



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
30 MAY 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 Tree Preservation Orders (TPOs), without modification, at Cherry Tree Avenue, Dunkinty (Elgin), Queen Victoria Picnic Tree (Glenfiddich) and King George Playing Field (Rothiemay).
- 1.2 The report also asks the Committee to confirm the revocation of TPOs at Dunkinty House (Elgin), Rothiemay, Woodland at Damhead Cottage (Kinloss) and Woodland at Seapark House (Kinloss).
- 1.3 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 confirm, without modification:
- (i) Moray Council (Dunkinty House, Elgin) Revocation of Tree Preservation Order 2023;
 - (ii) Moray Council (Cherry Tree Avenue, Dunkinty, Elgin) Tree Preservation Order (No 1) 2023;
 - (iii) Moray Council (Queen Victoria Picnic Tree, Glenfiddich) Tree Preservation Order (No 1) 2023;
 - (iv) Moray Council (Rothiemay) Revocation of Tree Preservation Order 2023;
 - (v) Moray Council (King George Playing Field, Rothiemay) Tree Preservation Order (No 1) 2023;
 - (vi) Moray Council (Woodland at Damhead Cottage, Kinloss) Revocation of Tree Preservation Order 2023; and
 - (vii) Moray Council (Woodland at Seapark House, Kinloss) 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) and Groups of Trees at Deskford (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.
- 3.4 As Legal Services are currently significantly under resourced, Orders are being processed in phases with the highest priority work completed first. The remaining Orders will be reported to future meetings of this Committee.

4. PROPOSALS

Confirm Moray Council (Dunkinty House, Elgin) Revocation of Tree Preservation Order 2023, without modification

- 4.1 The TPO revocation was served on land owners and advertised publically between 28 February and 10 April 2023 for representations to be received. No representations were received and it is recommended that the Committee confirm the TPO revocation without modification.

Confirm Moray Council (Cherry Tree Avenue, Dunkinty, Elgin) Tree Preservation Order (No 1) 2023, without modification

- 4.2 The TPO was served on land owners and advertised publically between 28 February and 10 April 2023 for representations to be received. No

representations were received and it is recommended that the Committee confirm the TPO without modification.

Confirm Moray Council (Queen Victoria Picnic Tree, Glenfiddich) Tree Preservation Order (No 1) 2023, without modification

- 4.3 The TPO was served on land owners and advertised publically between 7 March and 17 April 2023 for representations to be received. No representations were received and it is recommended that the Committee confirm the TPO revocation without modification.

Confirm Moray Council (Rothiemay) Revocation of Tree Preservation Order 2023, without modification

- 4.4 At the meeting of this Committee on 20 December 2022, it was agreed to vary the Rothiemay TPO to cover the boundary trees only (para 13 of the minute refers). During the legal administration of this process, an error was identified with the extent of the original TPO and it was advised that the best course of action would be to revoke the original TPO and serve a new TPO in respect of the previously agreed area. This process would not change the outcome of what was agreed by the Committee, namely the protection of the boundary trees around the King George Playing Field, Rothiemay.
- 4.5 The TPO revocation was served on land owners and advertised publically between 16 March and 26 April 2023 for representations to be received. One representation was received from the King George V Memorial Playing Field Rothiemay Trust who raised no objection. It is therefore recommended that the Committee confirm the TPO revocation without modification.

Confirm Moray Council (King George Playing Field, Rothiemay) Tree Preservation Order (No 1) 2023, without modification

- 4.6 Following the serving of the revocation order detailed in Para 4.4 above, the TPO was served on land owners and advertised publically between 16 March and 26 April 2023 for representations to be received. Two representations were received and are summarised in **APPENDIX 1**, along with the Council's proposed response.
- 4.7 The removal of the area, as sought by Mrs Mackenzie and the Trust, would be detrimental to the purpose of the TPO which seeks to protect the character and shielding function that the boundary trees provide. If the area was to be removed from the TPO, this would allow for the trees to be felled without a requirement to be replaced, thus leaving a gap in the boundary. As such, it is recommended that the area is retained within the TPO and that the Committee confirm the TPO without modification.
- 4.8 If the Committee were to confirm the TPO as recommended, officers will re-engage with the landowner and interested parties to co-ordinate works that address concerns without compromising the overall objective of the TPO.

Confirm Moray Council (Woodland at Damhead Cottage, Kinloss) Revocation of Tree Preservation Order 2023, without modification

- 4.9 The TPO revocation was served on land owners and advertised publically between 4 April and 15 May 2023 for representations to be received. No representations were received and it is recommended that the Committee confirm the TPO revocation without modification.

**Confirm Moray Council (Woodland at Seapark House, Kinloss)
Revocation of Tree Preservation Order 2023, without modification**

- 4.10 The TPO revocation was served on land owners and advertised publically between 4 April and 15 May 2023 for representations to be received. No representations were received and it is recommended that the Committee confirm the TPO revocation without modification.

5. NEXT STEPS

- 5.1 If the Committee agree to confirm the TPOs as set out in Section 2 of this report, the Council are required to register the 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 TPOs will also be made available for public inspection.
- 5.3 Officers will continue to process the remaining TPOs in phases and once the respective consultation periods are completed, the TPOs will be reported to future meetings of the Committee for confirmation or otherwise.

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 will be 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 safeguarding of some trees and removal of legal protection for other 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

The Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Chief Financial Officer, the Legal Services Manager, the Principal Climate Change Strategy Officer, the Equal Opportunities Officer and Lissa Rowan (Committee Services Officer) have been consulted and are in agreement with the contents of 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, no representations were received and the Committee is asked to confirm, without modification, the TPOs at Cherry Tree Avenue (Elgin) and Queen Victoria Picnic Tree (Glenfiddich).**
- 7.3 Two representations were received in respect of the proposed King George Playing Field, Rothiemay TPO. It is recommended that the Committee confirm the TPO, without modification, and note that officers will re-engage with the landowner and interested party in respect of potential tree works to address specific tree concerns.**

7.4 The Committee is also asked to confirm, without modification, the TPO revocations at Dunkinty House (Elgin), Rothiemay, Woodland at Damhead Cottage (Kinloss) and Woodland at Seapark House (Kinloss).

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Background Papers:

Ref: