TOWN AND COUNTRY PLANNING
(SCOTLAND) ACT 1997

ABERDEENSHIRE COUNCIL
TREE PRESERVATION ORDER
NO. 148 (2026)

Subjects: Braemar Kirk

Aberdeenshire Council
Woodhill House
Westburn Road
Aberdeen
AB16 5GB

FAS 2269

TREE PRESERVATION ORDER
TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

ABERDEENSHIRE COUNCIL TREE PRESERVATION ORDER NO. 148 (2026)
Braemar Kirk

The Aberdeenshire 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 of all other powers enabling them to do so.

CITATION, COMMENCEMENT AND INTERPRETATION

1. (1) This Order may be cited as the Aberdeenshire Council Order No. 148 (2026) and shall come into effect on 10th November 2026.

1. (2) In this Order:-

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

II. "the 1992 Order" means the Town and Country Planning (General Permitted Development) (Scotland) Order 1992

III. "Protected Tree" has the meaning given in Article 2

PROTECTED TREES

2. (1) A Protected Tree is a tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland specified in that Schedule

2. (2) The position of such trees, groups of trees or woodland is identified in the manner indicated in Schedule 1 and on the map annexed to this Order

2. (3) Where any ambiguity as to the identification of a Protected Tree arises between the map and the specification in Schedule 1 to this Order the map is to prevail.

PROHIBITION AGAINST FELLING, ETC. WITHOUT CONSENT

3. Subject to the provisions of this Order and the exemptions specified in Article 4, no person shall, except with and in accordance with the consent of the Planning Authority-

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

(b) 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 or uprooting in a woodland of a tree having a diameter not exceeding 100 millimetres, where this is done to improve the growth of other trees;

(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; *or*

(e)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.

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.

5. (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.

5. (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;

(e) protective measures against fire.

ADAPTION AND MODIFICATION OF THE ACT

6. Some of the provisions of the Act have been modified or adapted in relation to consents under this Order and applications for such consent. Those provisions as modified or adapted are set out in Schedule Two.

COMPENSATION FOR REFUSAL OF CONSENT TO WORKS OR GRANT OF CONSENT SUBJECT TO CONDITIONS

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.

7. (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.

7. (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.

7. (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.

7. (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.

7. (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.

APPLICATION OF TREE PRESERVATION ORDER TO FUTURE PLANTING

8. This Order applies to any tree specified in Schedule 1 to this order which is to be planted in pursuance of a condition imposed by virtue of Section 159(a) of the Act from the time that tree is planted.

OFFENCES AND PENALTIES ETC.

9. Under the provisions of Section 171 of the Act any person who in contravention of this Order cuts down, uproots, or wilfully destroys a tree, or wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it, shall by guilty of an offence and liable on summary conviction to a fine not exceeding £20,000, or on conviction on indictment to an unlimited fine.

IN WITNESS WHEREOF: these presents typewritten on this and the preceding three pages together with the Schedules and Map annexed as relative hereto are Sealed with the Common Seal of the Aberdeenshire Council and subscribed for and on its behalf by its Authorised Signatory and Proper Officer as follows:-

Authorised Signatory and Proper Officer	Signature of Witness
Martin Ingram	Calum John Davidson
Full Name	Full Name
10 November 2026	10 November 2026
Date of Signature	Date of Signature
Woodhill House, Aberdeen	Woodhill House, Aberdeen
Place of Signature	Place of Signature

Aberdeenshire Council Tree Preservation Order No. 148 (2026)

Braemar Kirk

SCHEDULE 1

Tree specified individually (coloured green on the map).

No. on Map	Description	Situation
T1	Lime	On land situated within the grounds of Braemar Kirk, Cluniebank Road, Braemar, AB35 5ZP NO 150912 Registered on ABN164488
T2	Lime	On land situated within the grounds of Braemar Kirk, Cluniebank Road, Braemar, AB35 5ZP NO 150912 Registered on ABN164488
T3	Lime	On land situated within the grounds of Braemar Kirk, Cluniebank Road, Braemar, AB35 5ZP NO 150912 Registered on ABN164488

Woodlands (within a continuous red line on the map)

NONE

Groups of Trees (within a broken black line on the map)

NONE

Trees specified by reference to an area (within a continuous black line on the map)

NONE

Aberdeenshire Council Tree Preservation Order No. 148 (2026)
Braemar Kirk

SCHEDULE 2

PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 AS ADAPTED AND MODIFIED

The following provisions of the Town and Country Planning (Scotland) Act 1997 as adapted or modified, 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.

36. (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).

37. (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

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) 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) have not given notice of their decision on such an application within the period of two 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.

47. (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.

47. (5) For the purposed 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.

47A(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.

48. (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.

48. (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.

48. (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.