

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 5 FEBRUARY 2019

**THE ANGUS COUNCIL (LAND AT PANMURE ROAD, MONIKIE)
TREE PRESERVATION ORDER 2018 NO. 4**

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 Road, Monikie) Tree Preservation Order 2018 No. 4 came into effect on 4 December 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 (Land at Panmure Road, Monikie) Tree Preservation Order 2018 No.4 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 Monikie railway station and sidings in the centre of Monikie lie within the development boundary. Since it has fallen into disuse, it has become colonised by a mixture of trees. Much of the tree cover is sycamore, but there is also some birch, willow and ash. Along the boundary with Panmure Road, a line of lime trees has been planted on an embankment and forms an attractive street frontage. Within the site, trees are growing on the on the hardstanding areas; the remains of platforms and the former railway cutting. In some parts of the site, there is evidence that trees have been cut back in the past and have regrown as multi-stemmed trees and in some places trees have uprooted possibly as a consequence of underlying substrate.
- 4.2 Planning application 08/01520/FUL for the erection of five dwelling houses on land at Hillhead Road was approved on 25 February 2009. That permission was subsequently amended by planning permission 09/01047/FULL as it had emerged that the implementation of the original conditions would result in some of the features of the site that are considered to be environmentally important such as the stone boundary wall on Panmure Road and mature trees within the site being removed or detrimentally affected. The trees referred to were the line of lime trees along the Panmure Road frontage. Both planning permissions have since lapsed.
- 4.3 The planning service has been advised that the site may be for sale and a request for a Tree Preservation Order (TPO) has been received. The line of lime trees along the Panmure Road frontage is considered be an important townscape feature that adds to the amenity of the area and it is one that the council has previously sought to safeguard in the determination of planning applications at this location. In these circumstances it is considered appropriate to protect those trees with a TPO. This would not preclude the development of the site in a manner broadly similar to that approved by 08/01520/FUL as amended by 09/01047/FULL. Given the combination of tree condition; the underlying substrate and disturbance likely to occur as a result of site reclamation works, it was not considered appropriate to make a TPO for the remainder of the site.
- 4.4 Using delegated authority and under Sections 160 and 161 of the Town & Country Planning (Scotland) Act 1997 a TPO was made to preserve the line of 13 lime trees (G1 on the attached plan) given their contribution to the amenity of the area. The TPO came into effect on 4 December 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.
- 4.5 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 May 2019 unless it is confirmed by the Planning Authority. The line of lime trees is 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.
- 5.3 The 28 day period has now expired and no representations have been received. Given the importance of the lime trees to the amenity of the area it is recommended that the order be confirmed.

- 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 the line of lime trees of high amenity value is 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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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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Appendix 1: Location Plan

