

# **The Town and Country Planning (Scotland) Act 1997**

## **Loch Lomond and The Trossachs National Park Authority Tree Preservation Order**

### **Number 1 of 2022**

LOCH LOMOND AND THE TROSSACHS NATIONAL PARK AUTHORITY, a body corporate established in terms of and acting under the National Parks (Scotland) Act 2000 and the Loch Lomond and The Trossachs National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2002 and having its principal office at National Park Headquarters, Carrochan, 20 Carrochan Road, Balloch, G83 8EG makes the following Tree Preservation Order in exercise of the powers conferred by section 160 of the Town and Country Planning (Scotland) Act 1997 as amended and all other powers enabling it to do so.

### **Reason for making this Tree Preservation Order**

Trees and woodland are a key part of the locally important Arden House designed landscape. The grade B listed property dates from 1868 however an earlier house was present on the site from the 1770s. First edition Ordnance Survey maps from the 1860s show established trees and woodland cover therefore it is likely that some of the trees date from the time of the earlier house. The current house and its policies are prominent in the landscape, especially when viewed from Loch Lomond, and make an important contribution to the scenic and historic character of the area. Loss or fragmentation of the existing tree and woodland cover would have an adverse impact on the amenity and landscape setting of Arden House and the associated buildings.

A Tree Preservation Order will help to preserve and maintain the trees and woodland which create the setting of this listed building and the associated designed landscape by ensuring that when felling or other trees works are needed they are appropriate, and replacement planting is undertaken when required.

In the interests of amenity it is therefore appropriate to protect the trees and woodland around Arden House with this Tree Preservation Order which updates the protection afforded by the previous Order dating from 1998.

### **Citation, commencement and interpretation**

1. -(1) This Order may be cited as the Loch Lomond and The Trossachs National Park Authority Tree Preservation Order Number 1 of 2022 ("**this Order**") and takes effect on the date of execution hereof.

(2) In this Order-

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

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

"**the Plan**" means Plan 1 annexed and signed as relevant to this Order;

**"Article"** means an article of this Order

**"operational land"** has the meaning attributed to it by Section 215 of the Act;

**"planning authority"** has the meaning attributed to it in the Act;

**"protected tree"** has the meaning given in Article 2;

**"Schedule"** means a schedule annexed and signed as relevant to this Order;

**"statutory undertaker"** has the meaning attributed to it by Section 214 of the Act;

(3) In this Order, unless otherwise specified or the context otherwise requires:

(a) any reference to one gender includes all other genders;

(b) words in the singular only include the plural and vice versa;

(c) any reference to the whole is to be treated as including reference to any part of the whole;

(d) any reference to a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and words importing individuals include corporations and vice versa;

(e) any reference to an Article, Schedule or Part of a Schedule is to the relevant Article, Schedule or Part of a Schedule of or to this Order;

(f) any reference to a statute or statutory provision includes any subordinate legislation which is in force from time to time under that statute or statutory provision;

(g) any reference to any statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time taking account of any amendment or re-enactment;

### **Protected Trees**

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

(2) The position of such trees, groups of trees or woodlands is identified in the manner indicated in Schedule 1 and on the Plan.

(3) Where any ambiguity as to the identification of a protected tree arises between the Plan and the specification in Schedule 1, the Plan is to prevail.

### **Prohibited Acts**

3. - Subject to the provisions of the Act and the exemptions specified in Article 4, 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.

## **Exemptions**

### **4. - 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, uprooting, topping or lopping of a tree on land in the occupation of a planning authority when this is done by or with the consent of that authority;

(c) the cutting down, uprooting, topping or lopping of a tree by, or on behalf of, Scottish Forestry on land placed at their disposal in pursuance of the Forestry and Land Management (Scotland) Act 2018 or otherwise under their management or supervision;

(d) 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 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

(e) 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;

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

(g) the cutting down, topping, lopping or uprooting of a tree where that work is 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 3 or Section 242A of the Act, or deemed to have been granted (whether for the purposes of Part 3 of the Act or otherwise); or

(h) 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**

**5. -** (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-

- (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**

6. - (1) The provisions of the Act mentioned in column 1 of Part 1 of Schedule 2 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 1 of that Schedule.

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

### **Compensation**

7. - (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 this Order consisting of this and the four preceding pages together with the Schedules and Plan annexed and signed as relative hereto are signed for and on behalf of Loch Lomond and The Trossachs National Park Authority at Balloch

On the.....17<sup>th</sup>.....day of March 2022

By..........Authorised Signatory

.....STUART THOMAS WEARNS.....Full Name

Before this witness:



.....Witness

.....ANNA MACLEAN.....Full Name

of Carrochan, 20 Carrochan road, Balloch G83 8EG.

This is the Schedule 1 referred to in the foregoing Tree Preservation Order entitled “Loch Lomond and The Trossachs National Park Authority Tree Preservation Order Number 1 of 2022”

### **SCHEDULE 1**

#### **Protected Trees referred to in Article 2 of this Order**

<b>Trees Specified Individually (coloured green on the Plan)</b>		
<b>No. on Plan</b>	<b>Description</b>	<b>Situation</b>
T1	Juniper ( <i>Juniperus</i> sp)	Lying within part and portion of All and Whole that area of ground known as Arden House, Arden, Alexandria G83 8RD comprising <b>(In the First Place)</b> ALL and WHOLE the subjects known as and forming Flat A, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB55427; <b>(In the Second Place)</b> ALL and WHOLE the subjects known as and forming Flat B, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB55247; <b>(In the Third Place)</b> ALL and WHOLE the subjects known as and forming Flat C, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB55480; <b>(In the Fourth Place)</b> ALL and WHOLE the subjects known as and forming Flat D, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB54865; <b>(In the Fifth Place)</b> ALL and WHOLE the subjects known as and forming Flat E, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB55050; <b>(In the Sixth Place)</b> ALL and WHOLE the subjects known as and forming Flat F, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB55500; <b>(In the Seventh Place)</b> ALL and WHOLE the subjects known as and forming Flat G, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB55605; <b>(In the Eighth Place)</b> ALL and WHOLE the subjects known as and forming Flat H, Arden

		House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB55530; <b>(In the Ninth Place)</b> ALL and WHOLE the subjects known as and forming Flat I, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB2105; <b>(In the Tenth Place)</b> ALL and WHOLE the subjects known as and forming Flat J, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB55278; <b>(In the Eleventh Place)</b> ALL and WHOLE the subjects known as and forming Flat K, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB55810; <b>(In the Twelfth Place)</b> ALL and WHOLE the subjects known as and forming Flat L, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB55991; <b>(In the Thirteenth Place)</b> ALL and WHOLE the subjects known as and forming Flat M, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB56090; and <b>(In the Fourteenth Place)</b> ALL and WHOLE the subjects known as and forming Flat N, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB55522, which subjects more particularly described <b>(In the First Place)</b> to <b>(In the Fourteenth Place)</b> inclusive are together hereinafter referred to as “ <b>the Arden House policies</b> ”.
T2	Oak ( <i>Quercus robur/petraea</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree “T1” on the Plan.
T3	Horse Chestnut ( <i>Aesculus hippocastanum</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree “T1” on the Plan.
T4	Sycamore ( <i>Acer pseudoplatanus</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree “T1” on the Plan.
T5	Copper Beech ( <i>Fagus sylvatica f. purpurea</i> )	Lying within ALL and WHOLE the subjects known as and forming Arden North Lodge, Arden, Alexandria

		G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB50785
T6	Oak ( <i>Quercus robur/petraea</i> )	Lying within ALL and WHOLE the subjects known as and forming Arden North Lodge, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB50785
T7 to T10 inclusive	All trees are Lime ( <i>Tilia</i> sp)	All lying within ALL and WHOLE the subjects known as and forming Arden North Lodge, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB50785
T11	Horse Chestnut ( <i>Aesculus hippocastanum</i> )	Lying within ALL and WHOLE the subjects known as and forming Arden North Lodge, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB50785
T12	Lime ( <i>Tilia</i> sp)	Lying within ALL and WHOLE the subjects known as and forming Arden North Lodge, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB50785
T13	Oak ( <i>Quercus robur/petraea</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.
T14	Holly ( <i>Ilex aquifolium</i> )	Lying within ALL and WHOLE the subjects known as and forming Arden Cottage being part and portion of the subjects more particularly described in, disposed by and outlined in red on the plan annexed to a Disposition by The Trustees of Sir James Robert Lumsden to James Malcolm Campbell Lumsden, recorded GRS (Dumbarton) 13 <sup>th</sup> July 1987
T15 & T16	Both trees are Beech ( <i>Fagus sylvatica</i> )	Lying within ALL and WHOLE the subjects known as and forming Arden Cottage being part and portion of the subjects more particularly described in, disposed by and outlined in red on the plan annexed to a Disposition by The Trustees of Sir James Robert Lumsden to James Malcolm Campbell Lumsden, recorded GRS (Dumbarton) 13 <sup>th</sup> July 1987
T17	Birch ( <i>Betula pedula/pubescens</i> )	Lying within ALL and WHOLE that plot or area of ground tinted pink and being part of the subjects known as and forming Coach House, Arden G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB74792
T18	Oak ( <i>Quercus robur/petraea</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.



T19	Poplar ( <i>Populus</i> sp)	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.
T20	Oak ( <i>Quercus robur/petraea</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.
T21	Dawn Redwood ( <i>Metasequoia glyptostroboides</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.
T22	Yew ( <i>Taxus baccata</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.
T23	Sweet Chestnut ( <i>Castanea sativa</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.
T24	Larch ( <i>Larix</i> sp)	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.
T25	Lime ( <i>Tilia</i> sp)	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.
T26	Giant Redwood ( <i>Sequoiadendron giganteum</i> )	Lying within part and portion of ALL and WHOLE that area of ground known as The Coach House, Arden G83 8RD comprising ( <b>In the First Place</b> ) ALL and WHOLE the subjects known as and forming The Coach House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB51382; ( <b>In the Second Place</b> ) ALL and WHOLE the subjects known as and forming East Wing, Coach House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB72726; ( <b>In the Third Place</b> ) ALL and WHOLE the subjects known as and forming West Wing, Coach House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB73151; ( <b>In the Fourth Place</b> ) ALL and WHOLE that plot or area of ground tinted pink and being part of the subjects known as and forming Coach House, Arden G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB74792; and ( <b>In the Fifth Place</b> ) ALL and WHOLE that plot or area of ground being part of the subjects known as and forming Coach

		House, Arden G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB92737; which subjects more particularly described ( <b>In the First Place</b> ) to ( <b>In the Fifth Place</b> ) inclusive are together hereinafter referred to as “ <b>the Coach House Apartments</b> ”
T27	Cypress ( <i>Cupressus</i> sp)	Lying within part and portion of ALL and WHOLE the Coach House Apartments more particularly described above in relation to tree “T26” on the Plan.
T28	Douglas Fir ( <i>Pseudotsuga menziesii</i> )	Lying within part and portion of ALL and WHOLE the Coach House Apartments more particularly described above in relation to tree “T26” on the Plan.
T29	Coastal Redwood ( <i>Sequoia sempervirens</i> )	Lying within part and portion of ALL and WHOLE the Coach House Apartments more particularly described above in relation to tree “T26” on the Plan.
T30	Oak ( <i>Quercus robur/petraea</i> )	Lying within part and portion of ALL and WHOLE the Coach House Apartments more particularly described above in relation to tree “T26” on the Plan.
T31	Cedar ( <i>Cedrus</i> sp)	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree “T1” on the Plan.
T32 to T34 inclusive	All trees are Oak ( <i>Quercus robur/petraea</i> )	All trees lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree “T1” on the Plan.
T35	Giant Redwood ( <i>Sequoiadendron giganteum</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree “T1” on the Plan.
T36	Douglas Fir ( <i>Pseudotsuga menziesii</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree “T1” on the Plan.
T37	Noble Fir ( <i>Abies procera</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree “T1” on the Plan.
T38	Oak ( <i>Quercus robur/petraea</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree “T1” on the Plan.
T39 and T40	Both trees are Sweet Chestnut ( <i>Castanea sativa</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree “T1” on the Plan.

T41	Japanese Maple ( <i>Acer palmatum</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.
T42 and T43	Both trees are Oak ( <i>Quercus robur/petraea</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.
T44 and T45	Both trees are Yew ( <i>Taxus baccata</i> )	Lying within ALL and WHOLE the subjects known as and forming East Wing, Coach House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB72726
T46	Oak ( <i>Quercus robur/petraea</i> )	Lying within ALL and WHOLE the subjects known as and forming East Wing, Coach House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB72726
T47	Oak ( <i>Quercus robur/petraea</i> )	Lying within ALL and WHOLE the subjects known as and forming Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB50585
T48	Yew ( <i>Taxus baccata</i> )	Lying within ALL and WHOLE the subjects known as and forming Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB50585
T49	Japanese Maple ( <i>Acer palmatum</i> )	Lying within ALL and WHOLE the subjects known as and forming Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB50585
T50	Sweet Chestnut ( <i>Castanea sativa</i> )	Lying partly within ( <b>In the First Place</b> ) ALL and WHOLE the subjects known as and forming Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB50585 and ( <b>In the Second Place</b> ) ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.
T51	Sweet Chestnut ( <i>Castanea sativa</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.

**Groups of Trees within a broken black line on the Plan**

No. on Plan	Description	Situation
G1	3 Western hemlock ( <i>Tsuga heterophylla</i> ) and 2 Holly ( <i>Ilex aquifolium</i> )	Lying within ALL and WHOLE the subjects known as and forming East Wing, Coach House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB72726
G2	5 Birch ( <i>Betula pedula/pubescens</i> )	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.
<b>Woodlands (within a continuous red line on the Plan)</b>		
No. on Plan	Description	Situation
W1	Mature woodland - predominately Broadleaved	Lying within part and portion of ALL and WHOLE ( <b>In the First Place</b> ) that plot or area of ground being part of the Auchendennan, Alexandria To Arden, diversion of the A82 Trunk Road being the subjects registered in the Land Register of Scotland under Title Number DMB29042; ( <b>In the Second Place</b> ) ALL and WHOLE that plot or area of ground being part of the A82 at Arden and being the subjects registered in the Land Register of Scotland under Title Number DMB31013; ( <b>In the Third Place</b> ) ALL and Whole that plot or area or ground comprising 113.5 hectares known as Midross, Luss, Alexandria being the subjects registered in the Land Register of Scotland under Title Number DMB74422; ( <b>In the Fourth Place</b> ) ALL and Whole that plot or area or ground comprising part and portion of the Lands and Barony of Luss and Others more particularly described in and disposed by a Disposition by Sir Ivar Colquhoun to Luss Estates Company dated Third and Eleventh January and registered in the Division of the General Register of Sasines for the County of Dumbarton on Twenty Fourth December both months in the year Nineteen hundred and sixty three; ( <b>In the Fifth Place</b> ) ALL and Whole that plot or area or ground known as Arden Cottage, Arden forming part and portion of the Lands and Estate of Arden more particularly described in and disposed by a

		<p>Disposition by the Trustees of the late Sir James Robert Lumsden of Arden to James Malcolm Campbell Lumsden dated Twenty Fifth and Thirtieth June and registered in the said Division of the General Register of Sasines on Thirteenth July both months in the year Nineteen Hundred and Eighty Seven; <b>(In the Sixth Place)</b> ALL and WHOLE the subjects known as and forming The Coach House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB51382; <b>(In the Seventh Place)</b> ALL and WHOLE the subjects known as and forming East Wing, Coach House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB72726; <b>(In the Eighth Place)</b> ALL and WHOLE the subjects known as and forming West Wing, Coach House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB73151; <b>(In the Ninth Place)</b> ALL and WHOLE that plot or area of ground tinted pink and being part of the subjects known as and forming Coach House, Arden G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB74792; <b>(In the Tenth Place)</b> ALL and WHOLE that plot or area of ground being part of the subjects known as and forming Coach House, Arden G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB92737; <b>(In the Eleventh Place)</b> ALL and WHOLE the subjects known as and forming Bonniebanks, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB85302; <b>(In the Twelfth Place)</b> ALL and WHOLE the subjects known as and forming Gardeners Cottage, Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB5988; <b>(In the Thirteenth Place)</b> ALL and WHOLE the subjects known as and forming Burnfoot Of Ross Farm, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB93297; <b>(In the Fourteenth Place)</b> ALL and WHOLE the subjects known as and forming Chalet/Hut 1, Burnfoot Of Ross Farm, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number</p>
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		DMB98347; <b>(In the Fifteenth Place)</b> ALL and WHOLE the subjects known as and forming Arden House, Arden, Alexandria G83 8RD being the subjects registered in the Land Register of Scotland under Title Number DMB50585; and <b>(In the Sixteenth Place)</b> ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan
W2	Mature woodland - predominately Broadleaved	Lying within part and portion of ALL and WHOLE <b>(In the First Place)</b> ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan and <b>(In the Second Place)</b> ALL and WHOLE the Coach House Apartments more particularly described above in relation to tree "T26" on the Plan.
W3	Mature woodland - predominately Broadleaved	Lying within part and portion of ALL and WHOLE the Arden House policies more particularly described above in relation to tree "T1" on the Plan.

  
 .....  
 Authorised Signatory

This is the Schedule 2 referred to in the foregoing Tree Preservation Order entitled "Loch Lomond and The Trossachs National Park Authority Tree Preservation Order Number 1 of 2022"

## **SCHEDULE 2**

### **Part I of Schedule 2**

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

<b>Provision of the Town and Country Planning (Scotland) Act 1997</b>	<b>Adaptation or Modification</b>
Section 36 (Registers of applications etc.)	<p>For subsections (1) to (3) substitute</p> <p>"(1) The planning authority shall in relation to this Order keep a register of all applications for consent under this Order, containing: -</p> <p>(a) information as to the nature of such applications, the decisions of the planning authority thereon,</p> <p>(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</p> <p>(c) any directions as to the replanting of woodlands."</p>
Section 37 (determination of applications: general considerations)	<p>(a) In subsection (1): -</p> <p>(d) for "planning permission" where those words first appear;" substitute "consent under a tree preservation order";</p> <p>(e) for "sections 27B(2) and 59(1)(b) substitute "subsections (1A) and (1B)";</p> <p>(f) for "planning permission" in both of the other places where those words appear substitute "consent under the order";</p> <p>(g) after "think fit", insert, "(including conditions limiting the duration of the consent or requiring the replacement of trees)"; and</p> <p>(b) After subsection (1) insert</p> <p>"(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</p>

	<p>granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</p> <p>(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)."</p> <p>(c) Omit subsections (2) and (3); and</p> <p>(d) In subsection (4) for paragraphs (a) to (c) substitute: -</p> <p>"(a) consent under a tree preservation order; or</p> <p>(b) any consent, agreement or approval required by a condition imposed on the grant of such consent,"</p>
Section 44 (effect of planning permission)	<p>(a) references to 'planning permission' are to be treated as references to 'consent required by a tree preservation order';</p> <p>(b) for 'the permission' substitute 'the consent';</p> <p>(c) for 'to develop land' substitute 'to carry out works'; and</p> <p>(d) after 'land' insert 'on which the tree or trees to which the consent relates are situated'.</p> <p>(e) Omit subsections (2) and (3).</p>
Section 47 (right to appeal against planning decisions and failure to take such decisions)	<p>(a) For subsection (1) substitute</p> <p>"(1) Where a planning authority</p> <p>(a) refuse an application for consent under a tree preservation order or grant it subject to conditions;</p> <p>(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;</p> <p>(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</p> <p>(d) have not given notice of their decision on such an application within the period of 2 months beginning with the date on which the application was received by the authority [or</p>



	<p>within such extended period as may at any time be agreed upon in writing between the applicant and the authority],</p> <p>the applicant may by notice appeal to the Scottish Ministers".</p> <p>(b) Omit subsections (1A), (2) and (4).</p> <p>(c) For subsection (3) substitute: -</p> <p>"(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 on the Scottish Ministers within a period of three months beginning with, in the case of an appeal made under</p> <p>(a) paragraphs (a) to (c) of subsection (1), the date of the decision notice or the direction, as the case may be; and;</p> <p>(b) paragraph (d) of that subsection, the date of expiry of the period mentioned in that paragraph,".</p> <p>(d) For subsection (5) substitute-</p> <p>"(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.".</p>
Section 47A	
Section 48 (determination of appeals)	<p>(a) In subsection (5)(a): -</p> <p>(i) for "sections 33, 37(1) to (3), 38(1) to (3), 41(1) and (2) and 42 and Part I of Schedule 3" "section 37(1), (1A) and (1B)"; and</p> <p>(ii) for "planning permission" substitute "consent under a tree preservation order".</p> <p>(b) Omit subsections (5)(b) and (6) to (8).</p>

## **Part II of Schedule 2**

### **PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997, AS ADAPTED AND MODIFIED BY PART I**

The following provisions of the Town and Country Planning Act 1997, as adapted and modified by Part I 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 provision 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 shall (except in so far as the consent otherwise provides) enure 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) have not given notice of their decision on such an application within the period of 2 months beginning with the date on which the application was received by the authority [or within such extended period as may at any time be agreed upon in writing between the applicant and the authority],

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

"(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 on the Scottish Ministers within a period of three months beginning with, in the case of an appeal made under

(a) an appeal under paragraphs (a) to (c) of subsection (1), the date of the decision notice or the direction, as the case may be; and;

(b) paragraph (d) of that subsection, the date of expiry of the period mentioned in that paragraph,".

(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 it's 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 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 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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Authorised Signatory