

COUNTY OF CHESTER.

TOWN AND COUNTRY PLANNING ACT, 1947

THE HIGHER LANE (LYMM)
TREE PRESERVATION ORDER, 1951

THE COUNTY COUNCIL OF THE ADMINISTRATIVE COUNTY OF CHESTER (in this Order called "the authority") in pursuance of the powers conferred in that behalf by Section 28 of the Town and Country Planning Act, 1947 (hereinafter called "the Act"), hereby make the following Order (which may be cited by the name appearing in the title hereof) :—

1. In this Order "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.
2. Subject to the exemptions specified in the Second Schedule to this Order, no person shall, except with the consent of the authority cut down, top, lop, or wilfully destroy or cause or permit the cutting down, topping, lopping, or wilful destruction of any of the trees or any of the trees contained in the groups specified in the First Schedule hereto, shown numbered and coloured green and red respectively on the map annexed hereto; which map shall prevail where any ambiguity arises between it and the specification in the said First Schedule.
3. An application for consent made to the authority under paragraph 2 of this Order shall be in writing stating the reasons for making the application, and shall specify the trees to which the application relates, and the operations for the carrying out of which consent is required, and where necessary for the identification of such trees shall be accompanied by a map or plan of a size or on a scale sufficient for the purpose.
- 4(1). Where an application for consent is made to the authority 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:
 - (2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application and the decision of the authority thereon, and every such register shall be available for inspection by the public at all reasonable hours.
5. The provisions set out in the Third Schedule to this Order, being the provisions of Part III of the Act as adapted and modified for the purposes of this Order, shall apply in relation to any application made to the authority for consent under the Order and to any decision of the authority thereon.

FIRST SCHEDULE

Trees and Groups of Trees adjacent to Higher Lane in Lymm Ward of the Lymm Urban District.

No. on Plan	Description of Trees	Situation
T. 1	} Lombardy Poplars	15 Higher Lane
T. 2		
T. 3		
T. 4		
T. 5	1 Chestnut	19 Higher Lane
T. 6	1 Beech	On east side of Crouchley Lane at the junction with Higher Lane
T. 7	1 Sycamore	In front of No. 1 Manor Road
T. 8	1 Hazel	In front of 18 Higher Lane
T. 9	1 Sycamore	Back of Lymm Urban District Council Reservoir
T. 10	1 Silver Birch	Front of Lymm Urban District Council Reservoir
T. 11	1 Wych Elm	27 Higher Lane
T. 12	} Chestnuts	Grounds of Baptist Chapel
T. 13		
T. 14		
T. 15	1 Beech	
T. 16		
T. 17	1 Oak	Hedge between Central Garage and 47 Higher Lane
T. 18	} Sycamores	47 Higher Lane
T. 19		
T. 20		
T. 21		
T. 22	2 Fruit Trees	Garden of 49 Higher Lane
T. 23		
T. 24	1 Cherry Tree	Garden of 40 Higher Lane
T. 25	} Laburnums	Garden of 42 Higher Lane
T. 26		
T. 27		
T. 28	2 Firs	
T. 29	1 Beech	} Garden of 51 Higher Lane
T. 30	1 Chestnut	
T. 31	1 Sycamore	
T. 32	} Sycamores	West side of Tower Lane
T. 33		
T. 34		
T. 35		
T. 36	2 Cherries	Garden of 55 Higher Lane
T. 37		
T. 38	} Thorn	Garden of 50 Higher Lane
T. 39		
T. 40		
T. 41	1 Beech	Land on west side of junction of Grammar School Road with Higher Lane
T. 42	} Sycamores	Garden of 54 Higher Lane
T. 43		
T. 44		
T. 45		
T. 46	} Chestnuts	Garden of 56 Higher Lane
T. 47		
T. 48		
T. 48	1 Sycamore	

respect of the expenses of the authority in taking steps required to be taken by such notice, shall be deemed to be incurred or paid for the use and at the request of the person entitled to fell trees as aforesaid.

(3) Where by virtue of an enforcement notice, any cutting down, topping, lopping, or destruction of trees or groups of trees is required to be discontinued, or any conditions are required to be complied with in respect of any cutting down, topping or lopping, then if any person without the grant of consent in that behalf under this Order, contravenes or permits the contravention of the notice in respect of the aforesaid matters, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds; and if the contravention is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction, to a fine not exceeding twenty pounds for every day on which he continues to contravene the notice.

IN WITNESS whereof the Authority have caused their Common Seal to be here-

unto affixed this **15th** day of **May**,

one thousand nine hundred and fifty-one.

The Common Seal of the County Council of
the Administrative County of Chester was
hereunto affixed in the presence of:—

L.S.
14561.

(Sgd) E. Otho Glover.

Chairman of the Council.

(Sgd) Geoffrey C. Scrimgeour.

Clerk of the Council.

SEALED ORDER 1276

Dated _____ 1951.

CHESHIRE COUNTY COUNCIL.

Town and Country Planning Act, 1947

THE HIGHER LANE
(LYMM)

TREE PRESERVATION
ORDER,

1951

T.P.O. 2/51.

COUNTY OFFICES,
CHESTER

I notice that T.92, T.93 & T.94 are
in front of 119 Higher Lane and not
in front of 117 Higher Lane as stated
in the Order.

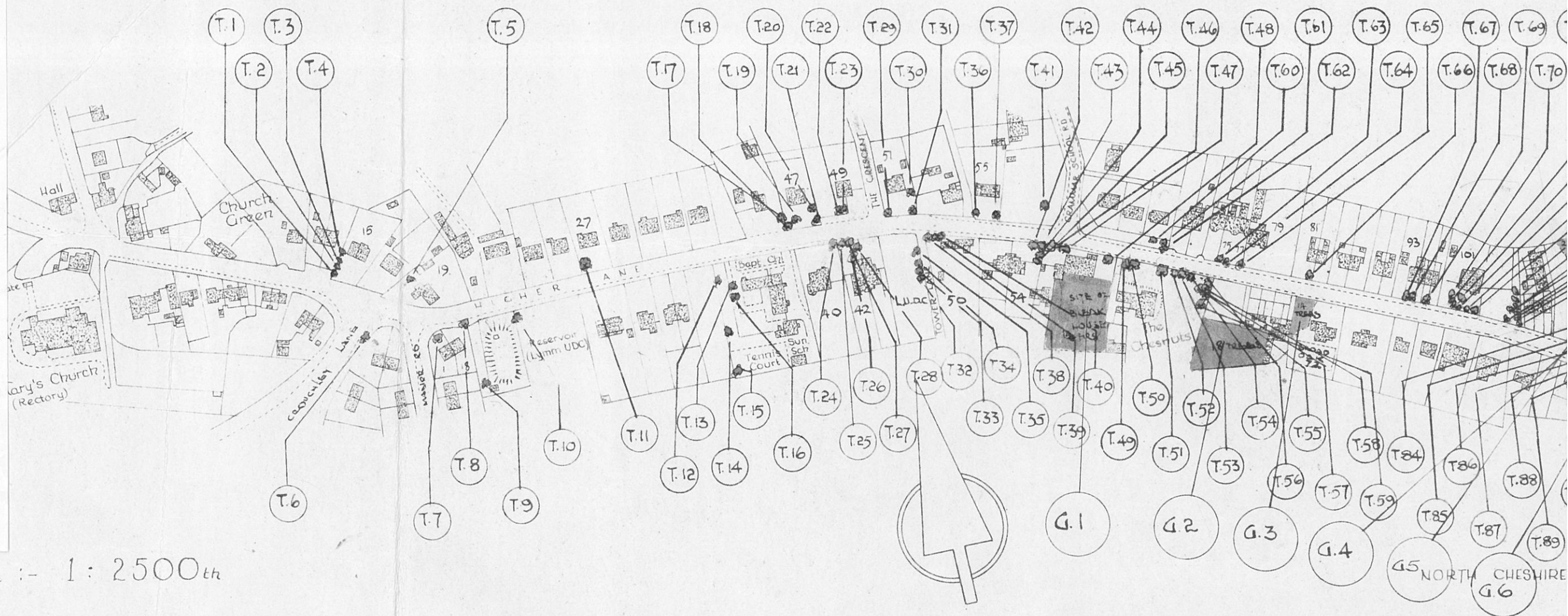
T.95 is not in the grounds of 90 Higher
Lane but in the grounds of 88 Higher
Lane. T.95 is not a Cherry but a Silver
Birch Tree.

-:-:-:-:-:-:-

TREE PRESERVATION — HIGHER LANE, LYMM.

THE COMMON SEAL of the COUNTY COUNCIL
of the ADMINISTRATIVE COUNTY of
CHESTER was herewith affixed in the
presence of:—

(Sgd) E. Otho Glover.
Chairman of the Council. L.S.
14561.
(Sgd) Geoffrey C. Scrimgeour.
Clerk of the Council.



Scale :- 1: 2500th

within such period as may be so specified for securing that operations, in so far as still practicable, shall be carried out in such manner as might have been required had the trees or groups of trees to which the notice relates been the subject of an application for grant of consent under this Order, or for securing compliance with the conditions; and in particular any such notice may, for the purpose aforesaid, require the immediate discontinuance of any cutting down, topping, lopping or destruction of trees or groups of trees.

(6) Subject to the provisions of the next following subsection, an enforcement notice shall take effect forthwith:

Provided that—

(a) if within the period of 14 days after the service thereof, an application is made to the authority under this Order for consent to cut down, top or lop any trees or group of trees to which the enforcement notice relates, the notice, except in so far as it may require the discontinuance of cutting down, topping, lopping or wilful destruction of trees or groups of trees, shall be of no effect pending the final determination of the application, and if and to the extent such consent as aforesaid is granted on that application, the notice shall not take effect.

(b) if within the period of 14 days after the service thereof an appeal is made to the Court under the following provisions of this section by a person on whom the enforcement notice was served, the notice, except in so far as it may require the discontinuance of cutting down, topping, lopping or wilful destruction of trees or groups of trees shall be of no effect pending the final determination or withdrawal of the appeal.

(4) If any person on whom an enforcement notice is served under this section is aggrieved by the notice, he may, at any time within the period mentioned in the last foregoing subsection, appeal against the notice to a court of summary jurisdiction for the petty sessional division or place within which the land to which the notice relates is situated; and on any such appeal the court—

(a) if satisfied that consent was granted under this Order for the cutting down, topping or lopping or destruction of the trees or groups of trees to which the notice relates, or that no such consent was required in respect thereof, or that the conditions subject to which consent was granted have been complied with, shall quash the notice to which the appeal relates;

(b) if not so satisfied, but satisfied that the requirements of the notice exceed what is necessary for compliance with the conditions attached to the consent, or what might have been required had application for consent to the cutting down, topping, lopping or destruction been made in respect of the trees or groups of trees to which the notice relates, shall vary the notice accordingly;

(c) in any other case shall dismiss the appeal.

(5) Any person aggrieved by a decision of a court of summary jurisdiction under the last foregoing subsection may appeal against that decision to a court of quarter sessions.

24(1) If within the period specified in an enforcement notice, or within such extended period as the authority may allow, any steps required by the notice to be taken (other than discontinuance of cutting down, topping, lopping or wilful destruction of any trees or groups of trees) have not been taken, the authority may enter on the land on which the trees or groups of trees are situated and take those steps, and may recover as a simple contract debt in any court of competent jurisdiction from the person who is then the owner of the land, or the person who is entitled to fell the trees, any expenses reasonably incurred by them in that behalf, and if that person having been entitled to appeal to the court under the last foregoing section, failed to make such an appeal, he shall not be entitled in proceedings under this subsection to dispute the validity of the action taken by the authority upon any ground which could have been raised by such an appeal.

(2) Where a person other than the owner of any land is entitled to fell trees to which an enforcement notice under the last foregoing section relates, any expenses incurred by the owner of such land for the purpose of complying with such enforcement notice and any sum paid by the owner of any land under the foregoing subsection in

(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 the directions given by him under the last foregoing section, the provisions of subsection (1) of this 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 expiration of the said period of two months or the extended period agreed upon as aforesaid, as the case may be.

21(1) Subject to the provisions of this section, if it appears to the authority that it is expedient that any consent under the Order granted on an application made in that behalf should be revoked or modified, they may by order revoke or modify the consent to such extent as appears to them to be expedient as aforesaid :

Revocation or
modification of
consent under
the Order

Provided that no such order shall take effect unless it is confirmed by the Minister, and the Minister may confirm any order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.

(2) Where an authority submit an order to the Minister for his confirmation under this Section, that authority shall furnish the Minister with a statement of their reasons for making the order and shall serve notice of the making of the Order on the owner of the land, and on any other person who in their opinion will be affected by the order, and if within the period of 28 days from the service thereof any person on whom the notice is served so requires, the Minister shall, before confirming the order, afford to him and to the authority an opportunity of appearing before and being heard by a person appointed by the Minister for that purpose.

(3) 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 carried out before the date on which the order was confirmed as aforesaid.

(4) Where a notice has been served in accordance with the provisions of subsection (2) 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 (1) of this Section.

Supplementary
provisions as to
revocation and
modification

22(1) Where any person is affected by an order under the last foregoing Section, revoking or modifying a consent as confirmed by the Minister, or where any person is affected by a notice served on him under subsection (2) of the foregoing section when the order is not confirmed, then, if on a claim made to the authority within two months of the date of the Minister's decision, it is shown that he has incurred expenditure in carrying out work which is rendered abortive by the revocation, or modification, or stay of operations, as the case may be, or has otherwise suffered loss or damage which is directly attributable to the revocation, or modification, or stay of operations, the authority shall pay to that person compensation in respect of that expenditure, loss or damage.

(2) For the purposes of this section any expenditure incurred on matters preparatory to acting on the consent shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid, no compensation shall be paid under this section in respect of any work carried out before the grant of consent which is revoked or modified, or in respect of any loss or damage (not being loss or damage consisting of the depreciation in value of any interest in land) arising out of anything done or omitted to be done before the grant of that consent.

23(1) If it appears to the authority that any cutting down, topping or lopping or wilful destruction of trees or groups of trees has been carried out after the coming into operation of the Order without the grant of consent required in that behalf under the Order or that any conditions subject to which such consent was granted have not been complied with, then subject to any direction given by the Minister the authority may within one year of such cutting down, topping, lopping or wilful destruction, if they consider it expedient so to do, in the interest of amenity, serve on the owner of the land on which the trees or group of trees are situated and, on any person entitled to fell trees, a notice under this section.

Enforcement of
the Preservation
Order

(2) Any notice served under this section (hereinafter called an "enforcement notice") shall specify the acts alleged to have been done as aforesaid, or, matters in respect of which it is alleged that any such conditions as aforesaid have not been complied with, and may require such steps as may be specified in the notice to be taken

SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority—

- (1) to the cutting down, topping or lopping of any tree that is dying or dead or has become dangerous;
- (2) to the cutting down, topping or lopping of any tree or group of trees—
 - (a) in compliance with an obligation imposed by or under an Act of Parliament;
 - (b) in pursuance of the power conferred on the Postmaster General by virtue of Section 5 of the Telegraph (Construction) Act, 1908;
 - (c) in pursuance of the powers conferred by Section 24 of the Regulation of Railways Act, 1868;
 - (d) for the purpose of preventing or abating a nuisance;
 - (e) in the case of a statutory undertaker where the land on which the tree or group of trees is situated, is operational land as defined by the Act and where works on such land cannot otherwise be carried out; or where the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking.

THIRD SCHEDULE

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

Reference of
Applications to
the Minister

15(1) The Minister may give directions to the authority requiring that any application for consent under the order, or all such applications of any class specified in the directions, shall be referred to the Minister instead of being dealt with by the authority, and any such application shall be so referred accordingly.

(2) Where an application for consent under the order is referred to the Minister under this section, the provisions of paragraph 4 of the Order shall apply in relation to the determination of the application by the Minister as they apply in relation to the determination of such applications by the authority :

Provided that before determining any such application the Minister shall, if either the applicant or the authority so desire, afford to them an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose.

(3) The decision of the Minister on all applications referred to him under this section shall be final.

Appeals to the
Minister

16(1) Where 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, then if the applicant is aggrieved by their decision on the application, or by any such certificate or direction he may, by notice in writing served within 28 days from the receipt of notification of their decision, certificate or direction, or such longer period as the Minister may allow, appeal to the Minister.

(2) When an appeal is brought under this section from a decision certificate or direction of the authority, the Minister may allow or dismiss the appeal or may reverse or vary any part of the decision of the authority, whether or not the appeal relates to that part, or may vary any certificate or direction, and may deal with the application as if it had been made to him in the first instance, and the provisions of the last foregoing section shall apply, subject to any necessary modifications in relation to the determination of an application by the Minister on appeal under this section as they apply in relation to the determination by the Minister of an application referred to him under that section.

(3) Unless within two months from the date of receipt of an application for consent under the Order, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either—

No. on Plan	Description of Trees and Groups of Trees	Situation
T. 49	} 2 Wych Elms 6 Beeches 1 Fir 2 Chestnut	Garden of "The Chestnuts"
T. 50		
T. 51		
T. 52		
T. 53		
T. 54		
T. 55		
T. 56		
T. 57		
T. 58		
T. 59		
T. 60	} 1 Beech 1 Birch 1 Fir	In front of 67 Higher Lane
T. 61		
T. 62	} 1 Fir 1 Holly	Garden of 75 Higher Lane
T. 63		
T. 64	} 1 Wych Elm 1 Oak	Garden of 77 Higher Lane
T. 65		
T. 66		
T. 67	} 2 Hollies	Garden of 81 Higher Lane
T. 68		
T. 69	1 Fir	Garden of 93 Higher Lane
T. 70	} 1 Fir	Garden of 97 Higher Lane
T. 71		
T. 72		
T. 73		
T. 74		
T. 75		
T. 76		
T. 77		
T. 78		
T. 79		
T. 80		
T. 81		
T. 82		
T. 83		
T. 84	} 3 Silver Birch 1 Wych Elm	Garden of 117 Higher Lane
T. 85		
T. 86	} 3 Sycamore 1 Elm 1 Sycamore 2 Beech	In front of 117 Higher Lane
T. 87		
T. 88		
T. 89		
T. 90		
T. 91	} 1 Cherry 1 Sycamore	Garden of 90 Higher Lane
T. 92		
T. 93		
T. 94		
T. 95	} 14 Fir Trees 18 trees (Misc.) 14 varied trees 23 varied trees Group of 8 trees Group of 7 trees 35 varied trees	Site of Bleak House
T. 96		
G. 1		
G. 2		
G. 3		
G. 4		
G. 5		
G. 6		
G. 7	Spinney, south side of Higher Lane, opposite 119 Higher Lane	