

TOWN AND COUNTRY PLANNING ACT 1971

SOUTH KESTEVEN DISTRICT COUNCIL

DUNSBY TREE PRESERVATION ORDER, 1977

The South Kesteven District Council (in this order called "the Authority") in pursuance of the powers conferred in that behalf by Section 60 of the Town and Country Planning Act 1971 and subject to the provisions of the Forestry Act 1967, hereby make the following order:-

1. In this order -

"the Act" means the Town and Country Planning Act 1971;  
"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, 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 Secretary of State" means the Secretary of State for the Environment.

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, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of any trees specified in the First Schedule hereto, the position of which trees is specified 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 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;

Provided that where the application relates to any woodland specified in the First Schedule to this order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the areas, and shall not impose conditions on such consent requiring replacement or replanting.

(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 any directions as to replanting of woodlands and every such register shall be available for inspection by the public at all reasonable hours.

NOTE: If it is desired to fell any of the trees included in this order, whether included as trees, groups of trees or woodlands, and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application should be made not to the authority for consent under this order but to the Conservator of Forests for a licence under that Act (Section 15(5)).

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 on any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme or other grant scheme under Section 4 of the Forestry Act 1967 (except a scheme which applies to a forestry dedication covenant);
- (3) the cutting down, uprooting, topping or lopping of a tree
  - (a) in pursuance of the power conferred on the Postmaster General by virtue of Section 5 of the Telegraph (Construction) Act 1908;
  - (b) by or at the request of
    - (i) a statutory undertaker where the land of which the tree is situated is operational land as defined by the 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;
    - (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;
    - (iv) the Minister of Defence for the Royal Air Force or the Secretary of State for Trade and Industry where in the opinion of such Minister or Secretary of State the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinder the safe and efficient use of aviation or defence technical installations;
- (c) 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 Act, or deemed to have been so granted for any of the purposes of that part,
- (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

45. (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.

45. (5) Where a notice has been served in accordance with the provisions of sub-section (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 Secretary of State under sub-section (2) of this section.

46. (1) The following provisions shall have effect where the local planning authority have made an order (hereinafter called "such order") under Section 45 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such order to the Secretary of State for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such order have notified the authority in writing that they do not object to such order.

46. (2) The authority shall advertise the fact that such order has been made and the advertisement shall specify (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by such an order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose and (b) the period (not less than 14 days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such notice is given to the Secretary of State, such order may take effect by virtue of this section and without being confirmed by the Secretary of State.

46. (3) The authority shall also serve notices to the same effect on the persons mentioned in sub-section (1) above.

46. (4) The authority shall send a copy of any advertisement published under sub-section (2) above to the Secretary of State, not more than three days after the publication.


46. (5) If within the period referred to in sub-section 2(a) above no person claiming to be affected by such order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that such order be submitted to him for confirmation, such order shall at the expiration of the period referred to in sub-section (2)(b) of this section, take effect by virtue of this section and without being confirmed by the Secretary of State as required by Section 45(2) of the Act.

Unopposed  
revocation  
or  
modification  
of consent.

46. (6) This section does not apply to such order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Part III, Part IV or Part V of the Act.

GIVEN under the Seal of the South Kesteven District Council the  
*eleventh* day of *July* 19 *77*

The COMMON SEAL of the South Kesteven  
District Council was hereunto affixed  
in the presence of:-

  
Secretary

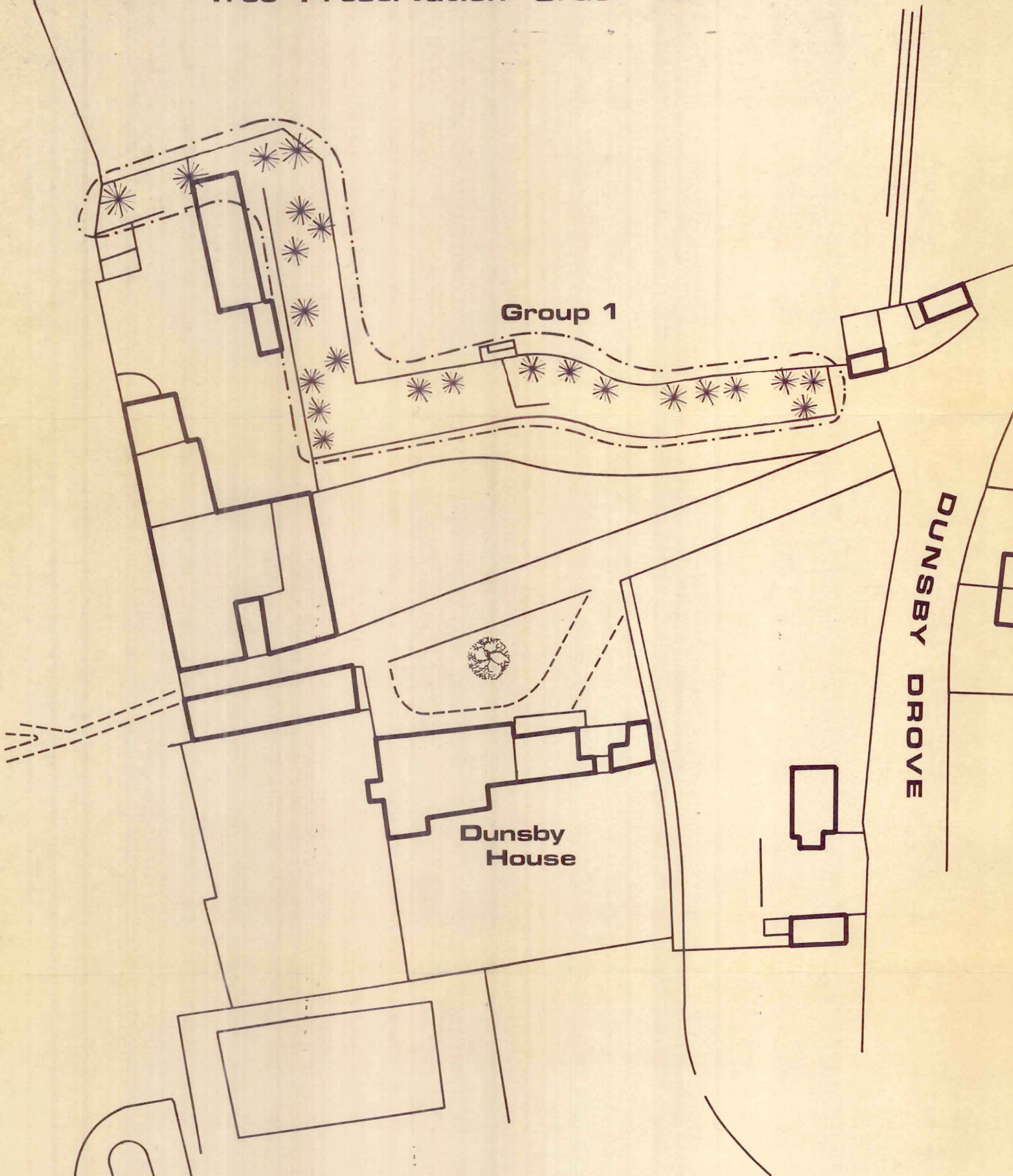


This Tree Preservation Order was confirmed by the  
South Kesteven District Council as an unopposed Order  
on the *ninth* day of *November* 197*8*

  
Secretary



Map referred to in the 'Dunsby'  
Tree Preservation Order 1977

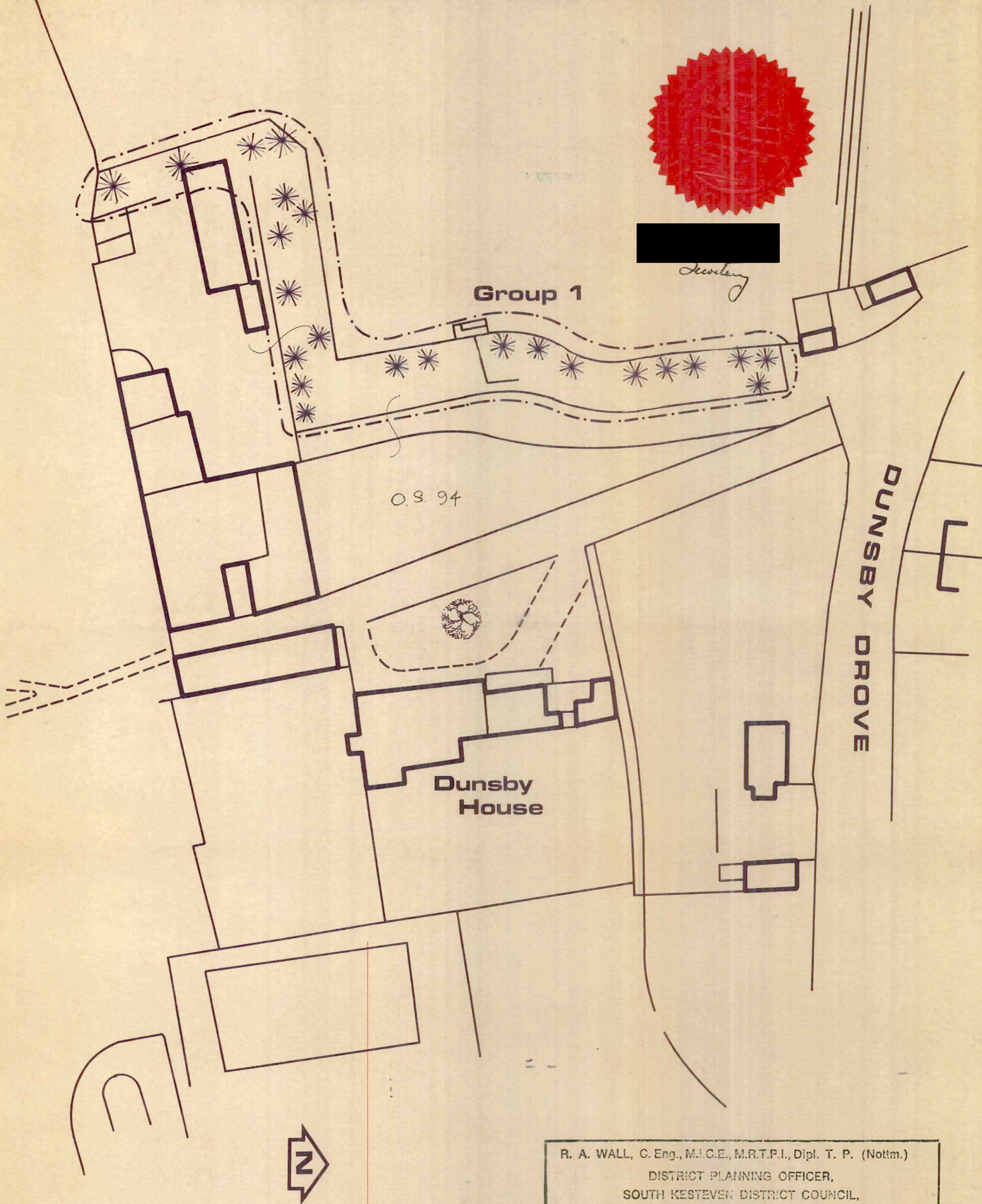


R. A. WALL, C. Eng., M.I.C.E., M.R.T.P.I., Dipl. T. P. (Nottm.)  
DISTRICT PLANNING OFFICER,  
SOUTH KESTEVEN DISTRICT COUNCIL,  
SANDON CLOSE, GRANTHAM

Scale 1:500



**Map referred to in the 'Dunsby'  
Tree Preservation Order 1977**



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