNING ACTS 1971-4

THE WIRRAL BOROUGH COUNCIL

TREE PRESERVATION ORDER, (NO. 72) 1982

THE WIRRAL 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 (as amended by Section 10(1) of the Town and Country Amenities Act 1974), and subject to the provisions of the Forestry Act 1967, hereby makes 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; 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 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 Authority 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 individually or by reference to an area 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.

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 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.

Note: If it is desire 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))

(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 a 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 hectare;
- (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 since 31 March, 1974, or by any other authority (whose functions are now exercised by a water authority) who at any time prior to 1 April, 1974, exercised the functions in respect of which the byelaw was made by a drainage board, or by the Greater London Council in the exercise of any of its functions in relation to the maintenance, improvement or construction of watercourses or of drainage works; 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, the drainage board, or the Greater London Council 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.

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 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 addressing the claim to the authority and leaving it at or sending it by prepaid post to the Principal office of the

authority. (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 of State against the decision of the authority, from the date of the decision of the Secretary of State on the appeal.

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

13(1) The provisions of Section 61 of the Act shall apply to this Order and the Order shall take effect on 29 October 1982

(2) 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".

WIRRAL BOROUGH COUNCIL

TREE PRESERVATION ORDER NO. 72 (1982).

FIRST SCHEDULE

Trees specified reference to an area (within a dotted black line on the Map).

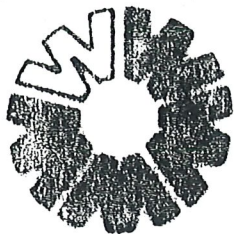
<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
A2	The several. Pine, Maple Horsechestnut, Beech.	Land within the curtilage of Dingle- field, Pipers Lane, Heswall.

(Group within a broken black line on Map)

G1	Group consisting of 10 Pine, 2 Horsechestnut	As above.
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Trees specified individually
(encircled in black on the Map)

T1	Himalayan Pine or Bhutan Pine	As above.
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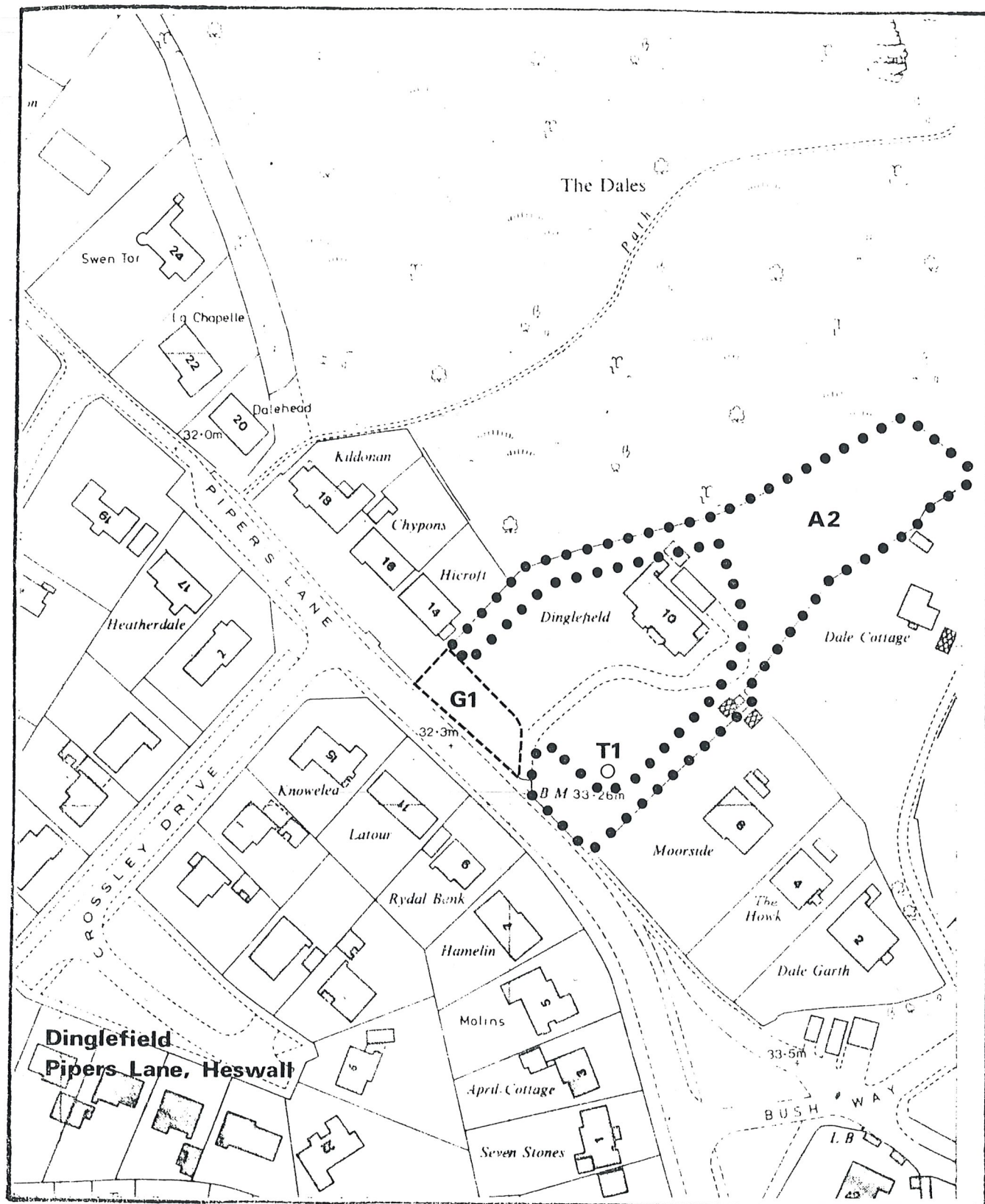
Metropolitan Borough of Wirral

Roger E Shaw ARIBA AMBIM
Director of Development
Municipal Offices, Brighton Street,
Wallasey, Merseyside, L44 8ED

Tree Preservation Order Map

Site Location: (map ref.)

SJ2595, 8185



Map as annexed to the First Schedule to
The Wirral Borough Council

Tree Preservation Order No. 72 (1982)

Scale: 1:1250

Date: October



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.

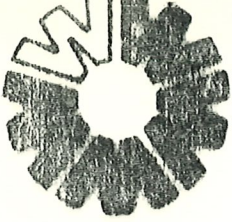
(2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme or other grant scheme under section 4 of the Forestry Act 1967 except a scheme which applies to a forestry dedication covenant:

(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; and section 21 of the Post Office Act 1969 or by or at the request of the Post Office where the land on which the tree is situated is operational land as defined by the Post Office Operational Land Regulations (S.I.1973/310) and either works on such land cannot otherwise be carried out on the cutting down topping or lopping is for the purpose of securing safety in the operation of the undertaking.

(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



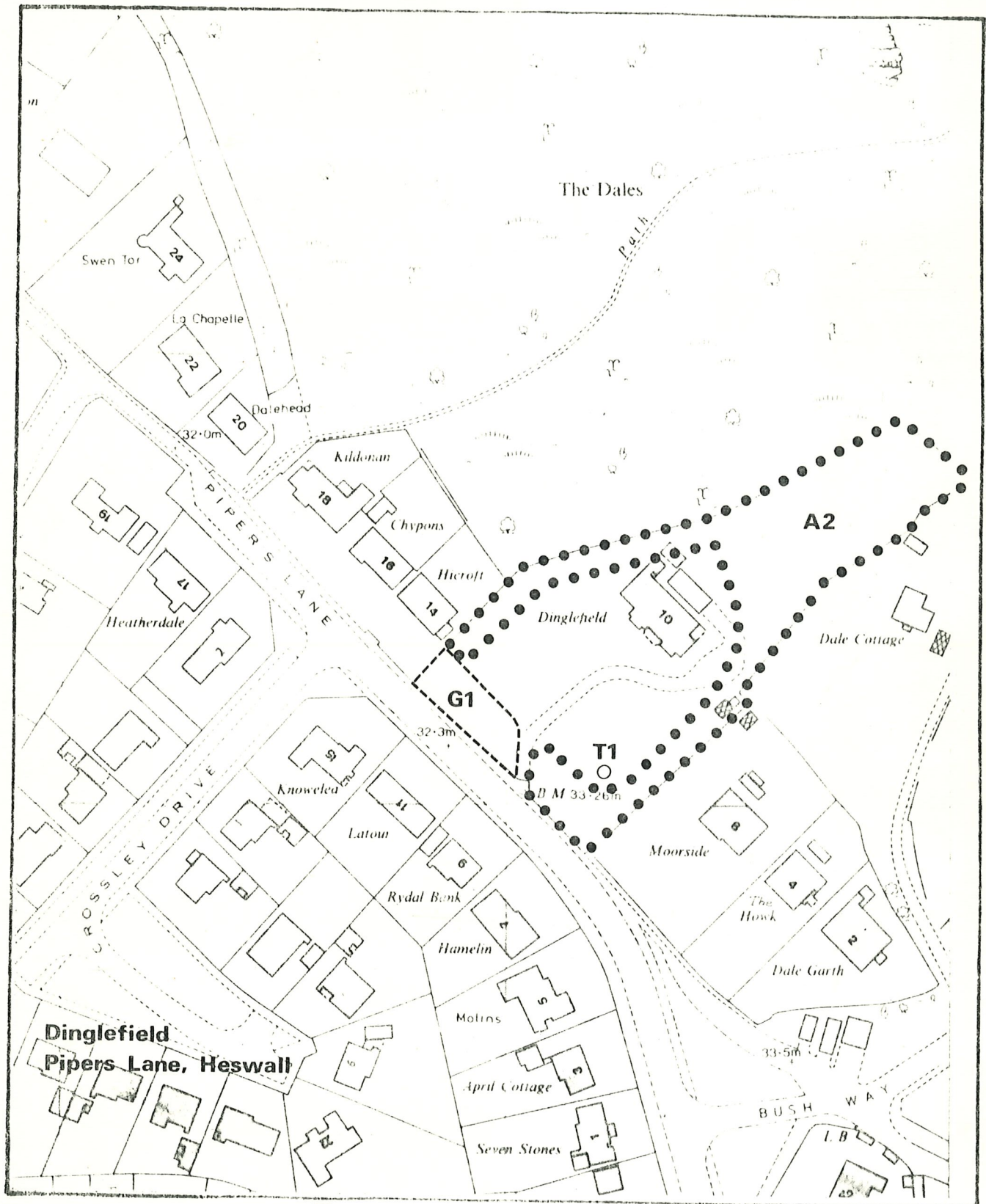
Metropolitan Borough of Wirral

Roger E Shaw ARIBA AMBIM
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Municipal Offices, Brighton Street,
Wallasey, Merseyside, L44 8ED

Tree Preservation Order Map

Site Location: (map ref.)

SJ2595, 8185



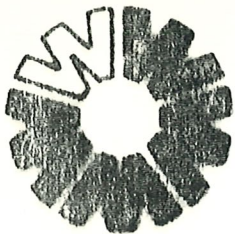
Map as annexed to the First Schedule to
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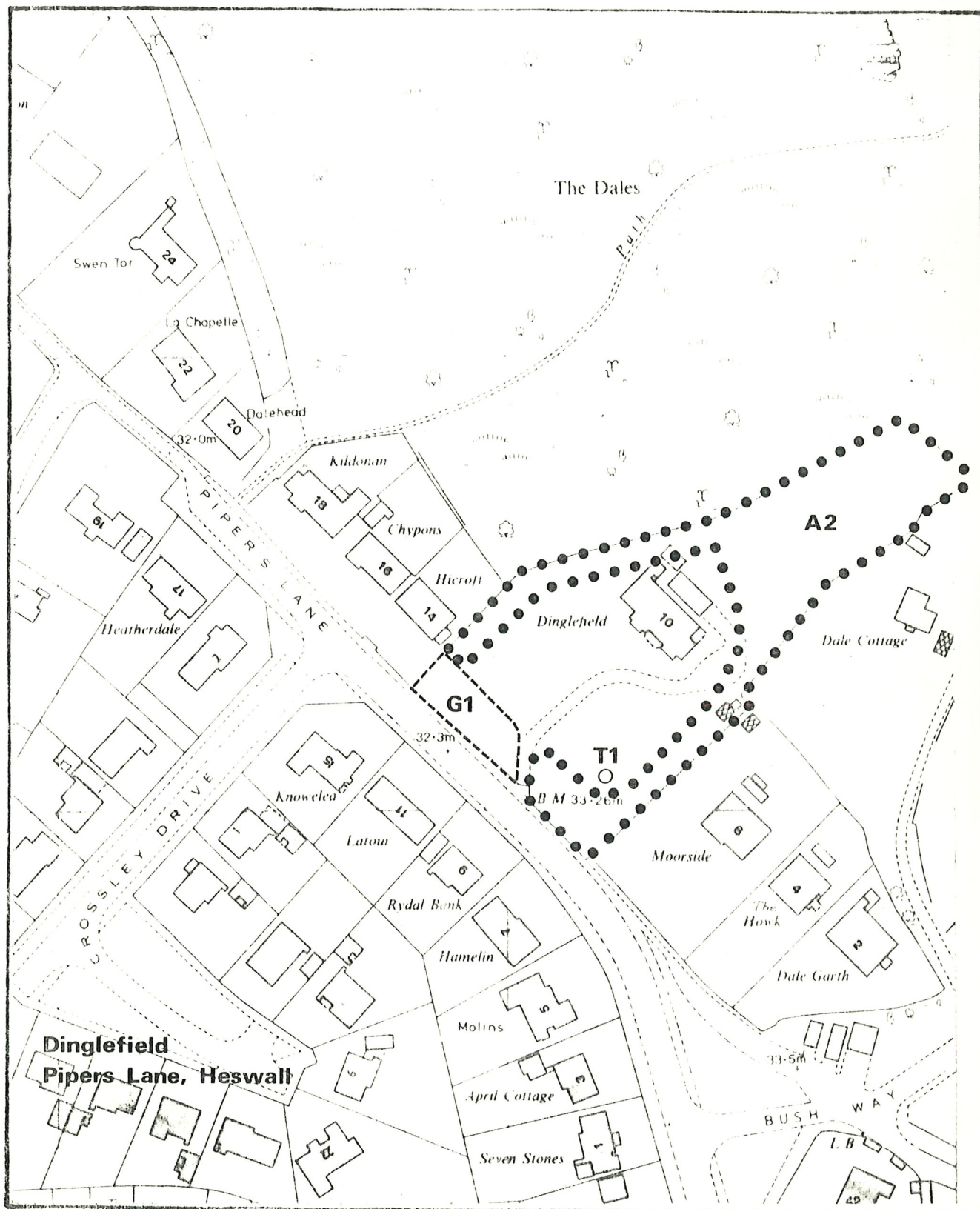
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Tree Preservation Order Map

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