

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**  
**THE EAST LoTHIAN COUNCIL (Revocation of TPO 132)**  
**TREE PRESERVATION ORDER No. 134 (2015)**

East Lothian Council, in this Order referred to as "the Planning Authority", in exercise of the powers conferred on them by Sections 160 and 275 of the Town and Country Planning (Scotland) Act 1997 and of all other powers enabling them in that behalf hereby make the following Order:-

**Citation, commencement and interpretation.**

- (1) This Order may be cited as the East Lothian Council (Revocation of TPO 132) Tree Preservation Order No. 134 (2016) and takes effect on 20 September 2016
- (2) In this Order –  
"The Original Order" means East Lothian Council (Broadgait, Main Street, Gullane, East Lothian) Tree Preservation Order No 132 (2015) dated 5 May 2015 and confirmed by the Planning Authority on 3 November 2015 registered in the Registers of Scotland both in the Land Register under the Title numbers specified below on 18 January 2016 and in the General Register of Sasines for the County of East Lothian on 7 December 2015. A copy of the Original Order is attached to this Order as Appendix 1.

**Subjects affected by this Order**

This Order, and the Original Order, relate to trees within the Broadgait/Main Street (A198) area of Gullane, East Lothian in respect of the subjects known as and forming:

- ✓(1) The Willows, Main St, Gullane and registered in the Land Register of Scotland under Title Number ELN7170;
- (2) Craigour West, Broadgait, Gullane and registered in the Land Register of Scotland under Title Number ELN16365;
- ✓(3) Seatoller, Broadgait, Gullane and registered in the Land Register of Scotland under Title Number ELN13951;
- ✓(4) Craignish, Broadgait, Gullane and registered in the Land Register of Scotland under Title Number ELN5905; and
- ✓(5) Woodside, Broadgait, Gullane and registered in the Land Register of Scotland under Title Number ELN11884
- (6) Craigour (also known as Craigour South) being the subjects described in the Disposition by the Scottish Building Society and Jean Frances David Douglas or Leslie in favour of Muriel Margaret Kirkwood or Lennam and recorded in the General Register of Sasines for the County of East Lothian on 25 March 1960.

**Revocation of the Original Order.**

The Original Order is hereby revoked in its entirety and ceases to have effect on the date on which this Order takes effect.

This Order shall take effect on the 20<sup>th</sup> day of September Two thousand and Sixteen.



Morag Ferguson  
Legal & Procurement Manager  
John Muir House  
Haddington  
20 September 2016

REGISTERS OF SCOTLAND  
GENERAL REGISTER OF SASINES  
COUNTY OF EAST LoTHIAN  
YEAR 2017  
YEARLY RUNNING NUMBER 755  
PRESENTED AND RECORDED ON 28 DEC 2017

APPENDIX 1  
ORIGINAL ORDER

This is the Original Order referred to in the foregoing  
Tree Preservation Order no. 134 being the Revocation of TPO 132  
dated 13.9.16

1 Tree Preservation Order East Lothian Council

7 letter  
2 invoice. d. 17/11/15 returned to agent 7/12/15

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**THE EAST LoTHIAN COUNCIL (Broadgait, Main Street, Gullane)**

**TREE PRESERVATION ORDER No. 132 (2015)**

East Lothian Council, in this Order referred to as "the planning authority", in exercise of the powers conferred on them by Section 160 and 163 of the Town and Country Planning (Scotland) Act 1997 and of all other powers enabling them in that behalf hereby make the following Order:-

**Citation, commencement and interpretation.**

- (1) This Order may be cited as The East Lothian Council (Broadgait, Main Street, Gullane) Tree Preservation Order No.132 (2015) and takes effect on 5 May 2015
- (2) In this Order –  
“the 1992 Order” means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992  
“The Act” means the Town and country Planning (Scotland) Act 1997;  
“protected tree” has the meaning given in article 2.

**Protected Trees**

2. A protected tree is a tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland specified in that Schedule.

The position of such trees, groups of trees or woodlands is identified in the manner indicated in Schedule 1 and on the map annexed to this Order

Where any ambiguity as to the identification of a protected tree arises between the map and the specification in Schedule 1 to this Order, the map is to prevail.

**Prohibited Acts**

3. Subject to the provisions of the Act and the exemptions specified in article 4, no person is except with, and in accordance with, the consent of the planning authority -
  - (i) to cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

- (ii) to cause or permit the cutting down, topping, lopping, uprooting, or wilful destruction of;  
a protected tree.

### **Exemptions**

- 4. Nothing in Article 3 is to prevent –
  - (a) the cutting down of a tree in accordance with a felling licence granted by The Forestry Commissioners under the Forestry Act 1967;
  - (b) the cutting down, uprooting, topping or lopping of a tree on land in the occupation of a planning authority when this is done by or with the consent of that authority;
  - (c) the cutting down, uprooting, topping or lopping of a tree having a diameter not exceeding 75 millimetres;
  - (d) the cutting down or uprooting in a woodland of a tree having a diameter not exceeding 100 millimetres where this is done to improve the growth of other trees.
  - (e) the cutting down, uprooting, topping or lopping of a tree by, or on behalf of, The Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision;
  - (f) the cutting down, topping, lopping or uprooting of a tree 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-
    - (i) in the interests of the safe operation of the undertaking;
    - (ii) in connection with the inspection, repair or renewal of any sewers, mains pipes, cables or other apparatus of the statutory undertaker; or
    - (iii) to enable the statutory undertaker to carry out development for which planning permission is granted by the 1992 Order, provided that notice in writing of the proposed operations is given to the planning authority as soon as practicable after the operations become necessary

- (g) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
- (h) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
- (i) the cutting down topping, lopping or uprooting of a tree where that work is required to enable a person to carry out works to implement a planning permission (other than an outline planning permission or planning permission in principle) granted on an application under Part 3 or section 242A of the Act, or deemed to have been granted (whether for the purposes of Part 3 of the Act or otherwise); or
- (j) the cutting down, topping, lopping or uprooting of a tree by, or at the request of, SEPA to enable SEPA to carry out development for which planning permission is granted by the 1992 Order.

**Directions as to replanting**

5. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the planning authority may 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 the owner must replant trees on that land.
- (2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land must replant trees on the land in accordance with the direction.
- (3) Any direction given under paragraph (1) may include requirements as to –
- (a) species;
  - (b) number of trees per hectare;
  - (c) the erection and maintenance of fencing necessary for the protection of the replanting;
  - (d) the preparations of ground, draining, removal of brushwood, lop and top, and

- (e) protective measures against fire

#### **Adaption and Modification of the Act**

- 6. (1) The provisions of the Town and Country Planning(Scotland) Act 1997 mentioned in column 1 of Part 1 of Schedule 2 to this Order are to have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications specified in column 2 of Part 1 of that Schedule.
- (2) the provisions referred to in paragraph (1), as so adapted and modified, are set out in Part 2 Schedule 2 to this Order.

#### **Compensation**


- 7. (1) Subject to paragraphs (2) to (5), any person who has suffered loss or damage caused or incurred in consequence of –
  - (a) any refusal of consent required under this Order; or
  - (b) any grant of any such consent subject to conditions, is entitled to recover from the planning authority compensation in respect of such loss or damage.
- (2) A claim for compensation under this Order shall be made by serving on the planning authority a notice in writing stating the grounds of the claim and the amount claimed.
- (3) The time within which any such notice shall be given is a period of six months
  - (a) from the date of the decision of the planning authority; or
  - (b) where an appeal has been made to Scottish Ministers against the decision of the planning authority, from the date of the decision of Scottish Ministers on the appeal.
- (4) No claim may be made under this article if the amount in respect of which the claim would otherwise have been made is less than £1,000.
- (5) No compensation shall be made payable to a person-
  - (a) for loss or development value or other diminution in the value of the land:

- (b) for loss or damage which was not reasonably foreseeable when consent was refused or was granted subject to conditions;
  - (c) for loss or damage reasonably foreseeable by that person and attributable to failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
  - (d) for costs incurred in appealing to the Scottish Ministers against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.
- (6) In this article-
- “development value” means an increase in value attributable to the prospect of development; and in relation to any land, the development of it shall include the clearing of it.

#### **Application of Tree Preservation Order to Future Planting**

8. This Order applies to any tree specified in Schedule 1 to this Order which is to be planted in pursuance of a condition imposed by virtue of section 159(a) of the Act as from the time when those trees are planted.

This Order shall take effect on the 3 November 2015.

  
Kirstie MacNeil  
Proper Officer  
Service Manager  
Licensing and Democratic Services  
John Muir House  
Haddington



TPO 132 (2015) – Broadgait, Gullane, East Lothian  
Schedule 1

Trees Specified by reference to an Area defined by a continuous black line on the map

Horse chestnut

Approximately 14m away from the eastern boundary wall of the property known as 'Craigour' also known as 'Craigour South' and relating also to 'Craigour West' all of Broadgait, Gullane, East Lothian and being the subjects

1. Described in the Disposition by the Scottish Building Society and Jean Frances David Douglas or Leslie in favour of Muriel Margaret Kirkwood or Lennam and recorded in the General Register of Sasines for the County of East Lothian on 25 March 1960; and
2. subject to the Deed of Conditions recorded in the General Register of Sasines for the County of East Lothian recorded on 9 September 1971 by David Douglas Fawcette Lennam and Muriel Margaret Kirkwood or Lennam; and
3. in respect of the property known as 'Craigour West', being the subjects registered in the Land Register of Scotland under Title Number ELN16365

and shown marked as 'T1' on the map.

T2

Approximately 14m western boundary which runs parallel to the road Broadgait and 2.5m within the north boundary of the property known as

1. 'Seatoller', Broadgait, Gullane, East Lothian being the property registered in the Land Register of Scotland under Title Number ELN13951;
2. and adjoining the boundary wall of the property known as 'Woodside', Broadgait, Gullane, East Lothian being the property registered in the Land Register of Scotland under Title Number ELN11884

and shown marked 'T2' on the

Trees Specified by reference to an Area defined by a continuous black line on the map

TPO 132 (2015) – Broadgait, Gullane, East Lothian  
Schedule 1  
NONE

Gro  
on of Tre

*a broken black line on*

4No. Birch, 1 e, 2No  
Sycamore, 1No. Laburnum, 2No Purple-  
leaved plum, 2No. Copper Beech.

In the south eastern quadrant property  
known as **Craigour** also known as **'Craigour  
South'** and relating also to **'Craigour West'** all of  
Broadgait, Gullane, East Lothian and being the  
subjects

1. Described in the Disposition by the Scottish Building Society and Jean Frances David Douglas or Leslie in favour of Muriel Margaret Kirkwood or Lennam and recorded in the General Register of Sasines for the County of East Lothian on 25 March 1960; and
2. subject to the Deed of Conditions recorded in the General Register of Sasines for the County of East Lothian recorded on 9 September 1971 by David Douglas Fawcette Lennam and Muriel Margaret Kirkwood or Lennam; and
3. in respect of the property known as **'Craigour West'**, being the subjects registered in the Land Register of Scotland under Title Number ELN16365

and shown marked as **'G1'** on the map

TPO 132 (2015) – Broadgait, Gullane, East Lothian  
Schedule 1

G2	1No. Oak, 4No. :	<p>The group runs p and north east to the access driveway of the property known as 'Craigour' also known as 'Craigour South' and relating also to 'Craigour West' all of Broadgait, Gullane, East Lothian and being the subjects</p> <ol style="list-style-type: none"><li>1. Described in the Disposition by the Scottish Building Society and Jean Frances David Douglas or Leslie in favour of Muriel Margaret Kirkwood or Lennam and recorded in the General Register of Sasines for the County of East Lothian on 25 March 1960; and</li><li>2. subject to the Deed of Conditions recorded in the General Register of Sasines for the County of East Lothian recorded on 9 September 1971 by David Douglas Fawcette Lennam and Muriel Margaret Kirkwood or Lennam; and</li><li>3. in respect of the property known as 'Craigour West', being the subjects registered in the Land Register of Scotland under Title Number ELN16365</li></ol> <p>and shown marked 'G2' on the map</p>
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**TPO 132 (2015) – Broadgait, Gullane, East Lothian**  
**Schedule 1**

G3

2No. Beech, 2No. Laburnum, 4No. Birch, 3No. Horse Chestnut, 7No. Sycamore, 1No. Whitebeam, 1No. Oak, 4No. Norway Maple, 1No. Lime, 1No. Ash.

group falls within the following properties:

1. **'Craigour'** also known as **'Craigour South'** and relating also to **'Craigour West'** all of Broadgait, Gullane, East Lothian and being the subjects
  - a) Described in the Disposition by the Scottish Building Society and Jean Frances David Douglas or Leslie in favour of Muriel Margaret Kirkwood or Lennam and recorded in the General Register of Sasines for the County of East Lothian on 25 March 1960; and
  - b) subject to the Deed of Conditions recorded in the General Register of Sasines for the County of East Lothian recorded on 9 September 1971 by David Douglas Fawcette Lennam and Muriel Margaret Kirkwood or Lennam; and
  - c) in respect of the property known as **'Craigour West'**, being the subjects registered in the Land Register of Scotland under Title Number ELN16365; and
- 2 **'Seatoller'**, Broadgait, Gullane registered in the Land Register of Scotland under Title Number ELN13951; and
- 3 **'The Willows'**, Main Street, Gullane registered in the Land Register of Scotland under Title Number ELN7170; and
- 4 **'Craignish'**, on the corner of Main Street and Broadgait, Gullane registered in the Land Register of Scotland under Title Number ELN5905; and
- 5 **'Woodside'**, Broadgait, Gullane registered in the Land Register of Scotland under Title Number ELN11884; and

**TPO 132 (2015) – Broadgait, Gullane, East Lothian  
Schedule 1**

		<p>located along the western border to the roads Broadgait and Main Street (A198). The trees are located consistently less than 5m from the property boundary with Broadgait. The group continues in an 'L' shape running parallel with the A198 within the boundaries of Craignish and The Willows from the south west to the north east. The trees are located consistently less than 5m from the A198 all as shown marked 'G3' on the Map.</p>
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**Trees Specified Individually** *(Coloured black within a green dotted line indicating the canopy on the map)*

No. on Map	Description	Situation
T1	Horse Chestnut	Approximately 5m away from the north eastern boundary wall in the property known as Craigour
T2	Lime	Approximately 14m from the western boundary which runs parallel to the road, Broadgait and 2.5m north of the boundary wall that adjoins the property known as Woodside.

**Trees Specified by reference to an Area** *(within a continuous black line on the map)*

NONE

**Groups of Trees** *(Within a broken black line on the map)*

No. on Map	Description	Situation
G1	4No. Himalayan Birch, 1No. Lime, 2No. Sycamore, 1No. Laburnum, 2No Purple-leaved plum, 2No. Copper Beech.	In the south eastern quadrant of the property known as Craigour.
G2	1No. Oak, 4No. Sycamore.	Running parallel and due north east to the access driveway of the property known as Craigour.
G3	2No. Beech, 2No. Laburnum, 4No. Birch, 3No. Horse Chestnut, 7No. Sycamore, 1No. Whitebeam, 1No. Oak, 4No. Norway Maple, 1No. Lime, 1No. Ash.	Located within the roadside boundaries of five properties. Along the western border to the roads Broadgait and the main A198. The group falls within the following properties, running accordingly from north west to south east; Craigour, Seatoller, Woodside, Craignish. The trees are located consistently less than 5m from the property boundary with Broadgait. The group continues in an 'L' shape running parallel with the A198 within the boundaries of Craignish and The Willows from the south west to the north east. The trees are located consistently less than 5m from the A198.

This is the First Schedule of the East Lothian Council (Broadgait, Main Street, Gullane) Tree Preservation Order No. 132 (2015)

Kirstie MacNeil  
Proper Officer  
Service Manager  
Licensing and Democratic Services  
John Muir House  
Haddington

## SCHEDULE 2

### PART I

#### PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 APPLIED WITH ADAPTATIONS OR MODIFICATIONS

Provision of the Town and Country Planning (Scotland) Act 1997	Adaptation or Modification
Section 36 (Registers of applications etc.)	For subsections (1) to (3) substitute – “(1) The planning authority shall in relation to this Order keep a register of all applications for consent under this Order, containing – (a) information as to the nature of such applications, the decisions of the planning authority thereon, (b) information as to any appeal to Scottish Ministers and the decisions of Scottish Ministers thereon, any compensation awarded in consequence of the decisions of the planning authority or Scottish Ministers; and (c) any directions as to the replanting of woodlands.”
Section 37 (determination of applications: general considerations)	(a) In subsection (1) – (d) for “planning permission” where those words first appear,” substitute “consent under a tree preservation order”, (e) for “sections 27B(2) and 59(1)(b) substitute “subsections (1A) and (1B)”, (f) for “planning permission” in both of the other places where those words appear substitute “consent under the order”, (g) after “think fit”, insert, “(including conditions limiting the duration of the consent or requiring the replacement of trees)”, and  (b) After subsection (1) insert –

“(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practise of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).”

(c) Omit subsections (2) and (3); and

(d) In subsection (4) for paragraphs (a) to (c) substitute –

“(a) consent under a tree preservation order; or

(b) any consent, agreement or approval required by a condition imposed on the grant of such consent,”

Section 44 (effect of planning permission)

(a) references to ‘planning permission’ are to be treated as references to ‘consent required by a tree preservation order’,

(b) for ‘the permission’ substitute ‘the consent’,

(c) for ‘to develop land’ substitute ‘to carry out works’, and

(d) after ‘land’ insert ‘on which the tree or trees to which the consent relates are situated’.

(e) Omit subsections 92) and (3).

(a) For subsection (1) substitute –

Section 47 (right to appeal against planning decisions and failure to take such decisions)

“(1) Where a planning authority –

(a) refuse an application for consent under a tree preservation order or grant it



subject to conditions;  
(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order;  
(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or  
(d) have not give notice or their decision on such an application within the period 2 months beginning with the date on which the application was received by the authority [or within such extended period as may at any time be agreed upon in writing between the applicant and the authority].

The applicant may by notice appeal to the Scottish Ministers”.

(b) Omit subsections (1A), (2) and (4).  
(c) For subsection (3) substitute –

“(3) Any appeal under this section shall be made in writing, specifying the grounds on which the appeal is made; and such notice shall be served on the Scottish Ministers within a period of three months beginning with, in the case of an appeal made under –

(a) an appeal under paragraphs (a) to (c) of subsection (1), the date of the decision notice or the direction, as the case may be; and;

(b) paragraph (d) of that subsection, the date of expiry of the period mentioned in that paragraph.”

(d) For subsection (5) substitute –

“(5) For the purposes of the application of section 48(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.”

Section 48 (determination of appeals)

(a) In subsection (5)(a) –

(i) for “sections 33, 37(1) to (3), 38(1) to (3), 41(1) and (2) and 42 and Part I of Schedule 3” “section 37(1), (1A) and (1B)”; and  
(ii) for “planning permission” substitute “consent under a tree preservation order”

(b) Omit subsections (5)(b) and (6) to (8)

This is the Second Schedule Part I of the East Lothian Council (Broadgait, Main Street, Gullane) Tree Preservation Order No. 132 (2015)

Kirstie MacNeil  
Proper Officer  
Service Manager  
Licensing and Democratic Services  
John Muir House  
Haddington

PART II  
PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT  
1997, AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1997, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

**Section 36**

**36 – (1)** The planning authority shall in relation to this Order keep a register of all applications for consent under this Order, containing –

- (a) information as to the nature of such applications, the decisions of the planning authority thereon,
  - (b) information as to any appeal to Scottish Ministers and the decisions of Scottish Ministers thereon, any compensations awarded in consequence of the decisions of the planning authority or Scottish Ministers: and any directions as to the replanting of woodlands.”
- (4) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

**Section 37**

**37 – (1)** Where an application is made to a planning authority for consent under a tree preservation order –

- (a) subject to subsections (1A) and (1B) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
  - (b) they may refuse consent under the order.
- (1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practise of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.
- (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).
- (4) The date of the grant or refusal of –
- (a) consent under a tree preservation order; or
  - (b) any consent, agreement or approval required by a condition imposed on the grant of such consent, shall be the date on which the notice of the

planning authority's decision bears to have been signed on behalf of the authority.

#### **Section 44(1)**

44 – (1) [Without prejudice to the provision of this Part as to the duration, revocation or modification of consent required by a tree preservation order], any grant of consent required by a tree preservation order shall (except in so far as the consent otherwise provides) ensure for the benefit of the land on which the tree or trees to which the consent relates are situated and all persons for the time being interested in it.

#### **Section 47**

47 – (1) Where a planning authority –

- (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
- (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order;
- (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval or that authority required by such a direction; or
- (d) have not given notice or their decision on such an application within the period of 2 months beginning with the date on which the application was received by the authority [or within such extended period as may at any time be agreed upon in writing between the applicant and the authority],

the applicant may by notice appeal to the Scottish Ministers”.

“(3) Any appeal under this section shall be made in writing, specifying the grounds on which the appeal is made; and such notice shall be served on the Scottish Ministers within a period of three months beginning with, in the case of an appeal made under –

- (a) an appeal under paragraphs (a) to (c) of subsection (1), the date of the decision notice or the direction, as the case may be; and;
- (b) paragraph (d) of that subsection, the date of expiry of the period mentioned in that paragraph,”

(5) For the purposes of the application of section 48(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

#### **Section 47A**

47A – (1) In an appeal under section 47(1), a party to the proceedings is not to raise any matter which was not before the planning authority at the time the decision appealed against was made unless that party can demonstrate –

- (a) that the matter could not have been raised before that time, or

(b) that it's not being raised before that time was a consequence of exceptional circumstances.

(2) Nothing in subsection (1) affects any requirement or entitlement to have regard to

- (a) the provisions of the development plan, or
- (b) any other material consideration.

#### **Section 48**

**48 – (1)** On an appeal under section 47 of the Scottish Ministers may –

- (a) allow or dismiss the appeal, or
- (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to them in the first instance.

(3) If the Scottish Ministers propose to reverse or vary any part of the decision of the planning authority to which the appeal does not relate, they shall give notice of their intention to the planning authority and to the appellant and shall give each of them an opportunity of making representations about their proposals.

(5) In relation to an appeal to the Scottish Ministers under section 47 –

- (a) sections 37(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Scottish Ministers under section 47 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(9) Schedule 4 applies to appeals under section 47, including appeals under that section as applied by or under any other provision of this Act.

This is the Second Schedule Part II of the East Lothian Council (Broadgait, Main Street, Gullane) Tree Preservation Order No. 132 (2015)

*Deid*

Kirstie MacNeil  
Proper Officer  
Service Manager  
Licensing and Democratic Services  
John Muir House  
Haddington

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

**THE EAST LOTHIAN COUNCIL (Broadgait, Main Street, Gullane))**

**TREE PRESERVATION ORDER No.132 (2015)**

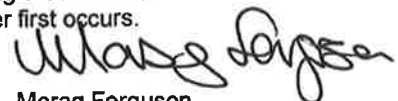
**EAST LOTHIAN COUNCIL** hereby gives Notice that it appears to them as Planning Authority for East Lothian that it is expedient to make provision for the preservation of the trees specified in the Schedule to the above Order. This Tree Preservation Order is being promoted to secure the retention of specific trees within the Broadgait/Main Street (A198) area of Gullane:

The specified trees are to be safeguarded from unauthorised pruning and or removal. They are a large group of trees positioned adjacent to the eastern boundary of Broadgait and south eastern boundary of the Main Street. The trees link with the other mature trees in this area of Gullane. The protection of these trees will ensure the continued enjoyment of visual amenity, value and the unique sense of place that these trees confer to neighbouring residents and members of the public.

Accordingly the Council have on the 11th day of May Two Thousand and fifteen made an Order under Sections 160, 161 and 163 of the Town and Country Planning (Scotland) Act 1997 prohibiting the cutting down, topping, lopping, uprooting, wilful damaging or destruction of the trees specified in the First Schedule thereto. Copies of the Order and the map referred to therein may be inspected by any person, free of charge at Environment Reception, John Muir House, Haddington and Gullane Library, East Links Road, Gullane, East Lothian during opening hours. Objections or representations with respect to the Order should be made in writing to the Legal & Procurement Services Manager, East Lothian Council, John Muir House, Haddington, EH41 3HA in accordance with Regulation 7 of the Town & Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 1975 as amended, which provides as follows:-

1. Every objection or representation to the Planning Authority in respect of an Order shall be made in writing, shall state the grounds thereof and shall specify the particular trees, groups of trees, or woodland in respect of which it is made; and
2. An objection or representation shall be duly made if it complies with Paragraph (1) of this Regulation and is received by the Planning Authority within 28 days from the date of service of the Notice of the making of the Order, or the date of the publication of the Notice by advertisement as the case may be.

The Order shall take effect provisionally from the 11th day of May Two Thousand and fifteen and shall continue in force until either the expiration of a period of six months, beginning with the date on which the Order was made, or the date on which the Order is confirmed, whichever first occurs.



Morag Ferguson  
Legal & Procurement Services Manager  
11<sup>th</sup> May 2015

**TPO 132 (2015) – Broadgait, Gullane, East Lothian  
Schedule 1**

<b>Trees Specified Individually</b> <i>(Coloured black within a green dotted line indicating the canopy on the map)</i>		
No. on Map	Description	Situation
T1	Horse Chestnut	<p>Approximately 5m away from the north eastern boundary wall of the property known as '<b>Craigour</b>' also known as '<b>Craigour South</b>' and relating also to '<b>Craigour West</b>' all of Broadgait, Gullane, East Lothian and being the subjects</p> <ol style="list-style-type: none"> <li>1. Described in the Disposition by the Scottish Building Society and Jean Frances David Douglas or Leslie in favour of Muriel Margaret Kirkwood or Lennam and recorded in the General Register of Sasines for the County of East Lothian on 25 March 1960; and</li> <li>2. subject to the Deed of Conditions recorded in the General Register of Sasines for the County of East Lothian recorded on 9 September 1971 by David Douglas Fawcette Lennam and Muriel Margaret Kirkwood or Lennam; and</li> <li>3. in respect of the property known as '<b>Craigour West</b>', being the subjects registered in the Land Register of Scotland under Title Number ELN16365</li> </ol> <p>and shown marked as 'T1' on the map.</p>
T2	Lime	<p>Approximately 14m from the western boundary which runs parallel to the road Broadgait and 2.5m within the north boundary of the property known as</p> <ol style="list-style-type: none"> <li>1. '<b>Seatoller</b>', Broadgait, Gullane, East Lothian being the property registered in the Land Register of Scotland under Title Number ELN13951;</li> <li>2. and adjoining the boundary wall of the property known as '<b>Woodside</b>', Broadgait, Gullane, East Lothian being the property registered in the Land Register of Scotland under Title Number ELN11884</li> </ol> <p>and shown marked 'T2' on the map.</p>
<b>Trees Specified by reference to an Area</b> <i>(within a continuous black line on the map)</i>		

**TPO 132 (2015) – Broadgait, Gullane, East Lothian  
Schedule 1**

NONE

**Groups of Trees** *(Within a broken black line on the map)*

No. on Map	Description	Situation
G1	4No. Himalayan Birch, 1No. Lime, 2No. Sycamore, 1No. Laburnum, 2No Purple-leaved plum, 2No. Copper Beech.	<p>In the south eastern quadrant of the property known as '<b>Craigour</b>' also known as '<b>Craigour South</b>' and relating also to '<b>Craigour West</b>' all of Broadgait, Gullane, East Lothian and being the subjects</p> <ol style="list-style-type: none"> <li>1. Described in the Disposition by the Scottish Building Society and Jean Frances David Douglas or Leslie in favour of Muriel Margaret Kirkwood or Lennam and recorded in the General Register of Sasines for the County of East Lothian on 25 March 1960; and</li> <li>2. subject to the Deed of Conditions recorded in the General Register of Sasines for the County of East Lothian recorded on 9 September 1971 by David Douglas Fawcette Lennam and Muriel Margaret Kirkwood or Lennam; and</li> <li>3. in respect of the property known as '<b>Craigour West</b>', being the subjects registered in the Land Register of Scotland under Title Number ELN16365</li> </ol> <p>and shown marked as '<b>G1</b>' on the map</p>



**TPO 132 (2015) – Broadgait, Gullane, East Lothian  
Schedule 1**

G2	1No. Oak, 4No. Sycamore.	<p>The group runs parallel and due north east to the access driveway of the property known as '<b>Craigour</b>' also known as '<b>Craigour South</b>' and relating also to '<b>Craigour West</b>' all of Broadgait, Gullane, East Lothian and being the subjects</p> <ol style="list-style-type: none"><li>1. Described in the Disposition by the Scottish Building Society and Jean Frances David Douglas or Leslie in favour of Muriel Margaret Kirkwood or Lennam and recorded in the General Register of Sasines for the County of East Lothian on 25 March 1960; and</li><li>2. subject to the Deed of Conditions recorded in the General Register of Sasines for the County of East Lothian recorded on 9 September 1971 by David Douglas Fawcette Lennam and Muriel Margaret Kirkwood or Lennam; and</li><li>3. in respect of the property known as '<b>Craigour West</b>', being the subjects registered in the Land Register of Scotland under Title Number ELN16365</li></ol> <p>and shown marked '<b>G2</b>' on the map</p>
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**TPO 132 (2015) – Broadgait, Gullane, East Lothian  
Schedule 1**

G3	<p>2No. Beech, 2No. Laburnum, 4No. Birch, 3No. Horse Chestnut, 7No. Sycamore, 1No. Whitebeam, 1No. Oak, 4No. Norway Maple, 1No. Lime, 1No. Ash.</p>	<p>The group falls within the following properties:</p> <ol style="list-style-type: none"> <li>1. <b>'Craigour'</b> also known as <b>'Craigour South'</b> and relating also to <b>'Craigour West'</b> all of Broadgait, Gullane, East Lothian and being the subjects             <ol style="list-style-type: none"> <li>a) Described in the Disposition by the Scottish Building Society and Jean Frances David Douglas or Leslie in favour of Muriel Margaret Kirkwood or Lennam and recorded in the General Register of Sasines for the County of East Lothian on 25 March 1960; and</li> <li>b) subject to the Deed of Conditions recorded in the General Register of Sasines for the County of East Lothian recorded on 9 September 1971 by David Douglas Fawcette Lennam and Muriel Margaret Kirkwood or Lennam; and</li> <li>c) in respect of the property known as <b>'Craigour West'</b>, being the subjects registered in the Land Register of Scotland under Title Number ELN16365; and</li> </ol> </li> <li>2 <b>'Seatoller'</b>, Broadgait, Gullane registered in the Land Register of Scotland under Title Number ELN13951; and</li> <li>3 <b>'The Willows'</b>, Main Street, Gullane registered in the Land Register of Scotland under Title Number ELN7170; and</li> <li>4 <b>'Craignish'</b>, on the corner of Main Street and Broadgait, Gullane registered in the Land Register of Scotland under Title Number ELN5905; and</li> <li>5 <b>'Woodside'</b>, Broadgait, Gullane registered in the Land Register of Scotland under Title Number ELN11884; and</li> </ol>
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**TPO 132 (2015) – Broadgait, Gullane, East Lothian  
Schedule 1**

		<p>located along the western border to the roads Broadgait and Main Street (A198). The trees are located consistently less than 5m from the property boundary with Broadgait. The group continues in an 'L' shape running parallel with the A198 within the boundaries of Craignish and The Willows from the south west to the north east. The trees are located consistently less than 5m from the A198 all as shown marked 'G3' on the Map.</p>
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*W. Ferguson*

*W. Ferguson*



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TOWN AND COUNTRY PLANNING  
(SCOTLAND) ACT 1997

20 DEC 2017  
YEARLY RUNNING N.

7591

THE EAST LOTHIAN COUNCIL  
(Revocation of TPO 132)  
TREE PRESERVATION ORDER NO.132  
(2016)