

TOWN AND COUNTRY PLANNING ACTS 1971 - 1974

THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION ORDER)
REGULATIONS 1969 as amended by The Town and Country Planning
(Tree Preservation Order) (Amendment) and (Trees in Conservation
Areas) (Exempted Cases) Regulations 1975.

THE ASHFORD BOROUGH COUNCIL

TREE PRESERVATION ORDER

NO. 3, 1976

The * ASHFORD BOROUGH COUNCIL in this order called "the authority", in pursuance of the powers conferred in that behalf by section 60 (and 61**) of the Town and Country Planning Act 1971 (as amended by Section 10(1) of the Town and Country Amenities Act 1974), and subject to the provisions of the Forestry Act 1967,

HEREBY MAKE THE FOLLOWING ORDER :-

1. In this Order -

"the Act" means the Town and Country Planning Act 1971; "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 (Secretary of State for Wales).

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.

* Insert name of local planning authority

** Include only where Order contains a direction under Section 61 of the Act.

† When Tree Preservation Order is made by a District Council on behalf of a County Council an application for consent should be made to the District Council. See also note at foot of this page.

‡ Map to be a scale of not less than 25 inches to one mile except in the case of large woodlands when the scale shall be 6 inches to one mile.

NOTE: If it is desired to fell any of the trees included in this Order whether included as trees, groups of trees or woodlands and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application must be made not to the Authority for consent under this Order but to the Conservator of Forests for a licence under that Act (Section 15(5)).

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 ~~of the same or similar species as the tree so removed~~) as the

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 addressing the claim to the authority and leaving it at or sending it by post to the principal office of the authority.

(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.

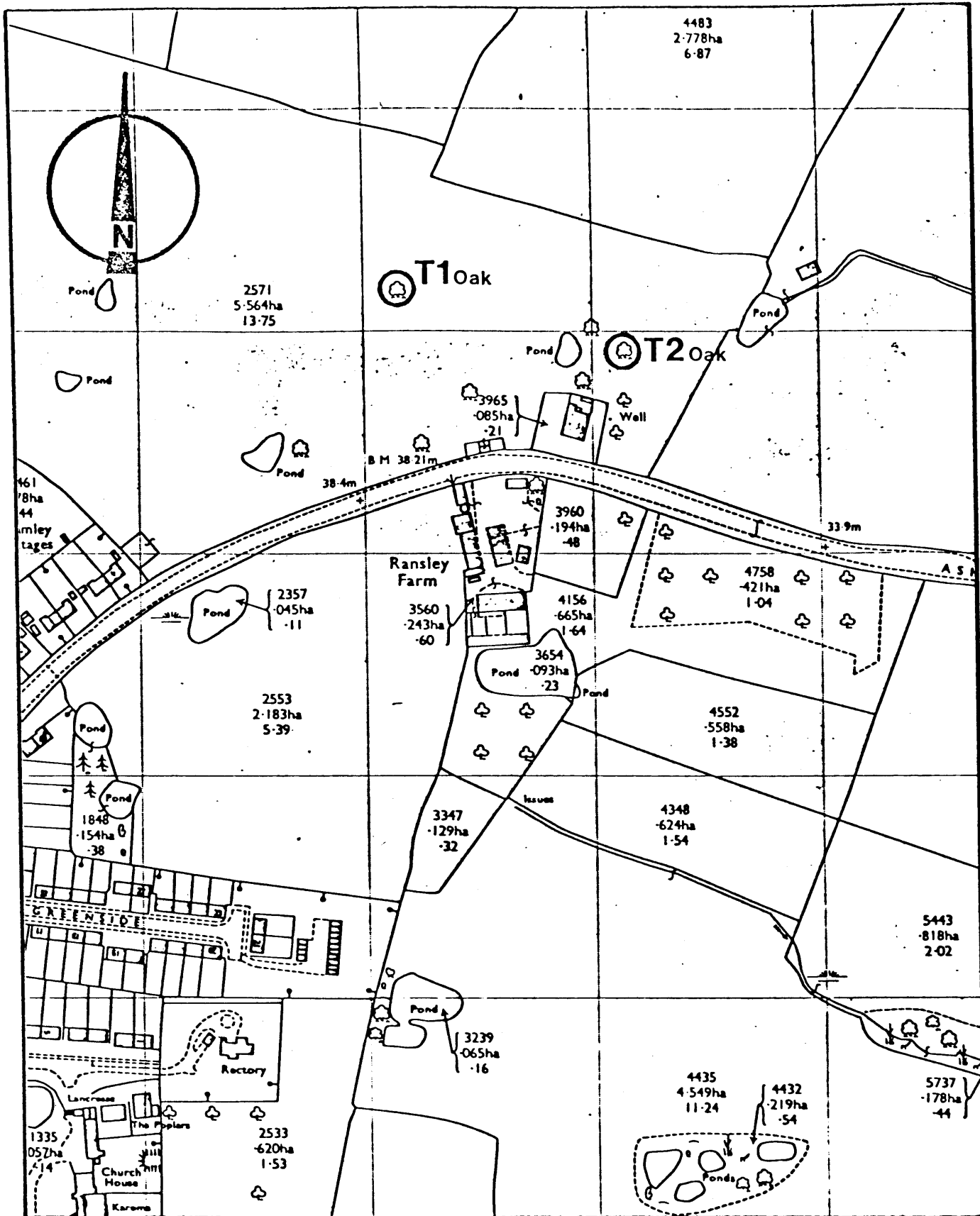
12. Any question of disputed compensation shall be determined in accordance with the provisions of section 179 of the Act.

13. (1) The provisions of section 61 of the Act shall apply to this Order and the Order shall take effect on)f
22nd July 1946.

~~(2) This order shall apply to any tree specified in the First Schedule hereto, which is to be planted as mentioned therein, as from the time when that tree is planted)~~

NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding £400 or twice the sum which appears to the court to be the value of the tree, whichever is the greater, or on indictment to a fine. The penalty for any other contravention of this Order is a fine not exceeding £200 on summary conviction and, in the case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

If a tree other than one to which an Order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by section 60(6) of the Town and Country Planning Act 1971 relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the local planning authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than 5 days previous notice of the removal, etc., should be given to the authority to enable the latter to decide whether or not to dispense with the requirement.



ASHFORD BOROUGH COUNCIL
 TREE PRESERVATION ORDER No. 3 1976
 RANSLEY FARM, HIGH HALDEN

P. S. Vafidis,
 Borough Planning Officer,
 Trafalgar House,
 Ashford.

Drawing No. DB/76/47
 Scale 1: 2500

July 1976

FIRST SCHEDULE

No.on Map	Description*	Situation
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(Every heading should be included in the schedule, and the word "NONE" written in where necessary)

*Insert :- "TREES SPECIFIED INDIVIDUALLY"
(encircled in black on the map)

"TREES SPECIFIED INDIVIDUALLY"
(encircled in black on the map),

T.1

Sessile Oak
(Quercus Petraea)

Ordnance Sheet Kent
TQ 9037 in centre of
O.S. Plot No. 2571.

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

T.2

Sessile Oak
(Quercus Petraea)

Ordnance Sheet Kent
TQ 9037, 35 metres
from eastern edge of
O.S. Plot No. 2571

"GROUPS OF TREES"
(within a broken black line on the map),

"TREES SPECIFIED BY REFERENCE TO AND AREA"
(within a dotted black line on the map)

NONE

"WOODLANDS"
(within a continuous black line on the map) as may be.

"GROUPS OF TREES"
(within a broken black line on the map)

NONE

"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 or other grant scheme under section 4 of the Forestry Act 1967 except a scheme which applies to a forestry dedication covenant;
- (3) the cutting down, uprooting, topping or lopping of a tree
 - (a) in pursuance of the power conferred on the Post Office by virtue of section 5 of the Telegraph (Construction) Act 1908 and section 21 of the Post Office Act 1969,

or by or at the request of the Post Office where the land on which the tree is situated in operational land as defined by the Post Office Operational Land Regulations* 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

*(a) S.I. 1973/310

- (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 of working of any such line;
 - (iii) a water authority established under the Water Act 1973, a drainage board constituted or treated as having been constituted under the Land Drainage Act 1930, or the Greater London Council, where the tree interferes or would interfere with the exercise of any of the functions of such water authority, drainage board, or Council in relation to the maintenance, improvement or construction of watercourses or of drainage works; or

(iv) the Secretary of State for Defence, the Secretary of State for Trade, the Civil Aviation Authority or the British Airports Authority where in the opinion of such Secretary of State or Authority the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations;

(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 that Part;

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

(where the trees are within the Thames catchment area)

((e) in pursuance of the powers of the Thames Water Authority under section 105 of the Thames Conservancy Act 1932)

THIRD SCHEDULE

Provisions of the following parts of Part III of the Town and Country Planning Act 1971 as adapted and modified to apply to this Order.

33.-(1) Without prejudice to the following provisions as to the revocation or modification of consents, any consent under the Order, including any direction as to replanting given by the authority on the granting of such consent, shall (except in so far as the consent otherwise provides), enure for the benefit of the land and of all persons for the time being interested therein.

35.-(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.

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

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

35.-(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 as they apply to an application which falls to be determined by the authority.

35.-(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.

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

36.-(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 Secretary of State.

36.-(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.

36.--(3) 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.

36.--(4) 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.

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

37. 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 Secretary of State in accordance with directions given under section 35 above;

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.

45.--(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.

45.--(2) Subject to the provisions of sections 46 and 61 of the Act 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.

45.--(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 together with a copy of the aforesaid statement on the owner and on the occupier 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.

45.- (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.

45.- (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 Secretary of State under subsection (2) of this section.

46.- (1) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called "such Order") under section 45 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Secretary of State for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such Order have notified the authority in writing that they do not object to such Order.

46.- (2) The authority shall advertise the fact that such Order has been made and the advertisement shall specify (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by a person appointed by the Secretary of State for the purpose and (b) the period (not less than 14 days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Secretary of State, such Order may take effect by virtue of this section and without being confirmed by the Secretary of State.

46.- (3) The authority shall also serve notices to the same effect on persons mentioned in subsection (1) above.

46.- (4) The authority shall send a copy of any advertisement published under subsection (2) above to the Secretary of State, not more than three days after the publication.

46.- (5) If within the period referred to in subsection (2)(a) above no person claiming to be affected by such Order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that such Order be submitted to him for confirmation, such Order shall at the expiration of the period referred to in subsection (2)(b) of this section take effect by virtue of this section and without being confirmed by the Secretary of State as required by section 45 of the Act.

46.- (6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Part III, Part IV or Part V of the Act.

