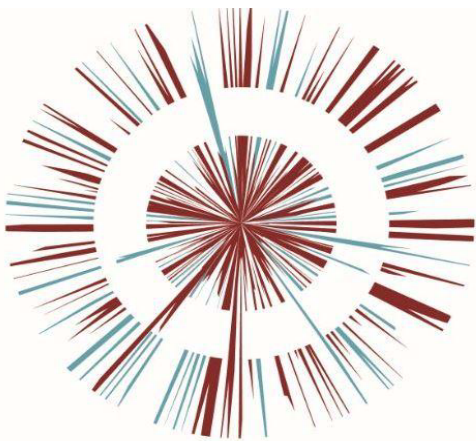


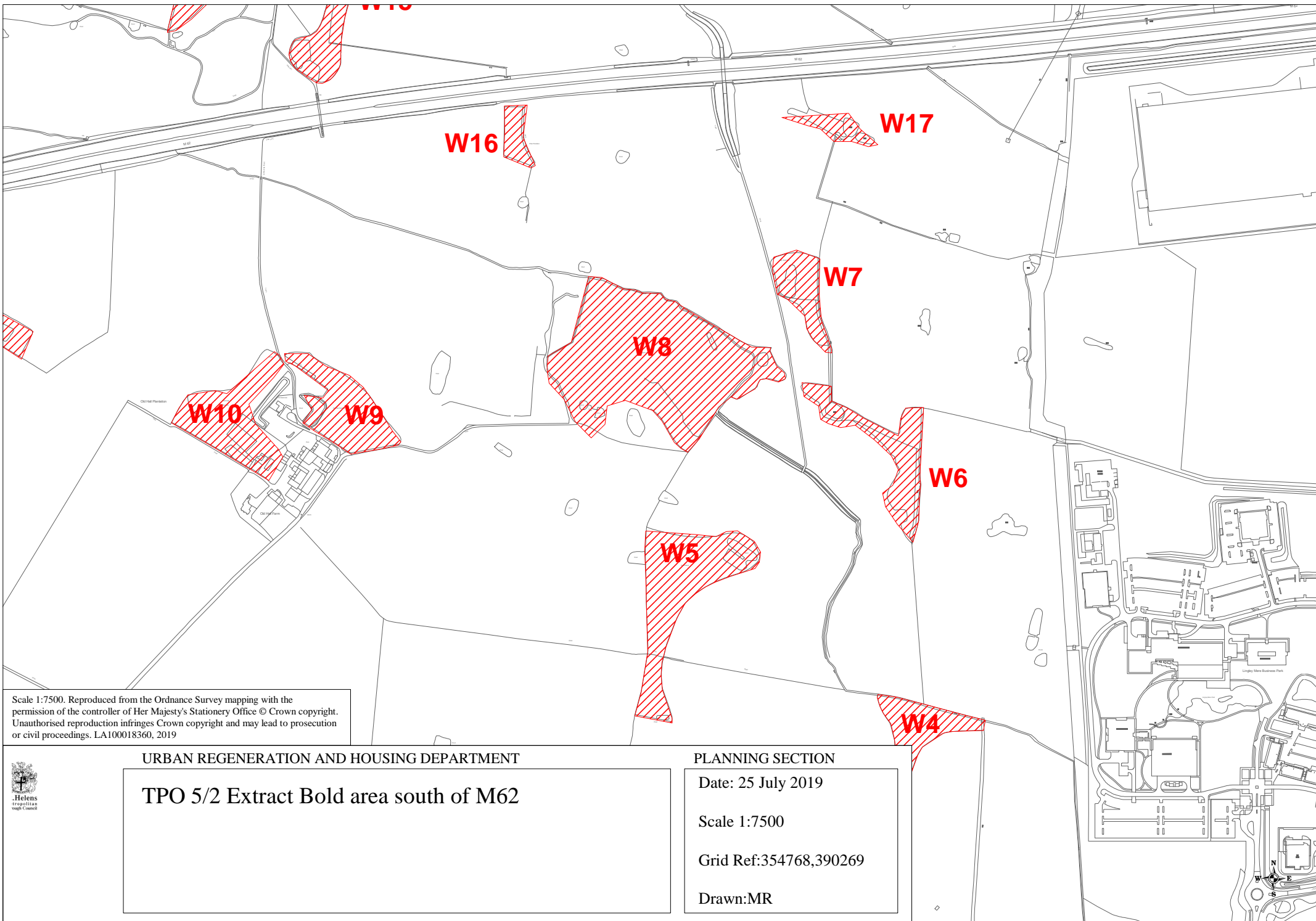


OMEGA ZONE 8, ST HELENS

Omega St Helens Ltd / T. J. Morris Limited



Document Title
ES Vol. 2 Appendix 9.5 Tree
Preservation Orders
Document No. OPP DOC.11.22d



Scale 1:7500. Reproduced from the Ordnance Survey mapping with the permission of the controller of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. LA100018360, 2019



URBAN REGENERATION AND HOUSING DEPARTMENT

TPO 5/2 Extract Bold area south of M62

PLANNING SECTION

Date: 25 July 2019

Scale 1:7500

Grid Ref:354768,390269

Drawn:MR

LANCASHIRE COUNTY COUNCIL

TOWN AND COUNTRY PLANNING ACT, 1947

THE LANCASHIRE COUNTY COUNCIL (WHISTON RURAL DISTRICT)
TREE PRESERVATION ORDER, 1957, NO. 5.

THE LANCASHIRE COUNTY COUNCIL (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, 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, 1947:
"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 Minister" means the Minister of Housing and Local Government.

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 "The Lancashire County Council (Whiston Rural District) Tree Preservation Order, 1957 No. 5", signed by the Deputy Clerk of the Authority and deposited for inspection at the office of the Clerk of the County Council, County Hall, Preston, and a certified copy of which has been similarly deposited at the office of the Clerk of the Whiston Rural District Council, Council Offices, Whiston, Prescot, which map shall, for the purpose of such definition as aforesaid, prevail where any ambiguity arises between 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 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.

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 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 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.

insert proviso

(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. 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.

8. 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 any trees the subject of a certificate in accordance with Article 5 of this Order.

9. In assessing compensation payable under the last preceding Article or under Section 22 of the Act as applied by this Order account shall be taken of:

- (a) any compensation or contribution which has been paid in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 28 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.

10. (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 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.

11. Any question of disputed compensation shall be determined in accordance with the provisions of Section 110 of the Act.

12. Any person contravening the provisions of this Order is guilty of an offence under subsection (6) of Section 28 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.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

(Encircled in black on the map)

N O N E

TREES SPECIFIED BY REFERENCE TO AN AREA

(Within a dotted black line on the map)

N O N E

GROUPS OF TREES

(Within a broken black line on the map)

N O N E

WOODLANDS

(Within a continuous black line on map)

<u>Number on map</u>	<u>Description of Trees</u>	<u>Situation</u> <u>Plot Nos. referred to are</u> <u>Ordnance Survey Plot Nos.</u> <u>on 25" sheet Lancashire</u> <u>CV111.6.10. & 14 - Edition</u> <u>of 1928.</u>
W.1	A stand of mixed hardwoods consisting of Sycamore, Beech, Oak, Birch, Horse Chestnut, Lime, Cherry.	In Plot Nos. 178 and 203
W.2	A stand of mixed hardwoods consisting of Sycamore, Beech, Oak, Birch and Elm.	" " " 210 " 224
W.3	A stand of mixed hardwoods consisting of 4 Chestnut, Oak, Sycamore, Beech, Elm, Lime and Alder.	" " " 216, 216a and 216ab
W.4	A stand of mixed hardwoods consisting of Beech, Birch, Sycamore, Alder, Oak, Horse Chestnut and Rowan.	" " " 214 and 215
W.5	A stand of mixed hardwoods consisting of Beech, Sycamore, Ash, Oak and Elm.	" " " 249 " 250
W.6	A stand of mixed hardwoods consisting of Beech, Oak, Sycamore, Lime, Alder, Horse Chestnut and Birch.	" " " 273 " 274
W.7	A stand of mixed hardwoods consisting of Oak, Sycamore, Beech, Willow, Birch, Alder and Horse Chestnut.	" " " 276 " 463

Number
on map

Description of Trees

Situation
Plot Nos. referred to are
Ordnance Survey Plot Nos.
on 25" sheet Lancashire
CV111.6.10 & 14 - Edition
of 1928.

W.8	A stand of mixed hardwoods consisting of Ash, Alder, Birch, Sycamore, Beech, Oak, Cherry, Rowan and Poplar.	In Plot Nos. 278
W.9	A stand of mixed hardwoods consisting of Horn Beam, Spanish Chestnut, Horse Chestnut, Ash, Oak, Sycamore, Beech, Birch and Elm.	" " " 271
W.10	A stand of mixed hardwoods consisting of Lime, Elm, Sycamore, Oak, Beech, Birch and Willow.	" " " 268, 269 and 270
W.11	A stand of mixed hardwoods consisting of Lime, Elm, Sycamore, Oak, Beech, Birch and Willow.	" " " 266, ⁶ 266a and 267
W.12	A stand of mixed hardwoods consisting of Spanish Chestnut, Oak, Elm, Sycamore, Birch, Horse Chestnut, Beech, Alder and Willow.	" " " 282
W.13	A stand of mixed hardwoods consisting of Spanish Chestnut, Oak, Elm, Sycamore, Birch, Horse Chestnut, Beech, Alder and Willow.	" " " 282 and 265
W.14	A stand of mixed hardwoods consisting of Oak, Elm, Ash, Sycamore, Beech, Birch and Horse Chestnut.	" " " 282
W.15	A stand of mixed hardwoods consisting of Sycamore, Oak, Beech, Birch, Horse Chestnut and Lime.	" " " 471 and 472
W.16	A stand of mixed hardwoods consisting of Sycamore, Beech, Elm and Oak.	" " " 462
W.17	A stand of mixed hardwoods consisting of Sycamore, Birch and Oak.	" " " 464
W.18	A stand of mixed hardwoods consisting of Sycamore, Beech, Oak and Elm.	" " " 467 and 502
W.19	A stand of mixed hardwoods consisting of Sycamore, Beech, Oak, Birch and Horse Chestnut.	" " " 474 " 496
W.20	A stand of mixed hardwoods consisting of Beech, Sycamore, Oak, Ash and Birch.	" " " 512

Number
on map

Description of Trees

Situation
Plot Nos. referred to are
Ordnance Survey Plot Nos.
on 25" sheet Lancashire
CV111.6.10. & 14 - Edition
of 1928.

W.21	A stand of mixed hardwoods consisting of Sycamore and Birch.	In Plot Nos. 510
W.22	A stand of mixed hardwoods consisting of Alder, Beech, Sycamore, Oak and Birch.	" " " 507
W.23	A stand of mixed hardwoods consisting of Beech, Sycamore, Ash, Oak and Elm.	" " " 537
W.24	A stand of mixed hardwoods consisting of Sycamore, Horse Chestnut and Oak.	" " " 558
W.25	A stand of mixed hardwoods consisting of Beech, Sycamore, Oak and Elm.	" " " 534 and 534a

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 -
 - (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 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;
 - (f) by or at the request of 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;
 - (g) where immediately required for the purpose of carrying out development authorised by a 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;
 - (h) by or at the request of a River Board established under the River Boards Act, 1948, 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 functions of the Board in relation to the maintenance, improvement or construction of water courses or of drainage works.

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 Articles 4 and 5 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 application 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 if the person directed is aggrieved by the direction, the applicant or that person, as the case may be, 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 cancel any certificate or cancel or vary any direction, and may deal with an 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 -

(a) give notice to the applicant of their decision on the application; or

(2) For the purpose 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 in the period after the making of the Order and before the grant of consent which is revoked or modified, or in respect of any other 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 during that period.

GIVEN under the Common Seal of the County Council for the
County Palatine of Lancaster this fourth day of February
One thousand nine hundred and fifty eight.

L.S.

C. P. H. McCALL.

Deputy Clerk of the County Council.

The Minister of Housing and Local Government hereby confirms
the foregoing Order subject to the modifications shown in red ink
thereon.

L.S.

Given under the Official Seal of
the Minister of Housing and Local
Government this twentieth day of
July nineteen-hundred and fifty-
nine.

H. J. RYAN.

Assistant Secretary, Ministry of
Housing and Local Government.

LANCASHIRE COUNTY COUNCIL

TREE PRESERVATION ORDER, 1957. NO. 5.

Relating to the preservation of
trees and woodlands on the Bold
Estate, Whiston Rural District.

County Hall,
Preston.