

Department of the Environment
North West Region,
Swaley Building,
Piccadilly Place,
Manchester
M1 6BE

HW/960/146/73
PWS/CC/TP/3(1)/CAG
Mr. P. Stanshous

16th May, 1974

Dear Sirs,

TOWN AND COUNTRY PLANNING ACT 1971

TOWN AND COUNTRY PLANNING (TREE PRESERVATION ORDERS) REGULATIONS 1969

CREABLE AND GATLEY UDC (WILTON AVENUE)

TREE PRESERVATION ORDER NO 56 1974

I refer to your letter of 9th May 1974. The necessary information was forwarded on the 16th April 1974 and I subsequently received a telephone call from your office saying that the outstanding objection to the making of the order had been withdrawn. Consequently it was intended that the order should be confirmed by the Council at its next meeting.

In view of the apparent confusion in this matter I should be grateful if you would clarify the situation as soon as possible.

Yours faithfully,

Director of Administration.

21st May, 1974

Dear Sir,

The Chuzzle and Hally U.D.C. (Silton Avenue) Tree Preservation Order
Number 66 1974

I refer to Mr. Moffitt's recent telephone conversation with my
Assistant Solicitor Mr. Stevenson and I requested to enclose the
sealed copy of the above Order. I should be grateful if this
could be returned to me in due course.

I shall seek the observations of the appropriate officers upon the
letter of objection submitted by Mr. Moffitt and shall write again to
you as soon as possible.

Yours faithfully,

Director of Administration,

Metropolitan Borough of Stockport

Memorandum

To Director of Administration (For the attention of
Your ref. Mr. Stockhouse)

Date 4 June 1974

From Director of Recreation and Culture
My ref. NR/GT/P/10/8
Ask for Mr. Ryan

Subject CHEADLE AND GABLEY T.P.O. NUMBER 56



Reply
if copy not needed

With reference to your memo concerning the above T.P.O., my comments are as follows:-

- a) It is not the intention of the Local Authority to stop all pruning only to control the amount and manner in which it is carried out. Indeed I would suggest the tree would benefit from crown thinning at the present time, which would allow more sun and light into the garden of Mr. Bluff. As there has been no pruning or request from the owner, it would appear he would not agree the limits are yet tolerable.
- b) The sun's rays would not be restricted until about 3.30 in the afternoon and even then not all the garden would be in shade, therefore I think it's not unreachably to keep the tree in its present form.
- c) This tree is the most dominating factor in the area of 11 back-gardens in close proximity and does add to the visual amenity of the area. It would be a loss to the amenity of the district if allowed to degenerate due to poor pruning or even felling.


Assistant Director (Parks and Amenities)

RECEIVED 1974

Department of the Environment,
Northwest Region,
Sandy Building,
Piccadilly Place,
Manchester

PC/960/145/
RSP/C/TM/2
Mr. P. Stonehouse

10th June, 1974

Dear Sirs,

Tree Preservation Order, Planning Act 1971

Tree and Country Planning (Tree Preservation Order) Regulations 1969

The Buxton and Gaeley C.O.C. (Whitton House) Tree Preservation Order

Number 85 1974

Further to my letter of the 30th May 1974 I should like to add the following comments to those previously made:-

- a) It is not the intention of the local authority to stop all pruning only to control the manner and manner in which it is carried out. Indeed I would suggest the tree would benefit from crown thinning at the present time, which would allow more sun and light into the garden of Mr. Bluff. As there has been no pruning or repairs from the owner, it would ~~not~~ appear he would not care. The lights are yet intolerable.
- b) The sun rays would not be restricted until about 3.30 in the afternoon and even then not all the garden would be in the shade, therefore I think it is not unreasonable to keep the tree in its present form.
- c) This tree is the most dominating factor in the area of eleven back gardens in close proximity and does add to the visual amenity of the area. It would be a loss to the amenity of the district if allowed to degenerate due to poor pruning or even felling.

Yours faithfully,

Director of Administration.

CHALK AND GATEY T.D.C. (Wilton Avenue)
TREE PRESERVATION ORDER NO. 66. 1974

commenting on the letter from the Metropolitan Borough of Stockport of the 30th May, 1974, Mr. Staff says:-

1. I am of the opinion that "conservative pruning" will not meet my objections. The tree in my garden is a horse chestnut. A forest tree of these dimensions (height 33 ft; branch spread i.e. trunk to tip of branch 21 ft) is inappropriate in a private garden. From the trunk to the corner of my garage is 21 ft and to the house itself 46 ft. It will be apparent that half my garden is in shade the most of the day. I fail to see how the tree can be pruned so drastically as to reduce substantially the shade cast. Nothing will grow under the tree and I and my family derive no pleasure from the garden.
2. I am given to understand that the felling of the tree is a skilled job and must be carried out by a specialist under the supervision of the Council. I fail to see why I should have to incur the expense of employing a specialist in this job to preserve something that I do not want and which is being imposed on me by the Council.
3. I object to three trees being selected as the subject of this order which I regard as unfair discrimination. There are other trees in the neighbourhood in particular along the line A, B shown on the plan. I was told by a representative of the Council that the remaining trees were the subject of another Tree Preservation Order but on further enquiry I found this was not so.

The Director of Administration
Metropolitan Borough of Stockport
Town Hall
Stockport
M61 3XL

Your reference

JJD/GCK/EP3(4)

Our reference

PTW/5086/146/3

Date

29 October 1974

Sir

TOWN AND COUNTRY PLANNING ACT 1971
THE CHADDLE AND GATLEY UDC (WILTON AVENUE)
TREE PRESERVATION ORDER NO 66/1974

1. I am directed by the Secretary of State for the Environment to refer to the above named Order and to the objection made by Mr H Bluff of 35 Bradwell Drive, Chaddle, to the inclusion therein of the horse-chestnut tree in group G1.
2. The representations made in support of the objection have been considered together with your Council's observations and an Officer of the Department has inspected the site.
3. The tree under objection stands in the rear garden of Mr Bluff's property at 35 Bradwell Drive, which is in a residential area containing modern detached and semi-detached houses. The grounds of the objection are that the tree is a large forest tree with wide spreading branches. It prevents the full enjoyment of the objector's rear garden, a considerable area of which is shaded by its presence, and, even if it could be pruned to allow more light to penetrate, this would incur unreasonable expense.
4. Although the group of trees is visible in the distance from Outwood Lane the view from the other nearby roads, Bradwell Drive and Wilton Avenue, is restricted to that which can be obtained between the houses. A limited number of houses have rear gardens looking onto the group and the occupants of these no doubt enjoy this amenity. On the other hand the horse-chestnut is already a large tree and if allowed to grow to its potential size would be out of scale in the rear garden of No 35 Bradwell Drive and completely dominate the garden. Whilst the Council have stated that they will allow reasonable pruning of this tree the inclusion of it in the Order would, it is considered, detract seriously from the freedom of the occupant of No 35 Bradwell Drive, to enjoy his property and deal with it as he wishes. In the circumstances it is considered that such an imposition outweighs the amenity which the tree provides in the area as a whole and that it should for these reasons be excluded from the group.
5. With regard to the 2 remaining trees in the group, which are not so close to existing houses, the Secretary of State considers that the value which these contribute to the amenity of the area as a whole, notwithstanding the restrictions of the freedom to top and lop, merits the protection the order will afford. He has therefore decided to confirm the order modified to exclude the horse-chestnut tree.

6. The confirmed Order is enclosed and attention is drawn to the requirements of Regulation 3 of the Town and Country Planning (Tree Preservation Order) Regulations 1969.

7. Section 245 of the Town and Country Planning Act 1971 provides that if a person is aggrieved by any Order of a Description which includes the present Order on the grounds that it is not within the powers of the Act, or that any of the relevant requirements have not been complied with in relation to that Order, he may, within 6 weeks from the date on which the Order is confirmed, apply to the High Court to quash the Order. The relevant requirements are any requirements of the Act of 1971 or of the Tribunals and Inquiries Act 1971, or of any Order, Regulation or Rules made under either of those Acts which are applicable to this Order. If an application is made on the grounds that any of the relevant requirements have not been complied with, it must be shown to the satisfaction of the Court that the interests of the applicant have been substantially prejudiced by a failure to comply with any of the relevant requirements in relation to the Order. A similar right of appeal is given by the section to the local authority directly concerned with the Order.

8. A copy of this letter has been sent to Mr Bluff.

I am Sir
Your obedient servant



W. A. G. G.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

NONE

TREES SPECIFIED BY REFERENCES TO AN AREA

NONE

GROUPS OF TREES

(within a broken black line on map)

Map	Description	Situation
	<u>1 Horse Chestnut</u> 2 Oaks	On or adjacent to the E. boundaries of Nos. 53, 55, 57, 59 and 61 Wilton Avenue and the W. of 33 and 35 Bradwell Drive.

WOODLAND'S

NONE

7/11/74

Mr Baldridge came in

Explained that the horse-chestnut, excluded from the Order, was a fact on his land, since a few years ago he had not objected when Mr Bluff moved the fence dividing the gardens so that the tree formed part of the new boundary.

Mr Baldridge is going to see his solicitor about the boundary and write to the D of E explaining the position.

A. Raynor

D.D.T.P.- for the attention of

Mr. Mostyn

8th November 1974

D.A.

KNAR/JJ TP/3(2)

K.N.A. Raynor

TOWN AND COUNTRY PLANNING ACT 1971 -
CHEADLE & GATLEY U.D.C. (WILTON AVENUE)
TREE PRESERVATION ORDER NO. 66 - 1974

For your information I enclose herewith a copy of the above Order together with

55 Wilton Avenue
Heald Green, Leicestershire, LK8. 3LJ

8. 11. 74.

Mr Reiner
Office of the Director of Administration
M. B. of Stockport
Town Hall, Stockport

Dear Sir,

Further to our conversation of above
concerning and referring to Tree Preservation Order No 66 by Leicestershire E.
Galley Council in which you have now deleted the Order on "1 Horse
Chestnut Tree".

I understand that a Mr R. Bluff of 55 Bradwell Drive, who
has submitted a claim in respect of the above tree, and I would
like to bring to your notice the following points.

In the first place the tree is in my garden and therefore
property, which details Mr Bluff has had full knowledge of
the past nine to ten years since he has lived in his present
I agree Mr Bluff has his fence attached to each side of the said
tree, but I am instructing my solicitors to notify Mr Bluff to
remove his fence back 4 1/2 feet on to his original building.
account of Mr Bluff's actions, I had to obtain the Tree Preservation
as two or three times a week he would have large smoky fires
at the base of the tree, plus fixing a rope to encourage his children
to play Targan and climb up among the branches. He did ask

9.

On more than one occasion if I would have the tree chopped down, which I definitely refused to do.

In conclusion and in view of the fact that due to Mr Bluff's, shall we say 'Unighbourly action' I asked for this Tree Preservation Order, which took about three years to obtain and incurred quite a deal of correspondence, with visits from officials of Chadwell & Patten Council Parks Dept plus an Official sent by Chatsworth Council of the Forestry Commission, now that you have heard my side of the story, I trust that in your wisdom you will see fit to re-instate the Preservation order with a minimum of delay, I say minimum of delay otherwise if Mr Bluff is allowed to revert to his smoky fires etc, etc I am afraid there will be very little of the said tree to preserve.

I remain
Yours faithfully
J. Baldwin

Resident owner of 55 Mill Lane for 16 years.

PWW/5986/146/3

KHAR/JJ TP3(2)

K.N.A. Rayner

8th November 1974

Department of the Environment
North West Region
Sunley Building
Piccadilly Place
Manchester M1 4BE

Dear Sirs,

TOWN AND COUNTRY PLANNING ACT 1971
THE CHEADLE AND GATLEY U.D.C. (WILSON AVENUE)
TREE PRESERVATION ORDER NO. 66/1974

Thank you for your letter of the 19th October 1974.

I confirm that regulation 9 of the Town & Country
Planning (Tree Preservation Order) Regulation
1969 has been complied with.

I enclose a copy of a letter received today from
Mr. Baldwin of 55 Wilton Avenue, Heald Green from
which you will note that Mr. Baldwin states that the
horse chestnut tree excluded from the Order is in
fact on his land and the boundary between his land
and Mr. Bluff's land should be moved towards Mr.
Bluff's house - approximately 4'- 5'.

It is my opinion that this statement if proved to be
correct may have resulted in the Secretary of the
State for the Environment not excluding the horse
chestnut tree from the Order.

Continued ..

I should be grateful for some sort of indication as to whether the Secretary of State may consider the new development in the same way since it would obviously be a waste of time and money if a new Tree Preservation Order was made in respect of this one tree on the basis of this new development and then ~~you would~~ find that the Secretary of State regarded the position is not having changed to such an extent as to allow him to consider the tree to be worthy of inclusion in a Tree Preservation Order.

Yours faithfully,

Director of Administration

3, Seahol Close,
New Mills
Via Stockport
Cheshire

December 2nd 1964

To whom it may concern: -

I wish to confirm that when I lived at 59 Wilton Avenue, Heald Green, the original boundary for the Wilton Avenue houses was a hedge. The hedge was behind a horse chestnut tree at the end of the garden of 55, Wilton Avenue,
Signed: Ruth Laidler.

4/12/74

Baldwin

Mr. ~~Bluff~~ called in and gave me a copy letter received from Ruth Middle, a part tenant of 59 Wilton Avenue.

Mr. Bluff has been to see a notice. He says he will write a memo for papers of the force ~~is~~ moved.

Mr. Bluff will keep me informed.

A.R.



Department of the Environment
 North West Region
 Sunley Building Piccadilly Plaza Manchester M1 4BE

Telephone 061-332 9111 ext 2346

The Director of Administration
 Metropolitan Borough of Stockport
 Town Hall
 Stockport
 SK1 3XE

Your reference
 KNAR/JJ TP3(2)
 Our reference
 PNW/5086/146/3
 Date

5 December 1974

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1971
 THE CHEADLE AND GATLEY U.C. (WILTON AVENUE)
 TREE PRESERVATION ORDER 66/1974

I refer to your letter of 8 November about the above mentioned order.

The issues raised by the objector were the ones on which the decision was based and these relate to the amenity value of the tree weighed against the inconvenience of its proximity to the property. We do not consider that the decision would have been materially affected had we known of the possibility that the tree in question is on land in the ownership of Mr Baldwin of 55 Wilton Avenue.

Yours faithfully

J Hopcroft

J HOPCROFT

RECEIVED	FILE
PLANNING	
- 9 DEC 1974	
Ref.	Att.
AR	

MR/MR 271(2)
Mr. Egner
9th December, 1974.

Mr. Edrick,
25, Wilton Avenue,
Bald Green,
CHESHIRE,
CHESHIRE,
M20 1JY.

Dear Sir,

Tree and Country Planning Act, 1971 -
Cheshire and Gilling 250 (Wilton Avenue)
Tree Preservation Order 05/1974.

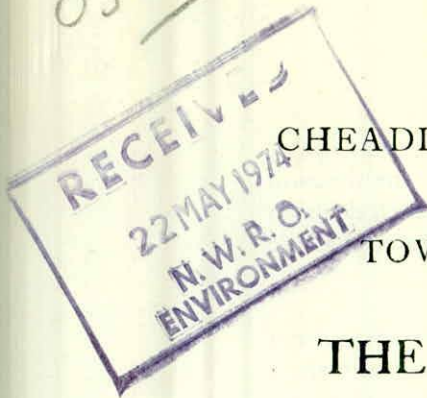
I am writing to inform you that the Department
of the Environment has stated that it is not
considered that the application to exclude the
hedge planted trees at the bottom of your garden
from the Order would have been materially
affected had it been known that the trees are
on your land.

I shall be grateful to know the outcome of your
boundary dispute with Mr. Staff.

Yours faithfully,

Director of Administration.

0394



CHEADLE AND GATLEY URBAN DISTRICT COUNCIL

TOWN AND COUNTRY PLANNING ACT, 1971

THE CHEADLE AND GATLEY U.D.C.

(Wilton Avenue)

NO. 66

TREE PRESERVATION ORDER, 1974

THE URBAN DISTRICT COUNCIL OF CHEADLE AND GATLEY in pursuance of the powers conferred in that behalf by Section 60 of the Town and Country Planning Act 1971 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 the Forestry Act 1967, hereby make 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, 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, 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 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 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;
- (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 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 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 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. Any 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 *14 February* 1974

Note: Any person who, in contravention of this Order, cuts down or wilfully destroys a tree, or tops or lops a tree in such a manner as to be likely to destroy it, is guilty of an offence under Section 102(1) of the Act, and liable, on summary conviction, to a fine not exceeding £250, or twice the value of the tree whichever is the greater. A person who contravenes the provisions of the Order otherwise than in the manner mentioned in Sub-Section 1, shall also be guilty of an offence and liable, on summary conviction, to a fine not exceeding £50. In the case of a continuing offence, if the contravention is continued after conviction, a person will be guilty of a further offence and liable, on summary conviction, to an additional fine not exceeding £2 for each day on which the contravention is continued. If a tree other than one which is part of a woodland is removed or destroyed in contravention of the Order it is the duty of the owner of the land, unless on his application the local authority dispense with the requirements, to plant another tree of appropriate size and species, at the same place as soon as he reasonably can.

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 exempted from the provisions of this order by Section 60(6) of the Act namely a tree which is dying or dead or has become dangerous, or the cutting down, topping or lopping of which is in compliance with obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.
- (4) the cutting down, topping or lopping of a tree
 - (a) in pursuance of the power conferred on the Minister of Posts and Telecommunications by virtue of section 5 of the Telegraph (Construction) Act 1908;
 - (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 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;
 - (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; or
 - (iv) the Secretary of State for Defence (Royal Air Force), the Secretary of State for Trade and Industry where in the opinion of such Secretary of State or Board 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.
 - (c) 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;
 - (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden;

* NOTE: Section 62 of the Act requires, unless on the application of the owner the local authority dispense with the requirement, that any tree removed or destroyed under section 60(6) of the Act shall be replaced by another tree of appropriate size and species. In order to enable the local planning authority to come to a decision on whether or not to dispense with the requirement, notice of the proposed action should be given to the local planning authority which except in a case of emergency shall be of not less than five days.

THIRD SCHEDULE

Provisions of the following parts of Part III of the Act as adapted and modified to apply to this Order.

33.—(1) Without prejudice to the following provisions as to the revocation or modification of consents, any consent under the Order, including any direction as to replanting given by the authority on the granting of such consent, shall (except in so far as the consent otherwise provides), enure for the benefit of the land and of all persons for the time being interested therein

Reference of applications to Secretary of State.

35.—(1) The Secretary of State 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.

(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 Secretary of State accordingly.

(4) Where an application for consent under the Order is referred to the Secretary of State 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 Secretary of State shall, if either the applicant or the authority so desire, afford to each or 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 application referred to him under this section shall be final.

Appeals against decisions.

36.—(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 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 no 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.

37. 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—

Appeal in default of decisions.

- (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

Secretary of State in accordance with directions given under section 35 above; 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.

45.—(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.

Power to revoke or modify the consent under the order.

(2) (Subject to the provisions of Section 46 and 61 of the Act) an order under this section shall not take effect unless it is confirmed by the Secretary of State and the Secretary of State may confirm any such order submitted to him either without modification or subject to such modifications as he considers expedient.

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

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 less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose and (b) the period (not less than 14 days from the expiration of the the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Secretary of State, such Order may take effect by virtue of this section and without being confirmed by the Secretary of State.

(3) The authority shall also serve notices to the same effect on the persons mentioned in subsection (1) above.

(4) The authority shall send a copy of any advertisement published under subsection (2) above to the Secretary of State, not more than three days after the publication.

(5) If within the period referred to in subsection (2)(a) above no person claiming to be affected by such Order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that such Order be submitted to him for confirmation, such Order shall at the expiration of the period referred to in subsection (2)(b) of this section take effect by virtue of this section and without being confirmed by the Secretary of State as required by section 45(2) of the Act.

(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

Twelfth

day of

February

1974

THE COMMON SEAL OF THE
URBAN DISTRICT COUNCIL OF CHEADLE AND GATLEY
was hereunto affixed
in the presence of:—



Paul L. Thompson

Chairman of the ~~County~~ Council

James

Deputy Clerk of the ~~County~~ Council

The Secretary of State for the Environment hereby confirms the foregoing Order, subject to the modifications shown in red ink thereon.

DOE 16188/74
Signed by authority of the
Secretary of State
29 October 1974

A. Murphy

An authorised officer in the
Department of the Environment.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

NONE

TREES SPECIFIED BY REFERENCES TO AN AREA

NONE

GROUPS OF TREES

(within a broken black line on map)

No on Map	Description	Situation
G.1	1 Horse Chestnut 2 Oaks	On or adjacent to the E. boundaries of Nos. 53, 55, 57, 59 and 61 Wilton Avenue and the W. of 33 and 35 Bradwell Drive.

WOODLANDS

NONE