

**REPORT TO MARR AREA COMMITTEE – 20 AUGUST 2019****ABERDEENSHIRE COUNCIL TREE PRESERVATION ORDER NO 72 (2019)  
MOUNT ST TERNAN, BANCHORY****1 Recommendations**

**The Committee is recommended to:**

**1.1 Confirm the Tree Preservation Order with modification as detailed in Appendix 1.**

**2 Background / Discussion**

- 2.1 This report seeks confirmation of a new updated Tree Preservation Order which is the subject of an outstanding objection.
- 2.2 As part of the ongoing review of Tree Preservation Orders across Aberdeenshire the original Tree Preservation Order, K&DDC No. 23 (1990) served on the trees within the garden and grounds of the property known as Mount St Ternan in Banchory was reassessed. The trees covered by the original Order were re-surveyed and those trees considered to merit protection included in a new Order. The new Order was first served in March 2018 but lapsed prior to a decision being made on its confirmation. It was re-served, at the beginning of June this year, with minor modifications to include two additional Beech trees. The new Order was advertised in the local press and neighbouring proprietors and other interested parties including Forestry Scotland and the Community Council were also notified.
- 2.3 Following consideration of representations received, a further modification is proposed to remove one of the additional Beech trees. A map of the Order as modified is included in Appendix 1. The issues raised in the outstanding objection and officer comments are summarised in Appendix 2. A copy of the outstanding objection is attached.
- 2.4 Currently both Orders are in force. If confirmed, the new Order will replace the existing Order. The Revoked Order will then be removed from the Public Register. Orders must be confirmed within 6 months of being made or they will lapse.
- 2.5 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

**3 Scheme of Governance**

- 3.1 The Committee is able to consider and take a decision on this item in terms of Section B.8.2 of the List of Committee Powers in Part 2A of the Scheme of Governance as it relates to the confirmation of a Tree Preservation Order which is the subject of outstanding objections.

#### **4 Implications and Risk**

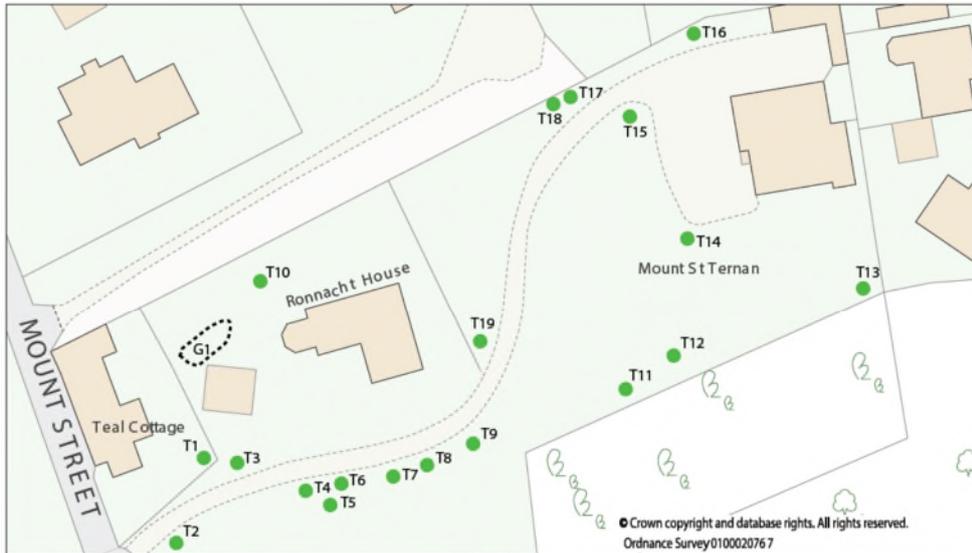
- 4.1 An equality impact assessment is not required because the recommended actions will not have a differential impact on any of the protected characteristics.
- 4.2 There are no staffing implications.
- 4.3 The costs of making this Order is expected to be approximately £1000 and will be met from the Environment Line for TPOs (A.P346041). Costs accrue principally from advertisement, postage and from Registration on title. The more properties affected by an Order the greater the cost incurred.
- 4.4 There are no risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the planning authority has a statutory duty to review its TPOs from time to time. Any representations made in accordance with the Regulations must be considered before a TPO is confirmed.

**Stephen Archer**  
**Director of Infrastructure Services**

Report prepared by Mary Macleod, Environment Planner  
Date 23 July 2018

# AC No 72 (2019) MOUNT ST TERNAN, BANCHORY

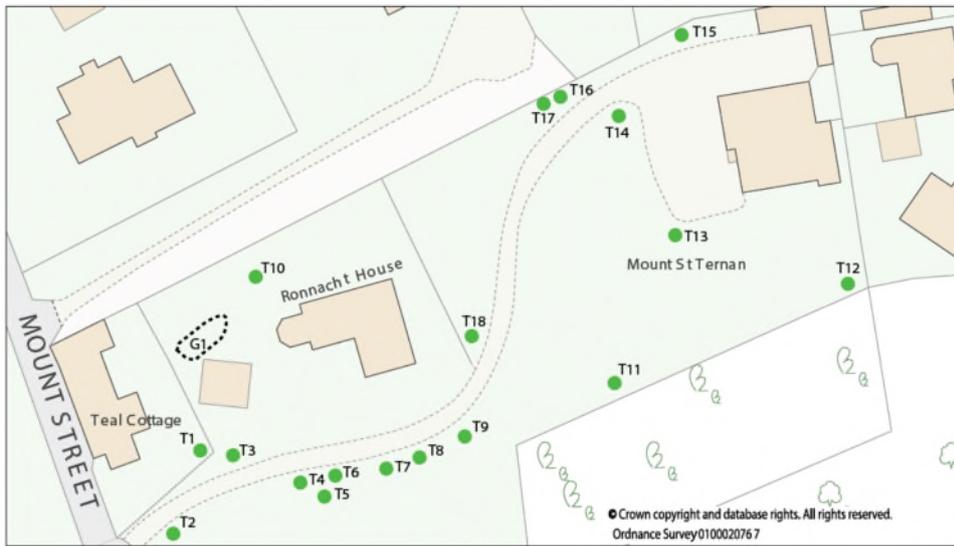
## Appendix 1: Maps



Mount St Ternan, Banchory  
This is the plan referred to in the foregoing  
Tree Preservation Order AC No. 72 (2019)



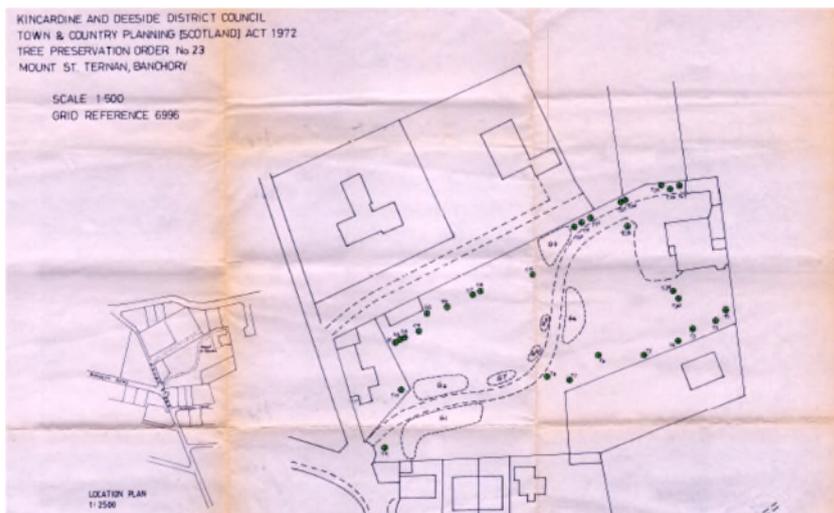
1 Map as Served



Mount St Ternan, Banchory  
This is the plan referred to in the foregoing  
Tree Preservation Order AC No. 72 (2019) as modified



2 Map as Modified



3 Map original TPO

**AC No 72 (2019) MOUNT ST TERNAN, BANCHORY****Appendix 2: Discussion**

Background	<p>Mt St Ternan is a large detached dwelling located in a substantial feu on an elevated site. The property is largely surrounded by relatively high density housing although it lies adjacent to the Council owned Captains Wood to the south east. The original Order was made in 1990. It covers 30 individual trees and 7 groups of trees. The feu has been split in the past with one property built within the grounds. Two applications for an additional property in the southern part of the site were refused approximately 10 years ago.</p> <p>Following formal consultation and receipt of representation from the owners of the property one of the Beech trees (T12) has been removed from the Order. Located close to the southern boundary wall it is agreed that the tree does not contribute as significantly to the visual amenity and character of the area as other Beech trees e.g. T14, T15, T16, T17 and T18. It was not included in the reviewed Order as served in 2018 nor in the original Order. The map has been modified accordingly, as shown in Appendix 1.</p>
Outstanding Objections	<p>A neighbouring resident has also made representation. He raises concerns about the removal of protection from some of the conifers along the southern edge of the site and from some of the Beech trees due to the potential impact on red squirrels. A copy of his letter and enclosures is attached.</p>
Officer response	<p>The retention and protection of wildlife habitat, including that for red squirrels, is important. However it is not a valid reason for making a Tree Preservation Order. The grounds permissible under the Town &amp; Country Planning Act 1997 and supplementary regulations are that it is either expedient in the interests of amenity and/or the trees, groups of trees or woodland are of cultural or historical significance. Red squirrels are protected under other legislation.</p> <p>On reviewing the 1990 Order it was agreed that the trees within the Mt St Ternan, particularly the larger more prominent ones are of significant amenity value. Given the size of the feu, the history of feu splits and development pressure in the area these trees are also regarded as at risk. The site was resurveyed and those trees of particular value or merit have been included in the new Order.</p>
<b>Recommendation</b>	<b>Confirm the new Tree Preservation Order as modified and shown on Map 2</b>

**From:** Robert Moore [REDACTED]  
**Sent:** 06 June 2019 14:09  
**To:** Planning <planning@aberdeenshire.gov.uk>  
**Subject:** AC TPO 72 (2019) Mount St Ternan, Banchory

FAO Mary MacLeod/Fiona Chirnside

Reference the above updated Tree Preservation Order I would appreciate it if my objections/comments made against the Council's previous attempt last year to update the existing TPO are again taken into consideration. These are "pasted" below.

**Robert Moore** [REDACTED]

4 Apr 2018, 20:27

to planning

[REDACTED]

[REDACTED]

[REDACTED]

Your Ref: TRIM/2018/0007480

One simple question; have red squirrels been considered in raising this new tree preservation order to replace the existing order (K&DDC TPO 23 (1990))?

I ask this question as red squirrels are seen in this area on a regular basis and therefore concerned that with less trees protected and subsequently possibly removed we are in turn removing their habitat and food sources. I draw your attention in particular to the number of conifers currently protected on the south boundary of Mount St Ternan and the Reservoir to those proposed with the new order, 6 against 2, plus over the whole site generally.

There is also a reduction in beech, with beech nuts a source of food for squirrels.

I look forward to your response.

Regards, Robert Moore, owner/resident 16, Hillcroft Rd, Banchory.

**Robert Moore** [REDACTED]

10 Apr 2018, 11:22

to planning

[REDACTED]

[REDACTED]

[REDACTED]

Your Ref: MM/TPO 72 (2018)

Thanks for your response Mary, very informative, yet concerning in that you say wildlife habitat is an important duty to the Council and for all, yet it isn't a valid reason for a Tree Preservation Order.

You go on to say the grounds permissible under the Act are:-

Expedient in the interests of amenity to which I would say these trees, to which I refer, are. Not sure you are aware, but the local Primary School use Captain's Wood as one of their study areas, hence any possible removal of said trees may very well mean the loss of red squirrels and with it any

chance of children being able to study them in their local habitat.

The trees are of cultural, or historical significance and again I would say they are as potentially a historical food supply, even a historical home for squirrels, who knows. All I can judge it on is the 30 plus years That I've lived at my current address.

As I see it there is no so called 'progress' reason for these trees to possibly be cut down, so I would say leave the existing TPO in place and at least give a degree of control and consideration to what can and can't be removed going forward. That way we have a better chance to maintain a squirrel friendly habitat for all to share in the centre of Banchory.

Thanks again for allowing me the opportunity to reword my concern into what is hopefully a more meaningful way concerning TPOs.

Regards Robert Moore.

I have also attached a picture of a red squirrel taken this week at the feeder in our garden, with Mount St Ternan House behind, as proof that the squirrels do exist.

Am I right to assume all tree work already performed on this site have received the necessary authorisations against the existing TPO No 23 (1990) since for example it appears T13 on the new application, T1 on the existing TPO has been lopped? Also T26 & T27 have been felled, but then I am not certain to the accuracy of tree positions on the maps.

Thanks once again.

Regards Robert Moore (owner/resident 16, Hillcroft Rd)

