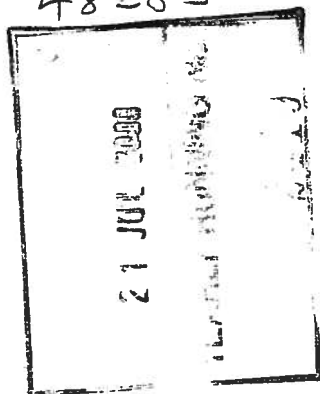


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TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997

The Town and Country Planning (Tree
Preservation Order and Trees in
Conservation Areas) (Scotland) Regulations
1975

The Druid's Park, Murthly Tree Preservation
Order No 1 2000

Reference L/PD/11(3)/016

Made 2 June 2000

Confirmed

11th July

2000

Perth & Kinross Council
Council Building
2 High Street
PERTH
PH1 5PH

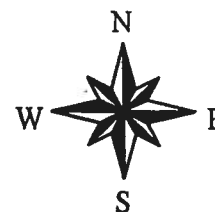
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Druid's Park, Murthly

Tree Preservation Order No.1 2000.

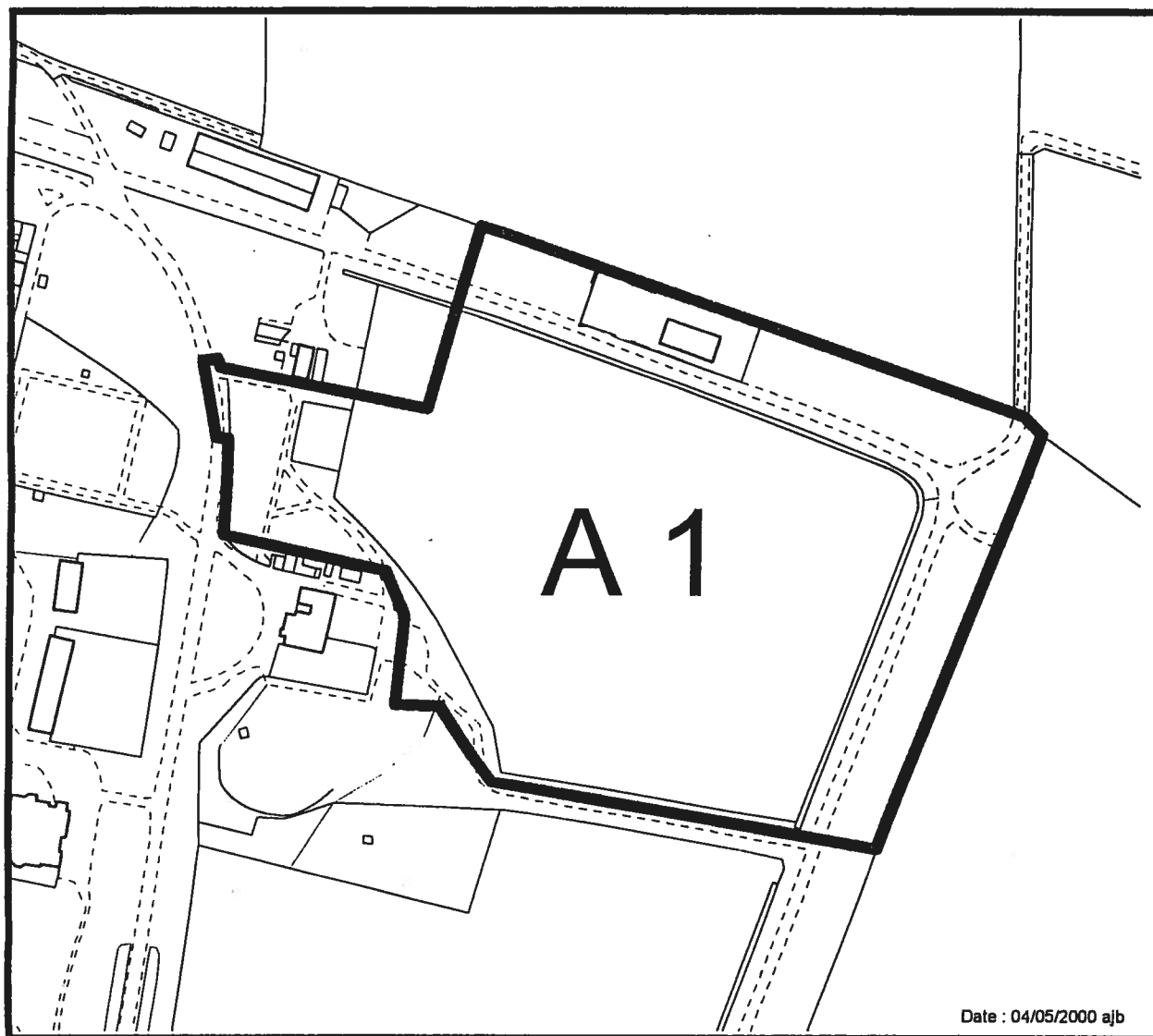
This is the map referred to
in the foregoing order entitled
The Druid's Park, Murthly
Tree Preservation Order No.1 2000
dated : 2 June 2000


Proper Officer



1:2500

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TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

**THE DRUID'S PARK, MURTHLY
TREE PRESERVATION ORDER NO 1 2000**

Perth and Kinross Council, in this Order referred to as "the planning authority", in exercise of the powers conferred on them by sections 160 and 163 of the Town and Country Planning (Scotland) Act 1997 (hereinafter referred to as "the Act") and of all other powers enabling them in that behalf and subject to the provisions of the Forestry Act 1967, hereby make the following Order:-

Citation, Commencement and Interpretation

- 1 (1) This Order is to be cited as The Druid's Park, Murthly Tree Preservation Order No 1 2000 and shall come into effect on the date specified in Article 15 of this Order.
- (2) The Interpretation Act 1978 as amended shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

Prohibition against felling, etc., without consent

- 2 Subject to the provisions of this Order and the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the planning authority, cut down, top, lop, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting or wilful damage or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland specified therein, the position of which trees, groups of trees and/or woodlands to which this Order relates is defined in the manner indicated in the said First Schedule on the map annexed and signed as relative hereto, which map shall for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the said First Schedule.

Application for consent

- 3 An application for consent made to the planning authority under Article 2 of this Order shall be in writing and shall specify -
 - (i) the tree or trees to which the application relates;
 - (ii) the reasons for making the application;
 - (iii) the operations for the carrying out of which consent is required;

and shall where necessary for the identification of such tree or trees be accompanied/

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REGISTERS OF SCOTLAND
GENERAL REGISTER OF SASINES
COUNTY OF PERTH
FICHE 129 FRAME 21
PRESENTED AND RECORDED ON 21 JUL 2000

PAGE SECOND

accompanied by a map or plan of a size or on a scale sufficient for the purpose.

- 4 If it is desired to fell any of the trees included in this Order, whether included as trees, groups of trees or woodlands, and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application should be made - not to the planning authority for consent under this Order but to the Conservator of Forests for a licence under section 15(5) of that Act.

- 5 (1) Where an application for consent is made to the planning authority under this Order the planning authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof) as the planning authority may think fit, or may refuse consent;

Provided that where the application relates to any woodland specified in the First Schedule to this Order the planning authority shall grant consent so far as it accords with the principles of good forestry, except where, in the opinion of the planning authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area and shall not impose conditions on such consent requiring replacement or replanting.

(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of such applications, the decisions of the planning authority thereon, any compensation awarded in consequence of such decisions and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

- 6 Where the planning authority refuse consent under this Order or grant such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are so refusing or granting consent that they are satisfied:

- (a) that the refusal or condition is in the interests of good forestry; or
- (b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.

- 7 (1) Where consent is granted under this Order to fell any part of a woodland other/

PAGE THIRD

other than consent for silvicultural thinning then unless -

- (a) such consent is granted for the purpose of enabling development to be carried out in accordance with permission to develop land under Part III of the Act, or
- (b) the planning authority, with the approval of the Secretary of State, dispense with replanting,

the authority shall 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 he shall replant such land and where a direction is given and the part is felled the owner shall, subject to the provisions of this Order and section 166 of the Act, replant the said land in accordance with the direction.

- (2) Any direction given under paragraph (1) of this Article may include requirements to -
 - (a) species
 - (b) number of trees per acre;
 - (c) the erection and maintenance of fencing necessary for the protection of the replanting;
 - (d) the preparation of ground, draining, removal of brushwood, lop and top; and
 - (e) protective measures against fire.

(3) If any question arises between the planning authority and the said owner of the land as to whether any such direction 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.

Adaptation and modification of Act

- 8 The provisions set out in the Third Schedule to this Order, being provisions of the Act adapted and modified for the purposes of this Order, shall apply in relation hereto.

Compensation

PAGE FOURTH

- 9 Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the planning authority within the time and in the manner prescribed by this Order, be entitled to recover from the planning authority compensation in respect of such loss or damage.

Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any tree or trees the subject of a certificate in accordance with Article 6 of this Order.

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

- (a) any compensation or contribution which has been paid whether to the claimant or any other person in respect of the same trees or woodland areas under the terms of this or any other Tree Preservation Order under section 160 of the Act, 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 woodland contained in an operative scheme under the Town and Country Planning (Scotland) Act 1932, and
- (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.

- 11 (1) 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.

(2) The time within which any such claim shall be made as aforesaid shall be a period of six months from the date of the decision of the 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 planning authority, from the date of the decision of the Secretary of State on the appeal.

- 12 Any question of disputed compensation shall be determined in accordance with the provisions of section 165(2) of the Act.

Offences and Penalties

PAGE FIFTH

- 13 Under the provisions of section 171 of the Act, any person who in contravention of this Order cuts down, uproots or wilfully destroys a tree, or wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it, shall be guilty of an offence and liable on summary conviction to a fine not exceeding £20,000 and on conviction on indictment to a fine. Other contraventions of this Order carry with them on summary conviction a fine not exceeding Level 4 on the standard scale.
- 14 (1) If a tree other than one which is part of a woodland is removed, uprooted or destroyed in contravention of this Order, or is removed, uprooted or destroyed or dies at a time when its felling is authorised only by virtue of the provisions of section 160(6) of the Act relating to uprooting or felling where urgently necessary in the interests of safety, it shall be the duty of the owner of the land, unless on his application the planning authority dispense with this requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can.
- (2) In relation to any tree planted pursuant to paragraph (1) above this Order shall apply as it applied to the original tree.
- (3) If it appears to the planning authority that the provision in paragraph (1) above has not been complied with in the case of any tree or trees, they may, at any time within two years from the date on which failure to comply with this provision came to their knowledge, serve on the owner of the land a notice requiring him, within such period as may be specified in the notice, to plant a tree or trees of such size and species as may be so specified, and the provisions of section 168 of the Act as amended shall apply in any such case.
- 15 The provisions of section 163(2) of the Act (which makes provision for a tree preservation order to take effect immediately without previous confirmation by the planning authority or the Secretary of State) shall apply to this Order and the Order shall take effect on Second day of June Two thousand.

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PAGE SIXTH

The foregoing Order together with the Map and Schedules annexed are sealed with the seal of the said Perth and Kinross Council and are subscribed for them and on their behalf by Ian Taylor Innes their Proper Officer for the purposes hereof all together at Perth on the Second day of June Two thousand.



Proper Officer

The foregoing Order was confirmed without modification on the Eleventh day of July Two thousand by Perth and Kinross Council as Planning Authority in exercise of the powers conferred on them by Section 161 of the Town and Country Planning (Scotland) Act 1997



Proper Officer

REGISTER on behalf of the within-named the **PERTH AND KINROSS COUNCIL** in the Register of the County of Perth.



Solicitor, Perth,
Agent.

(v)

68(3) The Secretary of State shall not make such an Order without consulting the Planning Authority.

68(4) Where the Secretary of State proposes to make such an Order he shall service notice on the Planning Authority.

68(5) The notice shall specify the period (which must not be less than twenty-eight days from the date of its service) within which the Authority may require an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

68(6) If within that period the Authority so require, the Secretary of State shall, before making the Order, give the Authority such an opportunity.

68(7) The provisions of this part and of any regulations made under this Act with respect to the procedure to be followed in connection with the submission by the Planning Authority of any Order under Section 65, its confirmation by the Secretary of State and service of copies of it as confirmed shall have effect, subject to any necessary modifications, in relation to any proposal by the Secretary of State to make such an Order by virtue of sub-section(1), its making by him and the service of copies of it.

68(8) Part II of Schedule Three shall effect in relation to Orders made by the Secretary of State by virtue of sub-section (1) as it has effect in relation to Orders made by the Planning Authority under Section 65.

76(1) Where consent is revoked or modified by an Order under section 65, then if, on a claim made to the planning authority within the prescribed time and in the prescribed manner, it is shown that a person interested in the land:-

(a) has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, or

(b) has otherwise sustained loss or damage which is directly attributable to the revocation or modification,

the planning authority shall pay to that person compensation in respect of that expenditure, loss or damage.

76(2) For the purposes of this section any expenditure incurred in the preparation of plans for the purposes of any work or upon other similar matters preparatory to it, shall be taken to be included in the expenditure incurred in carrying out that work.

76(3)/

(vi)

76(3) Subject to sub-section (2) of this section, no compensation shall be paid under this section in respect of:-

- (a) any work carried out before the grant of the consent which is revoked or modified or
- (b) any other loss or damage arising out of anything done or omitted to be done before the grant of that permission (other than loss or damage consisting of depreciation of the value of an interest in land).


Proper Officer

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
TOWN AND COUNTRY PLANNING (TREE PRESERVATION ORDER AND TREES
IN CONSERVATION AREAS) (SCOTLAND) REGULATIONS 1975 AS AMENDED

DRUID'S PARK, MURTHLY
TREE PRESERVATION ORDER NO 1 2000

NOTICE IS HEREBY GIVEN that Perth and Kinross Council, as Planning Authority, by virtue of the powers conferred on them in terms of the Town and Country Planning (Scotland) Act 1997 and the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 1975 as amended have confirmed without modification a Tree Preservation Order entitled "Druid's Park, Murthly Tree Preservation Order No 1 2000". Certified copies of the Order, as confirmed and relative map have been deposited at the Planning and Development Services Reception Desk at Council Building, 2 High Street, Perth and may be inspected there between the hours of 8.45 am to 5.00 pm on Monday to Friday inclusive in each week.

I T INNES
Head of Legal Services

Council Building
2 High Street
PERTH
PH1 5PH

18 July 2000