

Aberdeen
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No.6

July 21, 1962.

10-10.30 (By Post)

Tree Preservation Order No.6 by County Council of Aberdeen.

THE COUNTY COUNCIL OF THE COUNTY OF ABERDEEN.

Town and Country Planning (Scotland) Act, 1947.

The County of Aberdeen Tree Preservation Order No. 6
(Trees at Hopetoun Grange, Bucksburn), 1962.

PLAN
16057

The County Council of the County of Aberdeen (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 at Bucksburn in the County of Aberdeen situated at (a) Hope Farm, (b) Hope House, (c) Hopetoun Grange, (d) the south side of the Aberdeen to Inverurie trunk road at or near Greenburn Road, and (e) Forrit Brae, Bucksburn, aforesaid, in the areas specified in the First Schedule hereto, and indicated and coloured red, green and yellow on the map or plan annexed and signed as relative hereto: declaring that in the case of any discrepancy between the description as contained in the Second column of the said Schedule and the said map or plan the said map or plan shall prevail.

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 planning 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 woodlands, 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 local planning authority compensation in respect of such damage or expenditure.

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John W. Cash Member.

Alexander D. Noble Member.

James G. Craig County Clerk

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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, groups of trees or woodlands under the terms of this or any other Tree Preservation Order under Section 26 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 woodlands 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, groups of trees, or woodlands, the subject of the claim.

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 of the trees, groups of trees or woodlands referred to in this Order are felled in the course of forestry operations permitted by or under this Order the owner 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 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.

10. If any person contravenes the provisions of this Order, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds; and if, in the case of a continuing offence, the contravention is continued after the conviction, he shall be guilty of a further offence and liable on summary conviction to an additional fine not exceeding forty shillings for every day on which the contravention is so continued:

Provided/

John M. Cook

Member.

Alban W. Noble

Member.

James L. Craig

County Clerk.

Provided that nothing in this Order shall prohibit the felling or lopping of any tree if such felling and lopping -

- (a) 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
- (b) is carried out in compliance with any obligation imposed by or under any Act of Parliament, or
- (c) 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.

11. (1) This Order may be cited as the County of Aberdeen Tree Preservation Order No. 6 (Trees at Hopetoun Grange, Bucksburn), 1962.

(2) The Interpretation Act 1889 shall apply to the Interpretation of

this Order as it applies to the interpretation of an Act of Parliament. Dated this Second day of February, Nineteen hundred and sixty-two.

N. R. Cook Member.
Alexander W. Noble Member.
James Malcolm Hay County Clerk.

FIRST SCHEDULE

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

(1)	(2)	(3)
<u>Colour on map</u>	<u>Description</u>	<u>Owner</u>
Red	Part of Hope Farm in the parish of Newhills and County of Aberdeen described in the Disposition by The Seaton Estates with consent therein mentioned in favour of the North of Scotland College of Agriculture dated 29th August and recorded in the Division of the General Register of Sasines applicable to the County of Aberdeen on 6th September, 1951.	Trustee for Joint Committee on Research in Animal Nutrition of University of Aberdeen and The North of Scotland College of Agriculture.
Green	Part of the lands and Estate of Seaton and others, in the Parish of Newhills and County of Aberdeen described in the Disposition by Malcolm Vivian Hay Esquire of Seaton in favour of The Seaton Estates dated 30th April and recorded in the Division of the General Register of Sasines applicable to the County of Aberdeen on 12th November, 1927.	Major James Malcolm Hay.
Yellow		

N. R. Cook Member.
Alexander W. Noble Member.
James Malcolm Hay County Clerk

<u>Colour on Map</u>	<u>Description</u>	<u>Owner</u>
Yellow	Part of Hope House in the Parish of Newhills and County of Aberdeen described in the Disposition by The Seaton Estates with consent therein mentioned in favour of Mrs. Margaret Kennedy Horsey or Knight, dated 6th and recorded in the Division of the General Register of Sasines applicable to the County of Aberdeen on 20th September, 1951.	Mrs. Margaret Kennedy Horsey or Knight.

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.

Applications to local planning authority for consent.

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 the order, including information as to the nature of the application, the decision thereon, and any compensation awarded in consequence of such decision: and every such register shall be available for inspection by the public at all reasonable hours.

Reference of applications to the Secretary of State.

13. (1) The Secretary of State may give directions to the local planning authority requiring that any application for consent under the order, or all such applications of any class specified in the directions, shall be referred to the Secretary of State instead of being dealt with by the local planning authority, and any such application shall be so referred accordingly.

(2) Where an application for consent under the order is referred to the Secretary of State under this section, the provisions of sub-section (1) of the last foregoing section shall apply, subject to any necessary modifications, in relation to the determination of the application by the Secretary of State as they apply in relation to the determination of such an application by the local planning authority.

Provided that before determining any such application the Secretary of State shall, if either the applicant or the local planning authority so desire, afford to them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3)

John A. Cook Member.

Clayton W. Noble Member.

George K. Bray County Clerk.

(3) The decision of the Secretary of State on any application referred to him under this section shall be final.

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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, 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.

19./

John P. Cook
Alexander W. Hobbs
James L. Craig

Member.

Member.

County Clerk.

Revocation
and modification
of consent
under the Order.

19. (1) Subject to the provisions of this section, if it appears to the local planning authority that it is expedient, having regard to the development plan and to any other material considerations, that any consent granted on an application made in that behalf should be revoked or modified, they may by order revoke or modify the consent to such extent as appears to them to be expedient as aforesaid.

Provided that no such order shall take effect unless it is confirmed by the Secretary of State, and the Secretary of State may confirm any order submitted to him for the purpose either without modification or subject to such modifications as he considers expedient.

(2) Where the local planning authority submit an order to the Secretary of State for his confirmation under this section, that authority shall serve notice on the owner, lessee, and occupier of the land affected and on any other person who in their opinion will be affected by the Order; and if within such period as may be prescribed in that behalf in the notice (not being less than fourteen days from the service thereof) any person on whom the notice is served so requires, the Secretary of State shall, before confirming the Order, afford to him, and to the local planning authority, an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) The power conferred by this section to revoke or modify consent may be exercised at any time before the operations for which consent has been given have been completed.

Provided that the revocation or modification of consent shall not affect so much of these operations as has been carried out before the date on which the Order was confirmed as aforesaid.

Supplementary
provisions as
to revocation
and modifica-
tion of consent.

20. (1) Where consent is revoked or modified by an Order made under the last foregoing section, then if, on a claim made to the local planning authority in writing within the period of two months from the date of the confirmation of the Order by the Secretary of State, it is shown that any person interested in the land concerned has incurred expenditure in carrying out work which is rendered abortive by the revocation or modification, or has otherwise sustained loss or damage which is directly attributable to the revocation or modification, the authority shall pay to that person compensation in respect of that expenditure, loss or damage:

(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 matter preparatory thereto shall be deemed to be included in the expenditure incurred in carrying out that work, but except as aforesaid no compensation shall be paid under this section in respect of any work carried out before the grant of the consent/

John M. Bell

Member.

Alfred W. Noble

Member.

James K. Gray

County Clerk.

consent which is revoked or modified, or in respect of any other loss or damage (not being loss or damage consisting of the depreciation in value of an interest in land) arising out of anything done or omitted to be done before the grant of that consent.

Temporary provisions pending approval of plans.

33. Where, under the foregoing provisions of this Part of this Act the local planning authority are required to have regard to the provisions of the development plan in relation to the exercise of any of their functions, then, in relation to the exercise of those functions during any period before such a plan has become operative with respect to the district of that authority the authority shall have regard to any directions which may be given to them by the Secretary of State as to the provisions to be included in such a plan, and subject to any such directions shall have regard to the provisions which in their opinion will be required to be so included for securing the proper planning of the said district.

Mr. M. Bosh Member.
Alexander White Member.
James K. Craig County Clerk.

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

In article 1, after the word "green" there shall be inserted the words "green hatched in blue".

In the First Schedule, there shall be added, at the end of the Schedule, the following entry:-

"Green hatched in blue	Part of All and Whole the Craft of Hope Craft, Buckburn, described in the Disposition granted by Malcolm Vivian Hay in Favour of Alexander Beaton and Another dated 27th December, 1922, and recorded in the Division of the General Register of Sasines applicable to the County of Aberdeen on 2nd February 1925.	Mr Duncan Elrick"
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On the map:-

The area coloured green situated on the north side of Hopetoun Grange shall be hatched in blue;

The name "Mr Duncan Elrick" shall be added to the owners listed; and

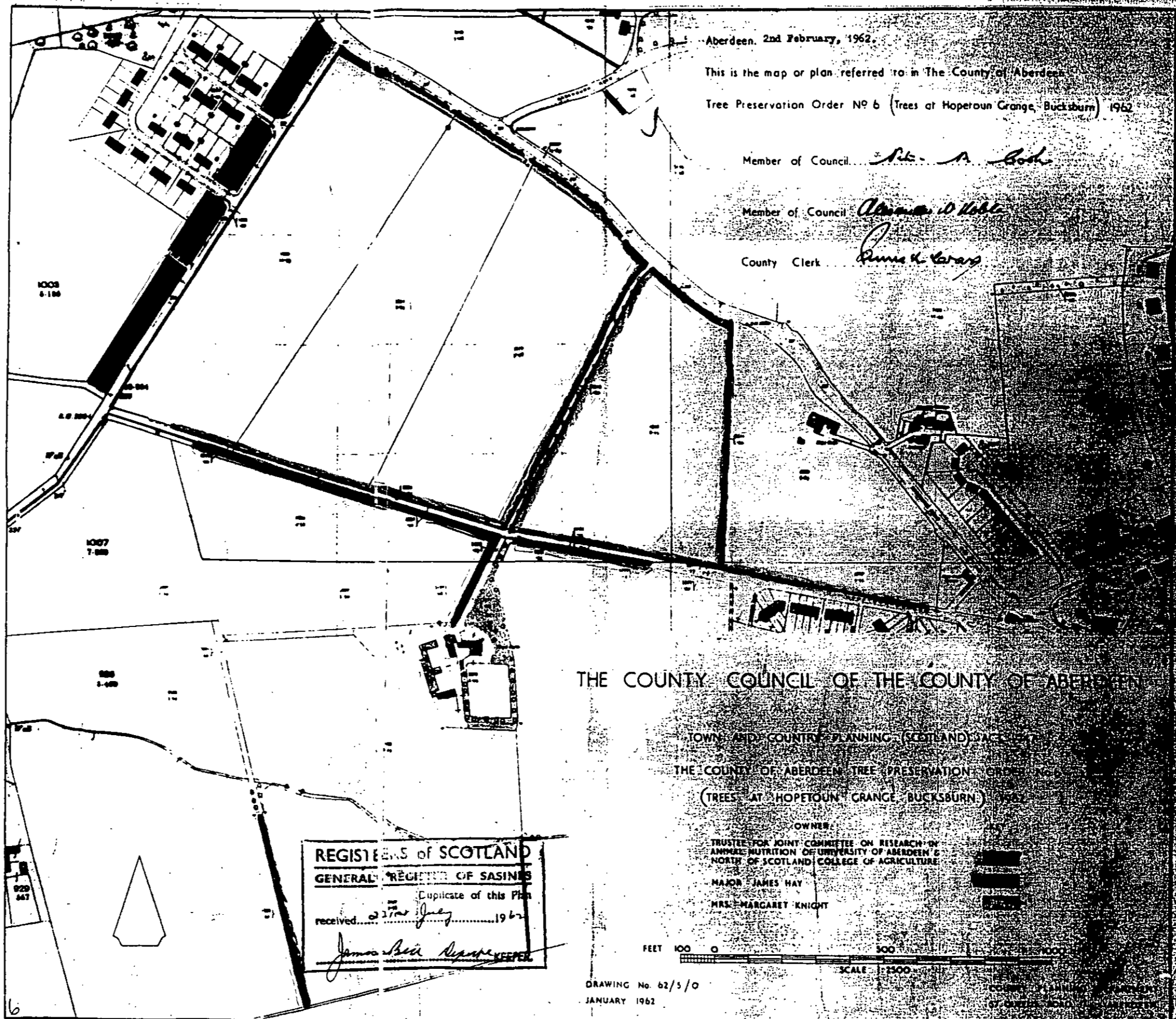
There shall be added under the heading "Key" against "Mr Duncan Elrick" a box coloured green hatched in blue.

Given under the Seal of the Secretary of State for Scotland this seventeenth day of July, 1962.

J. Ross
Assistant Secretary.

*Registered in behalf of the within named County Council
of the County of Aberdeen in the Register of the County of Aberdeen*

James K. Craig
County Clerk
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Aberdeen, 2nd February, 1962.
This is the map or plan referred to in The County of Aberdeen
Tree Preservation Order No 6 (Trees at Hopetoun Grange, Bucksburn) 1962
Member of Council *St. A. Goh*
Member of Council *Alma D. Noble*
County Clerk *James H. Cairns*

THE COUNTY COUNCIL OF THE COUNTY OF ABERDEEN

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1947
THE COUNTY OF ABERDEEN TREE PRESERVATION ORDER NO 6
(TREES AT HOPETOUN GRANGE, BUCKSBURN) 1962

OWNER
TRUSTEE FOR JOINT COMMITTEE ON RESEARCH IN
ANIMAL NUTRITION OF UNIVERSITY OF ABERDEEN &
NORTH OF SCOTLAND COLLEGE OF AGRICULTURE
MAJOR JAMES HAY
MRS MARGARET KNIGHT

REGISTERS of SCOTLAND
GENERAL REGISTER OF SASINES
Duplicate of this Plan
received *27th July* 1962
James Bell Depute Keeper

FEET 100 0 500
SCALE 1:2500

DRAWING No 62/5/0
JANUARY 1962