

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1947 & THE CIVIC AMENITIES ACT 1967.

TOWN AND COUNTRY PLANNING (TREE PRESERVATION ORDER) (SCOTLAND) REGULATIONS 1948 & 1968.

COUNTY COUNCIL OF THE COUNTY OF EAST LOTHIAN.

THE COUNTY OF EAST LOTHIAN TREE PRESERVATION ORDER NO. 18: YESTER WOODS.

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 of 1947") as amended by Section 16 of the Civic Amenities Act 1967 (hereinafter referred to as "the Act of 1967") and of all other powers enabling them in that behalf hereby to 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.

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. 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.

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.

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 of 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 Act of 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.

Presented and Recorded on 23rd Dec, 1968.  
Book .....  
Folio .....  
REGISTERS OF SCOTLAND,  
GENERAL REGISTER OF SALES,  
COUNTY OF EAST LOTHIAN.

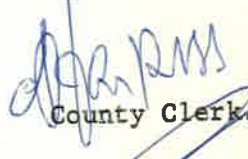
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- (b) Any injurious affection to any land of the owner which would result from the felling of the trees or woodlands, the subject of the claim.
5. A claim under this Order for compensation shall be made by serving on the local planning authority a 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 of 1947.
  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.
  8. The provisions of the said Section 16 of the Act of 1967 (which provides for a Tree Preservation Order proposed to be made by the local planning authority taking effect immediately without previous confirmation by the Secretary of State) shall apply to this Order as from the date hereof until the expiration of six months beginning on the said date, or until the date on which the Secretary of State confirms the Order or notifies the local planning authority that he does not propose to confirm it, whichever first occurs.

L.S.

Dated this Thirty first day of May  
1968.

  
County Clerk.

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County Buildings,  
HADDINGTON. 6

THE COUNTY OF EAST LOTHIAN TREE PRESERVATION ORDER No. 18 - YESTER

FIRST SCHEDULE

Trees, Groups of Trees and Woodlands in the County of East Lothian to which this Order applies.

<u>Notation on map</u>	<u>Description</u>	<u>Situation</u>	<u>Remarks</u>
W. 1	Speedy Wood, 28 acres. Part Scrub, part Oak and Elm.	Between former railway line and Tweeddale Avenue, Gifford.	This woodland is preserved, but selected felling and management upon the advice of the Forestry Commission will be permitted.
W. 2	Craises Roundall, 6 acres. Scrub with Beech, Elm, Birch and Scots Pine.	Between Edinburgh Road (B.6355) and track to Broadwoodside Farm.	This woodland is preserved, but cleaning up of the scrub content and replanting will be permitted.
W. 3	Broadwood 28 acres. Ancient Mixed Woodland Regenerating.	Between Edinburgh Road (B.6355) and road to Longyester (C.66).	This woodland is preserved in location and extent, but may be felled in blocks, and replanted upon the advice of the Forestry Commission so long as care is exercised to retain its landscape form.
W. 4	Carters Haugh 8 acres Ancient Mixed Woodland Regenerating.	East of Broadwood and south of the Gifford Playing Field.	This woodland is preserved. It is regenerating naturally and requires only proper management to continue as a natural woodland. Improvement felling will be permitted upon the advice of the Forestry Commission.
W. 5	Beechbank Wood 9 acres Ancient Beech woods.	Along the south bank of the Gifford Water from the lodgegates to the precincts of Yester House.	As W. 4
W. 6	Lady Wood 23 acres Ancient Mixed Woodland Regenerating.	North east of the main drive to Yester House at its western end, and immediately south east of Gifford Village.	As W. 4

<u>Notation on map</u>	<u>Description</u>	<u>Situation</u>	<u>Remarks</u>
W. 7	Kailrig Wood 21 acres. Ancient Mixed Woodland Regenerating.	South east of Lady Wood and north of Yester House.	As W. 4
W. 8	Duncans Bog, 14 acres. Predominantly Douglas Fir.	East of Kailrig Wood and south of Sunnyside Farm.	As W. 4
W. 9	Sunnyside Strip 7 acres Beech, Sycamore and Larch.	East and south of Sunnyside Farm.	As W. 4
W. 10	Castle Wood 63 acres. Ancient Beech and Oak Woods with peripheral coniferous plantings of more recent date.	The easternmost portion of the Ancient Woods of Yester occupying the haughs and banks about the confluence of the Gifford Water and the Danskine Burn, between Sheriffside and Castle Mains Farms.	As W. 4
G. 1	Comprising all the Parkland and specimen trees of Yester Policies.	Mainly south and east of Yester House, but including the gardens and those trees on the north bank of the Gifford Water along the south side of the Main Drive.	No felling of trees in these groups will be permitted without the consent of the Local Planning Authority and then only upon evidence from an independent acknowledged expert that felling is advisable.
G. 2	Lime Trees.	All the lime trees forming the Avenue leading from Gifford Railway Station to Bells Wood, on north side of Broadwoodside Farm.	No felling of trees in these groups will be permitted without the consent of the Local Planning Authority and then only upon evidence from an independent acknowledged expert that felling is advisable.

SECOND SCHEDULE.

Provisions of Part II of the Act of 1947 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 of 1947 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.

SUPPLEMENTARY STATEMENT:

Gifford enjoys a national reputation as a village of great character and beauty, both as a result of its architecture and plan and of its very fine woodland setting. The woods which provide this fine landscape belong at present entirely to the Yester Estate, of which the village is historically part. Gifford would be devastated without its woodland framework, and it is an essential part of its conservation and economic development that the woodlands remain. This order is being made to ensure that they do.

Areas W.1 - W.6 and W.9 form the essential wooded landscape setting of the village itself, while areas W.10,11,12 and 13 contribute greatly to the richness of the landscape of the environs of the village and are also of great historic interest themselves, being amongst the first of the great estate plantings in Scotland, planted by the first Marquic of Tweeddale in XVII Century. They also occupy that part of the Gifford Water Valley where Gifford had its origins in the ancient village of Bathan, with its Collegiate Church of St. Cuthbert, below the fortress of Yester Castle, and close to which the fine 18th Century Mansion of Yester House was subsequently built. Group 1 comprises the trees of the landscaped parkland about the house, which is a part of our national heritage worthy of conservation. Group 2 consists of the fine Lime Avenue leading from Fawn Wood to Bells Wood which is an important landscape feature on the West side of the village.

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

At the end of Clause 1, page 1, after "applications by the local authority)" add

"and Sections 13 and 14 of the Civic Amenities Act, 1967, (which provide respectively for the replacement of trees and for default and appeals)."


and, on page 2 add

"9. Under the provisions of Section 26 of the Act as read with Section 15(1) of the Civic Amenities Act, 1967, any person who cuts down or wilfully destroys a tree or lops a tree in such a manner as to be likely to destroy it, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £250 or twice the sum which appears to the Court to be the value of the tree, whichever is the greater. Other Contraventions of this Order carry with them on summary conviction a maximum fine of £50. In the case of a continuing offence there is an additional fine following on summary conviction, not exceeding 40s. for every day on which the contravention is continued."

and, in the First Schedule to the Order at the end of the description add

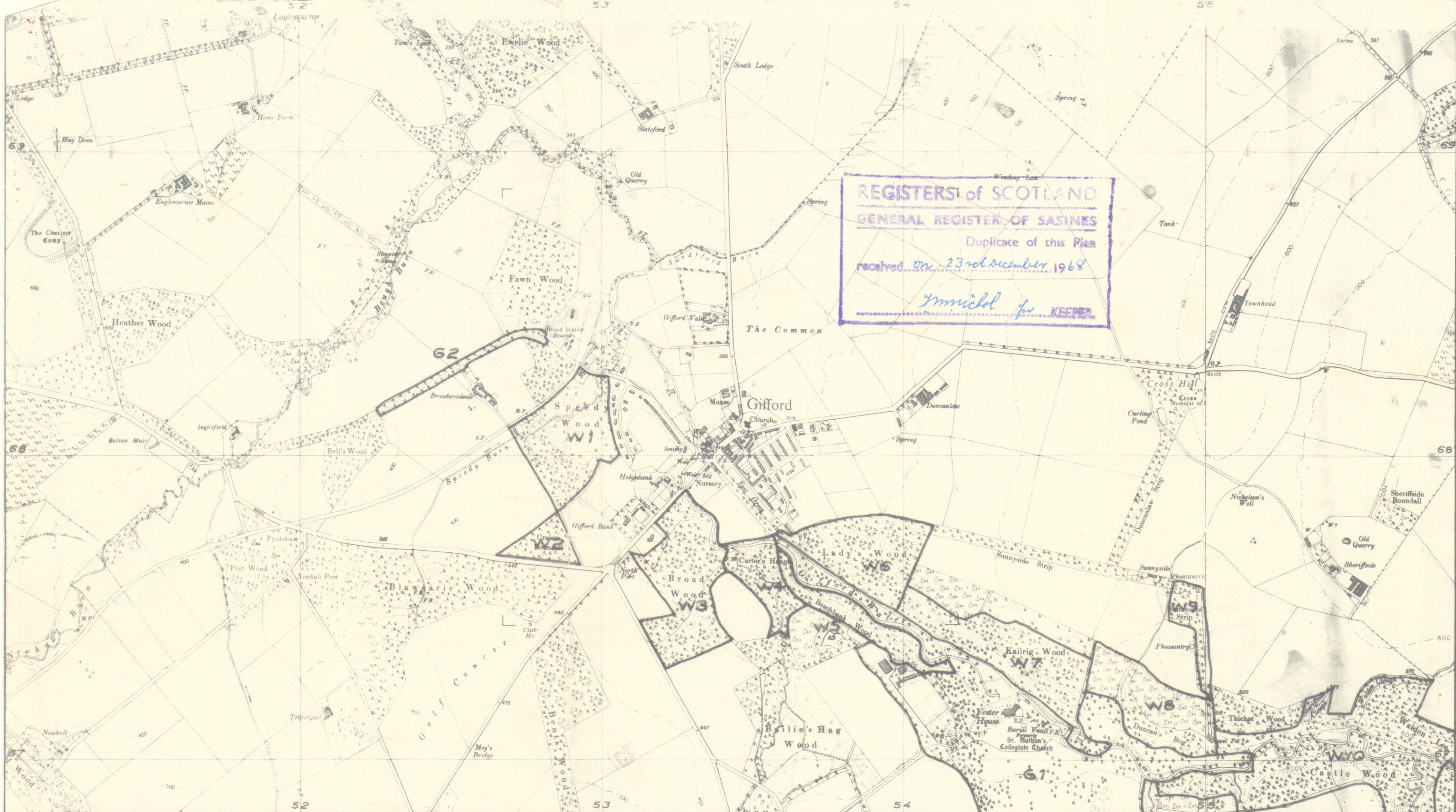
"which Trees, Groups of Trees and Woodlands are on the Estate of Yester, described in Notice of Title of the Executors of William George Montagu, Marquis of Tweeddale, recorded in the Division of the General Register of Sasines for the County of East Lothian 19th January 1968."

Given under the Seal of the Secretary of State  
for Scotland this twenty-ninth day of  
November, 1968.

  
Assistant Secretary

*JSC Council JSC*  
Registers on behalf of the within named County of  
the County of East Lothian in the Register of the  
County of East Lothian

*J. Campbell*  
Solicitor, Staddington  
agent



REGISTERS of SCOTLAND  
 GENERAL REGISTER OF SASINES  
 Duplicate of this Plan  
 received on 23rd December 1968  
*Amended for* KEEPER

GIFFORD

TREE PRESERVATION ORDER No. 18 : YESTER



Crown  
 Copyright

1007  
 1936

East Lothian County Council  
 County Planning Department

*Alan R. H.*



E. York  
No.

DR

TREE Preservation Order

No. 18

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