

**REPORT TO: PLANNING & REGULATORY SERVICES COMMITTEE ON
12 AUGUST 2008**

SUBJECT: TREE PRESERVATION ORDERS, KINLOSS

BY: DIRECTOR OF ENVIRONMENTAL SERVICES

1. REASON FOR REPORT

- 1.1 This report asks the Committee to confirm two provisional Tree Preservation Orders (TPO) served on two sites at Kinloss: Woodland, West of Seapark House (R1) and Damhead (R4) (See Appendix 1).
- 1.2 This report is submitted to Committee in terms of the Council's Administrative Scheme relating to the statutory functions of the Council as a Planning Authority.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee confirm the serving of provisional Tree Preservation Orders at Woodland, West of Seapark (R1) and Damhead (R4), Kinloss.**

3. BACKGROUND

- 3.1 On 20 February 2008, the Environmental Services Committee agreed to serve TPOs (Tree Preservation Orders) on two sites at Kinloss (See Appendix 1), which are designated for housing in the Emerging Moray Local Plan 2008:
- o Woodland, West of Seapark House (R1); and
 - o Damhead (R4)
- The Committee agreed that the serving of TPOs was the best way of securing the protection of the amenity/biodiversity value of the trees on both sites (paragraph 11 of minute refers).
- 3.2 Both Orders came into effect on 16 May 2008 and two separate adverts appeared in the 'Press and Journal' on 22 May 2008, inviting representations within 28 days of the advertisement date. Copies of the Orders were deposited at the Access Point for viewing. A copy of the relevant Order was served on the owners of the two sites and copies were also sent to the Forestry Commission and to the Keeper of the Register of Scotland.
- 3.3 No objections were received in relation to Woodland, West of Seapark House (R1).
- 3.4 One objection was received from Bowlts Chartered Surveyors on behalf of a client, regarding the Order served on the Damhead site. They state that their client is fully supportive of the intention of the Order to protect trees of conservation and amenity value, however they do not consider it appropriate to protect all trees on the site, including those which they consider to be in poor condition: *'the woodland is of fairly mixed quality, and a blanket Tree*

Preservation Order is considered inappropriate and unduly restrictive. They submit that trees of importance upon the site should be specifically identified within the Order.

- 3.5 The Emerging Local Plan specifies a low density development in a woodland setting for this site. So, in this case, the Order has been served on the whole of the proposed housing site to ensure that future housing development is integrated sensitively into the site and to protect, on an ongoing basis, the overall woodland amenity of the site; including its existing, mature trees and areas of trees of high amenity and/or biodiversity value within the site.
- 3.6 The serving of a TPO is consistent with the Emerging Local Plan, which clearly states that a TPO is proposed for the site (through designation ENV10). There were no objections to this ENV10 designation through the Local Plan Review process. The TPO will help to protect the overall woodland setting and the TPO's supporting survey will help to inform decision-making on any development proposals/tree works proposed.
- 3.7 TPO's do not prevent works taking place on trees, they simply require that the Council's consent is obtained for any works to the trees. Necessary tree management works (including felling of trees that are dead, dying, dangerous etc), would be acceptable under the Order.
- 3.8 Such tree management works may be identified during the course of preparing a development application for the site, which under Emerging Local Plan Policy E3 and the Supplementary Planning Guidance on Trees and Development, will require a tree survey and tree protection plan to be submitted with any development application for the site.
- 3.9 In dealing with applications for planning permission the Council would consider a range of factors, including the potential loss of protected trees. If the Council is minded to grant detailed planning permission, it can permit removal or cutting back of protected trees, if such work is justified to achieve a satisfactory development.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Development Plan/Community Plan/Service Improvement Plan

Serving of a TPO supports the third aim of the Corporate Plan by maintaining a pleasant and sustainable environment.

(b) Policy and Legal

Serving of a TPO offers protection to trees that are considered to be of important amenity and/or biodiversity value. The Order prohibits the cutting down, topping, lopping or uprooting of the trees without the Council's consent.

(c) Resources (Financial, Risks, Staffing and Property)

There are no significant financial or staffing implications arising from this report. The trees remain the responsibility of the owner.

(d) Consultations

Dianne Dawson, Paralegal (Legal Services) has been consulted about the content of this report and its recommendations and her comments incorporated.

5. CONCLUSION

- 5.1 Since no objections have been received to the serving of a Tree Preservation Order (TPO) on the housing site at Woodland, West of Seapark House at Kinloss, it is considered that this TPO should be confirmed without any amendment.**
- 5.2 The objection received regarding the TPO at the housing site at Damhead, Kinloss (suggesting that the TPO should be specifically linked to particular trees of importance) is contrary to the intent of the approved Local Plan designation protecting the woodland amenity of the whole site. Therefore this TPO should also be confirmed without any amendment.**
- 5.3 It is understood that, following discussions with officers, the objection from Bowlts Chartered Surveyors may be withdrawn. The up-to-date position will be reported orally at the Committee meeting.**

Author of Report: Amanda Howard, Planning Officer
Background Papers:
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