

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 18 JUNE 2019

**THE ANGUS COUNCIL (LAND AT 2 DUNDEE ROAD AND ADJACENT TO 7 BLAIRS ROAD,
LETHAM) TREE PRESERVATION ORDER 2019 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 (Land at 2 Dundee Road and Adjacent to 7 Blairs Road, Letham) Tree Preservation Order 2019 No. 1 came into effect on 18 February 2019. 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 2 Dundee Road and Adjacent to 7 Blairs Road, Letham) Tree Preservation Order 2019 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 trees between Dundee Road and Blairs Road, Letham are widely visible within Letham contributing towards visual amenity locally, with a line of mixed broadleaved trees along the edge of Dundee Road at Rose Cottage with a second line extending between Dundee Road and Blairs Road within the garden of Rose Cottage and a development site fronting Blairs Road. While this second line is comprised of broadleaved trees within the garden of Rose Cottage, at its southern end there are three Douglas Fir trees closer to Blairs Road. There are other smaller trees within the garden of Rose Cottage.
- 4.2 Planning application 16/00813/PPPL for the erection of two houses at Rose Cottage, 2 Dundee Road, Letham was approved on 25 October 2017 (this in part includes the area referred to as adjacent to 7 Blairs Road in the Order). The application was originally for three houses but was subsequently reduced to two, in part to enable the retention of the three Douglas Fir trees on the edge of the site in agreement with the applicant. The planning permission includes a condition requiring the provision of a landscaping scheme, including details of all existing trees and hedgerows on the land along with details of those to be retained, together with measures for their protection in the course of development. Following the start of site clearance, the planning service received a request for the TPO. Given the above, it was considered appropriate to protect the three trees retained on site. In addition, it was also considered appropriate to include within the Order, trees within the remaining garden of Rose Cottage, 2 Dundee Road.
- 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 area of trees (A1) given their contribution to the amenity of the area. The TPO came into effect on 18 February 2019. 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 (TPO) that has been made remains in force until 18 August 2019 unless it is confirmed by the Planning Authority. The area of 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 TPO, the Council must take into consideration any objections and representations duly made.
- 5.3 The 28 day period has now expired and two representations have been received. The owner of Rose Cottage, 2 Dundee Road has indicated his support for the TPO advising that the trees mark the historic boundaries of the property and are an attractive feature of the garden and streetscape. He further adds that he is pleased that Angus Council has recognised that they are worthy of preservation.
- 5.4 The owner of the land adjacent to 7 Blairs Road has submitted a representation indicating that he believed that 3 No. trees covered by the TPO, were approved for felling as part of the planning permission. This is a misunderstanding as the proposal is approved in principle only and the indicative layout was reduced by the applicant from three houses to two in part to enable the trees to be retained. The conditions attached to the permission require details to be provided of those trees to be retained along with details for their protection. The TPO does not prevent the implementation of the planning permission as approved. He also included copy of a landowner consent form from Scottish & Southern Energy dated December 2016,

which included the felling of several trees, one of which is a fir tree within the TPO. Scottish & Southern Energy has confirmed that following the upgrading of the overhead lines, tree works to the fir tree are now no-longer necessary. Given the importance of the trees to the amenity of the area it is recommended that the TPO be confirmed.

- 5.5 The making of the TPO is entirely consistent with the amendments negotiated in relation to the planning permission that allows for the erection of two houses on part of the land. The retention and safeguarding of important trees can best be secured through confirmation of the TPO.
- 5.6 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 trees of high 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.

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.

REPORT AUTHOR: KATE COWEY
EMAIL DETAILS: PLANNING@angus.gov.uk

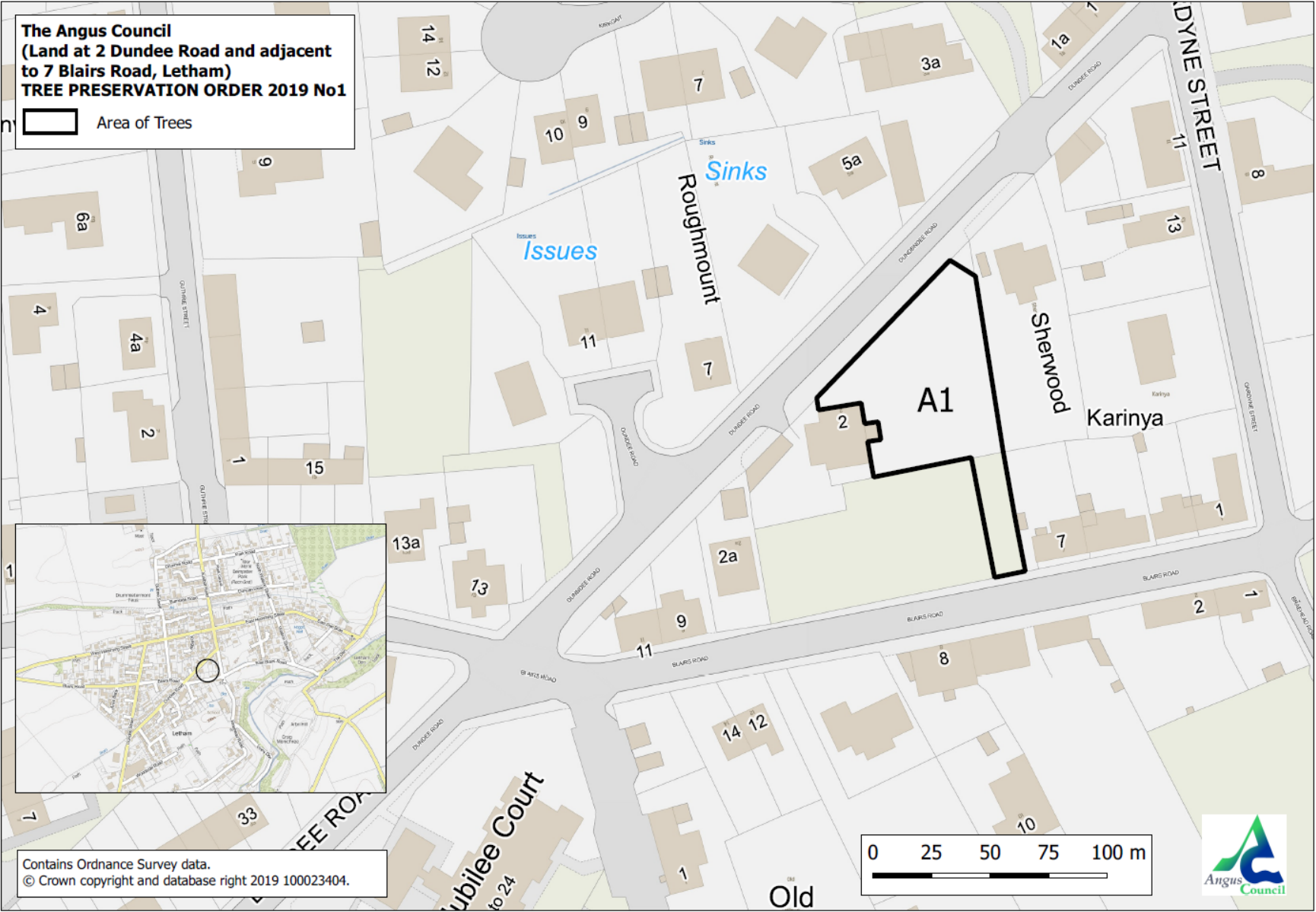
DATE: 4 JUNE 2019

List of Appendices:

Appendix 1: Location Plan

**The Angus Council
(Land at 2 Dundee Road and adjacent
to 7 Blairs Road, Letham)
TREE PRESERVATION ORDER 2019 No1**

 Area of Trees



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