

CIVIC AMENITIES ACT, 1967 (PART II)

TOWN AND COUNTRY PLANNING ACT, 1962

SECTION 29

THE CLITHEROE RURAL DISTRICT COUNCIL (CHATBURN)

TREE PRESERVATION ORDER, 1968, NO. 1



WHEREAS:

(1) The County Council of the Administrative County of the County Palatine of Lancaster are the local planning authority for that part of the Administrative County in which the Rural District of Clitheroe is situate.

(2) The County Council (hereinafter called "the Authority") have delegated, inter alia, their powers under Section 29 of the Town and Country Planning Act, 1962, and Civic Amenities Act, 1967, Part II, to the Rural District Council of Clitheroe.

NOW THEREFORE the Rural District Council of Clitheroe in pursuance of the powers conferred in that behalf by Section 29 of the Town and Country Planning Act, 1962, Part II of the Civic Amenities Act, 1967, and subject to the provisions of Section 15 of the Forestry Act, 1967, hereby make the following Order:-

1. In this Order -

"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 provision 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 Clitheroe Rural District Council (Chatburn) Tree Preservation Order 1968, No. 1 signed by the Clerk of the Clitheroe Rural District Council and deposited for inspection at the office of the Clitheroe Rural District Council, 2, Church Brow, Clitheroe, 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 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 other than consent for silvicultural thinning 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 Town and Country Planning Act, 1962, 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.

(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. On imposing any condition requiring the replacement of any tree under Article 4 of this Order, or on giving a direction under

Article 6 of this Order with respect to the replanting of woodlands, the Authority shall, if such condition or direction relates to land in respect of which byelaws made by a river authority 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 condition or direction has effect subject to the requirements of the river authority or drainage board under those byelaws and the condition or direction shall have effect accordingly.

8. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Town and Country Planning Act, 1962, adapted and modified for the purposes of this Order, shall apply in relation thereto.

9. Subject to the provisions of this Order any person who has suffered ^{loss or} ~~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 ^{loss or} ~~damage or expenditure~~.

Provided that no compensation shall be payable in respect of ^{loss or} ~~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.

10. In assessing compensation payable under the last preceding Article account shall be taken of

- (a) any compensation or contribution which has been paid whether to the claimant or any other person in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 29 of the Town and Country Planning Act, 1962, 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.

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 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.

12. Any question of disputed compensation shall be determined in accordance with the provisions of Section 128 of the Town and Country Planning Act, 1962.

13. Any person contravening the provisions of this Order is guilty of an offence under subsection (1) of Section 62 of the Town and Country Planning Act, 1962, 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.

14. Notwithstanding subsection (4) of Section 29 of the Town and Country Planning Act, 1962, this Order shall take effect provisionally on the 30th December, 1968, and shall continue in force by virtue of Section 16 of the Civic Amenities Act, 1967, until the expiration of a period of six months beginning with the date on which the Order was made and furthermore, on the date on which the Minister shall confirm the Order, the said Order shall become operative under the Town and

Country Planning Act, 1962, and the Civic Amenities Act, 1967.

15. This Order shall be cited as the Clitheroe Rural District Council (Chatburn) Tree Preservation Order, 1968, No. 1.

THE CLITHEROE RURAL DISTRICT COUNCIL (CHATBURN)

TREE PRESERVATION ORDER, 1968, NO. 1

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY

(coloured green and encircled in black on the Map)

NONE

TREES SPECIFIED BY AN AREA

(coloured green and within a dotted black line on the Map)

| Number of Map | Description | Situation |
|---------------|---|--|
| A.1 | The Sycamore and a few Ash trees standing in the area numbered A.1 on the map | In land adjoining former Railway Goods Yard, Clitheroe Road, Chatburn, north-east of Empress Saw Mill and to the rear of Chatburn Petrol Service Station |

GROUPS OF TREES

(coloured green and within a broken black line on the Map)

| | | |
|-----|---|--|
| G.1 | Group consisting of 21 Sycamore and 7 Ash | In land adjoining former cattle pens in former Railway Goods Yard, Clitheroe Road, Chatburn, north-east of Chatburn Petrol Service Station |
|-----|---|--|

WOODLANDS

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.
- (3) the cutting down, topping or lopping of any tree exempted from the provisions of this order by Section 29(7) of the Act namely a tree which is dying or dead or has become dangerous, or the cutting down, topping or lopping of which is in compliance with obligations imposed by or under an Act of Parliament or is so far as may be necessary for the purpose of preventing or abating a nuisance.
- (4) the cutting down, topping or lopping of any tree
 - (a) in pursuance of the power conferred on the Postmaster General by virtue of Section 5 of the Telegraph (Construction) Act 1908;
 - (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 Town and Country Planning Act, 1962 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 or working of any such line; or
(iii) a river authority established under the Water Resources Act, 1963, 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 of the functions of such river authority or drainage board in relation to the maintenance improvement or construction of water courses or of drainage works;

^c
(~~a~~) 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 Town and Country Planning Act, 1962, or deemed to have been so granted for any of the purposes of that Part;

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

THIRD SCHEDULE

Provisions of Part III of the Town and Country Planning Act, 1962, as adapted and modified to apply to this Order.

Reference of applications to the Minister

22-(1) The Minister 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.

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

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

22-(4) 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 as they apply to an application which falls to be determined by the Authority.

22-(5) Before determining an application referred to him under this section the Minister 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 Minister for the purpose.

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

Appeals against decisions

23-(1) Where an application is made for consent under the Order and that consent is refused by the 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 any such certificate or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Minister.

23-(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 Minister may allow.

23-(4) Where an appeal is brought under this section from a decision, certificate or direction of the Authority, the Minister, 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.

23-(5) Before determining an appeal under this section, the Minister 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 Minister for the purpose.

23-(7) The decision of the Minister on any appeal under this section shall be final.

Appeal
in default
of decision

24- Where an application for consent under the Order is made, 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 Minister in accordance with directions given under Section 22 of the Act;

the provision 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.

Power to
revoke or
modify the
consent under
the Order

27-(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.

27-(2) An order under this section shall not take effect unless it is confirmed by the Minister; and the Minister may confirm any such Order submitted to him either without modification or subject to such modifications as he considers expedient.

27-(3) Where an Authority submit 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 on the owner 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 Minister, before confirming the Order shall afford to that person, and the Authority, an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

27-(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.

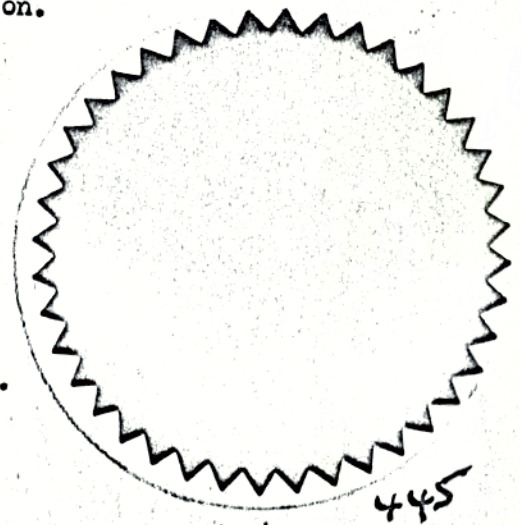
Provided that the revocation or modification of consent shall not affect so much of those operations as has been previously carried out.

27-(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 Minister under subsection (2) of this section.

THE COMMON SEAL OF THE CLITHEROE
RURAL DISTRICT COUNCIL was hereto
affixed this thirtieth day of December,
1968, in the presence of:-

(Signed)
Chairman

(Signed)
Clerk



The Minister of Housing and Local Government in exercise of the powers conferred upon him in that behalf hereby confirms the foregoing order subject to the modifications shown in red ink thereon.

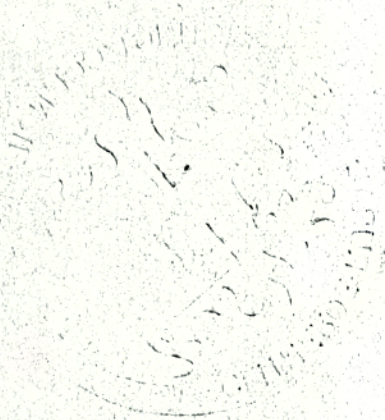
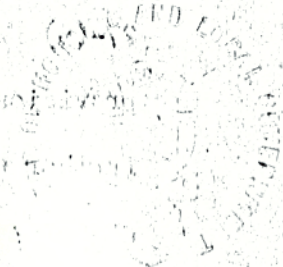
In Witness whereof the Official Seal of the Minister of Housing and Local Government is hereunto affixed on 19th June 1969.



I. M. EDYE

Authorized by the Minister

HLG 39144



THE
MINISTER OF HOUSING AND LOCAL GOVERNMENT
LONDON

..... (Signature)
..... (Signature)
(3)

CIVIC AMENITIES ACT, 1967

The following provisions of Part II of the Civic Amenities Act, 1967 came into force on 27th August, 1967, and have effect in relation to tree preservation orders:-

Replacement
of trees

Section 13. - (1) If any tree in respect of which a tree preservation order is for the time being in force, other than a tree to which the order applies as part of a woodland, is removed or destroyed in contravention of the order or is removed or destroyed or dies at a time when its cutting down is authorised only by the provisions of Section 29(7) of the Planning Act relating to trees which are dying or dead or have become dangerous, it shall be the duty of the owner of the land, unless on his application the local planning authority dispense with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

(2) In relation to any tree planted pursuant to this Section, the relevant tree preservation order shall apply as it applied to the original tree.

(3) The duty imposed by subsection (1) of this Section on the owner of any land shall attach to the person who is from time to time the owner of the land and may be enforced as provided by Section 14 of this Act and not otherwise.

Default powers
and appeals

Section 14. - (1) If it appears to the local planning authority that the provisions of Section 13 of this Act, or any conditions of a consent given under a tree preservation order which require the replacement of trees, are not complied with in the case of any tree or trees, that authority may, at any time within four years from the date of the alleged failure to comply with the said provisions or conditions, serve on the owner of the land a notice requiring him, within such period as may be specified in the notice, to plant a tree or trees of such size and species as may be so specified.

(2) Subject to the following provisions of this Section, a notice under this Section shall take effect at the end of such

period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.

(3) A person on whom a notice under this Section is served may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Minister against the notice on the ground -

(a) that the provisions of the said Section 13 or the conditions aforesaid are not applicable or have been complied with;

(b) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified therein;

(c) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry;

(d) that the place on which the tree is or trees are required to be planted is unsuitable for that purpose;

and subsections (2) to (5) of Section 46 and Section 180 of the Planning Act (procedure and powers of Minister on appeal, and appeals to the High Court from decision of Minister) shall apply in relation to any such appeal as they apply in relation to an appeal against an enforcement notice.

(4) In Section 48 of the Planning Act (execution by local planning authority of works required by an enforcement notice) and in Section 49 of that Act (supplementary provisions as to enforcement notices) and any regulations in force under that Section, references to an enforcement notice and an enforcement notice served in respect of development shall include references to a notice under this Section; and in relation to such a notice the reference in subsection (1) of the said Section 49 to the person by whom the development was carried out shall be construed as a reference to any person, other than the owner, responsible for the cutting down, destruction or removal of the original tree or trees.

Penalties

Section 15. - (1) In relation to an offence of cutting down or wilfully destroying a tree, or of topping or lopping a tree in such a manner as to be likely to destroy it, being an offence

committed after the commencement of this Act, Section 62(1) of the Planning Act shall have effect as if for the words "fifty pounds" there were substituted the words "two hundred and fifty pounds or twice the sum which appears to the court to be the value of the tree, whichever is the greater".

COUNTRYSIDE ACT, 1968

The following provisions of the Countryside Act, 1968, came into force on the 3rd August, 1968, and have effect in relation to tree preservation orders:-

Tree
preservation
orders:
provision for
compensation

Section 25. - (1) This section has effect where in pursuance of provision made by a tree preservation order a direction is given, by the local planning authority or the Minister, for securing the re-planting of all or any part of a woodland area which is felled in the course of forestry operations permitted by or under the order.

(2) If the Forestry Commissioners decide not to make any advance under Section 4 of the Forestry Act, 1967 in respect of the re-planting and come to that decision on the ground that the direction frustrates the use of the woodland area for the growing of timber or other forest products for commercial purposes and in accordance with the rules or practice of good forestry, the local planning authority exercising functions under the tree preservation order shall be liable, on the making of a claim in accordance with this section, to pay compensation in respect of such loss or damage, if any, as is caused or incurred in consequence of compliance with the direction.

(3) The Forestry Commissioners shall, at the request of the person under a duty to comply with the direction, give a certificate stating whether they have decided not to make any such advance and, if so, the grounds of their decision.

(4) A claim for compensation under this section must be served on the local planning authority within twelve months from the date on which the direction was given, or where an appeal has been made to the Minister against the decision of the local planning authority, from the date of the decision of the Minister on the appeal, but subject in either case to such extension of that period as the local planning authority may allow.

(5) Any question of disputed compensation under this section shall be determined in accordance with section 128 of the Town and

Country Planning Act, 1962 (reference to Lands Tribunal).

(6) This section shall be construed as one with Part III of the Town and Country Planning Act, 1962, and Section 3(6) of that Act (references in Part III to local planning authority to include references to any other authority to whom functions have been delegated) shall apply accordingly.

(7) The terms of any delegation of functions by a local planning authority effected in pursuance of the said Section 3 before the coming into force of this section may be varied, so as to take account of any liability under this section of a local authority to whom functions have been so delegated, in such manner as the local planning authority and the other local authority may agree, or, if they fail to agree, as may be determined by the Minister.

Tree
preservation
orders:
compensation
under Town and
Country Planning
Act, 1962 c.38

Section 26. In Section 125(1) of the Town and Country Planning Act 1962, so far as it relates to tree preservation orders (which section provides for compensation for refusal of consent under tree preservation orders) for the words "damage or expenditure" there shall be substituted "loss or damage".

COPY

CLITHEREOE RURAL DISTRICT COUNCIL
(CHATBURN) TREE PRESERVATION ORDER,
1968, NO. 1

Relating to the Preservation of an Area
of Trees and a Group of Trees at
Clitheroe Road in the Parish of CHATBURN
in the Rural District of Clitheroe

CLITHEROE RURAL DISTRICT COUNCIL (CHATBURN) TREE PRESERVATION ORDER, 1968, No.1.

CLITHEROE RURAL DISTRICT COUNCIL

This is the Map referred to in the
Clitheroe Rural District Council
(Chatburn) Tree Preservation Order,
1968, No.1.

Clerk of the Council.

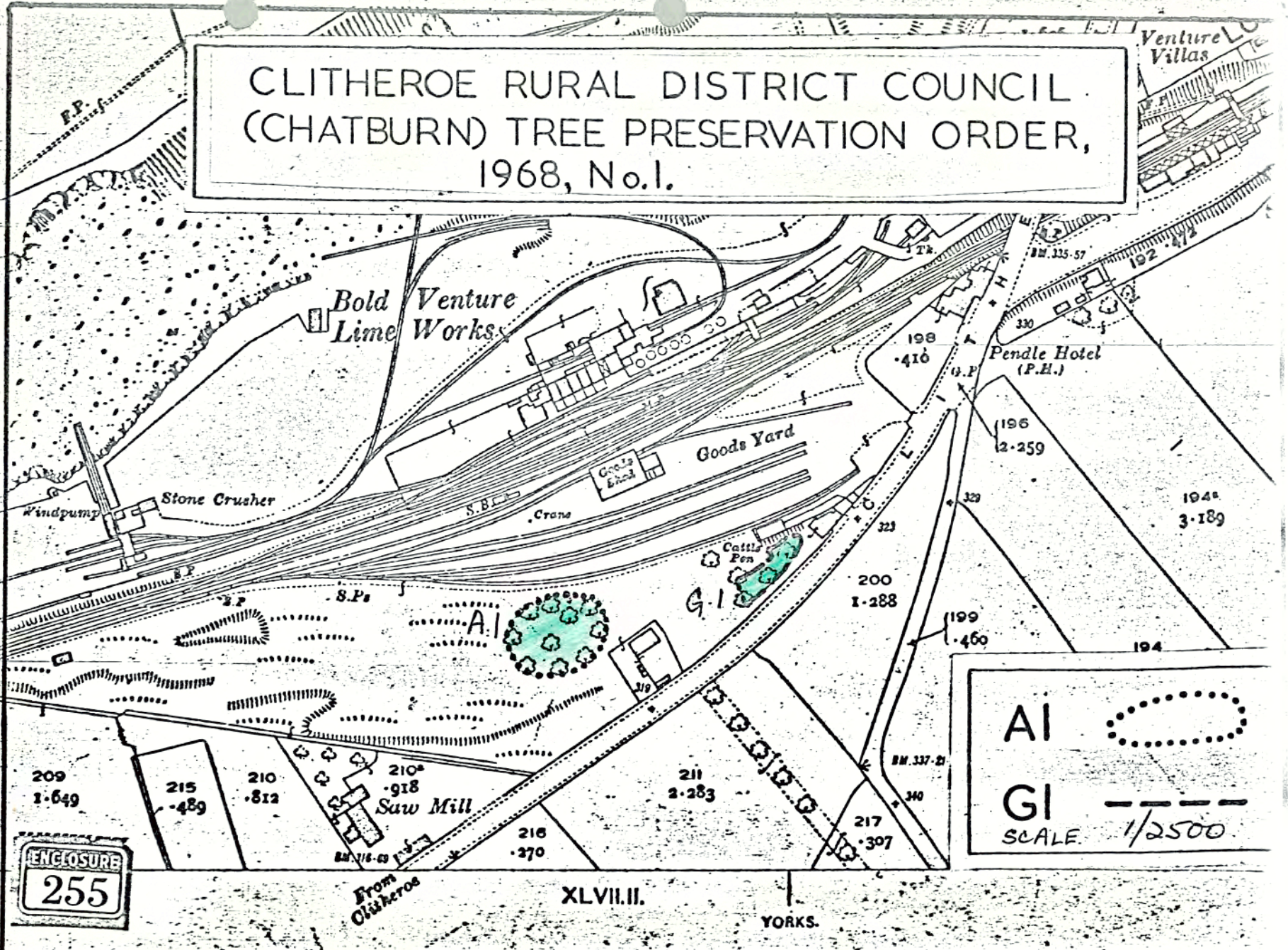
Clitheroe R.D.C. Offices,
Church Brow,
CLITHEROE, Lancs.

Date 30th December 1968

Authorised by the Minister

ON 17th June 1969
HIG 391144

I. M. EDYE



Marks and surface heights are given in Feet above the mean level of the sea at NEWLYN, and are based on the new primary levelling of 1912-21. To convert to the Liverpool datum, add to the figures shown—0.3 feet. Note that the figure applies to this plan only and is only approximate to 0.1 ft.