

THE COUNTY OF EAST LOTHIAN.

TREE PRESERVATION ORDER No. 10. PENCAITLAND VILLAGE.

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 or is immediately required for the purpose of carrying out development authorised by a planning permission granted on an application made under Part II of the Town and Country Planning (Scotland) Act 1947, or deemed to have been so granted for any of the purposes of that Part.

2. 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).

3. 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.

4. 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 Schedule, shall apply in relation to any consent under this Order and to applications therefor.

5. 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.

6. 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.

REGISTERS OF SCOTLAND,
GENERAL REGISTER OF SASINES,
COUNTY OF EAST LOTHIAN.

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Presented and Recorded on 6th July 1960

51

7. 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.

8. 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.

9. 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 Eighth day of April 1957.

John G. ...

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.

A. J. ...

Solicitor, Haddington,
Agent.

THE COUNTY OF EAST LOTHIAN TREE PRESERVATION ORDER No. 10.

FIRST SCHEDULE.

Trees, Groups of Trees and Woodlands to which the Order applies, all situated in or near the Village of Pencaitland in the County of East Lothian.

NOTE: All recording dates aftermentioned refer to the Division of the General Register of Sasines applicable to the County of Haddington (now East Lothian)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
T. 1 - 7	Row of seven trees	In front garden of house known as "Tigh-na-darroch", Wester Pencaitland, forming part of the subjects described in Disposition by Trustees of James Reid with consent in favour of Alexander King dated 6th, etc. and recorded 9th May 1950.
T. 8 & 9	Two rowan	In front garden of "Belfry Cottage" forming part of the subjects described in Disposition by Trustees of James Reid with consent in favour of Agnes Laidlaw Allan dated 26th October, etc. and recorded 1st November 1950.
T. 10	Silver birch	In front garden of "Tyneview".
T. 11 & 12	Beech and ash	On land to the west of the entrance lodge to Tyneholm.
T. 13 & 14	Roadside trees	Two trees on south edge of O.S. Parcel No. 233, part of lands of Wester Pencaitland.
T. 15 - 52	Hedgerow trees	Row of trees in strip along the west side of River Tyne on land belonging to Tyneholm Estate.
Trees 10 - 52 inclusive are situated on parts of lands and Estate of Tyneholm and others described in Disposition by Trustees of Elizabeth Mackie or Trevelyan to James Reid dated 30th November and recorded 5th December 1892.		
T. 53 & 54	Sycamore and beech	In private lane to the east of the Church being part of roads attached to the Church and Manse of Parish of Pencaitland forming part of the subjects described in Certificate dated 10th and recorded 17th January 1929.
T. 55 - 62	8 roadside lime	On verge at north boundary of O.S. Parcel No. 237 part of Glebe lands of Parish of Pencaitland described in Order and Scheme dated 1st and recorded 2nd October 1931.
T. 63 - 66	1 laburnum, 2 ash and 1 oak	On ground attached to Winton Arms forming part of the subjects described in Feu Disposition by Gilbert Francis Molyneux Ogilvy with consent in favour of Mary Thomson Scott or Stair Brown dated 16th May and recorded 11th August 1951.
T. 67	Ash	On land attached to Joiners Yard on south side of road from Pencaitland to Haddington.

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
T. 68 - 70	Holly trees	In front garden of house known as "St. Michael's Lodge" at Easter Pencaitland on north side of road from Pencaitland to Haddington.
Trees 67 - 70 inclusive are situated on parts of lands and Barony of Pencaitland and others described in Notice of Title of Trustees of Gilbert Francis Molyneux Ogilvy recorded 23rd April 1954.		
T. 71	Oak	In front garden of house known as "Bowmont" and forming part of the subjects described in Feu Charter by Gilbert Francis Molyneux Ogilvy in favour of James Coullie dated 2nd April 1923 and recorded 29th August 1927.
T. 72 - 74	Beech and 2 oak	In grounds of house known as "Deanwood" forming part of the subjects described in the first place in Disposition by Trustees of Richard Baillie with consent in favour of Catherine Douglas Dobson or Lornie dated 14th and recorded 20th January 1954. T.74 amongst outbuildings to north of house and T.72 and 73 in front garden.
T. 75 - 111	37 roadside beech	On verge of road leading to New Winton and adjoining O.S. Parcel No. 272.
T. 112 - 120	9 hedgerow trees	On south east boundary of western portion of O.S. Parcel No. 271 part of Spilmersford Mains.
T. 121 - 129	9 hedgerow trees	On south east boundary of eastern portion of O.S. Parcel No. 271 part of Spilmersford Mains.
T. 130 - 143	14 hedgerow trees	On south east boundary of western portion of O.S. Parcel No. 270 part of Spilmersford Mains.

Trees 75 - 143 inclusive are situated on parts of lands and Barony of Pencaitland and others described in said Notice of Title recorded 23rd April 1954.

G. 1	1 beech, 3 holly, 1 yew and 1 hawthorn	A clump of trees to the west of the Churchyard and being part of land attached to Church and Manse forming part of the subjects described in Certificate dated 10th and recorded 17th January 1929.
G. 2	8 trees	Trees in group to the east of Entrance Lodge to Tyneholm.
G. 3	20 trees	In strip on west side of Tyneholm policies adjoining the public road from Wester Pencaitland to Milton.

Groups 2 and 3 are situated on parts of said lands and Estate of Tyneholm and others described in said Disposition recorded 5th December 1892.

G. 4	Mixed woodland 0.5 acre	Part of O.S. Parcel No. 272a forming part of subjects described in the second place in said Disposition recorded 20th January 1954.
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<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
W. 1	Scots pine and larch with a few hardwoods 1.77 acres.	Comprising O.S. Parcel No. 206c.
W. 2	Mixed woodland 0.22 acre.	Formerly part of O.S. Parcel No. 206 1894 Edition.
W. 3	Mixed woodland 2.129 acres.	Comprising O.S. Parcel No. 206a.
Woods 1 - 3 inclusive are situated on parts of said lands and Barony of Pencaitland and others described in said Notice of Title recorded 23rd April 1954.		
W. 4	Open beech woodland 0.855 acre.	Comprising O.S. Parcel No. 211 part of said Glebe lands of Parish of Pencaitland described in said Order and Scheme.
W. 5	Mixed woodland 9.733 acres.	Comprising O.S. Parcel No. 209 in Tyneholm Estate forming part of the subjects described in Disposition by Trustees of James Reid in favour of Dr. Barnardo's Homes National Incorporated Association dated 19th February, etc. and recorded 19th August 1948.
W. 6	Mixed woodland 3.925 acres.	Comprising O.S. Parcels Nos. 253 and 254.
W. 7	Mixed woodland 0.375 acre.	Comprising O.S. Parcel No. 250.
W. 8	Mixed woodland 2.36 acres.	Comprising part of O.S. Parcel No. 249 about Pencaitland House.
W. 9	Mixed woodland 2.40 acres.	Comprising part of O.S. Parcel No. 247 immediately west of Winton South Lodge and bounded by the public road.
W. 10	Mixed woodland 4.323 acres.	Comprising O.S. Parcel No. 245 north of Winton South Lodge.
W. 11	Mixed woodland 0.710 acre.	Comprising O.S. Parcel No. 244b situated to north of Rose and Lilac Cottages, Wester Pencaitland.
W. 12	Mixed woodland 0.75 acres.	Comprising part of O.S. Parcel No. 242a.
Woods 6 - 12 inclusive are situated on parts of said lands and Barony of Pencaitland and others described in said Notice of Title recorded 23rd April 1954.		
W. 13	Mixed woodland strip 0.868 acre.	Comprising O.S. Parcel No. 136 on west side of road leading from Pencaitland to Milton forming part of said lands and Estate of Tyneholm and others described in said Disposition recorded 5th December 1892.

Notation:

Trees referred to in the schedule are shown solid black in the map and groups are outlined with a black line. Woodlands are outlined and cross-hatched.

O.S. Parcel Numbers refer to Haddingtonshire Sheet XIV 3 Edition 1907.

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 application 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 twenty-eight days from the receipt of notification of their decision, or such longer period as the Secretary of State may allow, 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 subsection (1) of this section shall apply in relation to the application as if the consent to which it relates had been

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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.

The Secretary of State in exercise of the power conferred on him by subsection (4) of section 26 of the Town and Country Planning (Scotland) Act, 1947, hereby confirms the foregoing Order.

Given under the Seal of the Secretary of State for Scotland this twenty-fifth day of May, 1960.

R Fraser

Assistant Secretary.

57

17

6.72.10
COUNTY COUNCIL of the COUNTY



TREE PRESERVATION ORDER No.10 - PENCAITLAND

Map referred to in Tree Preservation Order No. 10 - Pencaitland Village.

Thos. Lee
County Clerk.

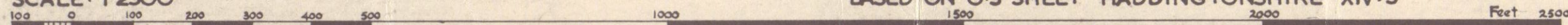
- TREES SUBJECT TO THIS ORDER
- TREES PROTECTED BY COUNTY COUNCIL
- GROUPS OF TREES SUBJECT TO THIS ORDER
- WOODLANDS SUBJECT TO THIS ORDER

POSITION OF TREES RESURVEYED MAY 1959 AND ORDER AMENDED 28 MARCH 1960

SCALE: 1:2500

BASED ON O.S. SHEET HADDINGTONSHIRE XIV.3

55A EAST LOTHIAN COUNTY COUNCIL
COUNTY PLANNING DEPARTMENT



88

6.72.10
COUNTY COUNCIL of the COUNTY
of EAST LOTHIAN.

TREE PRESERVATION ORDER NO. 10

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Subjects at Pencaitland.

A. Harkess, Solicitor,
County Clerk, Haddington.