

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") 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 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.

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 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 woodland areas, 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 authority compensation in respect of such damage or expenditure.

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 or woodland areas under the terms of this or any other Tree Preservation Order under Section 26 of the Town and Country Planning (Scotland) Act 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) 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.

REGISTERS OF SCOTLAND.

GENERAL REGISTER OF SASINES.

COUNTY OF EAST LoTHIAN.

Book.....504..... Folio.....113.....

Presented and Recorded on 9th August 1958

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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 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.

Dated this Ninth day of December 1957.

Thornhill County Clerk.

County Buildings,
Haddington.

Register on behalf of the County Council of the County of East Lothian in the Register of the County of East Lothian.

Thornhill
Solicitor, Haddington.
Agent.

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THE COUNTY OF EAST LOTHIAN TREE PRESERVATION ORDER No. 12.

FIRST SCHEDULE.

Groups of Trees in County of East Lothian to which the Order applies.

<u>No. and Colour on Map.</u>	<u>Description.</u>	<u>Situation.</u>
G. 1, Black cross hatching	A group of 13 trees	<p>On land which was part of Prestongrange Estate and is bounded on the east by the public road from Preston to Falside Castle and on the south by the old road from Dolphingstone to Tranent.</p> <p>This group is shown as Parcel No. 382 on Ordnance Survey Sheet, East Lothian IX: 5, Edition 1933, and forms the subjects first described in Disposition by Colonel Hubert Francis Grant Suttie in favour of James Gorrie dated third and recorded in the Division of the General Register of Sasines for the County of East Lothian seventeenth, both days of October Nineteen hundred and fifty-six.</p>
G. 2, Black hatching	A group of 25 trees	<p>On land which is part of Prestongrange Estate and comprised in Myles Farm and bounded on the east by the public road from Preston to Falside Castle and on the north by the old road from Dolphingstone to Tranent.</p> <p>This group is shown as Parcel No. 381 on Ordnance Survey Sheet, East Lothian IX:5, Edition 1933.</p>
G. 3, Black cross hatching	A group of 11 trees	<p>On land which is part of Prestongrange Estate and comprised in Myles Farm and situated in the south-west corner of Parcel 187 on Ordnance Survey Sheet, East Lothian IX: 9, Edition 1907.</p>
G. 4, Black cross hatching	A group of 21 trees	<p>On land which is part of Prestongrange Estate and comprised in Dolphingstone Farm and situated in the north-west corner of Parcel 164 on Ordnance Survey Sheet, East Lothian IX: 9, Edition 1907.</p>

Owners.

Group 1	-	James Gorrie, Birsley Brae, Tranent.
Group 2 and 3	-	Col. Hubert F. Grant Suttie, per Cuthbertson & Watson, W.S., 7 Rothesay Terrace, Edinburgh, 3. Tenant: Robert Dykes, Myles Farm, Tranent.
Group 4	-	Col. Hubert F. Grant Suttie, per Cuthbertson & Watson, W.S., 7 Rothesay Terrace, Edinburgh, 3. Tenant: Alex. T and David Y. Hastie, Dolphinstone Farm, Tranent.

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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. (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, 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 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
 - (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 subsection (1) of this section shall apply in relation to the application as if the consent to which it relates had been refused

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

That, on page one of the Order,

- (1) after "Provided that nothing in this Order under any Act of Parliament"

there shall be inserted:

"or 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."

- and (2) in the First Schedule to the Order for "G.2, Black hatching"

there shall be substituted:

"G.2, Black cross hatching".

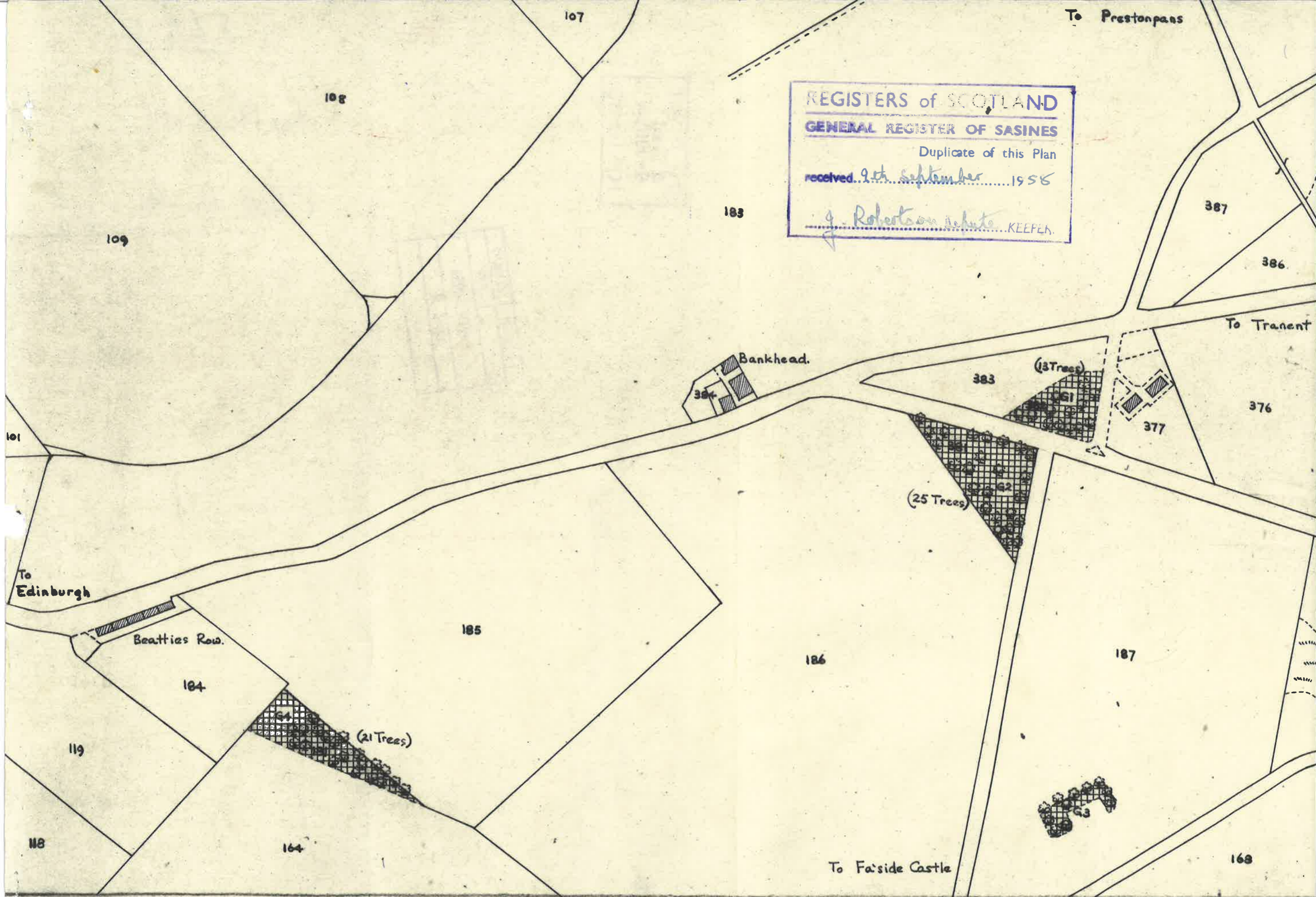
Given under the Seal of the Secretary of State for Scotland this second day of May, 1958.

August Kelly
Assistant Secretary.

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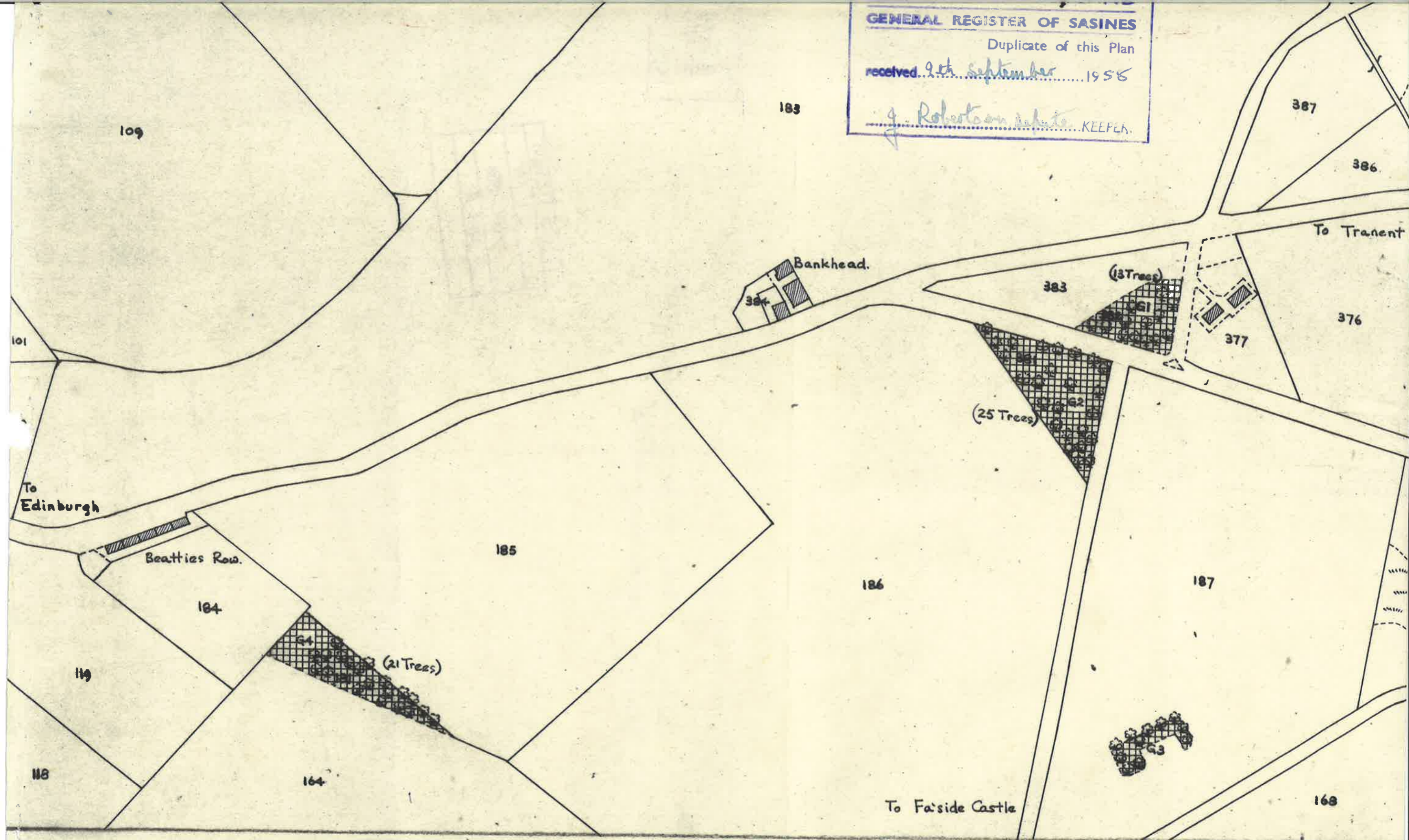
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REGISTERS of SCOTLAND
GENERAL REGISTER OF SASINES
Duplicate of this Plan
received 9th September 1958
G. Robertson White, KEEPER.




TREE PRESERVATION ORDER No. 12. - BIRSLEY BRAE

GENERAL REGISTER OF SASINES
 Duplicate of this Plan
 received 9th September 1956
 G. Robertson Keeper



TREE PRESERVATION ORDER No. 12. - BIRSLEY BRAE

 Groups of Trees subject to this Order

Scale 1:2500
 Extract from O.S. Sheets E. Lothian IX:5 & IX:9 (Revised)
 100 50 0 100 200 300 400 500 1000 1500 Feet

Thornhill

429
 77

East Lothian County Council
 Planning Department

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County Clerk,
Haddington.

P.R.
Duplicate Plans not documented and unsigned
Names of Proprietors omitted

BY POST
9 Aug
9 JUL 1958
10-10-30

LEGER	FOLIO
6	1698
6 OCT 1958	
LINE NO	
12	

C. 71. JR

E. J. J. S. S.

Free Press Order.

E. J. J. S. S. P.P.

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