

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE – 7 AUGUST 2018**

**THE ANGUS COUNCIL (10 CHURCH STREET, CARNOUSTIE)  
TREE PRESERVATION ORDER 2018 NO. 1**

**REPORT BY SERVICE LEADER – PLANNING & COMMUNITIES**

**ABSTRACT**

In terms of Section 160 of the Town & Country Planning (Scotland) Act 1997, The Angus Council (10 Church Street, Carnoustie) Tree Preservation Order 2018 No. 1 came into effect on 16 May 2018. The Order preserves trees that are of significant amenity value. It is recommended that the Order be confirmed.

**1. RECOMMENDATION**

It is recommended that The Angus Council (10 Church Street, Carnoustie) Tree Preservation Order 2018 No.1 be confirmed.

**2. ALIGNMENT TO THE ANGUS LOCAL OUTCOMES IMPROVEMENT PLAN/CORPORATE PLAN**

This report contributes to the following local outcome(s) contained within the Angus Local Outcomes Improvement Plan and Locality Plans:

- An enhanced, protected and enjoyed natural and built environment

**3. BACKGROUND**

3.1 Section 159 of the Town and Country Planning (Scotland) Act 1997 places a duty on planning authorities to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made for the preservation of trees. Section 160 of the Act empowers planning authorities to make an order providing for the preservation of any trees, group of trees or woodlands where it is considered expedient in the interests of amenity and/or where the trees are of cultural or historical significance.

3.2 Angus Local Development Plan Policy PV7 Woodland, Trees and Hedges provides Angus Council's policy on the matter and states:

*Ancient semi-natural woodland is an irreplaceable resource and should be protected from removal and potential adverse impacts of development. The council will identify and seek to enhance woodlands of high nature conservation value. Individual trees, especially veteran trees or small groups of trees which contribute to landscape and townscape settings may be protected through the application of Tree Preservation Orders (TPO).*

*Woodland, trees and hedges that contribute to the nature conservation, heritage, amenity townscape or landscape value of Angus will be protected and enhanced. Development and planting proposals should:*

- *protect and retain woodland, trees and hedges to avoid fragmentation of existing provision;*
- *be considered within the context of the Angus Woodland and Forestry Framework where woodland planting and management is planned;*
- *ensure new planting enhances biodiversity and landscape value through integration with and contribution to improving connectivity with existing and proposed green infrastructure and use appropriate species;*
- *ensure new woodland is established in advance of major developments;*
- *undertake a Tree Survey where appropriate; and*

- *identify and agree appropriate mitigation, implementation of an approved woodland management plan and re-instatement or alternative planting.*

*Angus Council will follow the Scottish Government Control of Woodland Removal Policy when considering proposals for the felling of woodland.*

#### **4. CURRENT POSITION**

- 4.1 The site was granted planning permission in principle for the sub-division of the existing house to two flats and the erection of two houses in the garden ground in July 2016. That application was accompanied by a tree survey and that document recognised the importance of the trees fronting Church Street and indicated that the larger trees could be 'retained, maintaining the tree lined character of Church Street and screening the proposed development'. The permission that was granted included a condition that sought to protect the important trees.
- 4.2 An application for planning permission for the sub-division of the existing house to two flats and the erection of three houses in the garden ground was subsequently submitted in March 2018. That proposal provided for the erection of houses close to the existing trees on Church Street and also included provision for the formation of an access directly to Church Street in the proximity of the trees. Officers raised concern regarding the proposal, including its potential impact on the trees that line Church Street. The application was withdrawn prior to determination.
- 4.3 Using delegated authority and under Sections 160 and 161 of the Town & Country Planning (Scotland) Act 1997 a Tree Preservation Order (TPO) was made to preserve the trees given their contribution to the amenity of the area. The TPO came into effect on 16 May 2018. Under Section 161 the Order took effect immediately without previous confirmation by the Planning Authority in order to safeguard the trees from a risk of felling.
- 4.4 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.

#### **5. CONFIRMATION OF TREE PRESERVATION ORDER**

- 5.1 The line of trees along the southern edge of 10 Church Street, are an important part of the streetscape as one enters the town centre from the east. There are 3 large Norway Maple trees along this frontage with younger trees between and large Holly trees just behind them. Together they provide an attractive street frontage and frame views along the High Street towards the spire of the Panbride Carnoustie Church to the east. They contribute significantly to the amenity of the area.
- 5.2 The Tree Preservation Order that has been made remains in force until November 2018 unless it is confirmed by the Planning Authority. The trees are considered to merit protection under the provisions of the Act and their protection is consistent with Policy PV7 of the Angus Local Development Plan. The tree preservation order is restricted to the visually important strip of trees along the Church Street frontage.
- 5.3 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.
- 5.4 If the Order is not confirmed it will expire and the trees could be at threat from felling. This would be detrimental to the amenity of the area. Confirmation of the Order will ensure that trees of considerable amenity value are protected.

#### **6. FINANCIAL IMPLICATIONS**

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

## **7. OTHER MATTERS**

### **HUMAN RIGHTS IMPLICATIONS**

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). 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.

**KATE COWEY  
SERVICE LEADER - PLANNING & COMMUNITIES**

**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 any material extent in preparing the above Report.

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List of Appendices: Appendix 1: Location Plan



**The Angus Council  
 (10 Church Street, Carnoustie)  
 TREE PRESERVATION ORDER 2018 No1**

**G1** Groups of Trees

○ Other tree outwith this TPO



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