

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 25 AUGUST 2015

**THE ANGUS COUNCIL (THE DIBBLE TREE, FERRIER STREET, CARNOUSTIE) TREE
PRESERVATION ORDER 2015 NO. 1**

REPORT BY HEAD OF PLANNING AND PLACE

Abstract:

In terms of Section 160 of the Town & Country Planning (Scotland) Act 1997, The Angus Council (The Dibble Tree, Ferrier Street, Carnoustie) Tree Preservation Order 2015 No. 1 came into effect on 23 June 2015. It is recommended that the Order be confirmed.

1. RECOMMENDATION

It is recommended that The Angus Council (The Dibble Tree, Ferrier Street, Carnoustie) Tree Preservation Order 2015 No. 1 be confirmed.

**2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/
CORPORATE PLAN**

This report contributes to the following local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our natural and built environment is protected and enjoyed.

3. INTRODUCTION

The Tree Preservation Order (TPO) relates to the The Dibble Tree, Ferrier Street, Carnoustie (see attached plan). Thomas Lowson, a loom wright, was granted the first feu of the land in the area now occupied by Carnoustie. In 1798, it is said that while transplanting cabbage seedlings on his new land, he left the willow dibble stick he had been using stuck in the ground. He later found it had sprouted leaves. The tree, a large Crack Willow (*Salix fragilis*) has become an important part of the cultural history of Carnoustie.

4. PROVISIONAL TREE PRESERVATION ORDER

4.1 As a result of other tree works adjacent to the tree, it was considered that The Dibble Tree may be at risk. The Dibble Tree is located on land in private ownership. Using delegated authority and under Sections 160 and 161 of the Town & Country Planning (Scotland) Act 1997 the TPO came into effect on 23 June 2015. Under Section 161 the Order took effect immediately without previous confirmation by the Planning Authority.

4.2 The Order continues in force for a period of six months or until the date the Order is confirmed by the Planning Authority, whichever first occurs. Under Section 161 if the Order is not confirmed within six months it expires. A period of 28 days was allowed for the making of objections and representations to the Planning Authority. Before deciding whether to confirm the Order, the Council must take into consideration any objections and representations duly made. The 28 day period has now expired and no objections or representations have been received.

5. PLANNING CONSIDERATIONS

5.1 Policy ER6 : Trees, Woodlands and Hedgerows

Trees, woodlands and hedgerows which have a landscape, amenity and/or nature conservation value will be protected from development. Development that would result in the loss of or damage to ancient or semi-natural woodlands will not be permitted. Tree Preservation Orders will be promoted to protect groups of trees or individual significant trees of importance to the amenity of a surrounding area where such trees and woodland are under threat. Management Agreements will be introduced, where appropriate, to ensure the establishment of new and replacement planting. Tree planting initiatives such as Community Woodland proposals and other amenity planting will continue to be supported and encouraged.

5.2 The Dibble Tree has become an important part of the cultural history of Carnoustie. The tree also contributes to visual amenity more locally and the The Dibble Tree Theatre takes its name from the tree. With other tree works having taken place immediately adjacent to the tree, it was considered that the tree may be at risk.

5.3 Confirmation of the Order is considered necessary to ensure that adequate control over any future tree works.

6. RISKS

There is no risk associated with the recommendation in this report. However, if the TPO is not confirmed there may be a risk that the tree will be felled.

7. FINANCIAL IMPLICATIONS

There are no financial implications on the Council as a result of this report.

8. HUMAN RIGHTS IMPLICATIONS

8.1 The recommendation to confirm the Tree Preservation Order has potential implications in terms of the proprietors entitlement to peaceful enjoyment of their possessions (First Protocol, Article 1) and/or in terms of alleged interference with home or family life (Article 8).

8.2 For the reasons referred to elsewhere in this report justifying the present recommendation in planning terms, it is considered that any such actual or potential infringement of such Convention rights is justified. Any actual or alleged infringement is in accordance with the Council's legal powers under the Planning Acts and is necessary in the general interest for the protection of amenity in Angus. The interference is also proportionate given that the felling of the trees is on the information available, not considered to be one, which would be approved by Angus Council. Further, the interference will be the minimum required to achieve the objective of protecting the amenity of Angus.

9. EQUALITIES IMPLICATIONS

The issues dealt with in this report have been the subject of consideration from an equalities perspective (as required by legislation). An equalities impact assessment has been undertaken.

10. CONSULTATION

The Chief Executive, Head of Corporate Improvement & Finance and Head of Legal & Democratic Services have been consulted in the preparation of this report.

11. CONCLUSION

The Dibble Tree is an important part of the cultural history of Carnoustie. It is considered important that the TPO is confirmed to ensure control of works to the tree. Accordingly, it is recommended that the Order be confirmed.

**VIVIEN SMITH
HEAD OF PLANNING AND PLACE**

NOTE: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to a material extent in preparing the above report.

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Date: 6 August 2015

Appendix 1 : Location Plan

