

COUNTY COUNCIL OF THE COUNTY OF EAST LoTHIAN.

THE COUNTY OF EAST LoTHIAN TREE PRESERVATION ORDER NO.19: YESTER WOODS. (No. 2).

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

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.

(b)/

Presented and Recorded on 2nd October 1969
GENERAL REGISTER OF SALES
COUNTY OF EAST LoTHIAN
REGISTERS OF SCOTLAND
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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.
 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.
 10. The County of East Lothian Tree Preservation Order Number 18: Yester Woods: made by the local planning authority on 31st May 1968 and confirmed by the Secretary of State on 29th November 1968 and recorded in the Division of the General Register of Sasines for the County of East Lothian on 23rd December 1968 is hereby revoked.

Dated this thirteenth day of June 1969

Harper
County Clerk

*County Buildings,
Haddington.*

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

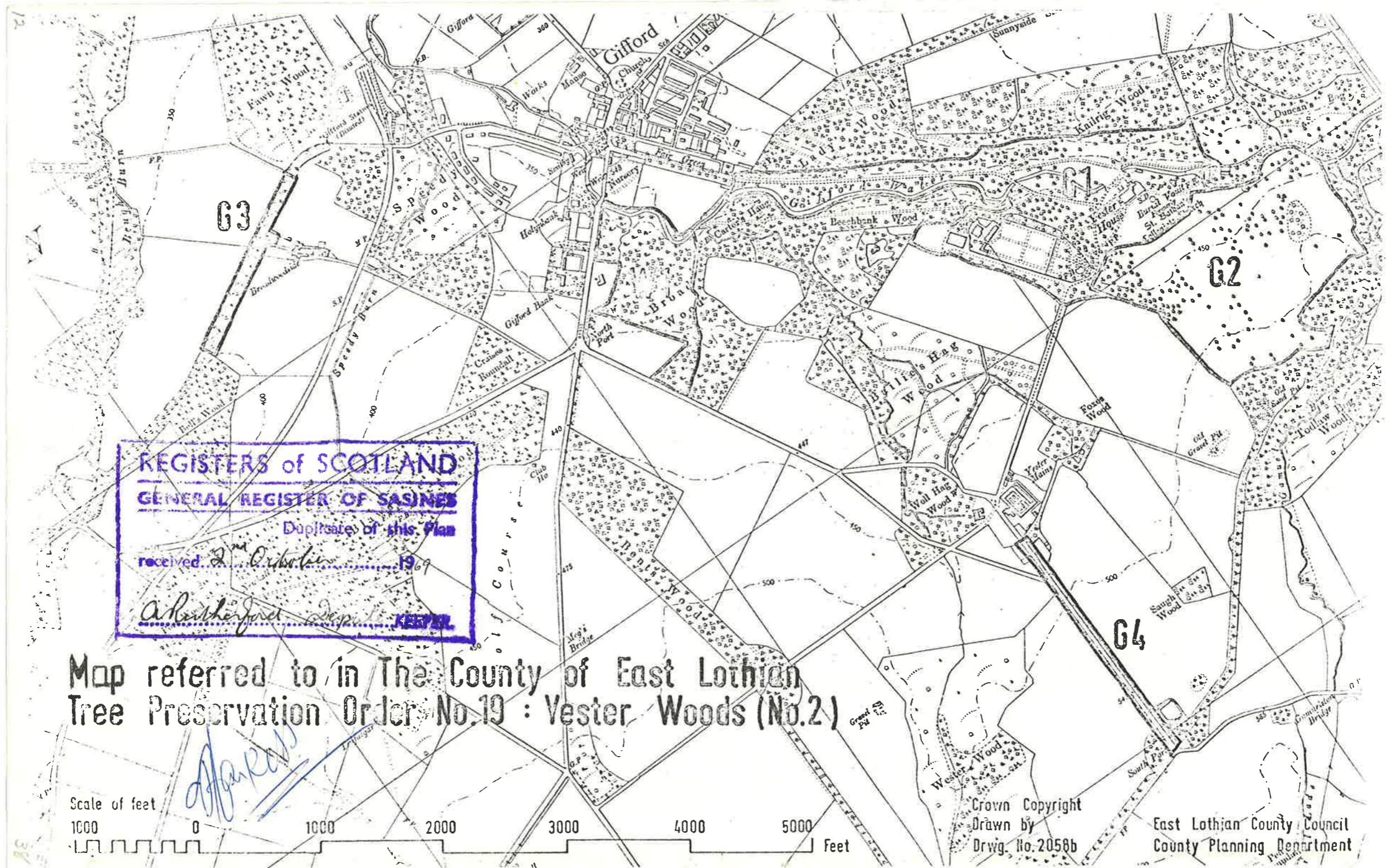
B. Campbell
Solicitor, Haddington
Agent

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	Broadwood - 18.3 acres. Part Mature Mixed Woodland, Part Scrub. Some Regeneration.	Between Edinburgh Road (B.6355) and road to Longyester (C.66).	This woodland is preserved in its extent and landscape form but within it scrub clearance will be permitted in small blocks to allow the building of houses in clearings in accordance with the development proposals for Gifford. Should such development not take place then this woodland may be filled in blocks and re-planted upon the advice of the Forestry Commission so long as care is exercised to retain its landscape form.
G.1	The approaches to Yester House. Mature Mixed Woodland and Specimen Trees.	Comprising all the trees, both specimen and woodland, along the drive and surrounding the mansion house and gardens of Yester including that part of Kailrig Wood excluded from the dedication scheme.	These trees are preserved for their importance to the landscape setting of Yester House and because of their botanical interest. They include some of the earliest beech, larch and other exotic softwoods in Scotland.
G.2	The Parkland Trees of Yester	Mainly south of Yester House	These trees are preserved for their importance to the prospect from Yester House across its parkland. Any tree felled or expiring naturally will be replaced in such a way as to enhance and restore the parkland to its intended appearance.
G.3	Mature Lime Trees	All the lime trees forming the Avenue leading from the former Gifford Railway Station to Bells Wood, on the north side of Broadwoodside Farm.	This Avenue is preserved for its landscape importance from the south. No felling of trees in this Avenue will be permitted, unless advised by an acknowledged independent expert. Any tree felled will require to be replaced if it is necessary to preserve the appearance of the Avenue and the amenity of the area.
G.4	Mature Beech, Ash and Oak.	All the trees forming the South Port Avenue leading south along the Longyester Road (C.66) from Yester Mains.	As G.3

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.



REGISTERS of SCOTLAND
 GENERAL REGISTER OF SASINES
 Duplicate of this Plan
 received 2nd October 1967
 A. Hunter-Jones Dep. Insp. KEPVAL

Map referred to in The County of East Lothian
 Tree Preservation Order No. 19 : Yester Woods (No. 2)

Scale of feet
 1000 0 1000 2000 3000 4000 5000 Feet

Crown Copyright
 Drawn by
 Drwg. No. 2058b

East Lothian County Council
 County Planning Department

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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 Orderand 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 decisionappeal 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.

The Secretary of State in exercise of the powers 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:-

In line 4 on page 1 delete "of 1947"; also delete "Section 16" and substitute "Part II".

In lines 4 and 5 on page 1 delete "(hereinafter referred to as "the Act of 1967")".

In line 20 on page 1 delete "Section 13 of the Forestry Act 1951" and substitute "Section 15 of the Forestry Act 1967" and in line 22 after "local" insert "planning".

In line 35 on page 1 delete "dange" and substitute "damage" and in line 38 delete "of" and substitute "by".

In lines 44 and 45 on page 1 delete "of 1947".

In line 13 on page 2 delete "of 1947".

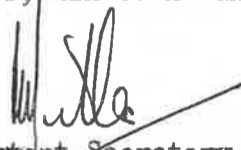
In line 22 on page 2 delete "the said" and for "Act of 1967" substitute "Civic Amenities Act 1967".

In line 7 of the First Schedule delete "filled" and substitute "felled".

In line 1 of the Second Schedule delete "of 1947".

In line 17 of the Second Schedule delete "of 1947".

Given under the Seal of the Secretary of State for Scotland this nineteenth day of September, nineteen hundred and sixty-nine.


Assistant Secretary

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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

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- (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 Orderand 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 decisionappeal 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.

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

TOWN AND COUNTRY PLANNING (TREE PRESER-
VATION ORDER) (SCOTLAND) REGULATIONS 1948
and 1968.

COUNTY COUNCIL OF THE COUNTY OF
EAST LoTHIAN.

THE COUNTY OF EAST LoTHIAN TREE PRESER-
VATION ORDER NO. 19: YESTER WOODS (No. 2).

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East Lothian Co. Co.
County Building
Haddington

A. Harkess, Solicitor,
County Clerk, Haddington.