

Town and Country Planning Act, 1947.

HARLAXTON TREE PRESERVATION ORDER, 1963.

THE County Council of Lincoln, Parts of Kesteven (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, 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 or lopping or wilful destruction of any tree specified in the First Schedule hereto or comprised in the areas or groups of trees therein specified, the position of which trees, areas of trees and groups of trees is defined in the manner indicated in the said First Schedule on the map marked "Map referred to in the Harlaxton Tree Preservation Order, 1963" signed by the Clerk of the Authority and deposited for inspection at the offices of the West Kesteven Rural District Council, Sandon Close, Grantham, which map shall, for the purpose of any 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.

(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 and any compensation awarded in consequence of such decision; 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 that the trees have an outstanding or special amenity value.
6. 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.

NOTE: If it is desired to fell any of the trees included in this Order and the trees are trees for the felling of which a licence is required under the Forestry Act, 1951, application must be made not to the authority for consent under this Order but to the Forestry Commissioners for a licence under that Act. (See Forestry Act, 1951, Section 13(1).)

7. 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.

8. 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 any compensation or contribution which has been paid in respect of the same trees under the terms of this Order and any injuries affection to any land of the owner of the trees which would result from the felling of the trees the subject of the claim.

9. (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.

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

11. Any person contravening the provisions of this Order is guilty of an offence under sub-section (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.

12. This Order may be cited as the "Harlaxton Tree Preservation Order, 1963."

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

(coloured green and encircled in black on the map)

<u>Number on map</u>	<u>Description</u>	<u>Situation</u> <u>(Parish of Harlaxton)</u>
T.1.	Oak)	Along the eastern boundary of Swinehill to the south of field OS.214.
T.2.	Oak)	
T.3.	Oak)	
T.4.	Oak)	
T.5.	Oak)	
T.6.	Oak)	
T.7.	Walnut	To the rear of the dwelling house known as Well House, High Street, (field OS.183)
T.8.	Ash	Adjoining the western boundary of High Street north of Trotter's Lane.

Number on map

Description

Situation
(Parish of Harlaxton)

T.9.	Elm)	Near the southern boundary of field OS.127, north and east of Trotter's Lane.
T.10.	Elm		
T.11.	Elm		
T.12.	Elm		
T.13	Ash		On the southern boundary of field OS.127, east of Trotter's Lane.
T.14.	Walnut		To the rear of the dwellinghouse known as Holme Lodge, Pond Street, (field OS.177).
T.15.	Willow		On the northern boundary of field OS.211, adjoining the southern boundary of Pond Street.
T.16.	Cedar		Near the southern boundary of field OS.209
T.17	Beech		Near the southern boundary of Rectory Lane and near the northern boundary of field OS.203.
T.18.	Beech		On the southern boundary of Rectory Lane and on the northern boundary of field OS.204.
T.19.	Ash		Near the southern boundary of field OS.126.
T.20.	Ash		On the eastern boundary of field OS.126 and on the western boundary of Trotter's Lane.
T.21.	Ash		On the western boundary of field OS.126 and near the southern boundary of the main Grantham-Leicester Road (A.607).
T.22.	Ash)	On the eastern boundary of field OS.238 and near the northern boundary of the main Grantham-Leicester Road (A.607).
T.23.	Ash		
T.24.	Oak)	On the southern boundary of field OS.238 and on the northern boundary of the main Grantham-Leicester Road (A.607).
T.25.	Sycamore		
T.26.	Sycamore		On the northern boundary of field OS.239 and on the southern boundary of the main Grantham-Leicester Road (A.607).

Number on map

Description

Situation
(Parish of Harlaxton)

T.27	Elm)
T.28	Elm)
T.29	Ash)
T.30	Elm)
T.31	Elm)
T.32	Elm)
T.33	Elm)
T.34	Elm)

On the western boundary of field OS.161 to the south of the main Grantham-Leicester Road (A.607).

T.35 Ash

On the eastern boundary of The Drift and on the western boundary of field OS.91.

T.36. Oak

On the eastern boundary of field OS.99 and near the western boundary of The Drift.

T.37. Sycamore

On the western boundary of field OS.97 to the rear of the "Gregory Arms".

T.38. Elm

In the south eastern corner of field OS.97 and adjoining the northern boundary of the main Grantham-Leicester road (A.607).

~~T.39~~

~~Ash~~

~~Near to the eastern boundary of Swinehill and the southwest corner of field OS.214.~~

TREES SPECIFIED BY REFERENCE TO AN AREA

(within a dotted black line on the map)

Number on map

Description

Situation
(Parish of Harlaxton)

A.1. The several trees, of whatever species, numbered A.1. on the map.

In fields OS.116, 118, 133 and 145, to the east of High Street.

A.2. The several trees, of whatever species, numbered A.2. on the map.

In field OS.184, to the east of High Street.

A.3. The several trees, of whatever species, numbered A.3. on the map.

In field OS.192 known as Cooper's Plantation.

GROUPS OF TREES

(within a broken black line on the map)

Number on map

Description

Situation
(Parish of Harlaxton)

G.1. Group consisting of 1 Hawthorn, 3 Ash, 1 Scots Pine, 13 Oak, 1 Holly, 1 Sycamore and 4 Elm.

In field OS.108 adjoining the southern boundary of the main Grantham-Leicester road (A.607) and opposite the

- G.2. Group consisting of 14
Oak, 29 Elm, 1 Hawthorn,
1 Sycamore and 1 Common Maple. In field OS.109 ad-
joining the southern
boundary of the main
Grantham-Leicester road
(A.607) and opposite the
playing field.
- G.3. Group consisting of
21 Oak and 1 Scots
Pine. In field OS.96 adjoining
the southern boundary of
the main Grantham-Leicester
road (A.607).

In this Schedule the references to OS numbers mean the Ordnance Survey Numbers as shown on the 1/2500 Ordnance Survey, Lincolnshire (Parts of Kesteven) Sheets CXXII.6 and CXXII.7, Edition of 1931.

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.

G.3. Group consisting of
21 Oak and 1 Scots
Pine.

In field OS.96 adjoining
the southern boundary of
the main Grantham-Leicester
road (A.607).

In this Schedule the references to OS numbers mean the Ordnance Survey Numbers as shown on the 1/2500 Ordnance Survey, Lincolnshire (Parts of Kesteven) Sheets CXXII.6 and CXXII.7, Edition of 1931.

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- (1) to the cutting down, topping or lopping of any tree that is dying or dead or has become dangerous;
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 - (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

THIRD SCHEDULE

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

15.(1). The Minister may give directions to the authority requiring

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.

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 is given by the authority, then if the applicant is aggrieved by their decision on the application, or by any such certificate, he may, by notice in writing served within 28 days from the receipt of notification of their decision or certificate 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 or certificate 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 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
- (b) give notice to him that the application has been referred to the Minister in accordance with the directions given by him under the last foregoing section;

the provisions of sub-section (1) of this 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 expiration of the said period of two months or the extended period agreed upon as aforesaid, as the case may be.

21.(1). Subject to the provisions of this section, if it appears to the authority that it is expedient that any consent under the order granted on an application made in that behalf should be revoked or modified, they may by order revoke or modify the consent to such extent as appears to them to be expedient as aforesaid:

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 applications 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.

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 is given by the authority, then if the applicant is aggrieved by their decision on the application, or by any such certificate, he may, by notice in writing served within 28 days from the receipt of notification of their decision or certificate 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 or certificate 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 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
- (b) give notice to him that the application has been referred to the Minister in accordance with the directions given by him under the last foregoing section;

the provisions of sub-section (1) of this 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 expiration of the said period of two months or the extended period agreed upon as aforesaid, as the case may be.

21.(1). Subject to the provisions of this section, if it appears to the authority that it is expedient that any consent under the order granted on an application made in that behalf should be revoked or modified, they may by order revoke or modify the consent to such extent as appears to them to be expedient as aforesaid.

Provided that no such order shall take effect unless it is confirmed by the Minister, and the Minister may confirm any order submitted to him for the purpose either without modification or subject to such modification as he considers expedient.

(2). Where an authority submit an order to the Minister for his confirmation under this Section, that authority shall furnish the

Minister with a statement of their reason for making the order and shall serve notice of the making of the order on the owner of the land, and on any other person who in their opinion will be affected by the order, and if within the period of 28 days from the service thereof any person on whom the notice is served so requires, the Minister shall, before confirming the order, afford to him and to the authority an opportunity of appearing before and being heard by a person appointed by the Minister for that purpose.

(3). 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 carried out before the date on which the order was confirmed as aforesaid.

(4). Where a notice has been served in accordance with the provisions of sub-section (2) 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 sub-section (1) of this Section.

22.(1). Where any person is affected by an order under the last foregoing Section, or by a notice served on him under sub-section (2) of the foregoing Section in a case where the order is not confirmed, then, if on a claim made to the authority within the time and in the manner prescribed by Article 9 of the Order it is shown that he has incurred expenditure in carrying out work which is rendered abortive by the revocation, or modification, or stay of operations, as the case may be, or has otherwise suffered loss or damage which is directly attributable to the revocation, modification or stay of operations, the authority shall pay to that person compensation in respect of that expenditure, loss or damage.

(2). For the purposes 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 Seal of the County Council of Lincoln, Parts of Kesteven the 18th day of March, 1963.

THE COMMON SEAL of the County
Council of Lincoln, Parts of
Kesteven was hereunto affixed in
pursuance of a Resolution passed
on the 29th day of March, 1962.

Seal

(Sgd) [Redacted]
Chairman.

(Sgd) [Redacted]
Clerk of the County Council.

COUNTY OF LINCOLN PARTS OF KESTEVEN
MAP REFERRED TO IN THE HARLAXTON
TREE PRESERVATION ORDER 1963

RECENT APPLICATIONS and other happenings



Felled 27/7/78
Taken Ltd
No prior application.

Felled out 75.
Elm
Elm

Elm felled out 75.

also felled but not in order 75.

6 top left felled 1974. dangerous.

4 felled on apph. (Banks & Lacey) out 71.

C. Johnson
Apph. dismissed left 75

Possible ditch etc done - ordered Nov 77. No letters with standing order book.

Em NOT in order.
Opp 12/15
Swinhill