

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 13 NOVEMBER 2018

**THE ANGUS COUNCIL (LAND AT PANMURE STABLES, CARNOUSTIE)
TREE PRESERVATION ORDER 2018 NO. 2**

REPORT BY SERVICE LEADER – PLANNING & COMMUNITIES

ABSTRACT

In terms of Section 160 of the Town & Country Planning (Scotland) Act 1997, The Angus Council (Land at Panmure Stables, Carnoustie) Tree Preservation Order 2018 No. 2 came into effect on 4 September 2018. The Order preserves trees that are of significant historic and amenity value. It is recommended that the Order be confirmed.

1. RECOMMENDATION

It is recommended that The Angus Council (Land at Panmure Stables, Carnoustie) Tree Preservation Order 2018 No.2 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 former stables were attached to Panmure House which was demolished in 1955. The former stables are the only part of the building remaining and are a category B listed building. There have been pre-application discussions regarding the redevelopment of the stables and the planning service is generally supportive of the re-use of this important building.
- 4.2 Whilst the house has been demolished much of the extensive designed landscape associated with the building remains. This includes policy woodlands; long tree lined avenues and a number of old specimen trees particularly around the former house site. Pre-application discussions did not include any substantial tree works as part of the proposals. Subsequent to these discussions, the Forestry Commission Scotland (FCS) received a felling licence application for the felling of a line of 17 No. yew trees adjacent to the stables. The FCS was concerned that even if they refused the application a certain amount of felling could take place each calendar quarter without the need for a licence. Following discussions it was agreed that a tree preservation order be made and that the felling licence application be refused. The order includes an area around the site of Panmure House which may be under threat due to development aspirations. The area includes an avenue of lime trees and the line of yew trees to the south. It also includes a number of individual specimen trees around former house site, both close to the stables and to the west of the former house.
- 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 historic value and their contribution to the amenity of the area. The TPO came into effect on 4 September 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 Tree Preservation Order that has been made remains in force until 4 March 2019 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.
- 5.2 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 a single objection (by email) has been received on behalf of the landowner who objects to the order on the grounds that a blanket TPO of the area of land marked "A1" on the map is inappropriate and that all the individual trees require specific scrutiny prior to any inclusion in any resulting Order. In response to the objection, it should be noted that all trees included within the order have been assessed and are considered to have historic and amenity value sufficient to justify inclusion within the order. The objector also been advised that the order does preclude the undertaking of tree works but provides the Council with control over such works. Whilst the age of the trees is currently being assessed by FCS, it is considered possible that some of the trees may be 400 years of age and would therefore be contemporary with the construction of Panbride House during the 17th century or earlier. Anecdotally, it is noteworthy that a Victorian postcard available online includes the Sweet Chestnut tree to the north east of the stables. The tree in the postcard looks very similar to the tree today. The order does not prevent the redevelopment of the Panmure Stables.
- 5.3 If the Order is not confirmed it will expire and the trees could be at threat from felling. This would be detrimental to the historic character and amenity of the area. Confirmation of the Order will ensure that trees of considerable historic and 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.

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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
Appendix 2: Objection

**The Angus Council
(Pannure Stables, Carnoustie)
TREE PRESERVATION ORDER 2018 No2**



Area of Trees

