

12th JUNE 2009

TOWN AND COUNTRY PLANNING ACT 1990

THE METROPOLITAN BOROUGH OF STOCKPORT
TREE PRESERVATION (LANSDOWN CLOSE, CHEADLE HULME)
ORDER 2009

CONFIRMATION BY THE DIRECTOR OF ENVIRONMENT AND ECONOMIC DEVELOPMENT

The required publicity in accordance with Regulation 5 of the Town and Country Planning (Tree Preservation Order) Regulation 1999, as amended, having been given the foregoing Order, and no objections or representations having been made or if so made having been withdrawn, and the period of 28 days from the service of Notices the making of the Order having expired, the said Order was CONFIRMED as an unopposed Order by the Director of Environment and Economic Development.

Dated this 10th August 2009

TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999
As amended by the Town and Country Planning (Trees)(Amendment)(England)
Regulations 2008

Town and Country Planning Act 1990
THE METROPOLITAN BOROUGH OF STOCKPORT
TREE PRESERVATION
(LANSDOWN CLOSE, CHEADLE HULME) ORDER 2009

The Stockport Metropolitan Borough Council, in exercise of the powers conferred on them by sections 198 [201] and 203 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation

1. This Order may be cited as THE METROPOLITAN BOROUGH OF STOCKPORT TREE PRESERVATION (LANSDOWN CLOSE, CHEADLE HULME) ORDER 2009

Interpretation

2. In this Order “the authority” means the Stockport Metropolitan Borough Council and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

[Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 12th June 2009.

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners), and subject to article 5, no person shall—

- (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

5.—(1) Nothing in article 4 shall prevent—

- (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary—
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
- (aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);
- (ab) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;
- (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
- (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
- (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
- (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development Order) 1995;
- (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or

(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article—

“development value” means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

“owner” has the meaning given to it by section 34 of the Forestry Act 1967.

[Application to trees to be planted pursuant to a condition

[10.] In relation to the tree[s] identified in the first column of Schedule 1 by the letter “C”, being [a tree] [trees] to be planted pursuant to a condition (being a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees)), this Order takes effect as from the time when [that tree is planted] [those trees are planted].]

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

Reference on map Description Situation

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Oak	Located within the rear curtilage of No.5 Lansdown Close approximately 9 metres from the rear of the property and 8 metres from the rear boundary.
T2	Oak	Located within the rear curtilage of No.7 Lansdown Close approximately 10 metres from the rear of the property and 2 metres from the rear boundary.
T3	Birch	Located within the side curtilage of No.7 Lansdown Close approximately 14 metres from the side of the property and 1 metre from the rear boundary.
T4	Oak	Located within the side curtilage of No.7 Lansdown Close approximately 22 metres from the side of the property and 2 metres from the rear boundary.
T5	Ash	Located within the side curtilage of No.7 Lansdown Close approximately 18 metres from the side of the property and 2 metres from the boundary with No.9 Lansdown Close.
T6	Oak	Located within the rear curtilage of No.9 Lansdown Close

		approximately 22 metres from the rear of the property and 2 metres from the boundary with No.7 Lansdown Close.
T7	Oak	Located within the rear curtilage of No.9 Lansdown Close approximately 17 metres from the rear of the property and 1 metre from the boundary with No.7 Lansdown Close.
T8	Oak	Located within the rear curtilage of No.9 Lansdown Close approximately 17 metres from the rear of the property and 4 metres from the boundary with No.7 Lansdown Close.
T9	Oak	Located within the rear curtilage of No.9 Lansdown Close approximately 21 metres from the rear of the property and 7 metres from the boundary with No.7 Lansdown Close.
T10	Oak	Located within the side curtilage of No.8 Lansdown Close approximately 27 metres from the side of the property and 4 metres from the boundary with No.10 Lansdown Close.
T11	Oak	Located within the side curtilage of No.8 Lansdown Close approximately 19 metres from the side of the property and 4 metres from the boundary with No.10 Lansdown Close.
T12	Willow	Located within the side curtilage of No.8 Lansdown Close approximately 14 metres from the side of the property and 8 metres

		from the boundary with No.109 Ack Lane West.
T13	Oak	Located within the side curtilage of No.6 Lansdown Close approximately 14 metres from the side of the property and 1 metre from the boundary with No.8 Lansdown Close.
T14	Oak	Located within the side curtilage of No.6 Lansdown Close approximately 10 metres from the side of the property and 1 metre from the boundary with No.8 Lansdown Close.
T15	Oak	Located within the rear curtilage of No.6 Lansdown Close approximately 10 metres from the rear corner of the property and 1 metre from the boundary with No.8 Lansdown Close.
T16	Oak	Located within the side curtilage of No.6 Lansdown Close approximately 13 metres from the rear corner of the property and 1 metre from the boundary with No.8 Lansdown Close.
T17	Birch	Located within the rear curtilage of No.109 Ack Lane West approximately 32 metres from the rear of the property and 2 metres from the boundary with No.8 Lansdown Close.
T18	Pear	Located within the rear curtilage of No.109 Ack Lane West approximately 51 metres from the rear of the property and 4 metres from the boundary with No.8 Lansdown Close.
T19	Birch	Located within the rear curtilage of No.109 Ack

		Lane West approximately 55 metres from the rear of the property and 4 metres from the boundary with No.8 Lansdown Close.
T20	Ash	Located within the rear curtilage of No.109 Ack Lane West approximately 60 metres from the rear of the property and 2 metres from the boundary with No.8 Lansdown Close.
T21	Sycamore	Located within the rear curtilage of No.109 Ack Lane West approximately 60 metres from the rear of the property and 10 metres from the boundary with No.8 Lansdown Close.
T22	Ash	Located within the rear curtilage of No.109 Ack Lane West approximately 65 metres from the rear of the property and 2 metres from the boundary with No.111 Ack Lane West.
T23	Beech	Located within the rear curtilage of No.111 Ack Lane West approximately 64 metres from the rear of the property and 4 metres from the boundary with No.109 Ack Lane West.

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

Reference on map	Description	Situation
None		

Groups of trees
(within a broken black line on the map)

Reference on map	Description (including number of trees in the group)	Situation
None		

Woodlands
(within a continuous black line on the map)

Reference on map	Description	Situation
None		

SCHEDULE 1

PART I PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990 APPLIED WITH ADAPTATIONS OR MODIFICATIONS

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 69 (registers)	<p>(a) In subsection (1)—</p> <p style="padding-left: 40px;">(i) omit—</p> <p style="padding-left: 80px;">“, in such manner as may be prescribed by a development order,”,</p> <p style="padding-left: 80px;">“such” in the second place where it appears, and</p> <p style="padding-left: 80px;">“as may be so prescribed”; and</p> <p style="padding-left: 40px;">(ii) substitute “matters relevant to tree preservation orders made by the authority” for “applications for planning permission”.</p> <p>(b) In subsection (2)—</p> <p style="padding-left: 40px;">(i) after “contain” insert “, as regards each such order”; and</p> <p style="padding-left: 40px;">(ii) for paragraphs (a) and (b) substitute—</p> <p style="padding-left: 80px;">(a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and</p> <p style="padding-left: 80px;">(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State’s determination of it.”.</p> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>
Section 70 (determination of applications: general considerations)	<p>(a) In subsection (1)—</p> <p style="padding-left: 40px;">(i) substitute—</p>

	<p>“Subject to subsections (1A) and (1B), where” for “Where”;</p> <p>“the authority” for “a local planning authority”;</p> <p>“consent under a tree preservation order” for “planning permission” where those words first appear; and</p> <p>“consent under the order” for “planning permission” in both of the other places where those words appear;</p> <p>(ii) after “think fit”, insert—</p> <p>“(including conditions limiting the duration of the consent or requiring the replacement of trees)”;</p> <p>(iii) omit “subject to sections 91 and 92,”.</p> <p>(b) After subsection (1) insert—</p> <p>“(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</p> <p>(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).”.</p> <p>(c) Omit subsections (2) and (3).</p>
Section 75 (effect of planning permission)	<p>(a) In subsection (1) substitute—</p> <p>(i) “Any” for the words from “Without” to “any”;</p> <p>(ii) “consent under a tree preservation order” for “planning permission to develop land”;</p> <p>(iii) “the consent” for “the permission”; and</p> <p>(iv) “the land to which the order relates” for “the land”.</p>

	(b) Omit subsections (2) and (3).
Section 78 (right to appeal against planning decisions and failure to take such decisions)	<p>(a) In subsection (1) substitute—</p> <ul style="list-style-type: none"> (i) “the authority” for “a local planning authority”; (ii) “consent under a tree preservation order” for “planning permission” in the first place where those words appear; (iii) “consent under such an order” for “planning permission” in the second place where those words appear; (iv) for paragraph (c) substitute— <ul style="list-style-type: none"> “(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority.”. <p>(b) Omit subsection (2).</p> <p>(c) In subsection (3) for “served within such time and in such manner as may be prescribed by a development order.” substitute—</p> <p>“in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—</p> <ul style="list-style-type: none"> (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority’s decision or direction or within such longer period as the Secretary of State may allow; (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal

	<p>may only be made against that refusal or grant.”.</p> <p>(d) For subsection (4), substitute—</p> <p>“(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).”.</p> <p>(e) For subsection (5), substitute—</p> <p>“(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.”.</p>
<p>Section 79 (determination of appeals)</p>	<p>(a) In subsections (1) and (2), substitute “the authority” for “the local planning authority”.</p> <p>(b) Omit subsection (3).</p> <p>(c) In subsection (4), substitute—</p> <ul style="list-style-type: none"> (i) “section 70(1), (1A) and (1B)” for “sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5”; (ii) “consent under a tree preservation order” for “planning permission”; and (iii) “the authority” for “the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of sections 65 or 71.”. <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after “section 78”.</p>

PART II
PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990,
AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

(1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.

(2) The register shall contain, as regards each such order—

- (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
- (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

(1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order—

- (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
- (b) they may refuse consent under the order.

(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) enure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78

(1) Where the authority—

- (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
- (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;
- (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or
- (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—

- (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
- (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).

(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

Section 79

(1) On an appeal under section 78 the Secretary of State may—

- (a) allow or dismiss the appeal, or

- (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(5) The decision of the Secretary of State on such an appeal shall be final.

(7) Schedule 6 applies to appeals under section 78.

Dated 12th June 2009

The COMMON SEAL of the METROPOLITAN)
BOROUGH COUNCIL OF STOCKPORT)
was hereunto affixed in the presence of)



Mayor

[Handwritten signature] 275644

Council Solicitor

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