

THE COUNTY OF EAST LoTHIAN.

Book *H81* Folio *88*

TREE PRESERVATION ORDER No. 3. LUFFNESS AVENUE.

Presented and Recorded on *21st January 1966*

The County Council of the County of East Lothian (in this Order referred to as "the local planning authority") in exercise of the powers conferred on them by section 26 of the Town and Country Planning (Scotland) Act, 1947, (hereinafter referred to as the "Act") and of all other powers enabling them in that behalf hereby make the following Order:-

1. No person shall, except with the consent of the local planning authority, cut down, top, lop, or wilfully destroy or cause or permit the cutting down, topping, lopping, or wilful destruction of any of the trees, groups of trees, or woodlands specified in the First Schedule hereto, the positions of which are indicated, numbered and coloured on the map or plan annexed and signed as relative hereto.

Provided that nothing in this Order shall prohibit the felling or lopping of any tree if such felling or lopping is urgently necessary in the interests of safety, or is necessary for the prevention or abatement of a nuisance, so long as notice in writing of the proposed operations is given to the local planning authority as soon as may be after the necessity for the operations arises, or if such felling or lopping is carried out in compliance with any obligation imposed by or under any Act of Parliament.

2. Any application for the consent of the local planning authority under paragraph 1 of this Order shall be in writing and shall specify the trees, groups of trees, or woodlands to which the application relates and the operations for the carrying out of which that consent is desired and shall where necessary for the identification of such trees, groups of trees, or woodland areas, be accompanied by a map or plan of a size or on a scale sufficient for the purpose.

3. 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 such consent subject to conditions, shall, if he makes a claim within the time limited for the purpose by this Order, be entitled to recover from the authority compensation in respect of such damage or expenditure.

4. In assessing compensation payable under the last preceding paragraph, account shall be taken of:-

(a) Any compensation or contribution which has been paid in respect of the same trees or woodland areas under the terms of this or any other Tree Preservation Order under Section 26 of the Town and Country Planning (Scotland) Act, 1947, or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Development) (Scotland) 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 (Scotland) Act, 1932.

(b) Any injurious affection to any land of the owner which would result from the felling of the trees or woodlands, the subject of the claim.

5. A claim under this Order for compensation shall be made by serving on the local planning authority a notice in writing stating the grounds of the claim and the amount claimed, within six months of the date of the decision of the local planning authority, or of the Secretary of State as the case may be, or where an appeal has been made to the Secretary of State against the decision of the local planning authority, of the date of the decision of the Secretary of State on the appeal.

6. Any question of disputed compensation payable in accordance with the terms of this Order shall be determined in accordance with the provisions of Section 105 of the Act.

7. Where any part of a woodland area to which this Order relates is felled in the course of forestry operations permitted by or under this Order the owner or owners of the land shall carry out such replanting as the local planning authority may require under this Order and if any question arises between the authority and the said owner or owners as to whether any such requirement is reasonable having regard to the particular circumstances of the case or to any other material considerations the question shall, on the application of either party, be determined by the Secretary of State whose decision shall be final.

Dated this thirteenth day of December 1954.

W. H. H. H.

County Clerk

County Buildings,
HADDINGTON.

Register on behalf of the County Council of the County of East Lothian
in the Register of the County of East Lothian.

C. H. H. H.
Solicitor, Haddington.
Agent.

The Secretary of State in exercise of the power conferred on him by sub-section 4 of section 26 of the Town and Country Planning (Scotland) Act, 1947, hereby confirms the foregoing Order subject to the following modifications:-

(1) After paragraph 1 of the Order as submitted there shall be inserted the following paragraph:-

"1A. The provisions of this Order shall be without prejudice to the provisions of section 13 of the Forestry Act, 1951, (which provides for a Licence or Direction under that Act being sufficient authority for felling trees and prohibits the entertainment of certain applications by the local authority):"

(2) After paragraph 2 of the Order as submitted there shall be inserted the following paragraph:-

"2A. The provisions set out in the Second Schedule to this Order being provisions of Part II of the Act relating to planning permission, and to applications for such permission, adapted and modified as shown in the said Schedules, shall apply in relation to any consent under this Order and to applications therefor:"

(3) After the First Schedule to the Order as submitted there shall be added the following Schedule:-

SECOND SCHEDULE

Provisions of Part II of the Act relating to planning permission and to applications for such permission applicable with adaptations and modifications to any consent under the Order and to applications therefor. (The provisions adapted or modified are underlined.)

Section 12

(1) Subject to the provisions of this and the next following section, where application is made to the local planning authority for any consent under the Order, that Authority may grant consent either unconditionally or subject to such conditions as they think fit, or may refuse consent, and in dealing with any such applications the local planning authority shall have regard to the provisions of the development plan, so far as material thereto, and to any other material considerations.

(5) The local planning authority shall keep a Register containing information with respect to all applications made to the local planning authority for consent under Orders made under section 26 of the Act, including information as to the nature of the application, the decision thereon and any compensation awarded in consequence of such a decision: and every such Register shall be available for inspection by the public at all reasonable hours.

Section 14

(1) Where application is made to the local planning authority for consent under the Order and that consent is refused by that Authority, or is granted by them subject to conditions, then, if the applicant is aggrieved by their decision, he may, by notice in writing, served within 28 days from the receipt of notification of their decision appeal to the Secretary of State.

- (2) Where an appeal is brought under this section from a decision of the local planning authority the Secretary of State may allow or dismiss the appeal or may reverse or vary any part of the decision of the local planning authority, whether or not the appeal relates to that part, and deal with the 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 Secretary of State on appeal under this section as they apply in relation to the determination by the Secretary of State of an application referred to him under that section:

Provided that where the Secretary of State proposes to reverse or vary any part of the decision of the local planning authority to which the appeal does not relate, he shall give notice of his intention to the local planning authority and to the applicant and shall afford to them an opportunity to make representations in regard thereto:

- (3) Unless within two months from the date of the 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 local planning authority, the local planning 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 Secretary of State in accordance with 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 local planning 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.

GIVEN UNDER the Seal of the Secretary
of State for Scotland this eighteenth
day of November, 1955.

George Hawley.

Assistant Secretary.

THE COUNTY OF EAST LOTHIAN TREE PRESERVATION ORDER No. 3.

FIRST SCHEDULE.

Trees, Groups of Trees, or Woodlands to which the Order applies.

<u>No. & Colour on Map.</u>	<u>Description.</u>	<u>Situation.</u>
G. 1. Green Brown.	Strip of Hardwood.	Avenue Strip, Luffness Estate, bounded on the east by a public road called Avenue Road; on the north by the Main Road (A.198); on the west by Luffness policy. Ordnance Parcel Nos. 22 and 49.
T. 1-35. Green.	Roadside Trees.	Trees on western verge of public road called Avenue Road leading from Luffness Mains to Luffness Mill. Ordnance Parcel No. 48.
T. 36-82. Green.	Roadside Trees.	Trees on eastern verge of public road called Avenue Road leading from Luffness Mains to Luffness Mill. Ordnance Parcel No. 48.
T. 83. Green.	1 Hardwood Tree.	Tree in field on Luffness Mains farm immediately east of Avenue Road and bounded on its north by public road to West Fenton. Ordnance Parcel No. 33.
T. 84-85. Green.	2 Hardwood Trees.	Trees in fields attached to Luffness Mill immediately east of Avenue Road and bounded on south by public road to Drem and on north by private drive to Luffness Mill House. Ordnance Parcel Nos. 21 & 30.

All being on parts of the Estate of Luffness in the Parish of Aberlady.

Ordnance Parcel Nos. refer to:-

Haddingtonshire Sheet V. 5. Edition 1907.

REGISTERS OF SCOTLAND
GENERAL REGISTER OF SASINES
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James Spence depute KEEPER.



COUNTY OF EAST LOTHIAN TREE PRESERVATION ORDER No 3
LUFFNESS AVENUE

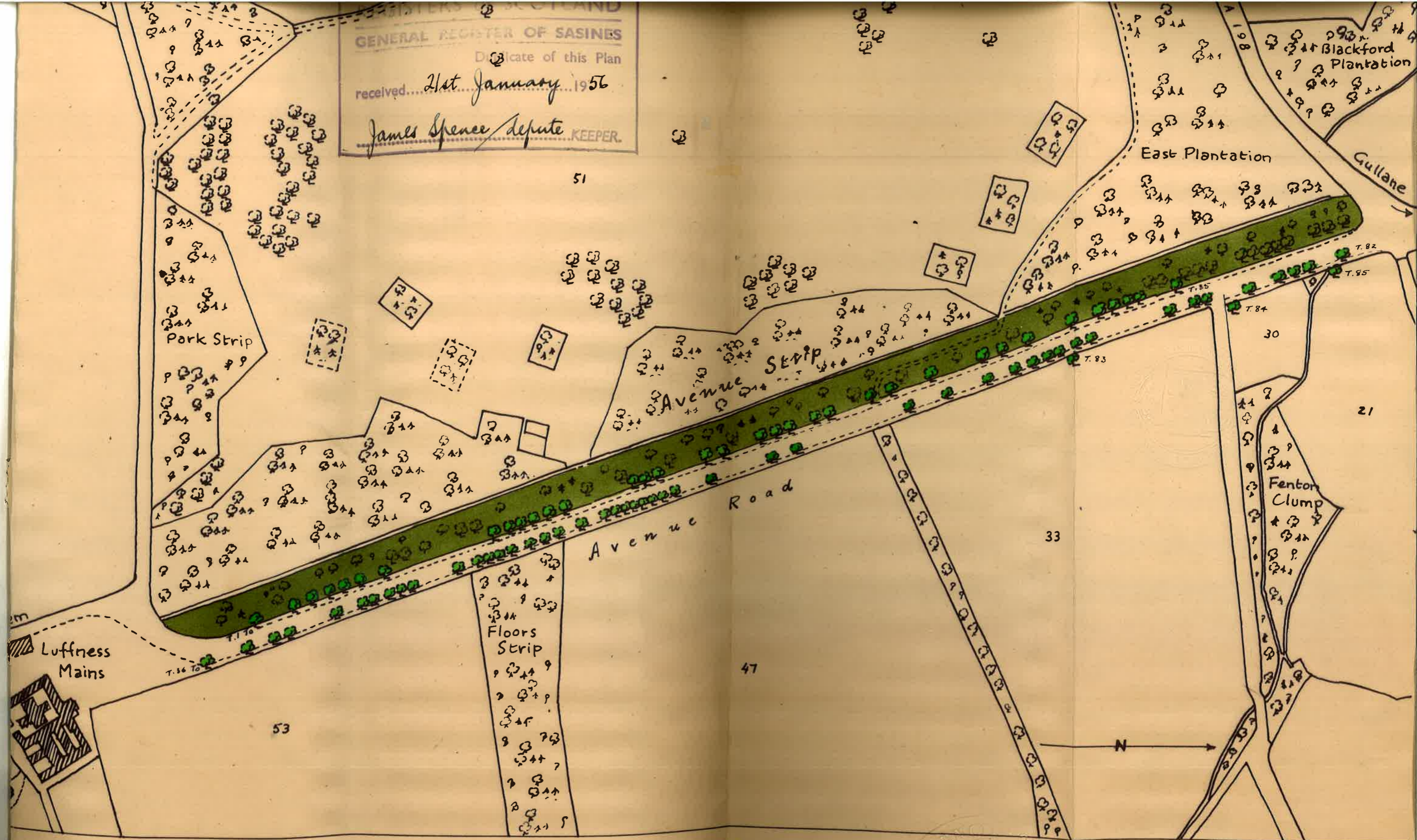
Thornhill

GENERAL REGISTER OF SASINES

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James Spence Depute KEEPER



COUNTY OF EAST LOTHIAN TREE PRESERVATION ORDER No 3
LUFFNESS AVENUE

GROUPS OF TREES AND TREES REFERRED TO IN THE ORDER.

SCALE 1/2500

O.S. SHEET NO. V.5.

CROWN COPYRIGHT

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EAST LOTHIAN COUNTY COUNCIL
COUNTY PLANNING DEPARTMENT

Thornhill