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CHEADLE & GATLEY URBAN DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT, 1962

THE CHEADLE & GATLEY URBAN
DISTRICT COUNCIL

(Cheadle Cricket Club)

TREE PRESERVATION ORDER (No. 18) 1967

THE URBAN DISTRICT COUNCIL OF CHEADLE AND GATLEY in pursuance of the powers conferred in that behalf by Section 29 of the Town and Country Planning Act 1962 and delegated to them by the County Council of the County Palatine of Chester (in this Order called "the authority") and subject to the provisions of Section ¹⁸ of the Forestry Act ¹⁹⁵¹, hereby make the following Order (which may be cited by the name appearing in the title hereof):—

1. In this Order—

"the Act" means the Town and Country Planning Act, 1962;

"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 Minister" means the Minister of ~~Land and Natural Resources~~
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 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 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 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, 1951, application must be made *not* to the authority for consent under this Order but to the Forestry Commissioners for a licence under that Act. (See Forestry Act, 1951, Section ~~13(1)~~).

1967

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 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 Minister 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 provisions of this Order 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 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 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 29 of the Act or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Develop-

ment) 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 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.

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

13. 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

(encircled in black on the map)

No. on map	Description	Situation
T.1	Sycamore	Adjacent to the southern boundary of No. 93 Gatley Road, and 29ft. west of the eastern boundary thereof.
T.2	Sycamore	Adjacent to the southern boundary of No. 93 Gatley Road, and 31ft. 6ins. east of the western boundary thereof.
T.3	Chestnut	Adjacent to the southern boundary of No. 95 Gatley Road, and 21ft. 6ins. east of the western boundary thereof.
T.4	Sycamore	Adjacent to the southern boundary of No. 97 Gatley Road, and 8ft. 6ins. west of the eastern boundary thereof.
T.6	Chestnut	Adjacent to the southern boundary of No. 97 Gatley Road, and 67ft. 6ins. west of the eastern boundary thereof.
T. 7	Sycamore	Adjacent to the southern boundary of No. 103 Gatley Road, and 11ft. 6ins. west of the eastern boundary thereof.
T. 8	Chestnut	Adjacent to the southern boundary of No. 103 Gatley Road, and 26ft. west of the eastern boundary thereof.
T. 9	Sycamore	Adjacent to the southern boundary of the school at 105 and 107 Gatley Road, and 5ft. west of the eastern boundary of No. 105 Gatley Road.

No. on	Description	Situation
T.10	Sycamore	Within the grounds of the school at 105 and 107 Gatley Road, and 27ft. in a north westerly direction from the junction of the eastern and southern boundaries of No. 105 Gatley Road.
T.11	Sycamore	Adjacent to the southern boundary of the school at 105 and 107 Gatley Road, and 73ft. west of the eastern boundary of No. 105 Gatley Road.
T.12	Oak	Within the grounds of Cheadle Cricket Club, adjacent to the junction of the southern and eastern boundaries of No. 213 Kingsway.
T.13	Oak	Adjacent to the southern boundary of 213 Kingsway, and 50ft. west of the eastern boundary thereof.

TREES SPECIFIED BY REFERENCE TO AN AREA

NONE

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, 1882 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;
 - (f) 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;
 - (g) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden;

Pr
apply

(2) by or at the request of the ^{Board of Trade} ~~Minister of Aviation~~ where in his ~~their~~ opinion 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.

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. Reference of applications to Minister.

(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 Minister accordingly.

(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.

(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.

(6) The decision of the Minister on any application referred to him under this section shall be final.

Appeals against decisions.

23.—(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, 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 Minister.

(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 Minister may allow.

(4) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Minister, 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.

(5) Before determining an appeal under this section, the Minister 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 Minister for the purpose.

(7) The decision of the Minister on any appeal under this section shall be final.

Appeal in default of decisions.

24.—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—

- (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 Minister in accordance with directions given under section 22 of the Act;

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.

Power to revoke or modify the consent under the order.

27.—(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.

(2) An order under this section shall not take effect unless it is confirmed by the Minister; and the Minister may confirm any such order submitted to him either without modifications or subject to such modifications as he considers expedient.

(3) Where an authority submit an order to the Minister for his confirmation under this section, the authority shall furnish the Minister with a statement of their reason for making the order and shall serve notice on the owner 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 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.

(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 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.

Dated this

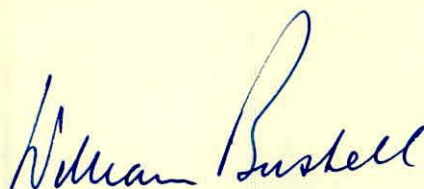
30th

day of

March

1967.

THE COMMON SEAL of the
Urban District Council
of Cheadle and Gatley
was hereunto affixed
in the presence of:—



Chairman of the Council



Deputy Clerk of the Council



The Minister of Housing and Local Government in exercise of the powers conferred upon him in that behalf hereby confirms the foregoing order subject to the modifications shown in red ink thereon.

In Witness whereof the Official Seal of the Minister of Housing and Local Government is hereunto affixed on 6th July 1967

HLG 28662


R. G. BROWN
Authorised by the Minister

G. B.



Cheshire County Council



The Clerk of the Cheadle and Gatley U.D.C.,
Town Hall,
CHEADLE,
Cheshire.

County Hall Chester
Telephone Chester 24678

CHEADLE
13 MAR 1967
FILE TP/3.
Tel. extension

John K. Boynton MC LLB LMTPI
Clerk of the County Council

Our reference	Tel. extension	Your reference	Date
RP/8604/HH	161	FVR/TP/3/PMG	8th March, 1967.

Dear Sir,

Town and Country Planning Act, 1962 - Section 29
The Cheadle and Gatley U.D.C. (Cheadle Cricket Club)
Tree Preservation Order (No.18) 1967

With reference to your letter dated the 20th March, 1967 and previous correspondence, the appropriate Committee of the County Council have now approved the draft of the above Tree Preservation Order. Tree T.5 has been omitted as agreed and I would remind you that reference to this tree should also be omitted from the maps accompanying the Order.

I therefore enclose prints of the Order for further action by you in accordance with the terms of the Town and Country Planning General Regulations 1964. I shall be pleased to receive, in due course, three copies of the Order (with maps) as confirmed by the Minister of Housing and Local Government.

Yours faithfully,

Clerk of the County Council.

Please address any reply impersonally to the Clerk of the County Council quoting our reference

CHEADLE AND GATLEY URBAN DISTRICT COUNCIL

THE TOWN AND COUNTRY PLANNING GENERAL REGULATIONS, 1964.

THE CHEADLE AND GATLEY URBAN DISTRICT COUNCIL (CHEADLE
CRICKET CLUB) TREE PRESERVATION ORDER (NO.18) 1967.

CERTIFICATE OF SERVICE OF NOTICE IN ACCORDANCE
WITH PARAGRAPH (B) OF REGULATION NO.12.

I hereby certify that a notice in accordance with paragraph (b) of Regulation 12 of the abovementioned Regulations was served on the 16th March, 1967, on the undermentioned owners or occupiers at the addresses stated in respect of the trees or groups of trees indicated:-

<u>Name and Address</u>	<u>Nature of interest</u>	<u>Identity of trees</u>
Mr. Tarr, 92 Styal Road, Gatley.	owner	T.1, T.2 and T.3.
Mr. Leighton, Flat 1, 93 Gatley Road, Gatley.	occupier)
Mr. Mahood, Flat 2, 93 Gatley Road, Gatley.	occupier	
Mr. Richardson, Flat 3, 93 Gatley Road, Gatley.	occupier	
Mr. K. Cunnah, Flat 1, 95 Gatley Road, Gatley.	occupier	T.3.
Mr. H.D. Boswell, Flat 2, 95 Gatley Road, Gatley.	occupier	T.3.
Mr. P.B. Ashton, Flat 3, 95 Gatley Road, Gatley.	occupier	T.3.
Dr. P. Gaubert, 97 Gatley Road, Gatley.	owner/occupier	T.4 and T.6.
Mrs. V. Gardner, Flat B, 103 Gatley Road, Gatley.	owner/occupier	T.7 and T.8.
Mrs. Holme, Flat A, 103 Gatley Road, Gatley.	occupier	T.7 and T.8.
Mrs. Jones, 107 Gatley Road, Gatley.	owner	T.9, T.10 and T.11.
Shortacre High School for Girls, 105/107 Gatley Road, Gatley.	occupiers	T.9, T.10 and T.11.
Cheadle Cricket Club, Kingsway, Cheadle.	owners/occupiers	T.12.

Continued.....

Name and Address

Nature of interest

Identity of trees

Mrs. Oswald,
213 Kingsway,
Gatley.

owner/occupier

T.13.

Dean Smith Construction
Co. Ltd.
34 Stratport Road
Cheshire.

prospective purchaser
for development of land
behind nos. 91-95
Gatley Road, Gatley

T.1, T.2 & T.3

Clerk of the Council.

Town Hall,
CHEADLE,
Cheshire.

FVR/PMG.
5th April, 1967.

CHEADLE AND GATLEY URBAN DISTRICT COUNCIL

THE TOWN AND COUNTRY PLANNING GENERAL REGULATIONS, 1964.

THE CHEADLE AND GATLEY URBAN DISTRICT COUNCIL (CHEADLE
CRICKET CLUB) TREE PRESERVATION ORDER (NO. 18) 1967.

HIGH GROVE ESTATE)

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STATEMENT

The Council have made the abovementioned Order because of impending development for residential purposes of the land on the northerly side of the sports ground. The trees are very good specimens and the Council consider that they should be preserved in the interests of amenity. These grounds are stated in the notices served on the owners and occupiers concerned in accordance with paragraph 12(b) of the Town and Country Planning General Regulations, 1964.

Clerk of the Council.

Town Hall,
CHEADLE,
Cheshire.

FVR/TP/3/PMG.

14th April, 1967.

Dear Sir,

The Cheadle and Gatley Urban District Council
(Cheadle Cricket Club)
Tree Preservation Order (No.18) 1967.

The Council have made the abovementioned Order under Section 29 of the Town and Country Planning Act, 1962, and I now apply for the Minister's confirmation in accordance with the Town and Country Planning General Regulations 1964. The following documents are enclosed:-

- (a) The sealed Order and the map showing the location of the trees.
- (b) Four unsealed copies of the Order and map.
- (c) A statement of the grounds set out in the notices under paragraph 12(b) of the Town and Country Planning General Regulations 1964, as being those on which the Council consider that the Order should be confirmed.
- (d) A certificate furnishing the names and addresses of the persons served with a notice in accordance with the aforementioned paragraph (b) and the dates of service.

I observe that unfortunately in preparing the printed copies of the Order the County Council have referred to the Ministry of Land and Natural Resources. I assume that the Ministry will correct this as an amendment to the Order when confirmed.

Yours faithfully,

Clerk of the Council.

The Secretary,
Ministry of Housing & Local Government,
Whitehall,
London, S.W.1.

Clerk of the Council.

Engineer and Surveyor.

FVR/TP/3/PMG.

13th March, 1967.

Tree Preservation Order No.18
(Cheadle Cricket Club)

The County Council have now approved the draft of the above-named Order but have deleted from the schedule tree T.5 because of its decayed condition. Will you now let me have as soon as possible 35 copies of the plan with tree T.5 deleted therefrom. The remainder of the trees will retain their existing numbers.

The full name of the Order to be shown on the plan is "The Cheadle and Gatley Urban District Council (Cheadle Cricket Club) Tree Preservation Order (No.18) 1967."

p.p. RICHARD ROBERTS.

FVR/TP/3/PMG.

RP/8604/HH

13th March, 1967.

Dear Sir,

Town and Country Planning Act, 1962 - Section 29
The Cheadle and Gatley Urban District Council (Cheadle
Cricket Club) Tree Preservation Order (No.18) 1967.

I acknowledge with thanks receipt of your letter of the 8th March together with prints of the above-named Order. The Order will now be submitted to the Minister of Housing & Local Government for confirmation and three copies will be furnished to you when confirmed.

Yours faithfully,

Clerk of the Council.

J.K. Boyton, Esq., M.C.,
Clerk of the County Council,
County Hall,
Chester.

CHEADLE AND GATLEY URBAN DISTRICT COUNCIL

<u>Property and Trees Therein</u>	<u>Occupier</u>	<u>Owner</u>
No. 93 Gatley Road, T. 1 and T. 2	Flat 1: Mr. Leighton Flat 2: Mr. Mahood Flat 3: Mr. Richardson	Mr. Tarr, 92 Styal Road, Gatley, Cheadle, Cheshire.
No. 95 Gatley Road, T. 3	Flat 1: Mr. K. Cunnah Flat 2: Mr. H.D. Boswell Flat 3: Mr. P.B. Ashton	Mr. Tarr, 92 Styal Road, Gatley, Cheadle, Cheshire.
No. 97 Gatley Road, T. 4; T.5; and T.6	Dr. P. Gaubert	Dr. P. Gaubert, 97 Gatley Road, Gatley, Cheadle, Cheshire.
No. 103 Gatley Road, T. 7 and T. 8	Flat a: Mrs. Holme Flat b: Mrs. V. Gardner	Mrs. V. Gardner, Flat b., 103 Gatley Road, Gatley, Cheadle, Cheshire.
No. 105 Gatley Road) No. 107 Gatley Road) T.9; T.10; and T.11	Shortacre High School for Girls	Mrs. Jones, 107 Gatley Road, Gatley, Cheadle, Cheshire.
Cheadle Cricket Club (Kingsway) T. 12	Cheadle Cricket Club	Cheadle Cricket Club, Kingsway, Cheadle, Cheshire.
No. 213 Kingsway T. 13.	Mrs. Oswald	Mrs. Oswald, 213 Kingsway, Cheadle, Cheshire.

Duncan S. Graham, B.Sc., C.Eng., M.I.Mun.E.,
Engineer and Surveyor.

Town Hall,
Cheadle,
Cheshire.

January, 1967.