

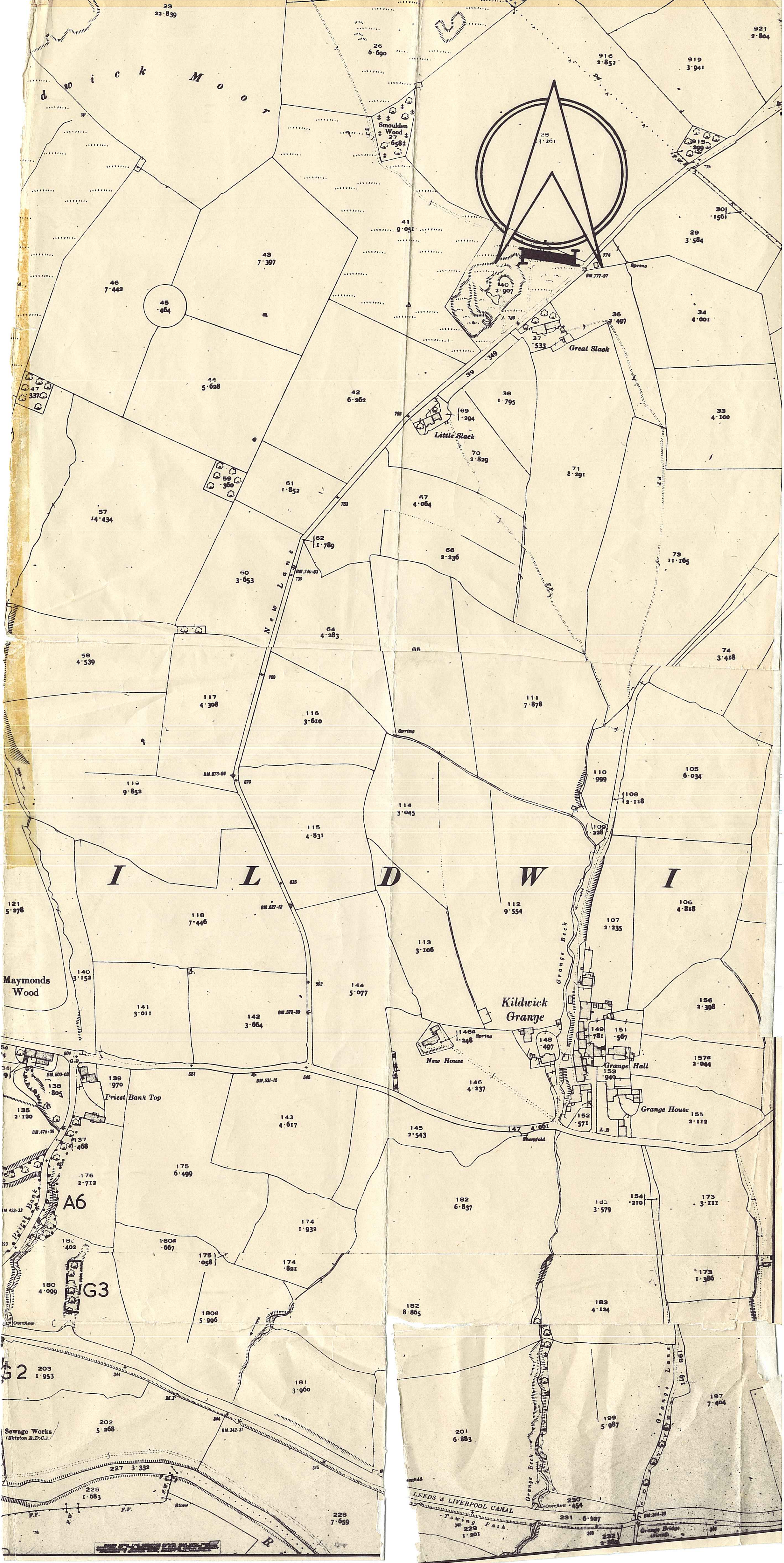


FIPTON RURAL DISTRICT

FREE PRESERVATION No.1 ORDER 1957

PLAN REFERRED TO







TOWN AND COUNTRY PLANNING ACT, 1947

THE SKIPTON RURAL DISTRICT (PARISH AND KILN) ORDER

TREE PRESERVATION ORDER NO. 1. 1958.

WHEREAS the County Council of the West Riding of Yorkshire being the Local Planning Authority under the Town and Country Planning Act, 1947 for the Administrative County of the West Riding of Yorkshire have entered into an agreement with the SKIPTON RURAL DISTRICT Council relating to the delegation of functions under Part III of that Act and WHEREAS the aforesaid Agreement authorises the SKIPTON RURAL DISTRICT Council to exercise (inter alia) and with the consent of the County Council the powers conferred upon the Local Planning Authority relating to the making of Tree Preservation Orders under Section 28 thereof and WHEREAS it appears to us the Council of the RURAL District of SKIPTON that it is expedient to provide as hereinafter mentioned for the preservation of certain trees.

NOW THEREFORE with the consent and on behalf of the County Council of the West Riding of Yorkshire and in pursuance of the powers contained in Section 28 of the Town and Country Planning Act, 1947 and subject to the provisions of Section 13 of the Forestry Act, 1951,

WE the SKIPTON RURAL DISTRICT Council 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.  
"the Authority" means the County Council of the West Riding of Yorkshire.

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 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.

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 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;



specified in the first schedule to this Order the authority shall consent to for an amount not exceeding the value of the trees, except where, in the opinion of the authority, it is necessary in the interests of forestry to require 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.

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 -

(Shown in red on Sealed Order)

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 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 condition or direction has effect subject to the requirements of the river board or drainage board under those byelaws and the condition or direction shall have effect accordingly.

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

109. 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 trees the subject of the claim.

110.(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.

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

112. 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 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.

FIRST SCHEDULE

TREES SPECIFIED INDIVIDUALLY -- None.

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

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
A.1.	The several Horse Chestnut, Beech, Sycamore, Ash and Elm trees standing alongside Parson's Beck and numbered A.1 on the map	Part of enclosures No. 128 & 179 Ordnance Survey Sheets 185/2, 2, 6.
A.2	The few scattered Ash, Sycamore and Horse Chestnut trees numbered A.2 on the map.	Enclosure No. 177 (part) and 136 Ordnance Survey Sheets 185/2, 6
A.3	The several Sycamore, Ash, Elm and one Scots Pine standing in the roadside copse north of Grange Road, Farnhill and numbered A.3 on the map.	Enclosure No. 34. Ordnance Survey Sheet 185/2.
A.4	The several Sycamore, Ash, Beech, Oak and Silver Birch trees standing alongside Grange Road, Farnhill and numbered A.4 on the map.	Enclosure No. 24. Ordnance Survey Sheet 185/2
A.5	The several Elm, Sycamore, Beech and Hawthorn trees between Grange Road and Main Street, Farnhill and numbered A.5 on the map	Enclosure No. 36. Ordnance Survey Sheet 185/2
A.6	The several Sycamore, and Beech trees standing in roadside belt along Priest Bank and numbered A.6 on the map	Part of enclosures 176 and 189 Ordnance Survey Sheets 185/2, 6.
A.7	The several trees of whatever species standing alongside the Leeds and Liverpool Canal and numbered A.7 on the map.	Enclosure No. 96b Ordnance Survey Sheet 185/1
A.8	The several trees of whatever species standing alongside canal and numbered A.8 on the map.	Enclosure No. 96c Ordnance Survey Sheet 185/1
A.9	The several mixed deciduous trees situated on top of small hill and surrounding Farnhill Hall, numbered A.9 on the map.	Enclosure No. 97. Ordnance Survey Sheet 185/1



FIRST SCHEDULE - Continued

GROUPS OF TREES

(within a broken black line on the map)

19 Sycamore, 1 ash,  
1 silver birch and 13  
Beech trees

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
G.1	Group consisting of approximately thirty trees, mainly sycamore with ash, silver birch and beech.	Part of enclosure No. 215 Ordnance Survey Sheet 185/6
G.2	Group consisting of three Sycamore, three Beech and two Elm trees.	Part of enclosures 206a, 206 and 203. Ordnance Survey Sheet 185/6
G.3	Group consisting of three Horse Chestnut, two Sycamore and one Beech tree	Part of enclosure 180 Ordnance Survey Sheet 185/6

WOODLANDS

(within a continuous black line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
W.1	Mixed deciduous trees consisting mainly of Elm, Sycamore, Horse Chestnut and numbered W.1 on the map.	Enclosure No. 126 and <sup>3a</sup> <del>2a</del> Ordnance Survey Sheet 185/2
W.2	Mixed deciduous trees consisting mainly of Sycamore, Horse Chestnut, Ash, Oak, Elm and Beech and numbered W.2 on the map.	Enclosure No. 132 Ordnance Survey Sheet 185/2

Note - All ordnance survey sheets referred to are of the Yorkshire (West Riding) Edition of 1938<sup>46</sup> on a scale of 1/2500. All parcel numbers refer to the Parishes of Farnhill and Kildwick.

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 or 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.



THIRD SCHEDULE.

Provision 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 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. Referen  
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(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 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, 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. Appeal  
to the  
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(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.



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; Revocation or modification of consent under the Order.

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.

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 25 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. Supplementary provisions as to revocation and modification.

(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.



P. 5761

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 this *twelfth*  
day of *November*  
nineteen hundred and fifty-eight

(SGD) E.H.T. WILTSHIRE.

L.S.

Assistant Secretary,  
Ministry of Housing and Local  
Government.

6.6.38/58/500