THE CITY OF EDINBURGH COUNCIL TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

THE CITY OF EDINBURGH TREE PRESERVATION ORDER NO. 258 (Inchgarvie House)

Notice is hereby given that The City of Edinburgh Council (referred to below as the "Council") as planning authority in exercise of their powers conferred upon them by Section 160 of the above Act have made the City of Edinburgh Tree Preservation Order No. 258 (Inchgarvie House) (referred to below as the "Order") in respect of a tree or a collection of trees at or around Inchgarvie House, South Queensferry. The Order takes effect on 25 November 2026. The Order has been made to protect trees in the interests of amenity.

The Order can be viewed on the Council's website (search for 'new tree preservation orders'). A hard copy of the Order is available to view, by prior appointment, at Waverley Court Business Centre, 4 East Market Street, Edinburgh, EH8 8BG (appointments can be arranged by writing to Planning Trees, Waverley Court Business Centre, 4 East Market Street, Edinburgh, EH8 8BG, by calling 0131 200 2300 or by email to planningtrees@edinburgh.gov.uk). An electronic copy of the Order can be provided by email free of charge by sending a request to planningtrees@edinburgh.gov.uk

Objections and representations in respect of the Order may be made to the planning authority in accordance with Regulation 5 of the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010. Any objection or representation must be in writing and shall be duly made if it states its grounds, specifies the particular tree or trees in respect of which it is made and is received by the planning authority no later than 6 January 2027.

Objections and representations should be sent to the Chief Planning Officer, Waverley Court, 4 East Market Street, Edinburgh EH8 8BG or by email to planningtrees@edinburgh.gov.uk



Proper Officer

Proper Officer Full Name – KEITH BRIAN IRWIN

Date - 24 NOVEMBER 2026

For and on behalf of The City of Edinburgh Council

The Town and Country Planning (Scotland) Act 1997

Tree Preservation Order No. 258 (Inchgarvie House)

The City of Edinburgh Council make the following Tree Preservation Order in exercise of the powers conferred by section 160 of the Town and Country Planning (Scotland) Act 1997 and all other powers enabling them to do so.

Citation, commencement and interpretation

1(1) This Order may be cited as the Tree Preservation Order No.258 (Inchgarvie House) and takes effect on 25 November 2026.

(2) In this Order–

"the 1992 Order" means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992(1);

"the Act" means the Town and Country Planning (Scotland) Act 1997;

"protected tree" has the meaning given in article 2.

"Schedule" means the schedule annexed and signed as relative to this Order.

Protected Trees

2(1) A protected tree is a tree specified in Part 1 of the Schedule or comprised in a group of trees or in a woodland specified in Part 1 of the Schedule.

(2) The position of such trees, groups of trees or woodlands is identified in the manner indicated in Part 1 of the Schedule and on any map or maps referred to in Part 1 of the Schedule.

(3) Where any ambiguity as to the identification of a protected tree arises between any map or maps annexed to this Order and the specification in Part 1 of the Schedule , such map or maps are to prevail.

Prohibited acts

3 Subject to the provisions of the Act and the exemptions specified in article 5, no person is except with, and in accordance with, the consent of the planning authority—

(a) to cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

(b) to cause or permit the cutting down, topping, lopping, uprooting, or wilful damage or wilful destruction of a protected tree.

Application for consent

4(1) An application for consent to the carrying out of any act prohibited by a tree preservation order must be made to the planning authority and must—

(a) specify the operation for which consent is sought;

(b) give reasons for carrying out such operations; and

(c) identify the protected tree or trees which would be affected by such operations.

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(1) [S.I. 1992/223].

(2) The protected tree or trees must be identified by means of a map or plan of a size and scale sufficient for the purpose.

Exemptions

5 Nothing in article 3 is to prevent—

(a) the cutting down of a tree in accordance with a felling permission granted by Scottish Forestry under the Forestry and Land Management (Scotland) Act 2018

(b) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land(1) of the statutory undertaker and the work is necessary—

(i) in the interests of the safe operation of the undertaking;

(ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or

(iii) to enable the statutory undertaker to carry out development for which planning permission is granted by the 1992 Order,

provided that notice in writing of the proposed operations is given to the planning authority as soon as practicable after the operations become necessary

(c) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;

(d) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;

(e) the cutting down, topping, lopping or uprooting of a tree where that work is immediately required to enable a person to carry out works to implement a planning permission (other than an outline planning permission or planning permission in principle) granted on an application under Part III or section 242A of the Act(2); or

(f) the cutting down, topping, lopping or uprooting of a tree by, or at the request of, SEPA to enable SEPA to carry out development for which planning permission is granted by the 1992 Order.

Directions as to replanting

6(1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the planning authority may 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 the owner must replant trees on that land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land must replant trees on the land in accordance with the direction.

(3) Any direction given under paragraph (1) may include requirements as to—

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(1) See sections 214 and 215 of the Act respectively for the meaning of statutory undertaker and operational land.
(2) Section 242A was inserted by section 92(1) of the Planning and Compulsory Purchase Act 2004 (c.5) and amended by section 54(13) of the Planning etc. (Scotland) Act 2006 (asp 17).

(a) species;

(b) number of trees per hectare;

(c) the erection and maintenance of fencing necessary for the protection of the replanting;

(d) the preparations of ground, draining, removal of brushwood, lop and top; and

(e) protective measures against fire.

Adaption and Modification of the Act

7(1) The provisions of the Town and Country Planning (Scotland) Act 1997 mentioned in column 1 of Part 2 of the Schedule are to have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications specified in column 2 of Part 2 of the Schedule.

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part 3 of the Schedule.

Compensation

8(1) Subject to paragraphs (2) to (5), any person who has suffered loss or damage caused or incurred in consequence of–

(a) any refusal of consent required under this Order; or

(b) any grant of any such consent subject to conditions,

is entitled to recover from the planning authority compensation in respect of such loss or damage.

(2) 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.

(3) The time within which any such notice shall be given is a period of six months –

(a) from the date of the decision of the planning authority; or

(b) where an appeal has been made to Scottish Ministers against the decision of the planning authority, from the date of the decision of Scottish Ministers on the appeal.

(4) No claim may be made under this article if the amount in respect of which the claim would otherwise have been made is less than £1,000.

(5) No compensation shall be payable to a person–

(a) for loss of development value or other diminution in the value of the land;

(b) for loss or damage which was not reasonably foreseeable when consent was refused or was granted subject to conditions;

(c) for loss or damage reasonably foreseeable by that person and attributable to failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or

(d) for costs incurred in appealing to the Scottish Ministers against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(6) In this article–
"development value" means an increase in value attributable to the prospect of development;
and, in relation to any land, the development of it shall include the clearing of it.

IN WITNESS WHEREOF these presents together with the schedule and maps marked "Map 1" and "Map 2" are subscribed as follows:

For The City of Edinburgh Council

signature of witness

signature of proper officer

CATRIONA MACKENZIE GROSSET
full name of above (print)

KEITH BRIAN IRWIN
full name of above (print)

Waverley Court Business Centre
4 East Market Street
Edinburgh, EH8 8BG
address of witness

24 NOVEMBER 2026
date of signing

Edinburgh
place of signing

THIS IS THE SCHEDULE REFERRED TO IN THE FOREGOING TREE PRESERVATION ORDER BY THE CITY OF EDINBURGH COUNCIL

PART 1

Trees Specified by Reference to an Area (within a solid black line on the maps marked "Map 1" and "Map 2" annexed and signed as relative to this Order)		
No. on Map 1 and Map 2	**Description**	**Situation**
A1	All trees	On land at subjects known as and forming Inchgarvie House, South Queensferry and surrounding land in the County of West Lothian being the subjects undergoing registration in the Land Register of Scotland under Title Number WLN65200

PART 2

PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
APPLIED
WITH ADAPTATIONS OR MODIFICATIONS

column 1	column 2
Provision of the Town and Country Planning (Scotland) Act 1997	Adaptation or Modification
Section 36 (Registers of applications etc.)	For subsections (1) to (3) substitute— "(1) The planning authority shall in relation to this Order keep a register of all applications for consent under this Order, containing— (a) information as to the nature of such applications, the decisions of the planning authority thereon, (b) information as to any appeal to Scottish Ministers and the decisions of Scottish Ministers thereon, any compensation awarded in consequence of the decisions of the planning authority or Scottish Ministers; and (c) any directions as to the replanting of woodlands."
Section 37 (determination of applications: general considerations)	(a) In subsection (1)— for "planning permission" where those words first appear;" substitute "consent under a tree preservation order"; for "sections 27B(2) and 58 and 59 substitute "subsections (1A) and (1B)"; for "planning permission" in both of the other places where those words appear substitute "consent under the order"; after "think fit", insert, "(including conditions limiting the duration of the consent or requiring the replacement of trees)"; and (b) After subsection (1) insert— "(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as

	accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area. (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).". (c) Omit subsections (2) (2A) and (3); and (d) In subsection (4) for paragraphs (a) to (c) substitute– "(a) consent under a tree preservation order; or (b) any consent, agreement or approval required by a condition imposed on the grant of such consent,"
Section 44 (effect of planning permission)	(a) references to 'planning permission' are to be treated as references to 'consent required by a tree preservation order'; (b) for 'the permission' substitute 'the consent'; (c) for 'to develop land' substitute 'to carry out works'; and (d) after 'land' insert 'on which the tree or trees to which the consent relates are situated'. (e) Omit subsections (2) and (3).
Section 47 (right to appeal against planning decisions and failure to take such decisions)	(a) For subsection (1) substitute— "(1) Where a planning authority— (a) refuse an application for consent under a tree preservation order or grant it subject to conditions; (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order; (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 2 months beginning with the date on which the application was received by the authority,

	the applicant may by notice appeal to the Scottish Ministers against the decision". (b) Omit subsections (1A), (2) and (4). (c) For subsection (3) substitute— "(3) Any appeal under this section shall be made in writing, specifying the grounds on which the appeal is made; and such notice shall be served— (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Scottish Ministers may allow; (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.". (d) For subsection (5) substitute– "(5) For the purposes of the application of section 48(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.".
Section 48 (determination of appeals)	(a) In subsection (5)(a)— (i) for "sections 33, 37(1) to (3), 38(1) to (3), 41(1) and (2) and 42 and Part I of Schedule 3" substitute "section 37(1), (1A) and (1B)"; and (ii) for "planning permission" substitute "consent under a tree preservation order". (b) Omit subsections (5)(b) and (6) to (8).

PART 3

PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997,
AS ADAPTED AND MODIFIED BY SCHEDULE PART 2

The following provisions of the Town and Country Planning (Scotland) Act 1997, as adapted and modified by Part 2 of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 36

36.—(1) The planning authority shall in relation to this Order keep a register of all applications for consent under this Order, containing—

(a) information as to the nature of such applications, the decisions of the planning authority thereon,

(b) information as to any appeal to Scottish Ministers and the decisions of Scottish Ministers thereon, any compensation awarded in consequence of the decisions of the planning authority or Scottish Ministers; and

any directions as to the replanting of woodlands."

(4) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 37

37.—(1) Where an application is made to a planning authority for consent under a tree preservation order—

(a) subject to subsections (1A) and (1B) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or

(b) they may refuse consent under the order.

(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

(4) The date of the grant or refusal of—

(a) consent under a tree preservation order; or

(b) any consent, agreement or approval required by a condition imposed on the grant of such consent,

shall be the date on which the notice of the planning authority's decision bears to have been signed on behalf of the authority.

Section 44(1)

44.—(1) Without prejudice to the provisions of this Part as to the duration, revocation or modification of consent required by a tree preservation order, any grant of consent required by a tree preservation order to carry out works shall (except in so far as the consent otherwise provides) endure for the benefit of the land on which the tree or trees to which the consent relates are situated and all persons for the time being interested in it.

Section 47

47.—(1) Where a planning authority—

(a) refuse an application for consent under a tree preservation order or grant it subject to conditions;

(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order;

(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or

(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 2 months beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Scottish Ministers against the decision".

(3) Any appeal under this section shall be made in writing, specifying the grounds on which the appeal is made; and such notice shall be served—

(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Scottish Ministers may allow;

(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(5) For the purposes of the application of section 48(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

Section 47A

47A.—(1) In an appeal under section 47(1), a party to the proceedings is not to raise any matter which was not before the planning authority at the time the decision appealed against was made unless that party can demonstrate-

(a) that the matter could not have been raised before that time, or

(b) that its not being raised before that time was a consequence of exceptional circumstances.

(2) Nothing in subsection (1) affects any requirement or entitlement to have regard to-

(a) the provisions of the development plan, or

(b) any other material consideration.

Section 48

48.—(1) On an appeal under section 47 the Scottish Ministers may—

(a) allow or dismiss the appeal, or

(b) reverse or vary any part of the decision of the planning authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to them in the first instance.

(3) If the Scottish Ministers propose to reverse or vary any part of the decision of the planning authority to which the appeal does not relate, they shall give notice of their intention to the planning authority and to the appellant and shall give each of them an opportunity of making representations about their proposal.

(5) In relation to an appeal to the Scottish Ministers under section 47—

(a) sections 37(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Scottish Ministers under section 47 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the planning authority.

(9) Schedule 4 applies to appeals under section 47, including appeals under that section as applied by or under any other provision of this Act.

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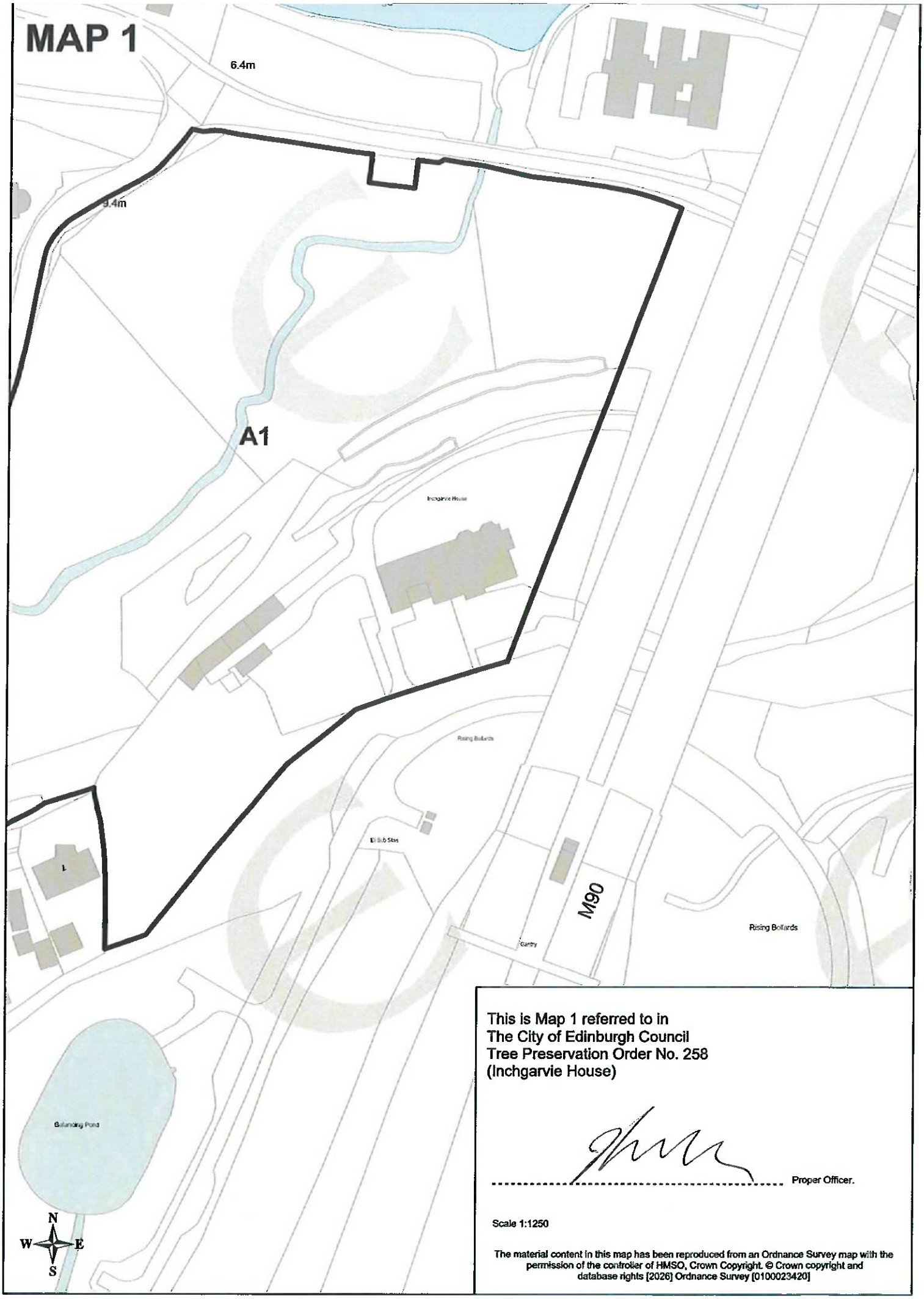
KEITH BRIAN IRWIN



This is Map 1 referred to in
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(Inchgarvie House)

..... Proper Officer.

Scale 1:1250

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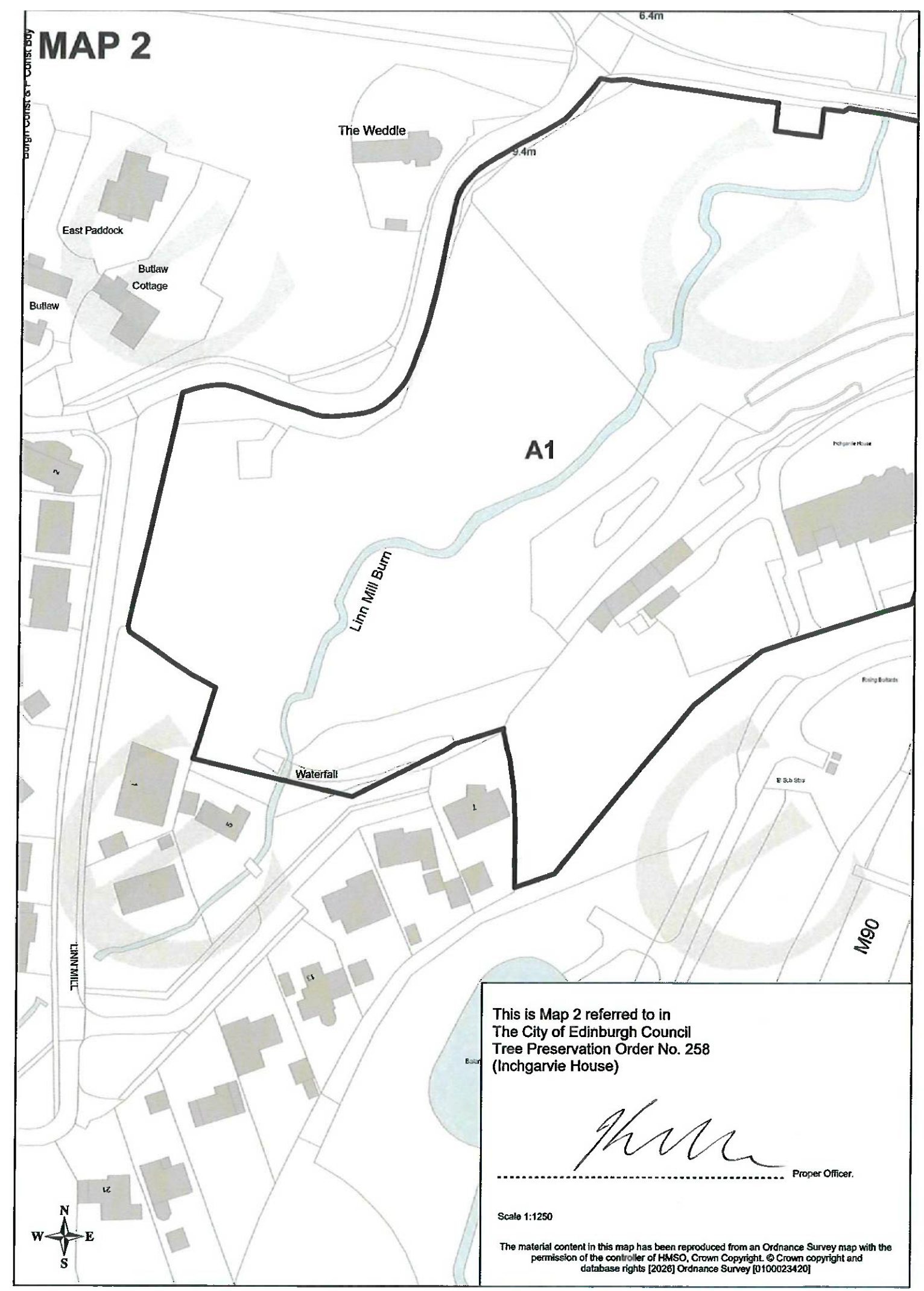
MAP 2



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