

METROPOLITAN BOROUGH OF WIRRAL

TOWN AND COUNTRY PLANNING ACTS 1971-4

THE WIRRAL BOROUGH COUNCIL

TREE PRESERVATION ORDER, (NO. 96) 1984

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

(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 be subject to the provision of this Order and Section 175

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

WIRRAL BOROUGH COUNCIL

TREE PRESERVATION ORDER NO. 96 (1984)

FIRST SCHEDULE

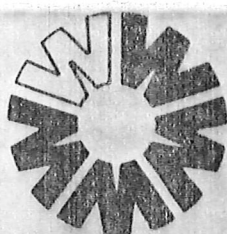
Trees specified by reference to an Area
(within a dotted black line on the map).

Description	No. on Map	Situation
The several trees of whatever species.	A1	Priory Day Hospital (now disused) Upton Road, Bidston

Trees specified individually - none

Trees specified by referral to a group - none

Woodlands - None



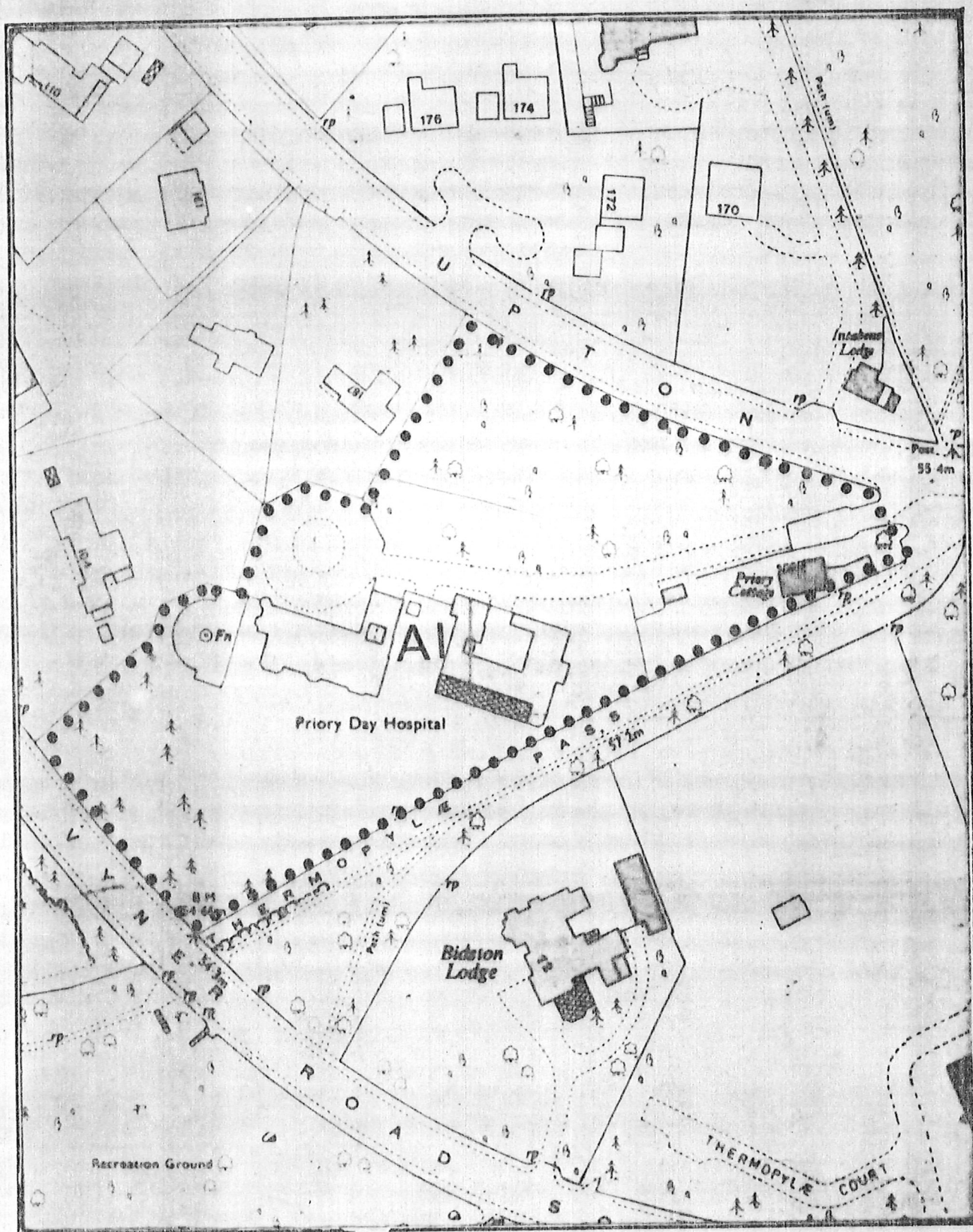
Metropolitan Borough of Wirral

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

Tree Preservation Order Map

Site Location : (map ref.)

SJ 2865 8878



Map as annexed to the First Schedule to
The Wirral Borough Council
Tree Preservation Order No. 96 (1984)

Scale: 1:1250

Date: JAN



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

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;

Appeals against decisions

36(1) Where an application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions, or where any certificate or direction is given by the authority, 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 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 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 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 appeal under this section shall be final.

Appeals in default of decisions

37. Where an application for consent under the Order is made to

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.

(5) Where a notice has been served in accordance with the provisions of sub-section (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 Secretary of State under sub-section (2) of this section.

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

(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.

Dated this *Twenty eight* day of *February* 19 *eighty four*.

THE COMMON SEAL OF THE WIRRAL

BOROUGH COUNCIL was hereunto affixed

in the presence of:-

Authorised Officer