

TREE PRESERVATION ORDER

THE WARRINGTON RURAL DISTRICT COUNCIL acting on behalf of the Lancashire County Council (in this Order called "the Authority") in pursuance of the powers conferred in that behalf by sections 60 and 61 of the Town and Country Planning Act, 1971, and subject to the provisions of the Forestry Act 1967, hereby makes the following Order :-

1. In this Order - *(Roulton - W - Fernhead)* No 1 1973

"the Act" means the Town and Country Planning Act 1971;

TPO

"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; lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgage in possession; and "Secretary of State" means the Secretary of State for the Department of 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, and a certified copy of which has been deposited for inspection at the Council Offices, Museum Street, Warrington, 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 interest 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.

(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.

TREES SPECIFIED INDIVIDUALLY

(Encircled in black on the plan)

Situation in the
Warrington R.D.

All are situated as shown
on drawing number 73/17
showing Land off
Cinnamon Lane, Fearrhead.

<u>No. on Plan</u>	<u>Description of Trees</u>
1	Beech
2	Lime
3	Acer
4	Copper Beech
5	Lime
6	Acer
7	Acer
8	Acer
9	Beech
10	Lime
11	Acer
12	Beech
13	Chestnut
14	Acer
15	Chestnut
16	Lime
18	Elm
19	Birch
20	Lime
21	Lime
23	Lime
24	Acer
25	Lime
26	Beech
27	Acer
28	HOLLY
29	Acer
30	Acer
31	Acer
32	Acer
33	Acer
36	Pear
37	Oak

TREES SPECIFIED BY REFERENCE

TO AN AREA

(Within a dotted black line on the plan)

NONE

GROUPS OF TREES

(Within a continuous black line on the plan)

No. 34 Mixed acer, lime, beech

No. 35 Acer

No. 38 Mainly acer.

WOODLANDS

(Within a broken line on the plan)

NONE

May, 1973

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 covenants 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 any tree exempted from the provisions of this order by Section 29(1) 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 is so far as may be necessary for the purpose of preventing or abating a nuisance. (60(6))

4. the cutting down, topping or lopping of any tree

(a) in pursuance of the power conferred on the Postmaster General 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

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.

(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 the Part.

(d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

or granting consent that they are satisfied -

- (a) That the refusal or condition is in the interest 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 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 loss or damage 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 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, 1945, 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 1952,
and

- (b) any inurious 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 Town and Country Planning Act, 1971 shall apply to this Order and the Order shall take effect on 24th May, 1973.

(2) Any person contravening the provisions of this Order is guilty of an offence under subsection (1) of Section 102 of the Act and liable on Summary conviction to a fine not exceeding two hundred and fifty pounds or twice the sum which appears to the court to be the value of the tree, whichever is the greater; or a person guilty of an offence under subsection (2) of that Section is 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 two pounds for every day on which the contravention is so continued.

14. This Order may be cited as the Warrington Rural District Council Tree Preservation Order (Poulton-with-Fearnhead) No.1, 1973.

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

Reference
of
applications
to the
Secretary
of State.

22. (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 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 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 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 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.

(4) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Secretary of State, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

(5) 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.

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

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 Secretary of State in
accordance with directions given under
section ~~22~~³⁵ 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 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 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 Secretary of State,
before confirming the Order, shall afford to that person, and
to the authority, an opportunity of appearing before, and being
heard by, a person appointed by the Secretary of State for the
purpose.

(4) The power conferred by this section to revoke or
modify a consent may be exercised at any time before the
operations for which consent has been given have been completed.


Provided that the revocation or modification of
consent shall not affect so much of those operations as has
been previously carried out.

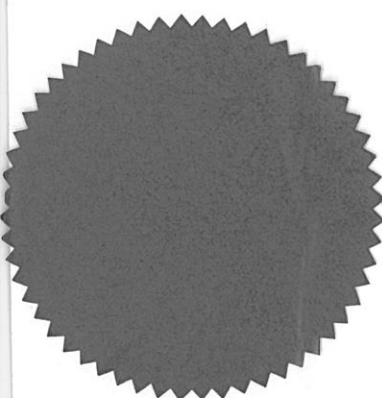
(5) Where a notice has been served in accordance with the
provisions of subsection (3) of this section, no operations or
further operations as the case may be, in pursuance of the
consent granted, shall be carried out pending the decisions of
the Secretary of State under subsection (2) of this section.

The Common Seal of the Rural District
Council of Warrington was hereunto
affixed this twenty-fourth day of

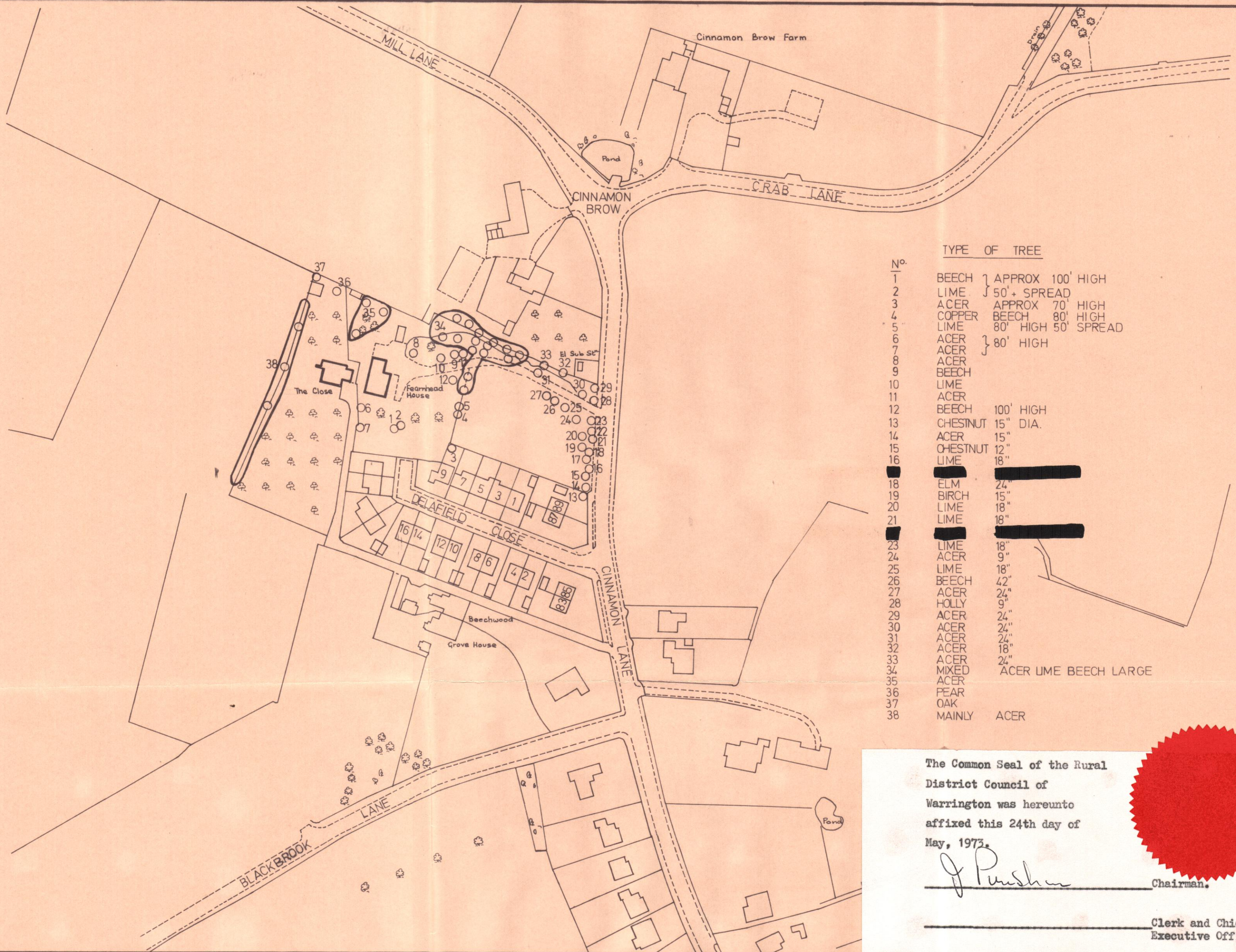
May 1973


Chairman


Clerk and Chief
Executive Officer.

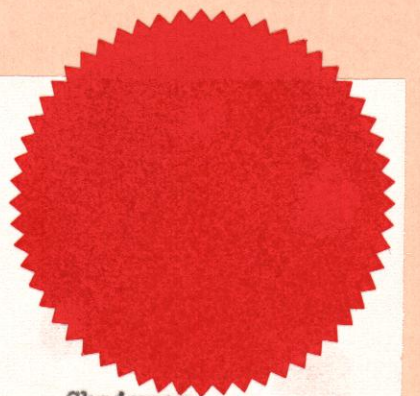


WARRINGTON RURAL DISTRICT COUNCIL



No.	TYPE OF TREE
1	BEECH } APPROX 100' HIGH
2	LIME } 50' + SPREAD
3	ACER } APPROX 70' HIGH
4	COPPER BEECH } 80' HIGH
5	LIME } 80' HIGH 50' SPREAD
6	ACER } 80' HIGH
7	ACER }
8	ACER }
9	BEECH }
10	LIME }
11	ACER }
12	BEECH } 100' HIGH
13	CHESTNUT } 15" DIA.
14	ACER } 15"
15	CHESTNUT } 12"
16	LIME } 18"
17	[REDACTED]
18	ELM } 24"
19	BIRCH } 15"
20	LIME } 18"
21	LIME } 18"
22	[REDACTED]
23	LIME } 18"
24	ACER } 9"
25	LIME } 18"
26	BEECH } 42"
27	ACER } 24"
28	HOLLY } 9"
29	ACER } 24"
30	ACER } 24"
31	ACER } 24"
32	ACER } 18"
33	ACER } 24"
34	MIXED } ACER LIME BEECH LARGE
35	ACER }
36	PEAR }
37	OAK }
38	MAINLY } ACER

The Common Seal of the Rural District Council of Warrington was hereunto affixed this 24th day of May, 1973.



J. Purshur
Chairman.

Clerk and Chief Executive Officer.

DRWG. No. 73/17
 PARKS No. P4/73
 SCALE 1:1250
 DATE 16.5.73
 DRAWN BY AW

TREE PRESERVATION ORDER

No. 1 1973

P. TUNSTALL C.ENG., M.I.C.E. M.I. Mun. E.
 ENGINEER & SURVEYOR
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 WARRINGTON
 LANCASHIRE.