

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 15 JUNE 2021

**THE ANGUS COUNCIL (LAND AT SEATON ESTATE, ARBROATH) TREE PRESERVATION
ORDER 2021 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 Seaton Estate, Arbroath) Tree Preservation Order 2021 No. 1 came into effect on 18 March 2021. 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 Seaton Estate, Arbroath) Tree Preservation Order 2021 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 Seaton Estate comprises Seaton House and has extensive policies which includes substantial policy woodland strips, dominated by beech along the south-west, north-west and north-east edges of the estate including alongside Seaton Road and also along the urban edge behind Flairs Avenue and Ness Drive, Arbroath. In addition, there are also significant groups of trees within the estate. The woodlands are highly visible in the wider landscape, providing an important part of the landscape setting of Arbroath and visible in views along the coast. They provide an uncommon level of tree cover in an otherwise open intensive arable landscape.
- 4.2 For many years a large part of the estate has been in use as a caravan site. Trees and woodland on the estate have suffered from lack of management in recent decades and damage from fires, tipping and the spreading of green waste. More recently trees and woodland areas have been cleared, without the prior approval of Scottish Forestry (formerly Forestry Commission Scotland), which has also led to concern being expressed by members of the public. Scottish Forestry has made the landowner aware of trees considered to be in a dangerous condition and following a tree safety survey by the owner's tree consultant, Scottish Forestry has agreed that 47 trees are in a dangerous condition and should be felled. A further 7 trees have been surveyed as requiring to be felled within 6 months for safety.
- 4.3 A number of planning permissions have been granted that allow for additional works within the site, and the most recent of those indicated that officers would make a tree preservation order (TPO) to safeguard woodland considered important to the amenity of the area (reports [81/21](#) and [82/21](#) refer). This approach recognised the apparent value attached to existing trees by those making representation on the planning applications.
- 4.4 In accordance with that intimation and using delegated authority, a TPO was made under Sections 160 and 161 of the Town & Country Planning (Scotland) Act 1997 to preserve the areas of trees identified on the attached location plan as A1 & A2 given their contribution to the amenity of the area. The TPO came into effect on 18 March 2021. 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. Where felling is necessary for any purpose the TPO enables the council to require replacement planting. Officers are currently in dialogue with the landowner's tree and landscape consultant regarding replacement planting for trees that Scottish Forestry has agreed should be felled. The TPO also provides protection to trees required to be planted under conditions attached to the planning permissions referenced above.
- 4.5 The TPO 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 TPO that has been made remains in force until 18 September 2021 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 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.
- 5.4 If the TPO is not confirmed it will expire and the trees could be at threat from felling and new tree planting would not be protected. 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, and where appropriate, that replacement planting can be secured.

6. FINANCIAL IMPLICATIONS

There are no financial implications for 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, SERVICE LEADER PLANNING & COMMUNITIES
EMAIL DETAILS: PLANNING@angus.gov.uk

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Appendix 1: Location Plan
Appendix 2: Planning service presentation