



PETITION SUBMISSION FORM

Office use: Petition number

PE2022-04

v.1.1 28/03/2013

If you wish to submit a petition for consideration by The Moray Council, please complete this form. For guidance, further information or advice on the submission of a petition please contact the Democratic Services Manager on 01343 563016 or email petitions@moray.gov.uk, or alternatively refer to information on www.moray.gov.uk/petitions

Details of principal petitioner submitting the petition

Please enter the name of person and organisation you represent (if applicable) and who is raising the petition.

Include a contact address to which correspondence may be sent, a contact telephone number and e-mail address if available so that we can contact you with any queries.

Name: J

Address:

Postcode

Tel No:

E mail:

Title of the
Petition

TREE PRESERVATION ORDER - CONIE AVENUE

Petition Statement - Please state (in no more than 250 words) what action the Petitioner wishes the Council to take. If you require you can attach a typed sheet to this form with the detail.

My request, and reason for this petition, is that I would like the Council to remove the Tree Preservation Order placed on a section of land between Conie Avenue and Fife Street in Dufftown. (Listed as number 31 on the list of Tree Preservation Orders on Moray Council's website).

Cont.

Action taken (if any) to resolve issues of concern before submitting the petition

Before a petition is submitted, petitioners are expected to have taken reasonable steps in attempting to resolve the issues.

Please enter below details of any individuals or organisations approached.

Copies of correspondence, including any responses, should be attached.

This information will be made available when this Petition is considered.

1. I have requested that Moray Council remove the TPO.
This was considered by the Council Members and refused without any further discussion with me/my neighbours and without a site visit.
2. I have repeatedly asked the Planning Dpt at Moray Council to take action on the trees.
3. I have repeatedly asked the land owner to take action on the trees.
4. I have contacted Environmental Health at Moray Council to take action on the rookery, which they refused.

Background Information

Please note any other background information that you think we should be made aware of.

5. I have approached the Community Association, to ask if they will take ownership of the land, which they will not do whilst the TPO is in place.
6. I have contacted my Local Councillor for advice and guidance of the situation.

Other Proceedings

Please indicate the following to the best of your knowledge.

Are the issue(s) raised in the petition currently being handled or been submitted in the past as a formal complaint to The Moray Council?

Yes / ☒ No

Are the issue(s) raised in the petition currently subject to any other formal processes in the council e.g. appeal or planning process

Yes / ☒ No

Are the issue(s) raised in the petition, currently subject to any other legal proceedings, e.g. information within is not subject to interdict or court order?

Yes / ☒ No

Appearance before a meeting considering the petition

The Chairperson of the appropriate Committee who hears the petition will invite the petitioner to appear before the meeting to speak in support of their petition. This is useful in assisting elected members to reach a decision.

Please indicate below whether you wish to submit a request to make a brief statement to the Committee when it is considering your petition. Please note that you will be asked to submit a written summary of your comment 3 days prior to the meeting.

***I DO wish the opportunity to make a brief statement before the Meeting**



***I DO NOT wish to make a brief statement before the Meeting**




** tick as appropriate*

Signature of Principal Petitioner

When satisfied that the petition meets all the criteria outlined in the *Guidance to Submission of Petitions*, the Principal Petitioner should sign and date the form in the box below.

Any additional sheets of signatures should be attached to the form.

Signature**Date**

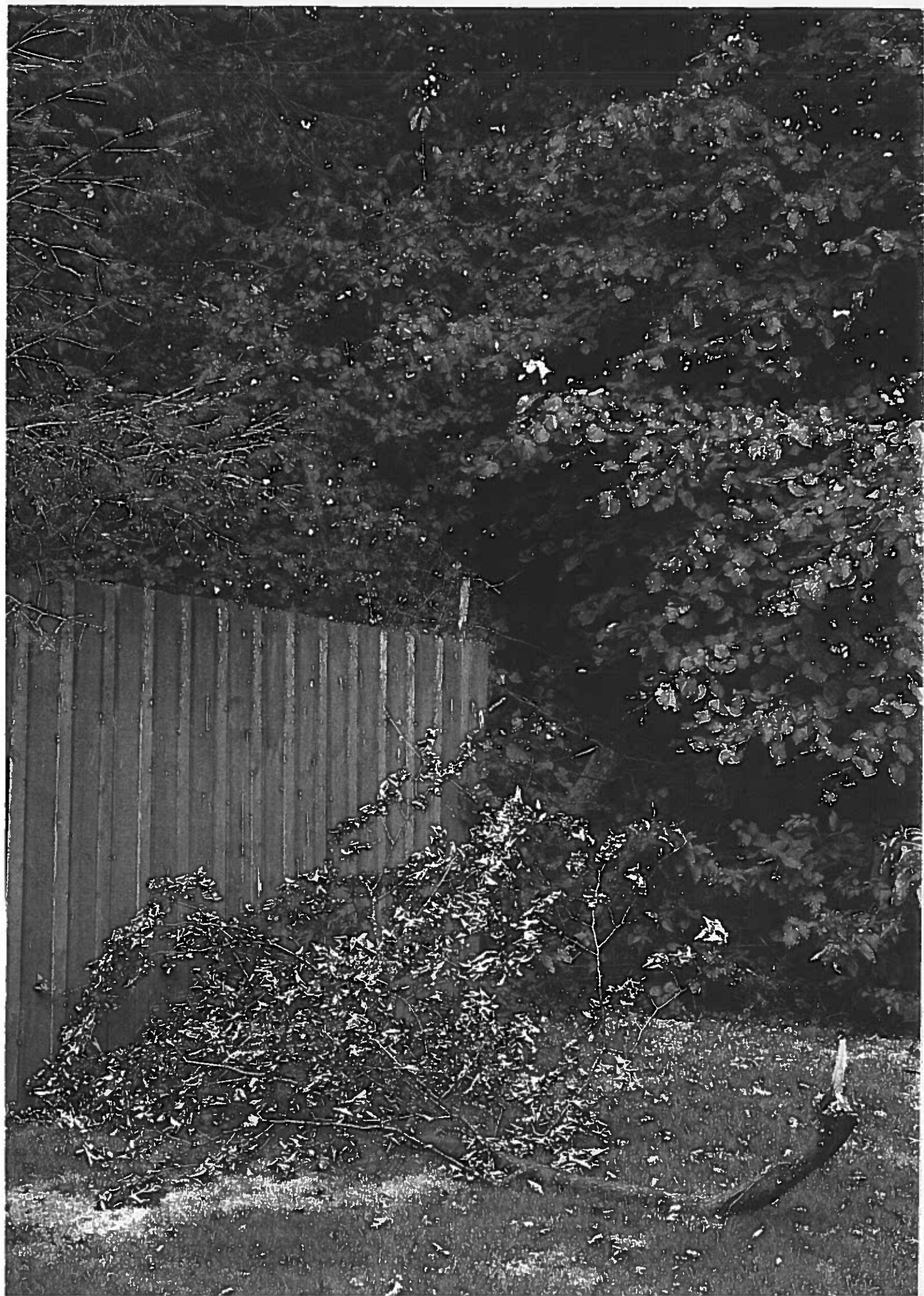
01/12/2022

Name of signatory in block capitals**Number of people who have
signed the petition**

141









Moray Council
Council Office
High Street
Elgin
IV30 1BX

Individual Statement

Tree Preservation Order, Trees at Cowie Avenue / Fife Street, Dufftown

I am contacting the Moray Council to request that the Tree Preservation Order be revoked on the trees at the above address.

My reasons for this request are as follows:

The trees have not undergone any maintenance and have grown to such a height that is dangerous in such close proximity to residential properties. There are two dead trees on the land. Large branches have been falling into our garden, which could potentially, seriously injure a person and / or seriously damage property. During stormy weather, this brings us terrible stress, knowing that a tree could fall through our home at any time.

With regards to the structural stability of our home, the size of the tree roots is also of great concern.

The footpath on Fife Street is unusable. The public will cross the road to the other side of the street for fear of falling debris from the trees. The surfacing of the footpath was replaced earlier this year as someone had slipped, fallen and hurt themselves. It was not the surfacing of the footpath that was the issue, it was the layers of bird waste that made the footpath slippery. The money replacing the footpath might have been better spent in cutting back the branches and topping the trees.

There is a rookery living in the trees of hundreds, if not, thousands of birds. During the summer months, my children are woken constantly by the noise that the birds make. We have a modern house with modern windows, but you can clearly hear the birds through those. A good night's sleep is so important for children's development, which they are not getting because of the birds.

Large branches overhang my garden and as a result, there is so much crow droppings that I have had to cordon off the north side of my garden to keep the children and dogs safe. The threat of diseases from such waste and the additional threat of avian flu has intensified that anxiety. I cannot risk the health of my children; therefore feel that the only option is to restrict their access to the most effected parts.

This summer, we have collected many dead birds from our garden and I suspect there will have been many more under the trees that we will not know about. Dead birds in the garden always bring my children so much upset.

As you will see from the photos, the droppings thickly coat the wall, handrail & children's playset, and without jet washing on a daily basis, I see no other solution than to restrict access to this part of the garden. The grass is also completely covered in bird waste.

The smell from the area of ground is utterly disgusting and can be smelled around the whole garden, and if the windows are open, within our home. Visitors always comment on the smell, again intensifying the stress put on my family. As someone who takes a lot of pride in their home, I find it extremely embarrassing.

In an email to Mr Smith, Darren Westmacott of the Moray Council said "The lack of maintenance does not detract from the overall significant value that the trees have long brought, and continues to bring, to the surrounding area. In particular, they are very distinctive as you travel along Fife Street". I am interested to know the basis of this statement; were members of the community consulted in anyway? I have not spoken to anyone in the community who feels the trees have "overall significant value". The community do not use the footpath under the trees for fear of debris and bird waste falling on them. No-one living in close proximity to the trees would agree to this statement, quite the opposite as I am sure you are aware of.

The land is not owned by the Moray Council, I understand that, but the Tree Preservation Order placed on the trees is blocking the solutions that are available, namely transfer of ownership to a local community group. No-one appears willing to take ownership of this land whilst there is a Tree Preservation Order on them as the liability is too great.

I have previously made an application to the Moray Council that the Tree Preservation Order is revoked, which was refused. I was not asked to represent my case and no-one visited the site. It is quite easy to make such a decision when it does not have a direct impact on the lives of you or your family and I would like to make this individual representation that again, the Moray Council revoke the Tree Preservation Order on these trees. This would allow a community group, whether already in place, or a new one to be created to consider ownership of the land and a solution that would not only benefit the neighbouring properties but the wider community.

Kind regards



(Photos enclosed)

Footpath



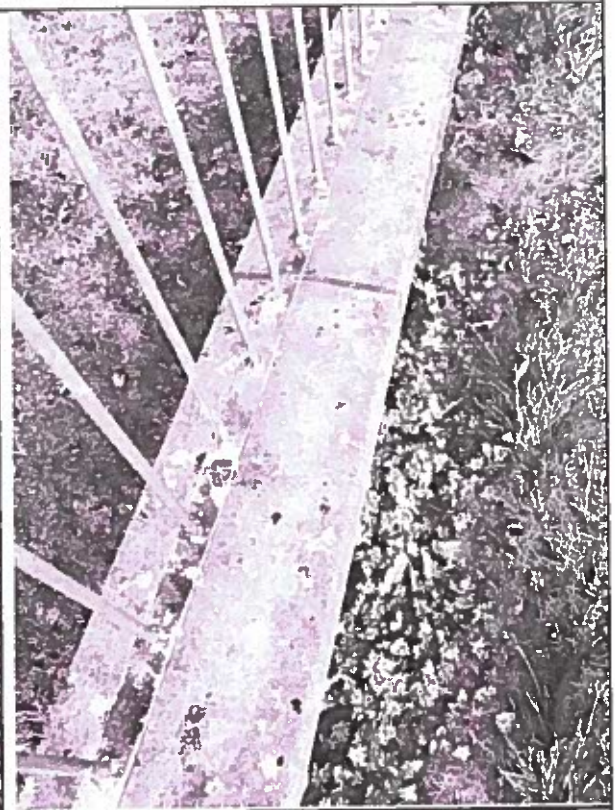
Garden wall / handrail



Bench under trees



Garden Wall



Large branch in garden





Moray Council
Council Office
High Street
Elgin
IV30 1BX

Individual Statement

Tree Preservation Order, Trees at Cowie Avenue / Fife Street, Dufftown

I am contacting the Moray Council to request that the Tree Preservation Order be revoked on the trees at the above address.

My reasons for this request are as follows:

The trees have not undergone any maintenance and have grown to such a height that is dangerous in such close proximity to residential properties. There are two dead trees on the land. Large branches have been falling into peoples gardens, which could potentially, seriously injure a person and / or seriously damage property. During stormy weather, this is a concern to us as to what direction these tree's could fall, impact our or our neighbours property and vehicles.

The footpath on Fife Street is unusable. The public will cross the road to the other side of the street for fear of falling debris from the trees. The surfacing of the footpath was replaced earlier this year as someone had slipped, fallen and hurt themselves. It was not the surfacing of the footpath that was the issue, it was the layers of bird waste that made the footpath slippery. The money replacing the footpath might have been better spent in cutting back the branches and topping the trees.

There is a rookery living in the trees of with over a hundred birds. During the summer months, we are woken constantly by the noise that the birds make. We have an older house but with modern windows, but you can clearly hear the birds through those.

There is always threat of diseases from such bird waste and the additional threat of avian flu cannot be ignored.

The smell from the area of ground is utterly disgusting and can be smelled across the road at ours , and if the windows are open within our home, visitors always comment on the smell. As someone who takes a lot of pride in their home, I find it extremely embarrassing.

In an email to Mr Smith, Darren Westmacott of the Moray Council said "The lack of maintenance does not detract from the overall significant value that the trees have long brought, and continues to bring, to the surrounding area. In particular, they are very distinctive as you travel along Fife Street". I am interested to know the basis of this statement; were members of the community consulted in anyway? I have not spoken to anyone in the community who feels the trees have "overall significant value". The community do not use the footpath under the trees for fear of debris and bird waste falling on them. No-one living in close proximity to the trees would agree to this statement, quite the opposite as I am sure you are aware of.

The land is not owned by the Moray Council, I understand that, but the Tree Preservation Order placed on the trees is blocking the solutions that are available, namely transfer of ownership to a local community group. No-one appears willing to take ownership of this land whilst there is a Tree Preservation Order on them as the liability is too great.

Kind regards





19th October 2022

Moray Council
Council Office
High Street
Elgin
IV30 1BX

**Tree Preservation Order - Cowie Avenue / Fife
Street, Dufftown**

I am writing to request that the trees next to my property that currently hold a TPO are more properly managed by the council before something potentially fatal occurs to either the general public or the residents in the surrounding properties.

Whilst the trees may not be owned by the council, you have a duty of care to protect the general public from potential hazards that may arise on council property.

The trees in question, overhang council roads and footpaths and you currently only trim them to a certain height to allow trucks to pass by them. However, this is not good enough, as those overhanging branches are:

- blocking sunlight from the pavement to allow it to dry off after rainfall.
- excessive leaf drop in Autumn and winter then adds to the damp surface.
- rooks are nesting in the trees, adding even more mess to the already slippery pavement.
- vehicles avoid parking along that stretch of road, meaning that trucks and vans park outside people's homes.
- expanding to heights that may be impacting on the structure of surrounding properties and underground mains sewage - the taller the tree the wider the root system will be spreading underground. And I'm guessing the mains sewers

along Fife Street are potentially quite fragile Victorian drains?

You recently spent council funds resurfacing the pavement underneath the trees and around a public bench, which, in my opinion, was a complete waste of time and money as people generally tend to avoid walking under the trees or sitting on the public bench as it's too hazardous and messy to do so.

Furthermore, a TPO has been placed on said trees even though they are structurally too close to my property and my drainage. My property is also Grade B listed and was established many years before the trees were planted - so what is more important, 13 trees (some of which are dying) or my 200 year old property that apparently is of REGIONAL importance according to Historic Environment Scotland. It doesn't help that my 200 year old windows that cost more than £20K to have restored (at the request of the council) are being damaged by Rook excrement and sticky sap from the trees - and what happens if a tree falls on my roof or smashes a window that has 200 year old glass that is irreplaceable?

Also I have a parking space next to the trees that when I use it, my car is covered, like my windows, with Rook excrement and tree sap.

The trees are now towering over my property and it is increasingly becoming a concern every winter that if we get a major storm, my house may be severely damaged or the road may be blocked if a tree was to fall.

I completely understand that the council has limited resources and may not want to get involved as it doesn't own the unregistered land the trees occupy, however, I am strongly urging you to get involved to help in any way possible before people are injured and property is damaged and there is litigation levelled against you because you knowingly ignored the concerns of the general public.

Any thoughts or feedback you can offer would be greatly appreciated.

Kind regards,

A solid black rectangular box used to redact the signature of the sender.



Moray Council
Council Office
High Street
Elgin
Moray
IV30 1BX

Individual Statement

Tree Preservation Order, large trees at Cowie Avenue/Fife Street, Dufftown

Dear Sir/Madam

I write to you in relation to the above Tree Prevention Order (TPO) which currently exists on a section of trees located both on Cowie Avenue and Fife Street, Dufftown.

I have resided at the above address for 7 months which is opposite the section trees which overhang, alarmingly, over Cowie Avenue and Fife Street.

There are thousands of birds within the 'rookery' that you can hear 24/7, morning, noon and night. Throughout the summer months, the feathers from the young birds was coming in our windows, ground and first floor and I dread to think about the possible health complications from the diseases these birds can carry.

The smell of excrement, quite often worse after a rain shower and during a warmer spell of weather but the smell is always in the air and has been commented on by a number of visitors we have had over the last 7 months.

The footpath directly below the area of trees is absolutely treacherous to walk on, in all seasons due to the huge amount of excrement left by the crows. A huge safety issue in my book along with the wooden bench nearby which is completely unusable by members of the public due to it being

so utterly disgusting.

The paintwork on my van and my partners 4x4 has been damaged by the excrement also and this is very concerning and show the volume of bird waste the local residents have to contend with. Not to mention the financial aspect of this!!!

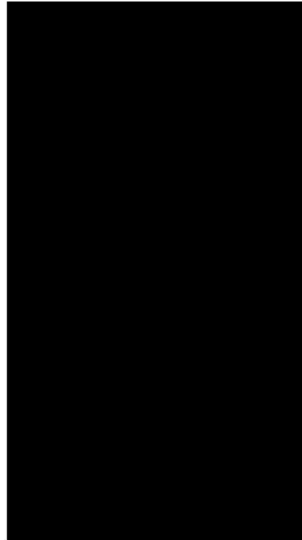
The trees have grown to such a height that myself and my partner cannot sleep at nights, especially if there is any windy, inclement weather. I feel that if we are to get more blustery, wild weather we have experienced earlier this year in the town with loss of power and water due to fallen trees, then our property will be severely damaged and most likely uninhabitable. It is a huge worry and causes significant stress all round.

There is also going to be a point whereby the drains will get blocked by the tonnes and tonnes of leaves the trees create at this time of the year. We have had to get professional assistance to help with removing all leaves from our drains in our rear garden and from the gutters around our property at a significant cost. The drains in Aberdeenshire and Aberdeen city were recently blocked as well due to blockages by leaves and the drains on Fife street are visibly started to choke up in our which needs rectified as soon as possible.

The trees have not been maintained in any way, shape or form and along with the thousands of crows, cause the residents of Fife Street and Cowie Avenue major stress and I strongly advise that the issues I have mentioned, be addressed and the TPO removed in order to install public confidence in various aspects in this area of the town and most importantly, make people feel safe in their own properties and not have to worry about the health hazards of birds etc.

Kind Regards





Moray Council
Council Office
High Street
Elgin
Moray
IV30 1BX

Individual Statement

Tree Preservation Order, large trees at Cowie Avenue/Fife Street, Dufftown

To whom it may concern

I write to you in relation to the above Tree Prevention Order (TPO) which currently exists on a section of trees located both on Cowie Avenue and Fife Street, Dufftown.

I have resided at the above address for 7 months which is directly adjacent to the aforementioned trees.

In those 7 months, I have experienced huge disgust, daily, from the constant smell of crow excrement, which covers vehicles parked on the street, doors and windows of neighbouring properties to the extent that all vehicles have to be cleaned and doors etc sterilised on a daily basis for our own sanity and health and hygiene awareness.

The footpath directly below the area of trees is absolutely treacherous to walk on, in all seasons due to the huge amount of excrement left by the crows. The footpath was previously resurfaced, however this has only exacerbated the issue as it is even more slippery with the new tar or similar material used.

A nearby wooden bench is completely unusable by members of the public due to it being so disgusting and quite frankly a huge health hazard. The bench is also on a slight incline, and I've seen many of the more vulnerable members of the community, particularly the elderly, looking to rest on said

bench but unable to do so which is completely unacceptable. The trees have grown to such a height that myself and my partner cannot sleep at nights, especially if there is any windy, inclement weather. I feel that if we are to get more blustery, wild weather we have experienced earlier this year in the town with loss of power and water due to fallen trees, then our property will be severely damaged and most likely uninhabitable. It is a huge worry and causes significant stress all round.

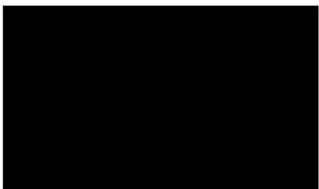
There is also going to be a point whereby the drains will get blocked by the tonnes and tonnes of leaves the trees create at this time of the year. We have had to get professional assistance to help with removing all leaves from our drains in our rear garden and from the gutters around our property at a significant cost. The drains in Aberdeenshire and Aberdeen city were recently blocked as well due to blockages by leaves and the drains on Fife street are visibly started to choke up in our which needs rectified as soon as possible.

There is a huge, visible oak tree which makes varying 'cracking' noises, each occasion I am passing across the road with my dog, at a safe distance. This could be catastrophic to any person, vehicle or property and this needs addressed as soon as possible also.

The trees have not been maintained in any way, shape or form and along with the thousands of crows, cause the residents of Fife Street and Cowie Avenue major stress and I strongly advise that the issues I have mentioned, be addressed and the TPO removed in order to install public confidence in various aspects in this area of the town and most importantly, make people feel safe in their own properties and not have to worry about the health hazards of birds etc.

Kind Regards





Moray Council
Council Office
High Street
Elgin
IV30 1BX

Individual Statement

Tree Preservation Order, Trees at Cowie Avenue / Fife Street, Dufftown

I am contacting the Moray Council to request that the Tree Preservation Order be revoked on the trees at the above address.

My reasons for this request are as follows:

The trees have not undergone any maintenance and have grown to such a height that is dangerous in such close proximity to residential properties. During stormy weather, this brings us terrible stress, knowing that a tree could damage our home at any time.

The footpath on Fife Street is unusable. The public will cross the road to the other side of the street for fear of falling debris from the trees. This negatively affects those most vulnerable in our community, such as the elderly, young ones and individuals with limited physical ability.

The surfacing of the footpath was replaced earlier this year as someone had slipped, fallen and hurt themselves. It was not the surfacing of the footpath that was the issue, it was the layers of bird waste that made the footpath slippery. I am very concerned that someone else in our community will hurt themselves due to the current state of the pavement as a result of the trees.

Kind regards





Moray Council
Council Office
High Street
Elgin
IV30 1BX

31st October 2022

Individual Statement
Tree Preservation Order. Trees at Cowie Avenue / Fife Street,
Dufftown

Dear Sir/Madam

I am contacting you regarding the existing Tree Preservation Order (TPO) on trees located at Cowie Avenue, Dufftown.

Having been resident at the above address for a few years now, it has become very evident that the trees, although subject to the TPO, have received no maintenance or attention from the current owner, which has left them structurally in a somewhat precarious state, amongst other problems that have been intensifying.

A number of associated matters have also now magnified and intensified the problems created, as such I would wish to offer the following for consideration. I believe this matter needs immediate Council intervention and action.

Although it is acknowledged that the Council is not the owner of the land on which the trees stand (another issue), it clearly retains a Duty of Care for the wider safety and health of the community of those living with the trees and the problems they present. It should also be remembered that with the main road passing adjacent to the trees, just consideration is required in the event of any major structural failure, and worse should a tree fail and fall into the road. It is clear to any novice that movement of the trees is occurring and root stability must be called into question on a number of trees. It is visually obvious that the large oak at the corner of Cowie Avenue and Fife Street

has moved and continues to migrate from the vertical indicating a structural weakness of its root system. When in full leaf this tree in particular can be seen to move and audibly one can hear it creek when high winds hit it.

Weather over the past few years, particularly the high winds we experience in Dufftown has resulted in a widespread debris field from the trees being thrown into people's garden and on the road. Some of the branches being large projectiles that were they to hit people would result in significant injury, or worse.

For those living adjacent and close to the wood in particular, the lack of maintenance has created an unsafe environment, and one of serious concern. The owners of the trees are absent and attempts to contact them have proven thus far to be fruitless.

A considerable health risk is now also in evidence due to the crows residing in the trees and excessive amounts of excrement that they produce. Control mechanisms for crows is well documented¹, however the rookery is now of considerable size and houses many birds that are causing concern for many in the town. The rookery is home to thousands of birds. The noise on occasions is deafening and continues all day. The excrement covers any surface close to the trees, be it houses, cars, hand rails, grass or benches, which are rendered unusable. The grass is completely covered in bird waste which can present and transmit a not inconsiderable amount of disease across to humans². After rain and in hot weather, the stench from the excrement is overpowering and astringent which has caused breathing difficulties for some, particularly the elderly.

The health risks are considerable and should not be underestimated. Birds are known to carry over 60 diseases and parasites, many of which can cause severe illness in humans³. This has been further compounded by the ongoing avian flu situation.

The frequent 'crow wars' always end up with the road and neighbouring gardens being left with copious dead crows to collect, again, carcasses present a significant hazard. During the year the neighbourhood have collected many dead birds to prevent the smell from rotting birds adding to the already mentioned smell.

¹ <https://extension.psu.edu/managing-urban-crow-roosts-in-pennsylvania-and-the-northeast>

² <https://www.medicalnewstoday.com/releases/61646#1>

³ <https://bird-x.com/blog/are-bird-droppings-hazardous>

A further concern that needs to be raised and appreciated by the Council is that the footpath directly under the trees on Fife Street, is unusable, and has been for a long time. Currently, public users are forced to cross the road (a hazard in itself with high volumes of speeding traffic including distillery and lumber related lorries who drive well in excess of the speed limit which is not enforced) to the other side of the street for fear of falling debris from the trees, and large amounts of crow excrement from the trees above which render the path unusable because of the slip hazard created.

The re-surfacing of the footpath was carried out earlier this year as someone had slipped, fallen and hurt themselves. It was not the surfacing of the footpath that was the issue, it was the excrement that made the path a slip hazard because there was so much of it!!!. The money replacing the footpath might have been better spent in cutting back the branches and topping the trees?

In relation to the trees and TPO specifically, I am curious to a comment made by a representative of Moray Council, in which a mail from Darren Westmacott of the Council states:

"The lack of maintenance does not detract from the overall significant value that the trees have long brought, and continues to bring, to the surrounding area. In particular, they are very distinctive as you travel along Fife Street".

The wording of your colleague's email is rather curious and offers no substantiating or supporting information. It also makes no coherent sense. Please can you provide supporting information to validate his comments. I am interested to know the basis of this statement; were members of the community consulted in anyway? I have yet to identify any member of the community who feels they have gleaned "overall significant value" from the trees – FAR FROM IT.

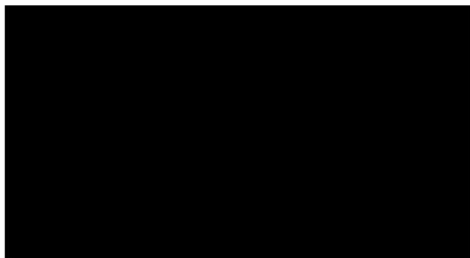
I would formally request that the Council considers revoking the TPO given the facts stated herein. As noted above the community does not feel the trees offer any advantage, quite the opposite, seeing them and the hazards and health risk presented by the crows as a burden.

I am led to believe a neighbour requested removal of the TPO previously which was refused, without any site visit by your staff, or request for further information; clearly a shortfall in process and professional behaviours in such matters?

Removal of the TPO would potentially allow a community group, whether already in place, or a new one to be created to consider ownership of the land and a solution that would not only benefit the neighbouring properties but the wider community.

I await your response with interest and look forward to hearing from you at your earliest convenience.

Kind regards

A large black rectangular redaction box covering the signature area.A black rectangular redaction box covering the contact information area.