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**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON  
19 DECEMBER 2023**

**SUBJECT: TREE PRESERVATION ORDERS**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND  
FINANCE)**

**1. REASON FOR REPORT**

- 1.1 This report asks Committee to confirm the revocation of Tree Preservation Orders (TPOs) at Cowie Avenue/Fife Street (Dufftown) and Deskford, without modification.
- 1.2 This report is submitted to Committee in terms of Section III (E) (7) of the Council's Scheme of Administration to make, vary and revoke orders for the preservation of trees.

**2. RECOMMENDATION**

**2.1 It is recommended that the Committee agree to:**

- (i) consider and note the representation received in response to the Moray Council (Cowie Avenue/Fife Street, Dufftown) Revocation of Tree Preservation Order 2023, as summarised in Para 4.1 of the report;**
- (ii) confirm, without modification, Moray Council (Cowie Avenue/Fife Street, Dufftown) Revocation of Tree Preservation Order 2023; and**
- (iii) confirm, without modification, Moray Council (Groups of Trees at Deskford, Buckie) Revocation of Tree Preservation Order 2023.**

**3. BACKGROUND**

- 3.1 Policy EP7 Forestry, Woodlands and Trees of the Moray Local Development Plan (MLDP) 2020 supports the serving of a TPO on potentially vulnerable trees which are of significant amenity value to the community as a whole, trees that contribute to the distinctiveness of a place or trees of significant biodiversity value. Trees contribute significantly to the characteristics of Moray

and its conservation areas and the aim of Policy EP7 is to retain healthy trees and prevent the unnecessary felling of such.

- 3.2 Following an increase in tree works applications and complexity of cases, Officers carried out a holistic review of existing TPOs to ensure that they retained their amenity value and remained appropriate and relevant. The outcome of the review was reported to this Committee on 20 December 2022 and it was agreed to vary Rothiemay TPO, serve a new TPO at Dunkinty and revoke TPOs at The College, King Street (Elgin), Fogwatt, Dunkinty House (Elgin), Croft Road (Forres), Tomnabat Lane (Tomintoul), Woodland at Damhead Cottage (Kinloss), Woodland at Seapark House (Kinloss), Groups of Trees at Deskford and Cowie Avenue/Fife Street (Dufftown) (para 13 of the minute refers).
- 3.3 TPOs are subject to a minimum 28 days public consultation during the period between Committee giving approval to serve the Order and the Committee confirming the Order. The Order must be confirmed by Committee no more than 6 months after the Order has been served or revoked. During the consultation period, the public can make representation either in support of, or objecting to the Order. In terms of Regulation 5 of the Town and Country Planning (Tree Preservation Orders and Trees in Conservation Areas) (Scotland) Regulations 2010, the Council must consider all representations before confirming the TPO with or without modifications.

#### 4. **PROPOSALS**

##### **Confirm Moray Council (Cowie Avenue/Fife Street, Dufftown) Revocation of Tree Preservation Order 2023, without modification**

- 4.1 The revocation TPO was served on land owners and advertised publically between 15 September and 20 October 2023 for representations to be received. One representation was received and is summarised below:

<b>Comments</b>	<b>Response</b>
Object to the revocation of the TPO.	Objection is noted.
Reason to revoke TPO is invalid as to suggest that the trees no longer have significant amenity value is to suggest they no longer photosynthesise, absorb CO2, provide shade, have a cooling effect on the immediate environment, provide food or shelter for wildlife, provide value to residents' mental health, absorb water nor possess a natural beauty.	Following the review of TPOs carried out in autumn 2022, officers recommended that the TPO be retained as the trees provided significant amenity value to the area. A petition was submitted which sought the revocation of the TPO due to maintenance concerns and the impact of crows on amenity. Following consideration of the review and petition, the Planning & Regulatory Services Committee agreed to revoke the TPO.

	The revocation does not mean an assumption that there is no value for the features mentioned, such as photosynthesis, or that the trees will be immediately felled.
Seek confirmation that bat and red squirrel surveys have been carried out.	The revocation of a TPO does not mean that the trees will be immediately felled and therefore poses no risk to any wildlife that may be nesting/roosting in the trees at this time. Should the landowner, or another party with the landowner's consent, wish to remove any trees or carry out tree works, they would be obliged to undertake appropriate ecological surveys prior to any tree works being carried out.

- 4.2 Despite the objection, and in line with the previous decision of this Committee, it is recommended that the Committee confirm the revocation TPO without modification.

**Confirm Moray Council (Groups of Trees at Deskford, Buckie)  
Revocation of Tree Preservation Order 2023, without modification**

- 4.3 The revocation TPO was served on land owners and advertised publically between 11 September and 20 October 2023 for representations to be received. No representations were received and it is recommended that the Committee confirm the revocation TPO without modification.

**5. NEXT STEPS**

- 5.1 If the Committee agree to confirm the revocation TPOs as set out in Section 2 of this report, the Council are required to register the revocation TPOs in the Land Register of Scotland.
- 5.2 In addition, notice will be given to Scottish Forestry, interested persons and any person who made a representation. Copies of the revocation TPOs will also be made available for public inspection.

**6. SUMMARY OF IMPLICATIONS**

**(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The Corporate Plan prioritises the need to maintain and promote Moray's landscape and biodiversity. The 10 Year Plan (LOIP) identifies the need to build a better future for children and young people in Moray by providing the healthiest start in life. TPOs protect significant trees and

woodlands and conserves the local natural environment and biodiversity whilst also helping to promote healthier lives.

**(b) Policy and Legal**

The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010 provides for the serving, varying and revoking of TPOs.

Policy EP7 of the MLDP 2020 supports the serving of a TPO on potentially vulnerable trees which are of significant amenity value to the community as a whole, trees that contribute to the distinctiveness of a place or trees of significant biodiversity value.

**(c) Financial implications**

Land registry and advert costs will be met from existing Strategic Planning and Development section budgets.

**(d) Risk Implications**

None.

**(e) Staffing Implications**

The serving, varying or revocation of TPOs has staffing implications for Strategic Planning & Development and Legal Services. Legal Services are currently significantly under resourced and work has been phased with the highest priority work completed first.

**(f) Property**

None.

**(g) Equalities/Socio Economic Impact**

No Equality Impact Assessment is required for this report.

**(h) Climate Change and Biodiversity Impacts**

The report confirms the removal of legal protection for trees, however this does not automatically mean that these will be felled. As such, there are no climate change or biodiversity implications arising from this report.

**(i) Consultations**

Consultation has taken place with the Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Chief Financial Officer, the Legal Services Manager, the Equal Opportunities Officer and Lissa Rowan, Committee Services Officer have been consulted and comments received have been incorporated into the report.

## **7. CONCLUSION**

### **7.1 TPOs are formal orders attached to important, feature and character-creating trees and woodland to protect the amenity value they contribute to the local community. Following a holistic review of existing TPOs,**

**various proposals were made to ensure that TPOs retained their amenity value and remained appropriate and relevant.**

**7.2 Following consultation, the Committee is asked to confirm, without modification, the revocation TPOs at Cowie Avenue/Fife Street (Dufftown) and Deskford.**

Author of Report: Darren Westmacott, Planning Officer (Strategic Planning & Development)

Background Papers:

Ref: