

TREE PRESERVATION ORDER

LAKE DISTRICT (High Cunsey, Ambleside) TREE PRESERVATION (No. 31) ORDER, 1962

THE LAKE DISTRICT PLANNING BOARD (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 and on the map annexed hereto and on the ^{certified copies of the} map marked Lake District (High Cunsey, Ambleside) Tree Preservation (No. 31) Order, 1962, signed by the Clerk of the Authority and deposited for inspection at the County Hall, Kendal, and ~~a certified copy of which has been similarly deposited at~~ the office of the Clerk to the North Lonsdale Rural District Council, Todbusk, Springfield Road, Ulverston, 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 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,

Proviso to Article 6(1):—

Provided always that on giving such a direction with respect to the replanting of woodlands, the authority shall, if such a direction relates to land in respect of which byelaws made by a river board or a drainage board 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 direction has effect subject to the requirements of the river board or drainage board under those byelaws and the direction shall have effect accordingly.

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(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 tree 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 provision 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.

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, 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).)

FIRST SCHEDULE

WOODLAND

(within a continuous black line on the map)

No. on Map	Description	Situation
		Plot numbers referred to are Ordnance Survey plot numbers on 25 inch scale sheet Lancashire V.11, Edition of 1914.

W.1	Mixed hardwoods consisting of Ash, Beech, Oak, Birch, Cherry and Sycamore.	Plot number 702
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Groups of Trees

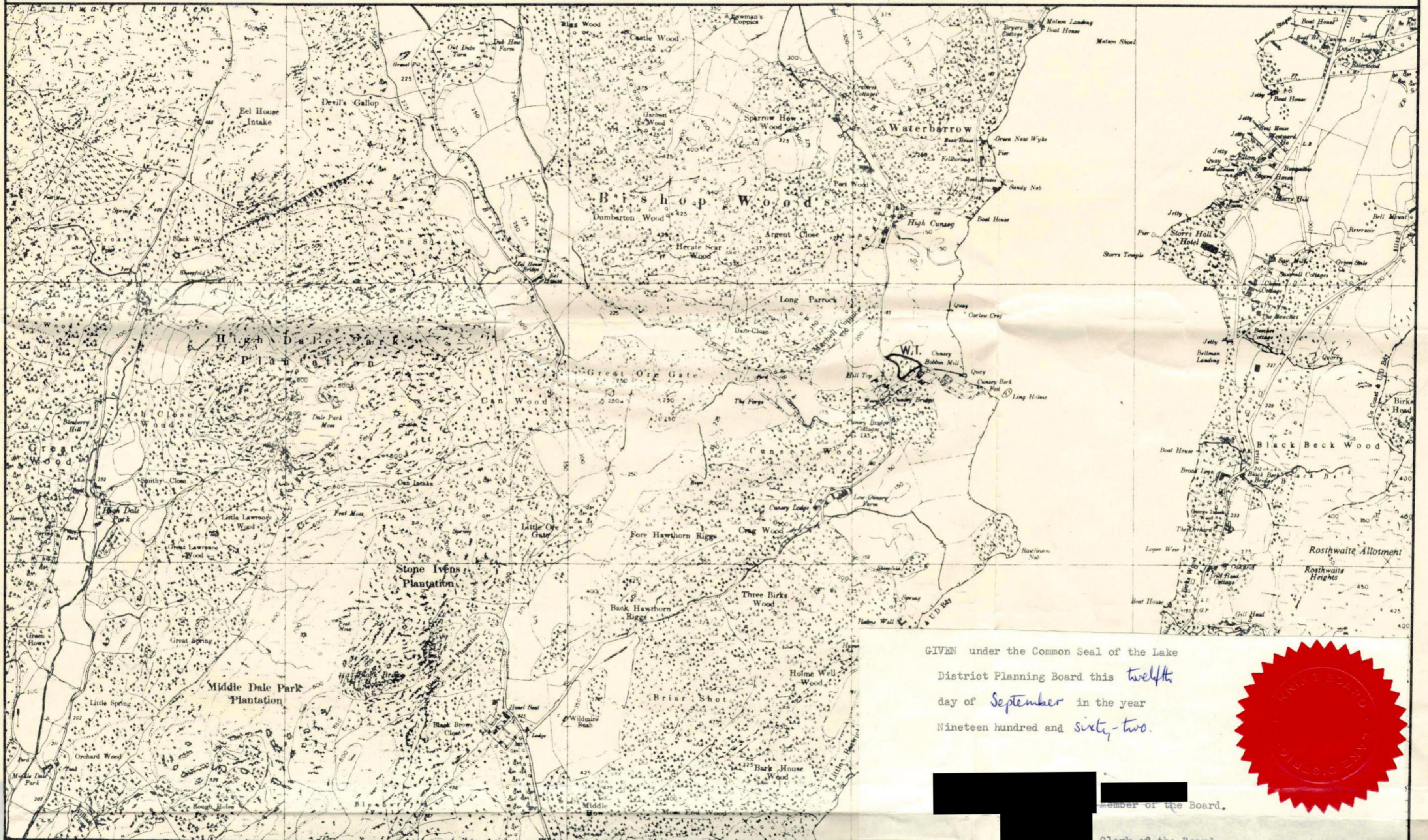
None

Trees specified individually

None

LAKE DISTRICT (HIGH CUNSEY. AMBLESIDE)

TREE PRESERVATION (No.31) ORDER. 1962.



GIVEN under the Common Seal of the Lake
District Planning Board this *twelfth*
day of *September* in the year
Nineteen hundred and *sixty-two*.



Member of the Board,
Clerk of the Board.

SCALE :- SIX INCHES TO ONE MILE

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
 - (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.

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
- (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.

Revocation or modification of consent under the Order.

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 modifications 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.

Supplementary provisions as to revocation and modification.

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 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 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 Common Seal of the Lake

District Planning Board this *twelfth*
day of *September* in the year

Nineteen hundred and *sixty-two*

..... [Redacted Signature] Member of the Board.

..... [Redacted Signature] Clerk of the Board.



H.L.G. 13066

The Minister of Housing and Local Government hereby confirms 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 on *21st September 1963*.

[Redacted Signature] Assistant Secretary, Ministry of Housing and Local Government



LAKE DISTRICT PLANNING BOARD

**Town and Country Planning
Act, 1947
(Section 28)**

**LAKE DISTRICT
(HIGH CUNSEY, AMBLESIDE)
TREE PRESERVATION
(No. 31) ORDER,
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LAKE DISTRICT PLANNING BOARD

TOWN AND COUNTRY PLANNING ACT, 1962

FORESTRY ACT, 1951

LAKE DISTRICT (HIGH CUNSEY, AMBLESIDE)
TREE PRESERVATION (NO. 51) ORDER, 1962

WHEREAS the Lake District Planning Board (hereinafter called "the Board") made the Lake District (High Cunsey, Ambleside) Tree Preservation (No. 51) Order, 1962, (hereinafter called "the Order") on the 12th day of September, 1962, in respect of a woodland area near Cunsey Hill, High Cunsey, in the County of Lancashire, which Order was confirmed by the Minister of Housing and Local Government on the 24th September, 1963.

AND WHEREAS an application by Mr. H. T. Dennison, of 241 Newton Drive, Blackpool, Lancashire, dated 15th December, 1963, for a licence to fell the trees described therein, and referred to in the Order, was referred by the Forestry Commission, in accordance with Section 15(4) of the Forestry Act, 1951, to the Board on the 17th December, 1963.

NOW the Board in pursuance of Article 4(1) of the Order hereby consent to the felling of twenty-four trees marked with a white painted cross subject to the conditions set out below:-

CONDITIONS

1. All lop and top from the trees shall be removed and disposed of after each felling operation.
2. Underplanting shall be carried out by planting two hundred beech of a size of not less than eighteen inches.
3. The underplanting shall be completed by the 31st December, 1964.
4. The young trees shall be protected from stock and rabbits until such time as the Local Planning Authority consider it is no longer necessary.
5. The young trees shall after planting be maintained in accordance with the principles of good forestry and shall be replaced from time to time as often as may be necessary by trees of a similar species which shall also be subject to the same maintenance and replacement provision as aforesaid.

Dated this twenty-sixth day of February, 1964.



Clerk of the Board.

County Hall,
Kendal.

LAKE DISTRICT PLANNING BOARD

LAKE DISTRICT (HIGH CUNSEY, AMBLESIDE)

TREE PRESERVATION (NO. 31) ORDER, 1962

Statement of reasons for making the
Tree Preservation Order

This small woodland provides screening for two caravans which have the benefit of a temporary planning permission. The Tree Preservation Order is considered necessary in order that this temporary permission may be extended for a longer period and a satisfactory tree screen maintained in this lakeside area of very high landscape value. The owner has agreed to the making of this Tree Preservation Order.

TOWN AND COUNTRY PLANNING ACT, 1947

LAKE DISTRICT PLANNING BOARD

LAKE DISTRICT (High Gunsey, Ambleside)

TREE PRESERVATION (No. 31) ORDER, 1962.

I HEREBY CERTIFY that the provisions of sub-paragraph (b) of paragraph 4 of the Town and Country Planning (Tree Preservation Order) Regulations, 1950, have been complied with and that a Notice was to-day served on the following person who is affected by the above-mentioned Tree Preservation Order.

H. T. Dennison, Esq.,
14, 1 Newton Drive, - owner/occupier
Blackpool,
Lancashire.

Dated this eighteenth day of September 1962.

Clerk of the Board.

County Hall,
Kendal.

IMPORTANT - This communication affects
your property.

TOWN AND COUNTRY PLANNING ACT, 1947

LAKE DISTRICT PLANNING BOARD

To: H. T. Dennison, Esq.,
141 Newton Drive,
Blackpool,
Lancashire.

1. The Lake District Planning Board have made an Order for the preservation of trees situate in Plot Number(8) 702 on the Ordnance Survey Map (Lancashire) Sheet V.11 (Edition of 1914) at High Cunsey, Ambleside.
2. A certified copy of the Order and the map referred to therein may be inspected during office hours at the County Hall, Kendal, and at the office of the Clerk to the North Lonsdale Rural District Council, Todbusk, Springfield Road, Ulverston.
3. The Order has been submitted for confirmation to the Minister of Housing and Local Government, Whitehall, LONDON, S.W.1. to whom objections or representations with reference to the Order may be made in writing in accordance with the Town and Country Planning (Tree Preservation Order) Regulations, 1950 within 28 days from the service of this notice.

Dated this 18th day of September 1962

Clerk of the Board.

County Hall,
Kendal.