

2 CONFIRMATION OF TREE PRESERVATION ORDERS (AN109-2007)

(a) 03/2007 -LAND AT THE LODGES, CASTLEROY, HILL STREET, BROUGHTY FERRY

Members are asked to note on 1st February, 2007 the Council made a provisional Tree Preservation Order on the above site. This wooded hill has a large visual amenity to many people and has a prominent viewpoint. The Order was served to protect the visual amenity of this part of Dundee. It will ensure best arboricultural practice is followed and ensure adequate replacement planting. Three letters of objection to the Order have been received. These letters, together with a copy of the Order and map, are available for members in the Members' lounges. It is considered that the relevant objections are as follows:

i On the grounds that T15 - beech tree - overhangs the roof of a property and the owner would like to remove it and replant on a different location.

Council Response - The Council's Forestry Officer has visited the site and does not consider it appropriate or necessary to remove this tree. This tree is a healthy class tree and should be included within the Order.

ii On the grounds that the Council have not shown that the Order is necessary to protect the visual amenity in this part of Dundee and that the order is incompetent.

Council Response - The Council's Forestry Officer has advised that the Order is necessary to protect the visual amenity of this part of Dundee. This site was formerly in Barnhill Conservation Area and therefore prior notice of any proposed works to trees was required to be given to the Council. With the removal of the conservation area status in 1997 this no longer applies. The Order does not prevent the proper maintenance of the trees but allows the Council to ensure best practice is followed and adequate replacement planting if required.

The Order follows the form set out in the schedule annexed to the Tree Preservation Order and Trees in Conservation Areas (Scotland) Regulations 1975. The grounds for making the Order were set out in the notice served on the owners. The correct procedure was followed and the Order is competent.

iii On the grounds that a similar clause is contained within the title deeds for every house on the estate.

Council Response - This order does not interfere with any title restrictions relating to tree works. However this area of trees can only be statutorily protected in perpetuity by a Tree Preservation Order. It does not prevent the proper maintenance of the trees but allows the Council to ensure best practice is followed and adequate replacement planting if required.

The Council's Forestry Office advises that the map attached to the Order does identify the trees sufficiently. The map is valid in terms of the relevant Regulations.

Members are asked to authorise the Depute Chief Executive (Support Services) and the Director of Planning and Transportation to undertake the necessary procedures and confirm the above Tree Preservation Order without modification.

(b) 07/2006 - NORTH LODGE, 4 GROSVENOR ROAD, DUNDEE

Members are asked to note that this site is contained within the West End Suburbs Conservation Area. In February 2005 a Tree Replacement Notice was served requiring the owner of the site to replace 37 trees that the Council considered had been destroyed. A subsequent appeal by the owner of the site to the Scottish Ministers was dismissed by the Reporter appointed to hear the appeal at a public inquiry. In November 2006 the Council took direct action to enforce the terms of the notice and replanted the 37 trees on the site. The majority of trees contained within the above Tree Preservation Order relate to the replacement planting scheme required under the said Notice.

On 4th December, 2006 the Council made a provisional Tree Preservation Order on the above mentioned site. This was done to protect the arboreal amenity in this part of Dundee and the existing and future treescape of the area. One objection to the Tree Preservation Order has been received. This was from the owner of the site.

The full terms of the letter of objection, together with a copy of the Tree Preservation Order, are available for Members consideration in the Members Lounge. The following terms of the objection are considered relevant to the Tree Preservation Order:

- (i) The planning authority has adopted an arbitrary and vexatious approach to the compilation of the Tree Preservation Order.**

Council Response - Due to the history of this site, it is considered expedient to protect both the replacement trees and the remaining mature trees on this site.

- (ii) The planning authority is uneven handed and biased in its administration of Tree Preservation Orders in its area.**

Council Response - Members are asked to note that representatives from the Planning and Transportation Department, Legal Services and the Forestry Officer meet once a month to discuss and implement a "rolling programme" of Tree Preservation Orders. Members are also asked to note that the Reporter, in his appeal decision, stated "The making of a Tree Preservation Order, to protect properly both the unaffected trees and the replacement trees, would remain the responsibility of the Council."

- (iii) The practical justification for the Tree Preservation Order in respect of the replacement trees included in the Order is flawed.**

Council Response - All planting was undertaken by qualified arborists employed by the Council and these works were supervised by the Council's Forestry Officer and his Assistant. It is considered that the land is suitable for tree growth as trees have been growing on this ground for over 60 years. Members are asked to note that, although the owner "formally rejects any responsibility for the future health of the replanting covered by Tree Preservation Order No 7/2006, it is an offence to remove, uproot or destroy any of the trees covered by the Order in contravention of the Order and, if any of the trees are so removed, uprooted or destroyed, the owner has a duty to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

- (iv) The Tree Preservation Order is invalid as it has not been approved by Committee and lacks relevant information.**

Council Response - In terms of the Council's scheme of administration, the Director of Planning and Transportation has delegated authority, in consultation with the Depute Chief Executive (Support Services), to serve a Tree Preservation Order under Part VII of the Town and Country Planning (Scotland) Act 1997. Regulation 4 of the Tree Preservation Order and Trees in Conservation Areas (Scotland) Regulations 1975 states that the Order shall be in the form (or substantially in the form) set out in the Schedule annexed to the Regulations and that the Order shall define the position of the trees, groups of trees, or woodlands to which it relates, and for that purpose shall include a map. The Tree Preservation Order is in the form set out in the schedule and defines the position of the trees on the map annexed thereto. A notice in terms of Regulation 5 of the said Regulations was served on the owner stating the grounds for making the Order, namely to protect the arboreal amenity of this part of Dundee. Neither the Order, nor the notice, lack any relevant information and both are complete.

Members are asked to authorise the Depute Chief Executive (Support Services) and the Director of Planning and Transportation to undertake the necessary procedures and confirm the above Tree Preservation Order.

Copies of the map will be placed in the members lounge.

- (c) 06/2006 - HAREFIELD HOUSE, 4 CLEMENT PARK PLACE, DUNDEE**

Members are asked to note on 3rd November, 2006 the Council made a provisional Tree Preservation Order on the above mentioned site. The Council's Forestry Officer requested that this be done in order to protect the arboreal amenity of this part of Dundee.

No objections have been received to this Tree Preservation Order.

- (d) 01/2007 - 81E DUNDEE ROAD, BROUGHTY FERRY, DUNDEE**

Members are asked to note on 17th January, 2007 the Council made a provisional Tree Preservation Order on the above mentioned site. The Council's Forestry Officer requested that this be done at the resident's request in order to enhance and protect the existing and future treescape of the area.

No objections have been received to this Tree Preservation Order.

(e) 02/2007 - Red Cottage, 80 Forthill Road, Broughty Ferry, Dundee

Members are asked to note on 1st February, 2007 the Council made a provisional Tree Preservation Order on the above mentioned site. The site is not in a Conservation Area therefore there was no protection for the trees. The Council's Forestry Officer considered that they merited protection and also to preserve the arboreal amenity of the area.

No objections have been received to this Tree Preservation Order.

(f) 04/2007 - GROUND AT PLOT 1 RERES ROAD, BROUGHTY FERRY, DUNDEE

Members are asked to note on 7th February, 2007 the Council made a provisional Tree Preservation Order on the above mentioned site. This was done to protect the trees from future development of the site and to preserve the mature trees and the visual amenity of the area.

No objections have been received to this Tree Preservation Order.

(g) 05/2007 - LAND TO SOUTH OF LAWERS DRIVE, PANMUREFIELD, DUNDEE

Members are asked to note on 8th February, 2007 the Council made a provisional Tree Preservation Order on the above mentioned site. This was done to protect the trees from future development of the site and to protect the arboricultural amenity of the area.

No objections have been received to this Tree Preservation Order.

(h) 06/2007 - PANMUREFIELD DEN, PANMUREFIELD ROAD, DUNDEE

Members are asked to note on 8th February, 2007 the Council made a provisional Tree Preservation Order on the above mentioned site. This was done to protect the trees from future development of the site and to protect the arboricultural amenity of the area.

No objections have been received to this Tree Preservation Order.

(i) 07/2007 - NORTH BALMOSSIE STREET, PANMUREFIELD, DUNDEE

Members are asked to note on 19th February, 2007 the Council made a provisional Tree Preservation Order on the above mentioned site. This was done to protect the trees from future development of the site and to protect the arboricultural amenity of the area.

No objections have been received to this Tree Preservation Order.

Members are asked to authorise the Depute Chief Executive (Support Services) and the Director of Planning and Transportation to undertake the necessary procedures and confirm the above Tree Preservation Orders.

Copies of the map will be placed in the members lounge.