

COUNTY OF NORTHUMBERLAND

TOWN AND COUNTRY PLANNING ACT, 1962

CIVIC AMENITIES ACT, 1967

THE COUNTY OF NORTHUMBERLAND

(WILKINS GATE HOUSE, HEXHAM)

TREE PRESERVATION ORDER, 1968

The County Council of the Administrative County of Northumberland (in this Order called "the Authority") in pursuance of the powers conferred in that behalf by Section 29 of the Town and Country Planning Act, 1962, and subject to the provisions of Section 15 of the Forestry Act, 1967 and Sections 13, 14, 15 and 16 of the Civic Amenities Act, 1967, hereby make the following Order:-

1. In this Order -

"the Planning Act" means the Town and Country Planning Act, 1962;

"the Amenities Act" means the Civic Amenities Act, 1967;

"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; a 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 Minister" means the Minister of Housing and Local Government.

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, or wilfully destroy or cause or permit the cutting down, topping, lopping or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of tree therein specified, the position of which trees and groups of trees 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.

(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 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) that the trees have an outstanding or special amenity value.

6. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Planning Act adapted and modified for the purposes of this Order, shall apply in relation thereto.

7. On imposing any condition requiring the replacement of any tree under Article 4 of this Order, the authority shall, if such condition relates to land in respect of which byelaws made by a river authority or a drainage board restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition has effect subject to the requirements of the river authority or drainage board under those byelaws and the condition shall have effect accordingly.

8. The provisions set out in the Fourth Schedule to this Order, being provisions of Part II of the Amenities Act adapted and modified for the purposes of this Order, shall apply in relation thereto.

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

Provided that no compensation shall be payable in respect of ~~loss or damage suffered or expenditure incurred~~ by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

10. In assessing compensation payable under the last preceding Article 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 under the terms of this or any other Tree Preservation Order under Section 29 of the Planning Act or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Development) 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 Act, 1932, and
- (b) any injurious affection to any land of the owner which would result from the felling of the trees the subject of the claim.

11. (1) A claim compensation under this Order shall be in writing and shall be made by serving it on the authority, such service to be effected by delivering the claim at the offices of the authority addressed to the Clerk thereof or by sending it by prepaid post so addressed.

(2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the authority, or of the Minister as the case may be, or where an appeal has been made to the Minister against the decision of the authority, from the date of the decision of the Minister on the appeal.

12. Any question of disputed compensation shall be determined in accordance with the provisions of Section 128 of the Planning Act.

13. Any person contravening the provisions of this Order is guilty of an offence under subsection (1) of Section 62 of the Planning Act, and liable on summary conviction to a fine not exceeding fifty pounds, and by virtue of Section 15 (1) of the Amenities Act in relation to an offence of cutting down or wilfully destroying a tree, or of topping or lopping a tree in such a manner as to be likely to destroy it, is liable on summary conviction to a fine not exceeding two hundred and fifty pounds or ~~twice~~ the sum which appears to the court to be the value of the tree, whichever is the greater, and if in the case of a continuing offence the contravention is continued after conviction he is guilty of a further offence thereunder and liable on summary conviction to an additional fine not exceeding forty shillings for every day on which the contravention is so continued.

14. This Order may be cited as The County of Northumberland (Eilansgate House, Hexham) Tree Preservation Order, 1968.

Given under the Common Seal of the County Council of the Administrative County of Northumberland this 1st day of August, 1968.



FIRST SCHEDULE

The map referred to is at a scale of 1:500 and is based on the 1:2500 O.S. Northumberland Edition of 1961 sheet Nos. NY 9264 and 9364 and the area covered by the Order lies wholly in the Urban District of Hexham in the County of Northumberland.

All of the trees which are covered by the Order stand in the grounds of Eilangate House which property is situated between Eilansgate and Millfield Terrace.

TREES SPECIFIED INDIVIDUALLY (Encircled in black on the map)

No. on the map.	Description	Situation
		The following trees are measured southwards along the western boundary of the grounds of Eilansgate House from the north western corner of the said grounds and are offset eastwards from the said boundary.
✓T.1.	Sycamore	Approximately 15 feet along the said boundary and offset 20 feet.
✓T.2.	Yew	Approximately 20 feet along the said boundary and offset 40 feet.
✓T.3.	Cypress	Approximately 30 feet along the said boundary and offset 49 feet.
✓T.4.	Sycamore	Approximately 41 feet along the said boundary and offset 52 feet.
✓T.5.	Beech	Approximately 40 feet along the said boundary and offset 34 feet.
✓T.6.	Pine	Approximately 46 feet along the said boundary and offset 40 feet.
✓T.7.	Beech	Approximately 50 feet along the said boundary and offset 51 feet.
✓T.8.	Pine	Approximately 61 feet along the said boundary and offset 52 feet.
✓T.9.	Yew	Approximately 64 feet along the said boundary and offset 68 feet.

No. on the map.	Description	Situation
		The following trees are measured south eastwards along the southern boundary of the site from the south western corner of the site and are offset northwards from the said boundary.
✓T.10.	Lime	Approximately 62 feet along the said boundary and offset 3 feet.
✓T.11.	Lime	Approximately 141 feet along the said boundary and offset 2 feet.
✓T.12.	Lime	Approximately 178 feet along the said boundary and offset 2 feet.
✓T.13.	Lime	Approximately 208 feet along the said boundary and offset 2 feet.
✓T.14.	Cypress	Approximately 192 feet along the said boundary and offset 26 feet.
✓T.15.	Cryptomeria	Approximately 151 feet along the said boundary and offset 30 feet.
✓T.16.	Beech	Approximately 116 feet along the said boundary and offset 27 feet.
✓T.17.	Yew	Approximately 82 feet along the said boundary and offset 20 feet.
✓T.18.	Cypress	Approximately 80 feet along the said boundary and offset 41 feet.
✓T.19.	Holly	Approximately 69 feet along the said boundary and offset 51 feet.
✓T.20.	Cypress	Approximately 73 feet along the said boundary and offset 53 feet.
		The following trees are measured eastwards along the northern boundary of the site from the north western corner of the site and are offset southwards from the said boundary.

No. on the map.	Description	Situation
✓ T.21.	Yew	Approximately 80 feet along the said boundary and offset 26 feet.
✓ T.22.	Yew	Approximately 83 feet along the said boundary and offset 13 feet.
✓ T.23.	Lime	Approximately 67 feet along the said boundary and offset 8 feet.
✓ T.24.	Yew	Approximately 82 feet along the said boundary and offset 3 feet.
✓ T.25.	Holly	Approximately 90 feet along the said boundary and offset 8 feet.
✓ T.26.	Lime	Approximately 111 feet along the said boundary and offset 8 feet.
✓ T.27.	Sycamore	Approximately 140 feet along the said boundary and offset 8 feet.
✓ T.28.	Lime	Approximately 152 feet along the said boundary and offset 8 feet.
✓ T.29.	Sycamore	Approximately 186 feet along the said boundary and offset 7 feet.
✓ T.30.	Beech	Approximately 200 feet along the said boundary and offset 11 feet.
✓ T.31.	Scots Pine	Approximately 203 feet along the said boundary and offset 15 feet.
✓ T.32.	Cypress	Approximately 199 feet along the said boundary and offset 22 feet.
✓ T.33.	Cypress	Approximately 186 feet along the said boundary and offset 29 feet.
✓ T.34.	Cypress	Approximately 224 feet along the said boundary and offset 30 feet.
✓ T.35.	Spruce	Approximately 223 feet along the said boundary and offset 21 feet.
✓ T.36.	Beech	Approximately 222 feet along the said boundary and offset 16 feet.

No. on the map.	Description	Situation
✓T.37.	Beech	Approximately 232 feet along the said boundary and offset 6 feet.
✓T.38.	Beech	Approximately 236 feet along the said boundary and offset 17 feet.
✓T.39.	Beech	Approximately 248 feet along the said boundary and offset 6 feet.
✓T.40.	Beech	Approximately 261 feet along the said boundary and offset 12 feet.
✓T.41.	Cypress	Approximately 291 feet along the said boundary and offset 21 feet.
✓T.42.	Yew	Approximately 290 feet along the said boundary and offset 5 feet.
✓T.43.	Sycamore	Approximately 315 feet along the said boundary and offset 6 feet.
✓T.44.	Yew	Approximately 314 feet along the said boundary and offset 14 feet.

TREES SPECIFIED BY REFERENCE TO
AN AREA

NONE

GROUPS OF TREES

NONE

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.
- (3) the cutting down, topping or lopping of a tree
 - (a) which is dying or dead or has become dangerous;
 - (b) in compliance with an obligation imposed by or under an Act of Parliament;
 - (c) for the purpose of preventing or abating a nuisance;
 - (d) in pursuance of the power conferred on the Postmaster General by virtue of Section 5 of the Telegraph (Construction) Act, 1908;
 - (e) 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 Planning Act and either works on such land cannot otherwise be carried out or the cutting down, 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; or
 - (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, where the tree interferes or would interfere with the exercise of any of the functions of such River Authority or Drainage Board in relation to the maintenance, improvement or construction of water courses or of drainage works;

- (f) where immediately required for the purpose of carrying out development authorised by a planning permission granted on an application made under Part III of the Planning Act, or deemed to have been so granted for any of the purposes of that Part;
- (g) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

THIRD SCHEDULE

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

Reference of applications to the Minister.

22. (1) The Minister 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 Minister accordingly.

(4) Where an application for consent under the Order is referred to the Minister 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 Minister 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 Minister for the purpose.

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

Appeals against decisions.

23. (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 is given by the authority, the applicant, if he is aggrieved by their decision on the application, or by any such certificate, may by notice under this section appeal to the Minister.

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

(4) Where an appeal is brought under this section from a decision, or certificate of the authority, the Minister, 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, and may deal with the application as if it had been made to him in the first instance.

(5) Before determining an appeal under this section, the Minister 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 Minister for the purpose.

(7) The decision of the Minister on any appeal under this section shall be final.

Appeal in
default of
decision.

24. 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 Minister in accordance with directions given under Section 22 of this 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.

Power to
revoke or
modify the
consent
under the
order.

27. (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) An order under this Section shall not take effect unless it is confirmed by the Minister; and the Minister 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 Minister for his confirmation under this section, the authority shall furnish the Minister with a statement of their reason for making the order and shall serve notice on the owner 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 Minister, 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 Minister 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, no operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Minister under subsection (2) of this Section.

FOURTH SCHEDULE

Provisions of the following parts of Part II of the Amenities Act as adapted and modified to apply to this Order.

Replace- ment of trees.

Section 13 - (1) If any tree in respect of which a tree preservation order is for the time being in force, other than a tree to which the order applies as part of a woodland, is removed or destroyed in contravention of the order or is removed or destroyed or dies at a time when its cutting down is authorised only by the provisions of section 29 (7) of the Planning Act relating to trees which are dying or dead or have become dangerous, it shall be the duty of the owner of the land, unless on his application the local planning authority dispense with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

(2) In relation to any tree planted pursuant to this section, the relevant tree preservation order shall apply as it applied to the original tree.

(3) The duty imposed by subsection (1) of this section on the owner of any land shall attach to the person who is from time to time the owner of the land and may be enforced as provided by section 14 of this Act and not otherwise.

Default powers and appeals.

Section 14 - (1) If it appears to the local planning authority that the provisions of section 13 of this Act, ~~or~~ any conditions of a consent given under a tree preservation order which requires the replacement of trees, are not complied with in the case of any tree or trees that authority may, at any time within four years from the date of the alleged failure to comply with the said provisions or conditions, 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.

(2) Subject to the following provisions of this section, a notice under this section shall take effect at the end of such period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.

(3) A person on whom a notice under this section is served may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Minister against the notice on the ground -

- (a) that the provisions of the said section 13 or the conditions aforesaid are not applicable or have been complied with;
- (b) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified therein;
- (c) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry;

(d) that the place on which the tree is or trees are required to be planted is unsuitable for that purpose;

and subsections (2) and (5) of section 46 and section 180 of the Planning Act (procedure and powers of Minister on appeal, and appeals to the High Court from decision of Minister) shall apply in relation to any such appeal as they apply in relation to an appeal against an enforcement notice.

(4) In Section 48 of the Planning Act (execution by local planning authority of works required by an enforcement notice) and in section 49 of that Act (supplementary provisions as to enforcement notices) and any regulations in force under that section, references to an enforcement notice and an enforcement notice served in respect of development shall include references to a notice under this section; and in relation to such a notice the reference in subsection (1) of the said section 49 to the person by whom the development was carried out be construed as a reference to any person, other than the owner, responsible for the cutting down, destruction or removal of the original tree or trees.

THE COMMON SEAL OF THE COUNTY)
COUNCIL OF THE ADMINISTRATIVE)
COUNTY OF NORTHUMBERLAND was) L.S.
hereunto affixed in the)
presence of:-)

Ridley

Chairman of the County Council

C.W. Hurley

Clerk of the County Council

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COUNTY OF NORTHAMPTON

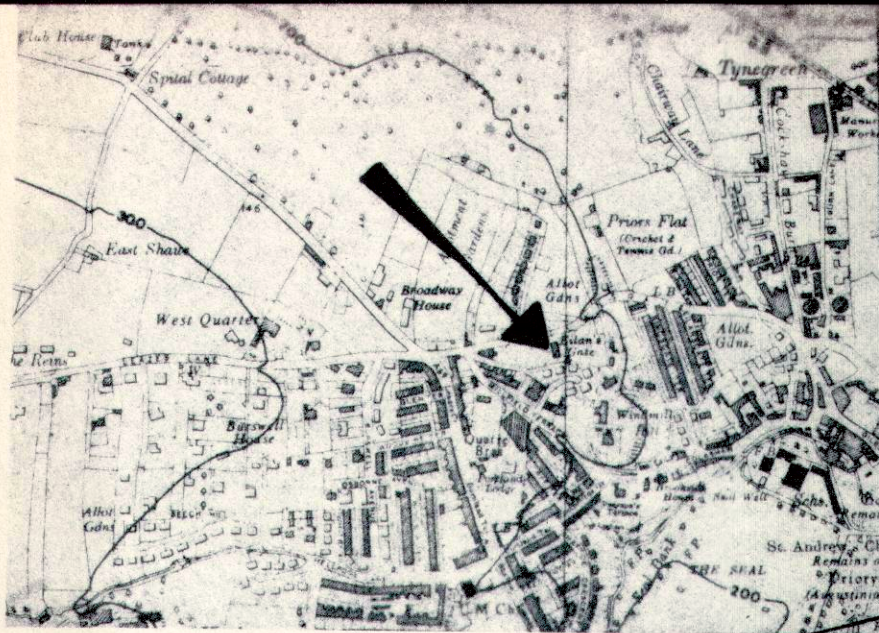
TOWN AND COUNTRY PLANNING
ACT, 1990
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THE
COUNTY OF NORTHAMPTON

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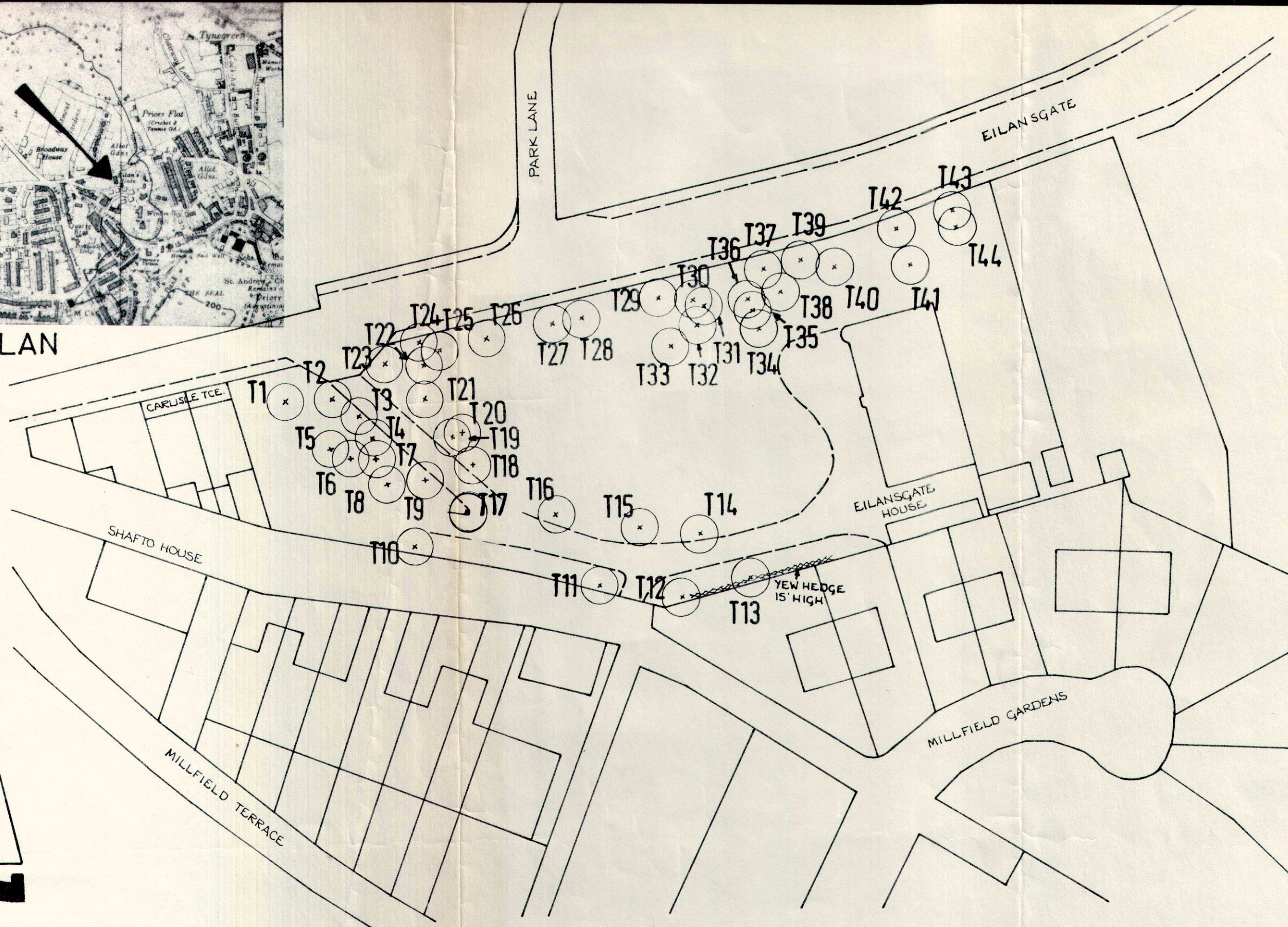
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LOCATION PLAN



scale: 1/500
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THE COUNTY OF NORTHUMBERLAND.
 (EILANSGATE HOUSE) *HEXHAM*
 TREE PRESERVATION ORDER, 1968.