

TREE PRESERVATION ORDER.

TOWN AND COUNTRY PLANNING ACT 1971.

THE SCARBOROUGH BOROUGH COUNCIL

In this order called "the authority" in pursuance of the powers conferred in that behalf by Sections 60 [and 61*] of the Town and Country Planning Act 1971, and subject to the provisions of the Forestry Act, 1967, hereby make the following Order:—

1. In this Order:—

"the Act" means the Town and Country Planning Act 1971;

"owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more and a mortgagee in possession; and

"the Secretary of State" means the Secretary of State for the Environment/Secretary of State for Wales.

2.—Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, 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 therein specified, the position of which trees, groups of trees and woodlands is defined in the manner indicated in the said First Schedule on the map annexed 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.

3.—An application for consent made to the authority under article 2 of this Order shall be in writing stating the reasons for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for the carrying out of which consent is required.

4.—(1) Where an application for consent is made to the authority under this Order, the 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 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 authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the 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 the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

5.—Where the 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.

6.—(1) Where consent is granted under this Order to fell any part of a woodland 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 a permission to develop land under Part III of the Act, or

(b) the 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 such a direction is given and the part is felled the owner shall, subject to the provision of this Order and section 175 of the Act, replant the said land in accordance with the direction.

* Include only where Order contains a direction under section 61 of the Act.

† Map to be a scale of not less than 25 inches to one mile, except in the case of large-woodlands when the scale shall be 6 inches to one mile.

NOTE.—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 for the felling of which a licence is required under the Forestry Act, 1967, application must be made not to the authority for consent under this Order but to the Conservator of Forests for a licence under that Act (section 15 (5)).

FIRST SCHEDULE
TREES SPECIFIED INDIVIDUALLY
(encircled in black on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
T.1	Betula pendula (Birch)	29 Main Street, Cayton
T.2	Acer pseudoplatanus (Sycamore)	Southern boundary of electricity sub-station between 21 Lodge Close and 79 Main Street, Cayton
T.3	Fraxinus excelsior (Ash)	Land at rear of 126 Main Street, Cayton - G.R. T.A. 50558 48311
T.4	Ulmus procera (Elm)	Land at rear of 146 Main Street, Cayton - G.R. T.A. 50575 48313
T.5	Fraxinus excelsior (Ash)	West Garth at northern end of boundary between O.S. fields 8000 and 7100 - G.R. 50577 48303

GROUPS OF TREES
(within a broken line on the map)

<u>No. on Map</u>	<u>Description</u>	<u>Situation</u>
G.1	Group consisting of 3 Sorbus species (Whitebeam) 11 Acer pseudoplatanus (Sycamore) 2 Fraxinus excelsior (Ash)	Boundary of churchyard of St. John the Baptist's Church with Church Lane and Limekiln Lane, Cayton
G.2	Group consisting of 1 Pinus species (Pine) 2 Illex aquifolium (Holly)	Churchyard south of St. John the Baptist's Church, Cayton
G.3	Group consisting of 2 Acer pseudoplatanus (Sycamore)	South-east corner of churchyard of St. John the Baptist's Church, Cayton
G.4	Group consisting of 4 Fraxinus excelsior (Ash) 2 Acer pseudoplatanus (Sycamore)	Western boundary of Penton Road and 11 Penton Road, Cayton
G.5	Group consisting of 3 Fraxinus excelsior (Ash)	Land at rear of 146 Main Street, Cayton - G.R. T.A. 50573 48306
G.6	Group consisting of 7 Ulmus procera (English Elm)	Land at rear of 174 Main Street, Cayton - G.R. T.A. 50568 48311
G.7	Group consisting of 3 Crataegus monogyna (Hawthorn) 1 Fraxinus excelsior (Ash)	Land at rear of 132 Main Street, Cayton - G.R. T.A. 50566 48317
G.8	Group consisting of 3 Pinus species (Pine) 1 Fraxinus excelsior (Ash)	12 Chapel Lane, Cayton
EXCLUDED		
G.9	Group consisting of 3 Fraxinus excelsior (Ash) 3 Ulmus species (Elm)	1 Main Street, Cayton
G.10	Group consisting of 3 Populus species (Poplar) 2 Acer pseudoplatanus (Sycamore)	64, 66 and 68 Main Street, Cayton
G.11	Group consisting of 2 Fagus sylvatica (Beech) 2 Betula pendula (Birch) 1 Prunus species (Cherry)	80 Main Street, Cayton
G.12	Group consisting of 5 Sorbus species (Whitebeam) 1 Ulmus species (Weeping Elm)	Harford House, North Lane, Cayton
G.13	Group consisting of 3 Acer pseudoplatanus (Sycamore)	Rear boundary of 5, 7 and 9 North Lane and 1, 4 and 5 Lodge Close, Cayton
G.14	Group consisting of 3 Fraxinus excelsior (Ash) 1 Acer pseudoplatanus (Sycamore)	Rear boundary of 16, 17, 18 & 19 Lodge Close and 5, 7, 9, 11 & 11A Church Lane, Cayton

DOE LETTER 17/11/77

SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority to

- (1) the cutting down of any tree on land which is subject to a forestry dedication covenant where
 - (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
 - (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.
- (2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme or other grant scheme under section 4 of the Forestry Act 1967 except a scheme which applies to a forestry dedication covenant;
- (3) the cutting down, uprooting, topping or lopping of a tree.
 - (a) in pursuance of the power conferred on the Post Office by virtue of section 5 of the Telegraph (Construction) Act 1908;
 - (b) by or at the request of
 - (i) a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, uprooting, topping or lopping is for the purpose of securing safety in the operation of the undertaking;
 - (ii) an electricity board within the meaning of the Electricity Act 1947, where such tree obstructs the construction by the board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act 1919 and the Electric Lighting Act 1882 or interferes or would interfere with the maintenance or working of any such line;
 - (iii) a river authority established under the Water Resources Act 1963 or a drainage board constituted or treated as having been constituted under the Land Drainage Act 1930, the Conservators of the River Thames, or the Lee Conservancy Catchment Board, where the tree interferes or would interfere with the exercise of any of the functions of such river authority, drainage board, Conservators of the River Thames, or Lee Conservancy Catchment Board, in relation to the maintenance improvement or construction of water courses or of drainage works; or
 - (iv) the Secretary of State for Defence, the Secretary of State for Trade and Industry or the Board of Trade where in the opinion of such Secretary of State or Board the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations;
 - (c) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;
 - (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden;
[Where the trees are within the area administered by the Conservators of the River Thames]
 - (e) in pursuance of the powers conferred on the Conservators of the River Thames by virtue of section 106 of the Thames Conservancy Act 1932.]

THIRD SCHEDULE

Provisions of Part III of the Act as adapted and modified to apply to this Order.

33. (1) Without prejudice to the following provisions, as to the revocation or modification of consents, any consent under the Order, including any direction as to replanting given by the authority on the granting of such consent, shall (except in so far as the consent otherwise provides), ensure for the benefit of the land and of all persons for the time being interested therein.

35. Reference of applications to the Secretary of State.—(1) The Secretary of State may give directions to the authority requiring applications for consent under the Order to be referred to him instead of being dealt with by the authority.

(2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.

(3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.

(4) Where an application for consent under the Order is referred to the Secretary of State under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the authority.

(5) Before determining an application referred to him under this section the Secretary of State shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

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

36. Appeals against decisions.—(1) Where an application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions, or where any certificate or direction is given by the authority, the applicant, if he is aggrieved by their decision on the application, or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Secretary of State.

(2) A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Secretary of State may allow.

(3) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Secretary of State, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

(4) Before determining an appeal under this section, the Secretary of State shall, if either the appellant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(6) The decision of the Secretary of State on any appeal under this section shall be final.

37. Appeal in default of decision.—Where an application for consent under the Order is made to the authority, then unless within two months from the date of receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the 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 under section 35 of the Act;

the provisions of the last preceding section shall apply in relation to the application as if the consent to which it relates had been refused by the authority, and as if notification of their decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be.

45. Power to revoke or modify the consent under the order.—(1) If it appears to the authority that it is expedient to revoke or modify any consent under the Order granted on an application made under Article 3 of the Order, the authority may by Order revoke or modify the consent to such extent as they consider expedient.

(2) Subject to the provisions of sections 46 and 61 of the Act an Order under this section shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such Order submitted to him either without modification or subject to such modifications as he considers expedient.

(3) Where an authority submit an Order to the Secretary of State for his confirmation under this section, the authority shall furnish the Secretary of State with a statement of their reason for making the Order and shall serve notice together with a copy of the aforesaid statement on the owner and on the occupier of the land affected, and on any other person who in their opinion will be affected by the Order, and if within the period of twenty-eight days from the service thereof any person on whom the notice is served so requires, the Secretary of State, before confirming the Order, shall afford to that person, and to the authority, an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) The power conferred by this section to revoke or modify a 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 those operations as has been previously carried out.

(5) Where a notice has been served in accordance with the provisions of subsection (3) of this section, the operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Secretary of State under subsection (2) of this section.

46. Unopposed revocation or modification of consent.—(1) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called "such Order") under section 45 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Secretary of State for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such Order have notified the authority in writing that they do not object to such Order.

(2) The authority shall advertise the fact that such Order has been made and the advertisement shall specify (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose and (b) the period (not less than 14 days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Secretary of State, such Order may take effect by virtue of this section and without being confirmed by the Secretary of State.

(3) The authority shall also serve notices to the same effect on the persons mentioned in subsection (1) above.

(4) The authority shall send a copy of any advertisement published under subsection (2) above to the Secretary of State, not more than three days after the publication.

(5) If within the period referred to in subsection (2) (a) above no person claiming to be affected by such Order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that such Order be submitted to him for confirmation, such Order shall at the expiration of the period referred to in subsection (2) (b) of this section, take effect by virtue of this section and without being confirmed by the Secretary of State as required by section 45 (2) of the Act.

(6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Part III, Part IV or Part V of the Act.

GIVEN under the Common Seal of the

SCARBOROUGH BOROUGH COUNCIL

the 2nd day of
May in the year

nineteen hundred and seventy-seven

A. T. F. Young (Signed)

Mayor

Russell Bradley (Signed)

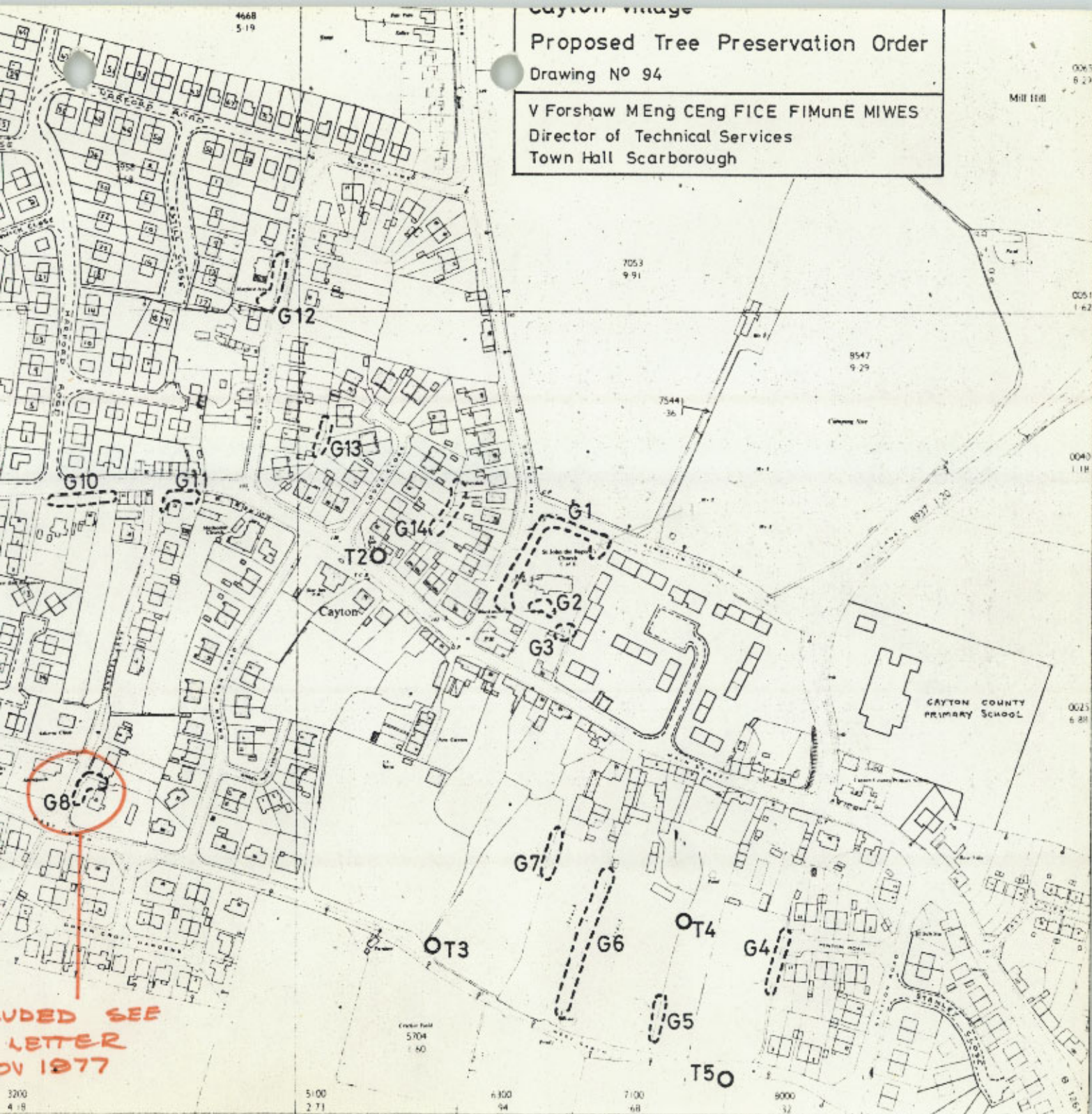
Chief Executive

Cayton Village

Proposed Tree Preservation Order

Drawing No 94

V Forshaw MEng CEng FICE FIMunE MIWES
Director of Technical Services
Town Hall Scarborough



INCLUDED SEE
LETTER
NOV 1977

3200 4 18 5100 2 71 6300 94 7100 68 9000 32

2nd May

1977.

SCARBOROUGH BOROUGH COUNCIL

AND COUNTRY PLANNING ACT 1971.

PRESERVATION ORDER

relating to

at Cayton, Scarborough.

Cat. No. T.C.P. 83.

ons Ltd., Shave Lower Sydenham, SE26 5AH 8741 (L)
Best & Co., Ltd. Man Lane, London, SE26 5AH