



**REPORT TO: PLANNING & REGULATORY SERVICES COMMITTEE ON
29 JANUARY 2019**

SUBJECT: TREE PRESERVATION ORDERS

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING & INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 This report asks Committee to confirm the Tree Preservation Orders (TPOs) approved by Committee on 19 June 2018 (para 13 of the minute refers) at Dallas Dhu, Forbes and Findhorn Village Entrance, with modifications.
- 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 confirm:-

- (i) 'The Moray Council (Dallas Dhu) Tree Preservation Order (No 1) 2018' with a modification, as detailed in paragraph 4.3 of the report; and**
- (ii) 'The Moray Council (Findhorn Village Entrance) Tree Preservation Order (No 1) 2018' with a modification, as detailed in paragraph 4.6 of the report.**

3. BACKGROUND

- 3.1 Policy E4 *Trees and Development* of the Moray Local Development Plan 2015 supports the serving of a TPO on potentially vulnerable trees which are of significant amenity value to the community as a whole, or trees of significant biodiversity value. In Moray, there are currently 36 TPOs.
- 3.2 Responsibility for the management of trees, including protected trees, rests with the owner of the land upon which they stand. Where trees are protected by a TPO, any works proposed to a protected tree – other than that allowed under exemption – requires the permission of the Council. Following submission of Proposed Tree Works application, Development Plans Officers

have 6 weeks to determine the application and will undertake a site visit and consultation with a certified arborist, if required. Any trees which are felled within a TPO must be replanted.

- 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 give representations 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 The serving of TPOs at Dallas Dhu and Findhorn Village Entrance were approved by this Committee at its meeting on 19 June 2018 (para 13 of the minute refers).

4. PROPOSALS

Dallas Dhu, Forbes

- 4.1 After approval by Committee on 19 June 2018, the TPO was served on 5 September 2018 and advertised publically for a consultation period of 28 days, until 5 October 2018, for representations to be received.
- 4.2 One representation was received from the Dava Way Association in respect of two areas (W1 and W5 on the map as set out in **APPENDIX 1**). Their comments are summarised in **APPENDIX 2** along with the Council's proposed response.
- 4.3 In considering the representation from the Dava Way Association, it is proposed that the TPO be amended to include an exemption for areas W1 and W5 that an annual maintenance plan for these areas, prepared by a certified arborist, be submitted by the Dava Way Association to the Council for approval. This would streamline the process to allow the Dava Way Association to continue to maintain the Dava Way to an accessible standard without the requirement to apply to the Council each time they require to carry out regular maintenance work. The removal of trees within the two areas would still require an application to the Council for consideration.

Findhorn Village Entrance

- 4.4 After approval by Committee on 19 June 2018, the TPO was served on 24 October 2018 and advertised publically for a consultation period of 28 days, until 22 November 2018, for representations to be received.
- 4.5 Two representations were received, one from Mr & Mrs Stewart, Findhorn and one from the Findhorn Foundation. Their comments are summarised in **APPENDIX 3** along with the Council's proposed response.

- 4.6 In considering the objection from the Findhorn Foundation, it is proposed that the TPO be amended to exclude the area used for food production at Cullerne Gardens, which does not contain mature trees which are of significant amenity value to the wider community. An amended map has been provided as **APPENDIX 4.**

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 the Forestry Commission, interested persons and any person who made a representation. A copy of the 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 identifies the need to build a better future for children and young people in Moray by providing the healthiest start in life. Serving TPOs protects 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.

(c) Financial Implications

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

(d) Risk Implications

There is a risk that the trees at both the ENV6 designation and adjacent to 4 Heathneuk in Findhorn and at Dallas Dhu in Forres could be felled with a resultant significant loss of amenity if TPOs are not served and confirmed.

(e) Staffing Implications

The registration and notification of confirmed TPOs has staffing implications for Development Plans and Legal Services.

(f) Property

None.

(g) Equalities/Socio Economic Impact

No Equality Impact Assessment is required for this report.

(h) Consultations

The Corporate Director (Economic Development Planning & Infrastructure), the Head of Development Services, the Legal Services Manager (Property and Contracts), the Equal Opportunities Officer, Paul Connor (Principal Accountant) 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 woodlands to protect the amenity value they contribute to the local community. TPOs are proposed at Dallas Dhu, Forres and Findhorn Village Entrance.**
- 7.2 Following representation, an exemption is proposed for the TPO at Dallas Dhu which will streamline the process and allow the Dava Way Association to continue to maintain the Dava Way to an accessible standard.**
- 7.3 Following representations to the TPO at Findhorn Village Entrance, it is proposed to exclude the area used for food production at Cullerne Gardens, which does not contain mature trees which are of significant amenity value to the wider community.**

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Background Papers:

Ref: