

THE BOROUGH COUNCIL OF OADBY & WIGSTON (LAND AT GARTREE ROAD, OADBY, LEICESTERSHIRE) TREE PRESERVATION ORDER 2016

The Borough Council of Oadby & Wigston, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 hereby make the following Order:-

Citation

1. This Order may be cited as **The Borough Council of Oadby and Wigston (Land at Gartree Road, Oadby, Leicestershire) Tree Preservation Order 2016**.

Interpretation

2. (1) In this Order "the authority" means the Borough Council of Oadby and Wigston unless the context otherwise requires.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

3. (1) Subject to article 5, this Order takes effect provisionally on the date on which it is made.
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to article 4, no person shall-
 - (a) cut down;
 - (b) top;
 - (c) lop;
 - (d) uproot;
 - (e) wilfully damage; or
 - (f) wilfully destroy;any tree to which an order relates, or shall cause or permit the carrying out of any of the activities in sub-paragraphs (a) to (f) to such a tree, except with the written consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exceptions

4. (1) Nothing in article 3 shall prevent-
 - (a) the cutting down, topping, lopping or uprooting of a tree-
 - (i) which is dead;
 - (ii) in compliance with any obligation imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance;
 - (iii) by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary-
 - (aa) in the interests of the safe operation of the undertaking;
 - (bb) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker;
 - (cc) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (iv) where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders or schemes);
 - (v) where that work is urgently necessary for national security purposes;
 - (vi) where that tree is cultivated for the production of fruit in the course of a business or trade and such work is in the interests of that business or trade;
 - (vii) so far as such work is necessary to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (iii)(cc), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Town and Country Planning Act 1990 (control over development), or deemed to have been granted (whether for the purposes of that Part or otherwise);

- (viii) by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995; or
 - (ix) by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" shall have the same meanings as in section 72(1) of the Land Drainage Act 1991 (interpretation);
 - (b) the removal of dead branches from a living tree;
 - (c) the cutting down, uprooting, topping or lopping of a tree, to the extent that such works are urgently necessary to remove an immediate risk of serious harm, or to such other extent as agreed in writing by the authority prior to the works being undertaken;
 - (d) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit; or
 - (e) without prejudice to sub-paragraph (a)(ii), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989 (other powers etc of licence holders - felling and lopping of trees etc).
- (2) Where paragraphs (1)(a)(i) or (1)(c) apply, notice in writing of the proposed activities shall be given to the authority-
- (a) in the case of works urgently necessary to remove an immediate risk of serious harm, as soon as practicable after the works become necessary; and
 - (b) in any other case at least five working days prior to the date on which the works are to be commenced.
- (3) In paragraph (1), "statutory undertaker" means any of the following-
- (a) a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power;
 - (b) a relevant airport operator (within the meaning of Part V of the Airports Act 1986 (status of certain airport operators as statutory undertakers, etc));
 - (c) the holder of a licence under section 6 of the Electricity Act 1989 (licences authorising supply, etc);
 - (d) a gas transporter;
 - (e) an operator to whom the telecommunications code (set out in Schedule 2 to the Telecommunications Act 1984) applies;
 - (f) a water or sewerage undertaker;
 - (g) the Civil Aviation Authority, a body acting on behalf of that authority or a person who holds a licence under Chapter I of Part I of the Transport Act 2000 (air traffic services);
 - (h) a universal postal service provider in connection with the provision of a universal postal service.

Application to trees to be planted pursuant to a condition

5. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 19 day of DECEMBER 2016

The Common Seal of the Borough Council of Oadby and Wigston was hereunto affixed in the presence of:-

X R. Stw.
(Mayor)

X [Signature]
(Head of Corporate Resources)
CHIEF EXECUTIVE



CONFIRMATION OF ORDER

This Order was confirmed by the Oadby and Wigston Borough Council at its meeting of the Development Control Committee without modification on the day of 2016

Minute Reference:

CONFIRMATION OF ORDER SUBJECT TO MODIFICATION

This Order was confirmed by the Oadby and Wigston Borough Council at its meeting of the Development Control Committee, on the day of 2016, subject to the following modifications:

Minute Reference:

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by Oadby and Wigston Borough Council at its meeting of the Development Control Committee on the day of 2016.

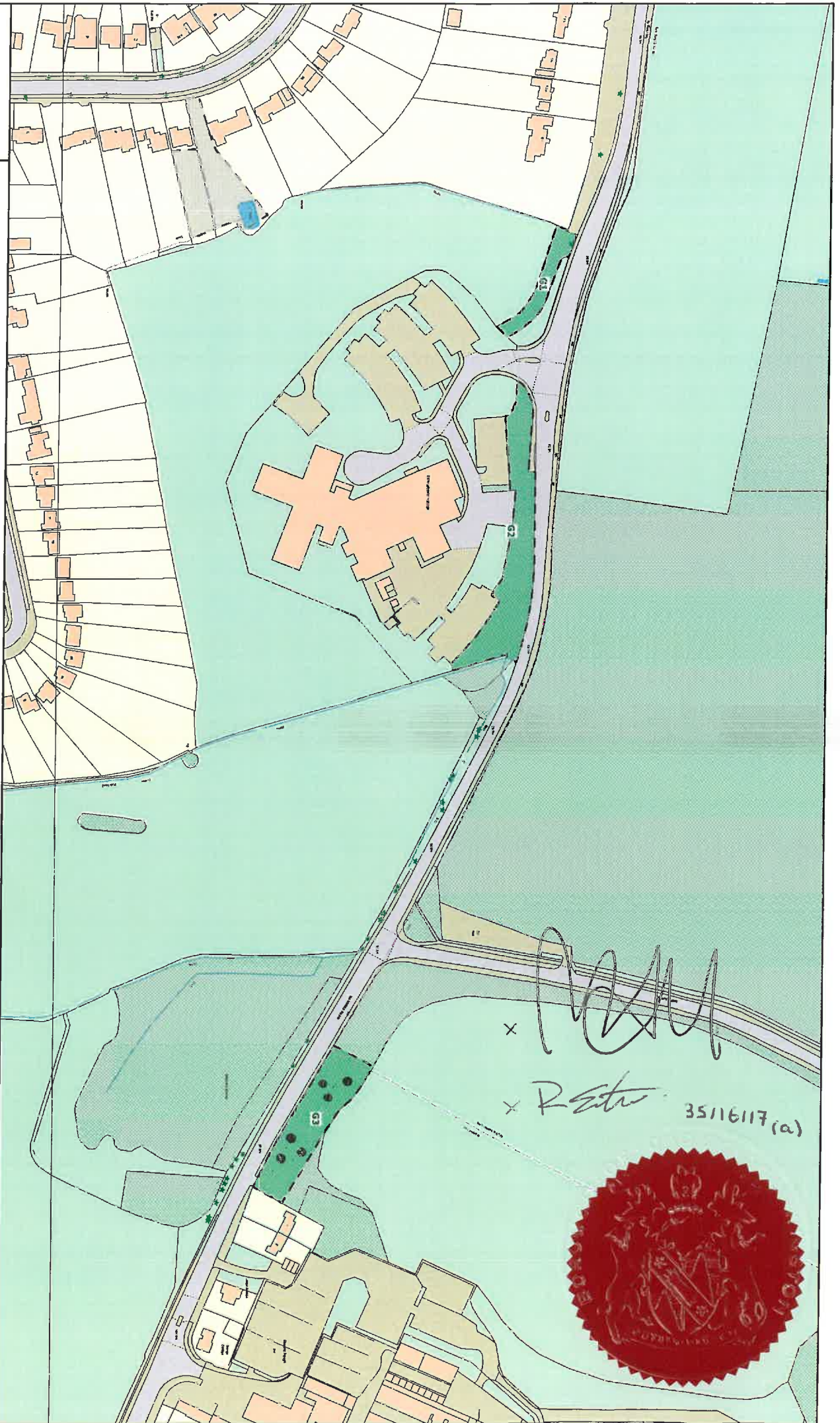
Minute Reference:

SCHEDULE

SPECIFICATION OF TREES

Trees specified by Group
(within a broken line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
1	Acer platanoides (Norway Maple) - 50% Fraxinus excelsior (Common Ash) – 50%	Land south of Gartree Road
2	Acer platanoides (Norway Maple) - 50% Fraxinus excelsior (Common Ash) – 50%	Land south of Gartree Road
3	Quercus robur (English Oak) – 6 trees	Land north of Gartree Road



The Borough Council of Oadby and Wigston (Land at Gartree Road, Oadby, Leicestershire) Tree Preservation Order 2016.

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Scale	1:2500
Date	09/12/2016

