TPO
Luton Borough Council

The Order
Dated: 11th April 1960

THE BOROUGH OF LUTON
(LIME AVENUE)
TREE PRESERVATION ORDER: 1960

TOWN AND COUNTRY PLANNING ACT: 1947

TREE PRESERVATION ORDER

relating to

40 lime trees bordering the North side of LIME AVENUE, LUTON

DATE OF RESOLUTION: 3.1.58
DATE OF ORDER: 11.4.60
DATE OF CONFIRMATION: 3.8.60
TREE PRESERVATION ORDER.
TOWN AND COUNTRY PLANNING ACT, 1947.

The Luton Borough Council (in this Order called "the Authority") acting as agents of the Bedfordshire County Council who are the Local Planning Authority for the County of Bedford, under the provisions of the said Bedfordshire Planning (Borough of Luton) Order, 1947, in pursuance of the powers conferred on them by Section 22 of the Town and Country Planning Act, 1947, and subject to the provisions of Section 13 of the Forestry Act, 1944, 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, the following shall, except with the consent of the authority and, in accordance with the conditions, if any, imposed on such consent, cut down, top, lim, or wilfully destroy or cause or permit the cutting down, topping, liming or wilful destruction of any tree specified in the First Schedule, or a specimen or group of trees in a woodland therein specified, the position of which may be marked on the map referred to in the said First Schedule by the said Council, on the map marked "Luton Borough Council's Map", signed by the Clerk of the Council and deposited for inspection at the office of the Clerk of the Council, and
for inspection at

3. An application for consent under the provisions of this Order shall be in writing stating the grounds on which the application is made, and specifying the number, description, location, and the purpose for which the trees are required to be cut down, topped, limed or destroyed.

4. (1) Where an application for consent is made to the Authority under this Order, the Authority may grant such consent subject to such conditions as it, acting in accordance with the principles of good forestry, may think fit, or may refuse consent.

(2) Provided that where the application relates to any specimen or group of trees specified in the First Schedule to this Act the Authority shall give notice of its intention to grant such consent together with the details of the proposal, specifying in particular the number, description, location, purpose for which the trees are required to be cut down, topped, or destroyed, together with the conditions, if any, on which such consent is granted, and the purpose for which the application is made, and specifying the number, description, location, and the purpose for which the trees are required to be cut down, topped, limed or destroyed.

5. The Authority shall keep a register of all applications for consent under this Order, containing 
information as to the purpose 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.

6. Where the Authority refuses consent under this Order or grants such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are refusing or granting consent that they are satisfied —
(a) that the refusal or condition is in the interest of good forestry;

(b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.

7. (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 plan approved by the Council 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 such part of the woodland is situated a notice in writing specifying the manner in which, and the time within which, he shall replant such land, and where such 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 person who fails to comply with the provisions of this Order shall be guilty of an offence and liable on summary conviction to a fine not exceeding £10.

Note.—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 so felled for the felling of which a licence is required under the Forestry Act, 1939, application must be made to the authority for consent under this Order but to the Forestry Commissioners for a licence under this Act (see Forestry Act, 1944, section 13 (1)).
Any direction given under paragraph (1) of this Article may include requirements as to—

(a) species;

(b) number of trees per area;

(c) erection and maintenance of fencing necessary for protection of the replanting;

(d) the preparation of ground, dressing, removal of brushwood, log end 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 adopted 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 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 each refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 6 of the Order.

9. In assessing compensation payable under the last preceding Article or under Section 2 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 2 of the Act or under the terms of any Tree Preservation Order made under Section 3 of the Town and Country Planning (Trees and Preservation) Act, 1949, 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, 1949, and

(b) any additional loss or to any land of the owner which would result from the cutting of the trees, the subject of the claim.

10. A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority. Notice of the claim shall be given in writing and the claim shall be accompanied by suitable plans or specifications.

11. The claim shall be considered by the authority. The authority may consider the claim and may decide against it. The decision of the authority shall be final and conclusive and shall not be open to review in any court of law.

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 the offence 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
These specified by reference to an Order.

<table>
<thead>
<tr>
<th>No. on Map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>A roadside belt of the Forty (40) lime trees forming a broken black line on</td>
<td>Bordering the north side of Lime Avenue in the Borough</td>
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<tr>
<td></td>
<td>the map referred to in Article 2 of this Order</td>
<td>of Lime Avenue and situated within</td>
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<tr>
<td></td>
<td></td>
<td>the curtilage of dwellinghouses having frontages, or front</td>
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<tr>
<td></td>
<td></td>
<td>frontages to the north side of the same Lime Avenue.</td>
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</tbody>
</table>

GROUPS OF TREES:
NONE

WOODLANDS:
NONE

SECOND SCHEDULE
This Order shall 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 powers conferred on the Postmaster-General by virtue of Section 6 of the Telegraph (Construction) Act, 1868;
   c. in pursuance of the powers conferred by Section 24 of the Regulation of Railways Act, 1864;
   d. for the purpose of preventing or abating a nuisance;
(b) in the case of a statutory undertaker where the land on which the trees are situated is operational defined by the Act and other works on such land cannot otherwise be carried out or the cutting topping or topping 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 trees obstruct the construction by the Board of any main transmission line or other electric lines the meaning respectively of the Electricity (Supply) Act, 1919 and the Electric Lighting Act, 1891, or interfere with the maintenance or working of any such line.

Where immediately required for the purpose of carrying out developments 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.

Third Schedule

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

18. Reference of applications to the Minister. (1) Any application for consent under the Order, or all such applications as may be specified in the directions, shall be made 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 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 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 desires, afford to them an opportunity of opposing the same 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.

19. Appeals to the Minister. (1) Any application is made to the authority for consent under the Order, and consent is refused by that authority, or is granted by them subject to conditions or where any certificate or licence is given by the authority, then if the applicant is aggrieved by their decision on the application, or by any such certificate or licence, the applicant or that person, as the case may be, may, by giving written notice within 20 days from the receipt of notification of their decision, certificate or licence, be made to the Minister in relation to the determination by the Minister of an application referred to him under this section.

(2) Unless within two months from the date of receipt of an application for consent under the Order, or within such extended period as may be at any time be agreed upon in writing between the applicant and the authority, the said notice is given to the applicant of the decision on the application or to the Minister in accordance with the directions given by him under this last foregoing section;

The provisions of subsection (3) of this section shall apply in relation to the application as if the consent to which it related, had been refused by the authority, and as if their decision had been received by the applicant as the expiry of the said period of time, measured as the extended period agreed upon as aforesaid, or the case may be.

21. Revocation or modification of consent under the Order. (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 by expediency as aforesaid;

"These cases may other general or special exceptions."
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 modifications as he considers expedient.

(2) Where an authority submits 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 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 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 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 (1) of this Section.

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20—Supplementary provisions as to revocation and modification. (1) Where any person is affected by an order under the last foregoing Section, or by a notice served under subsection (2) of the foregoing Section, in such 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 10 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 by the stopping of operations, as the case may be, or has otherwise suffered loss or damage which is directly attributable to the revocation, modification or stopping 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 held 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 Mayor Aldermen and Burgesses of the Borough of Luton

the eleventh day of April in the year nineteen hundred and sixty.


city clerk

tax clerk

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

Given under the official seal of the Minister of Housing and Local Government

day of August

nineteen hundred and six

B. H. W. WILTSHEA
Assistant Secretary
Ministry of Housing and Local Government