

WARRINGTON BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

THE WARRINGTON BOROUGH COUNCIL

BROOKHOUSE FARM FARNWORTH ROAD PENKETH WARRINGTON WA5 2SE

TREE PRESERVATION ORDER, 1998

The WARRINGTON BOROUGH COUNCIL in this Order called "the Authority" in pursuance of the powers conferred in that behalf by Section 198 and Section 201 of the Town and Country Planning Act 1990 and subject to the provisions of the Forestry Act 1967, hereby makes the following Order: -

1. In this Order: -

"the Act" means the Town and Country Planning Act, 1990;

"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 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, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, wilful damage, 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 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 a group of trees or in a woodland, that the trees have an outstanding or special amenity value; or
 - (c) in the case of trees which are comprised in a group of trees or in a woodland, that the group of trees or the woodland, as the case may be, has an outstanding or special amenity value,

but a certificate shall not be given in the case of trees falling within (c) above if the application in respect of them has been referred by the Forestry Commissioners under Section 15(1)(b) or 15(2)(a) of the Forestry Act 1967(c).

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 and Section 204 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 (hectare);
 - (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 water authority since 31 March 1974, by any other authority (whose functions are now exercised by a water authority) who at any time prior to 1 April 1974 exercised the functions in respect of which the byelaw was made, by a drainage board, in the exercise of any of its functions in relation to the maintenance, improvement or construction of watercourses or of drainage works 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 water authority or the drainage board under those byelaws and the condition or direction shall have effect accordingly.