



REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON 11 AUGUST 2015

SUBJECT: TREE PRESERVATION ORDERS

BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT, PLANNING AND INFRASTRUCTURE)

1. REASON FOR REPORT

- 1.1 This report asks Committee to agree a series of actions to serve, revoke or confirm Tree Preservation Orders in response to a number of issues arising.
- 1.2 This report is submitted to Committee in terms of Section III E (6) of the Council's Scheme of Administration relating to making orders for the preservation of trees including the power to make orders of an urgent nature.

2. RECOMMENDATION

2.1 It is recommended that the Committee agree to:

- (i) serve a Tree Preservation Order at Pluscarden Road, Elgin;**
- (ii) revoke Tree Preservation Orders at:-**
 - a. Mosstodloch Woodland Strip**
 - b. Tollbooth Street/South Street, Forres**
 - c. Waulkmill, Elgin; and**
- (iii) confirm an Emergency Tree Preservation Order at Kinloss Park, Kinloss**

3. BACKGROUND

- 3.1 Policy E4: Trees and Development of the Moray Local Development Plan 2015 (as modified), supports the serving of Tree Preservation Orders (TPO's) on potentially vulnerable trees which are of significant amenity value to the community as a whole, or trees of significant biodiversity value.
- 3.2 In Moray there are 36 TPO's and a number of issues have emerged recently requiring a review of some of the Orders and consideration of serving new Orders. Location maps are provided in **Appendix 1**.

4. PROPOSALS

To serve a TPO at Pluscarden Road, Elgin

- 4.1 The Committee is asked to support the serving of a TPO on all of the trees within the ENV10 designation at Pluscarden Road, Elgin. The proposal to serve this TPO is in the Action Programme of the Moray Local Development Plan 2015 (as modified) which was approved by this Committee on 24 June 2015 as a material consideration for development management purposes (paragraph 3 of the draft minute refers).
- 4.2 ENV designations are subject to Policy E5 Open Spaces, which aim to protect and safeguard open spaces. They do not offer any statutory protection for trees within them. Open spaces provide opportunities for social contact and recreation and provide biodiversity and landscape benefits. The policy also aims to maintain and protect green corridors which link woodlands and open space.
- 4.3 The trees within the designation are situated to the south of the railway line and run parallel to Wiseman Road. They are all mature, of significant height, and are integral to the character of the surrounding area. The trees are highly visible from Wiseman Road and act as an attractive woodland backdrop, soften the urban landscape and provide biodiversity to this residential area. The trees are located adjacent to a childrens play area which has an ENV4 designation in the Moray Local Development Plan 2015 (as modified). The trees run along the northern boundary of the childrens play area providing an attractive backdrop for users to enjoy. Being located next to the play area, which is open in its nature, makes the trees highly visible on approach from the south and act as an important gateway feature into Elgin.
- 4.4 The risk of losing these trees either incrementally or as a whole would have a serious detrimental impact to the character of this area. With further housing sites allocated to the south of the proposed TPO in the Moray Local Development Plan 2015 (as modified), being able to maintain these trees and the significant amenity and landscape value that they bring to this area is important to create an attractive place in the coming years.
- 4.5 Having assessed the trees within the ENV10 designation, it is evident that they have significant amenity value to the community, are of significant biodiversity value and are an integral element to the character of the surrounding area. The trees not only add value and character to individual streets and properties, but they also provide woodland character to the wider area which complies with Policy E4: Trees and Development. The serving of a TPO set out in the Action Plan of the Moray Local Development Plan 2015 (as modified) will ensure that these trees are protected for future generations to enjoy.

Revoke TPO's

- 4.6 Mosstodloch Woodland Strip-
This TPO covers the land which forms the north-western boundary of Mosstodloch. The land that the TPO covers is also designated as ENV6 to protect open space and green corridors. There are very few trees remaining as they have been felled over the years as the homeowners have expanded their gardens to incorporate the ENV6 land. The Moray Local Plan 2008 set out an action plan to revoke the TPO due to the lack of trees being protected by the designation. Therefore it is proposed to revoke the TPO.
- 4.7 Tolbooth Street/South Street, Forres-
The TPO covers an individual tree on the corner of Tolbooth Street and South Street. The tree was badly damaged during a storm and was removed a number of years ago. Given the location, proximity of boundary walls and adjacent property, replacement planting is considered inappropriate. It is proposed that the Committee revoke the TPO designation.
- 4.8 Waulkmill, Elgin-
The TPO covers an area of open space that sits in front of the properties of Waulkmill Grove and a small wooded area of open space situated behind Barlink Road, Waulkmill Grove and Reynolds Crescent. The area of open space behind Waulkmill Grove currently contains a children's playground. Both areas of open space are currently located within ENV6 identified in the Moray Local Development Plan 2015 (as modified).
- 4.9 Several tree surveys have been undertaken with the most recent ones being completed in 2010 and 2014 and both conclude that the trees are in significantly poor condition. The surveys further conclude that the trees are not suitable for this urban location and pose a serious risk to people and property. Both reports highlight that due to the lack of maintenance, any potential management plan will not work and any thinning or removal of trees could further increase the risk of windblow. The overall conclusion from the 2010 report by the Scottish Woodlands was to clearfell and replant with a more open landscaped woodland that is more appropriate for this urban setting. Based on the findings of the two most recent tree surveys it is considered necessary to revoke the TPO from both ENV designations. While it is accepted that the trees within the area add amenity value, it is clear that even with a maintenance plan the lifespan and condition of the trees cannot be improved and a proactive long term solution for this area has to be sought.
- 4.10 The area has some long standing issues related to loss of daylight and falling branches, early discussion with a developer on improving the area, creating an area of open space that is welcoming and inclusive are taking place and it is likely proposals for redevelopment would come forward if the TPO is revoked.
- 4.11 While it is regrettable that mature trees will be lost, expert advice concludes that measures have to be taken in order to enhance this area for the long term safety of the residents and provide an improved and attractive area of open space more appropriate for this setting. The trees pose a current short term health and safety risk and no long term management plan can offer an

effective solution with the recommendation to clearfell being the best option. It is proposed to revoke this TPO so that plans can progress.

Confirm an Emergency TPO at Kinloss Park, Kinloss.

- 4.12 The Committee is asked to confirm an emergency Tree Preservation Order (TPO) on the trees to the rear of the properties of Kinloss Park, Kinloss that fall within ENV6 green corridor/woodland strip designation of the Moray Local Development Plan 2015 (as modified). Any development on this land is subject to Policy E5: Open Spaces of the Moray Local Development Plan 2015 (as modified). This Policy aims to maintain, protect, and minimise adverse impacts on the recreational, amenity and biodiversity of the site.
- 4.13 The strip of land to the rear of the properties at Kinloss Park was sold to the residents by the MOD subject to the ENV6 designation. An assessment of the site concluded that a significant number of residents at Kinloss Park are utilising this strip of land as additional garden ground. This would require a planning application for a change of use which would be a departure from the Moray Local Development Plan 2015 (as modified). It is accepted that due to the large numbers of properties involved that over time the ENV6 designation has lost some of its woodland integrity that the designation aimed to protect with the exception of the remaining trees.
- 4.14 The land subject to the ENV6 designation contains a significant number of mature trees that add visual character, softens the urban landscape, and adds amenity value to Kinloss and the residents of Kinloss Park. The trees are both highly visible from Kinloss Park and from the B9089 which is the main arterial route through Kinloss. The trees are long standing and should continue to be an amenity feature that contributes significantly to the woodland characteristics of Kinloss Park. The trees are deemed to be of significant amenity value and their removal would be detrimental to the character of both Kinloss Park and Kinloss.
- 4.15 The ENV6 designation currently does not provide statutory protection for the felling of trees. An emergency TPO was required immediately to protect these trees as several have been felled as residents have begun adopting the land as garden ground. If applications for a change of use of the ENV strip to domestic ground are approved as an acceptable departure from the Moray Local Development Plan 2015 (as modified), then there is a danger that further trees could be felled. There is concern as several residents have contacted the planning department about applying for a change of use and there is a threat that trees could be felled during the summer months.
- 4.16 For these reasons it is important that they are protected and the serving of an emergency TPO ensured this immediate protection. If the emergency TPO is confirmed then any representations will be reported back to the Committee before the final TPO is confirmed.

5. SUMMARY OF IMPLICATIONS

(a) Moray 2023: A Plan for the Future/Service Plan

Moray 2023 identifies the need to promote healthier, sustainable lives. Serving TPO's protects significant trees and woodlands and conserves the local natural environment and helps promote healthy lifestyles.

(b) Policy and Legal

Policy E4: Trees and Development in the Moray Local Development Plan (as modified) 2015 enables the protection of potentially vulnerable trees which have significant amenity value to the community or significant biodiversity value.

Policy ER2: Development in Woodlands in the Moray Local Development Plan (as modified) 2015 requires the provision of compensatory planting of trees where development proposals involve the felling of trees or woodland.

(c) Financial implications

None.

(d) Risk Implications

The report has highlighted a number of proposals which are aimed at addressing issues of public safety and the safeguarding of amenity development.

(e) Staffing Implications

Serving and revoking TPO's has staffing implications for Legal Services.

(f) Property

None

(g) Equalities

None

(h) Consultations

Aileen Scott (Legal Services Manager), Don Toonen (Equal Opportunities Officer), Jim Grant (Head of Development Services), Darren Westmacott (Committee Services Officer), Ken Kennedy (Lands and Parks Officer), and Stuart Dale (Planning Officer- Enforcement) have been consulted and comments received have been incorporated into the report.

6. CONCLUSION

- 6.1 TPO's are designations attached to important, feature and character creating trees and woodlands to protect the amenity value they contribute to the local community.**
- 6.2 A number of issues have recently emerged regarding some of the TPO's within Moray. The report proposes that a TPO is served at Pluscarden Road, Elgin and an emergency TPO is confirmed at Kinloss Park, Kinloss to safeguard the amenity value provided these trees. The report also proposes that TPO's are revoked at Mosstodloch woodland strip and Tolbooth Street, Forres as the trees safeguarded by the original Order have been felled or affected by storm damage.**
- 6.3 The report also proposes that a TPO at Waulkmill, Elgin is revoked as the trees are considered a serious health and safety risk and that a more appropriately located playpark is further investigated to replace the current playpark.**

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Background Papers:

Ref: