

BLACKBURN RURAL DISTRICT COUNCIL.

TOWN AND COUNTRY PLANNING ACT, 1962.

TREE PRESERVATION ORDER.

The Blackburn Rural District Council (hereinafter called "the authority"), acting on behalf of the Lancashire County Council, in pursuance of the powers conferred in that behalf by Section 29 of the Town and Country Planning Act 1962, and subject to the provisions of Section 13 of the Forestry Act 1951, hereby make the following Order:-

1. In this Order -

"the Act" means the Town and Country Planning Act 1962; "owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession; and "the Minister" means the Minister of Land and Natural Resources.

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 marked Blackburn Rural District (Mellor No. 1) Tree Preservation Order 1966, signed by the Clerk of the Authority and deposited for inspection at the Council Offices, 42 Wellington Street (St. John's), Blackburn, 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 to the authority 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 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.

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.

(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 -

6-(1) (Cont.)

- (a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act, or
- (b) the authority with the approval of the Minister dispense with replanting.

the authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provisions of this Order, replant the said land in accordance with the direction.

(2) Any direction given under paragraph (1) of this Article may include requirements as to -

- (a) species;
- (b) number of trees per acre;
- (c) the erection and maintenance of fencing necessary for protection of the replanting;
- (d) the preparation of ground, draining, removal of brushwood, lop and top; and
- (e) protective measures against fire.

7. On imposing any condition requiring the replacement of any tree under Article 4 of the Order, or on giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall if such condition or direction relates to land in respect of which byelaws made by a river authority or a drainage board restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the river authority or drainage board under those byelaws and the condition or direction shall have effect accordingly.

8. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Act adapted and modified for the purposes of this Order, shall apply in relation thereto.

9. Subject to the provisions of this Order, any person who has suffered damage or has incurred expenditure in consequence of any refusal of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority, compensation in respect of such damage or expenditure.

Provided that no compensation shall be payable in respect of damage suffered or expenditure incurred by reason of such refusal or grant of consent in the case of a trees the subject of a certificate in accordance with Article 5 of this Order.

10. In assessing compensation payable under the last preceding Article account shall be taken of:

- (a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 29 of the Act or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim 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 in a period of twelve months from the date of the decision of the authority, or of the

11-(2)

Minister, as the case may be, or where an appeal has been made to the Minister against the decision of the authority, from the date of the decision of the Minister on the appeal.

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

13. Any person contravening the provisions of this Order is guilty of an offence under subsection (1) of Section 62 of the Act and liable on summary conviction to a fine not exceeding fifty pounds; and if in the case of a continuing offence the contravention is continued after conviction he is guilty of a further offence thereunder and liable on summary conviction to an additional fine not exceeding forty shillings for every day on which the contravention is so continued.

14. This Order may be cited as the Blackburn Rural District (Mellor No.1) Tree Preservation Order 1966.

FIRST SCHEDULE.

TREES SPECIFIED INDIVIDUALLY.  
(Encircled in black on map)

<u>Number on Map.</u>	<u>Description of Trees.</u>	<u>Situation.</u>
		Plots referred to are Ordnance Survey plots on 25" sheets Lancashire LX11 - 5(1932) - 7(1931) - 10(1932) - 11(1937 Revision).
T.1	Ash	On the boundary between Plot Nos. 32 and 36.
T.2	Ash	-do-
T.3	Alder	-do-
T.4	Sycamore	On the boundary between Plot Nos. 35 and 38.
T.5	Oak	On the southerly boundary of Plot No. 39.
T.6	Sycamore	Near the south west of Plot No. 79.
T.7	Pine	Near the southerly boundary of Plot No. 40.
T.8	Pear	Near the south east boundary of Plot No. 40.
T.9	Sycamore	On the southerly boundary of Plot No. 42.
T.10	Chestnut	On the south west boundary of Plot No. 66.
T.11	Sycamore	On the west boundary of Plot No. 161.
T.12	Sycamore	Near the south west boundary of Plot No. 275.
T.13	Sycamore	Near the south east boundary of Plot No. 275.
T.14	Cherry	On the west boundary of Plot No. 97.
T.15	Sycamore	On the south boundary of Plot No. 276.
T.16	Ash	On the north westerly boundary of Plot No. 409.
T.17	Ash	On the north westerly boundary of Plot No. 409.
T.18	Sycamore	On the boundary between Plot Nos. 410 and 413.
T.19	Alder	On the boundary between Plot Nos. 410 and 413.
T.20	Cherry	On the south boundary of Plot No. 406.
T.21	Cherry	On the north boundary of Plot No. 407.
T.22	Sycamore	On the north boundary of Plot No. 417.
T.23	Ash	On the south boundary between Plot Nos. 394 and 395.
T.24	Sycamore	On the boundary between Plot Nos. 439 and 441.
T.25	Sycamore	On the north boundary of Plot No. 378.

<u>Number on Map</u>	<u>Description of Trees.</u>	<u>Situation.</u>
T.26	Sycamore	On the south boundary of Plot No. 444 with No.445.
T.27	Sycamore	On the south westerly boundary of Plot No. 152.
T.28	Ash	On the boundary between Plot Nos.449 and 450.
T.29	Sycamore	On the north boundary of Plot No. 463.
T.30	Sycamore	On the boundary between Plot Nos. 268 and 470.
T.31	Sycamore	-do-
T.32	Sycamore	-do-
T.33	Sycamore	On the boundary at Watery Gate between Plot
T.34	Sycamore	-do- Nos. 460 and 478.
T.35	Sycamore	-do-
T.36	Sycamore	On the boundary between Plot Nos. 158b and 159.
T.37	Sycamore	In parkland on Plot No. 133.
T.38	Oak	In parkland on Plot No. 117
T.39	Sycamore	On the north east corner of Plot No.115.
T.40	Sycamore	On the south east boundary of Plot No. 104a.
T.41	Sycamore	On the south boundary of Plot No. 119.
T.42	Oak	On the south boundary of Plot No. 121.
T.43	Sycamore	-do-
T.44	Sycamore	-do-
T.45	Sycamore	-do-
T.46	Sycamore	-do-
T.47	Sycamore	On the boundary between Plot Nos. 122 and 121.
T.48	Sycamore	-do-
T.49	Sycamore	-do-
T.50	Sycamore	On the east boundary of Plot No. 122.
T.51	Oak	At the junction of Whitecroft Lane with Clough Lane on Plot No. 125.

TREES SPECIFIED BY REFERENCE TO AN AREA.  
(within a dotted black line on map)

<u>Number on Map.</u>	<u>Description of Trees.</u>	<u>Situation.</u>
		Plots referred to are Ordnance Survey Plots on 25" sheets Lancashire LX11 - 6(1932) - 7(1931) - 10(1932) - 11(1937 Revision).
A1	The several Beech, Sycamore, Ash and Alder standing in grassland and numbered A1 on the map.	In Plot No. 68
A2	The several Lime, Chestnut, Birch and Sycamore standing in the grounds of Elswick House and numbered A2 on the map.	In Plot No. 66.
A3	The several Lime and Cherry standing in the kitchen garden of Elswick House and numbered A3 on the map.	In Plot No. 64a.
A4	The several Elm and Beech standing on the west boundary of Plot No. 62 in Church Lane and numbered A4 on the map.	In Plot No. 62.

<u>Number on Map.</u>	<u>Description of Trees.</u>	<u>Situation.</u>
		Plots referred to are Ordnance Survey Plots on 25" sheets Lancashire LX11 - 6(1932) - 7(1931) - 10(1932) - 11(1937 Revision).
A5	The several Beech, Lime, Birch, Chestnut, Sycamore and Pine standing in the grounds of the Vicarage and numbered A5 on the map.	In Plot No. 64.
A6	The several Beech, Sycamore, Elm, Lime, Horse Chestnut, Oak and Rowan standing in St. Mary's Churchyard and numbered A6 on the map.	In Plot No. 63.
A7	The several Beech and Lime standing in the Wesleyan Methodist Churchyard and numbered A7 on the map.	In Plot No. 403.
A8	The several Sycamore standing in the grounds of Old Dad's House, Mellor Lane and numbered A8 on the map.	In Plot No. 394.
A9	The several Sycamore standing in the grounds of Boardman House, Mellor Lane and numbered A9 on the map.	In Plot No. 423.
A10.	The several Ash, Sycamore, Elm, Beech, Rowan and Willow in Plot No. 431 at the junction of Whinney Lane with Mellor Lane and numbered A10 on the map.	In Plot No. 431.
A11	The several Elm, Beech, Ash, Oak, Horse Chestnut and Birch standing in grassland and on the southern boundary of Plot No. 431 and numbered A11 on the map.	On the boundary between Plot Nos. 430 and 431.
A12	The several Beech and Sycamore on the north west corner of Plot No. 495 and numbered A12 on the map.	On the north west corner of Plot No. 495.
A13	The cluster of several Elm, Sycamore, Oak and Birch numbered A13 on the map.	In Plot No. 134.
A14	The several Pine, Lime, Ash, Elm and Sycamore in the grounds of Myre Ash and numbered A14 on the map.	In Plot No. 119.
A15	The several Elm, Lime, Ash, Sycamore in the drive to Myre Ash and numbered A15 on the map.	In Plot No. 119.
A16	The several Elm, Horse Chestnut, Sycamore, Birch, Beech and Lime bordering the gardens of Jenkinsons (Cunliffe) Farm and numbered A16 on the map.	In Plot No. 123.

GROUPS OF TREES.

(Within a broken black line on the map).

<u>Number on Map.</u>	<u>Description of Trees.</u>	<u>Situation.</u>
		Plots referred to are Ordnance Survey Plots on 25" sheets Lancashire LX11 - 6(1932) - 7(1931) - 10/1932) - 11(1937 Revision).
G1	Group consisting of 2 Ash and 2 Oak.	On the boundary between Plot No. 32 and 36.
G2	Group consisting of 2 Ash and 2 Sycamore.	On the boundary between Plot Nos. 79 and 80.
G3	Group consisting of 2 Limes.	On the south boundary of the plot fronting 12 Mellor Brow near Plot No. 70.
G4	Group consisting of 3 Elms.	In Plot No. 62 at the rear of the Millstone Inn.
G5	Group consisting of 2 Sycamore.	On the north boundary of Plot No. 274 fronting Higher Whitecroft Farm (now demolished), Mellor Lane.
G6	Group consisting of 4 Sycamore, 3 Elm and 1 Ash.	Adjacent the Spread Eagle Inn and on the boundaries of Plot Nos. 377 with 378.
G7	Group consisting of 3 Sycamores.	On the western boundary of Plot No. 152 with Barker Lane.
G8	Group consisting of 4 Sycamores.	On the south boundary of Plot No. 151 in the grounds of Barkers Lane Farm House.
G9	Group consisting of 12 Elms and 8 Sycamores.	On the southern part of Plot No. 449 and adjacent the entrance to Lower Warble Hey.
G10	Group consisting of 2 Sycamores.	On the north boundary of Plot No. 491 and adjacent Plot No. 492.
G11	Group consisting of 1 Elm, 1 Alder and 3 Sycamores.	On the west boundary of Plot No. 158b being the grounds of Meanygate Bungalow.
G12	Group consisting of 2 Elms, 2 Beech and 3 Sycamores.	On the west boundary of Plot No. 158a with Barkers Lane, Ramsgreave.
G13	Group consisting of 9 Sycamores in the hedgerow of Whitecroft Lane.	On the south east boundary of Plot No. 271.
G14	Group consisting of 2 Sycamores in grassland.	On the boundary between Plot Nos. 104a and 119.
G15	Group consisting of 1 Sycamore and 2 Limes.	On the south boundary of Plot No. 119.
G16	Group consisting of 1 Ash and 1 Sycamore.	On the south boundary of Plot No. 121.
G17	Group consisting of 1 Beech, 1 Alder and 1 Horse Chestnut.	On the north boundary of Plot No. 127 and facing Church Lane.
G18	Group consisting of 6 Sycamores.	In the grounds of Clouds Hill, Whitecroft Lane in Plot No. 127.
G19	Group consisting of 14 Sycamores.	On the north boundary of Plot No. 129 with Whitecroft Lane.
G20	Group consisting of 5 Ash.	On the east boundary of Plot No. 129.

WOODLANDS  
(within a continuous black line on the map).

NONE

SECOND SCHEDULE.

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

- (1) the cutting down of any tree on land which is subject to a forestry dedication covenant where
  - (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
  - (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.
- (2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme.
- (3) the cutting down, topping or lopping of a tree
  - (a) which is dying or dead or has become dangerous;
  - (b) in compliance with an obligation imposed by or under an Act of Parliament;
  - (c) for the purpose of preventing or abating a nuisance;
  - (d) in pursuance of the power conferred on the Postmaster General by virtue of section 5 of the Telegraph (Construction) Act 1908;
  - (e) by or at the request of
    - (i) a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking;
    - (ii) an electricity board within the meaning of the Electricity Act 1947, where such tree obstructs the construction by the board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act 1919 and the Electric Lighting Act 1882 or interferes or would interfere with the maintenance or working of any such line; or
    - (iii) a river authority established under the Water Resources Act 1963 or a drainage board constituted or treated as having been constituted under the Land Drainage Act 1930 where the tree interferes or would interfere with the exercise of any of the functions of such river authority or drainage board in relation to the maintenance improvement or construction of water courses or of drainage works;
  - (f) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;
  - (g) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden;

THIRD SCHEDULE.

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

22-(1) The Minister may give directions to the authority requiring applications for consent under the Order to be referred to him instead of being dealt with by the authority.

22-(2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.

THIRD SCHEDULE (Cont.)

22-(3) Any application in respect of which a direction under this section has effect shall be referred to the Minister accordingly.

22-(4) Where an application for consent under the Order is referred to the Minister under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the authority.

22-(5) Before determining an application referred to him under this section the Minister shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

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

23-(1) Where an 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, the applicant, if he is aggrieved by their decision on the application, or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Minister.

23-(2) A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Minister may allow.

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

23-(5) Before determining an appeal under this section, the Minister shall, if either the appellant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

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

24. Where an application for consent under the Order is made to the authority, then unless within two months from the date of receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either -

- (a) give notice to the applicant of their decision on the application; or
- (b) give notice to him that the application has been referred to the Minister in accordance with directions given under section 22 of the Act;

the provisions of the last preceding section shall apply in relation to the application as if the consent to which it relates had been refused by the authority and as if notification of their decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be.

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.

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



THIRD SCHEDULE (Cont.)

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

27-(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.

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

Given under the COMMON  
Seal of the Rural District  
of BLACKBURN, affixed this  
nineteenth day of November  
1966 in the presence of

L S

J. TARBUCK  
Chairman of the Council.

P.A. CLIFFORD  
Clerk of the Council.

BLACKBURN RURAL DISTRICT  
(MELLOR NO.1) TREE PRESERVATION ORDER, 1966.

Relating to the preservation of  
trees, groups of trees, in the  
Parish of Mellor, within the Rural  
District of Blackburn.

19th November, 1966.  
Council Offices,  
42 Wellington St. (St. John's)  
Blackburn.

MAP REFERRED TO -  
BLACKBURN RURAL DISTRICT [MELLOR NO. 1.]  
TREE PRESERVATION ORDER 1966.



Given under the Commis-  
Seal of the Rural District  
of Blackburn affixed this  
nineteenth day of November  
1966 in the presence of  
[Redacted]  
Chairman of the Council.  
[Redacted]  
Clerk of the Council.

R. G. BROWN  
Authorised by the Minister  
26th January 1967