

REPORT TO MARR AREA COMMITTEE – 20 AUGUST 2019

ABERDEENSHIRE COUNCIL TREE PRESERVATION ORDER TPO 98 (2019) MANORWAY, ST EUNAN'S ROAD, ABOYNE

1 Recommendations

The Committee is recommended to:

- 1.1 **Confirm the Tree Preservation Order without modification as detailed in Appendix 1.**

2 Background / Discussion

- 2.1 This report seeks confirmation of a Tree Preservation Order which is the subject of an outstanding objection. Orders must be confirmed within 6 months of being made or they will lapse. The maps relative to this Order are included in Appendix 1.
- 2.2 As part of a review of Tree Preservation Orders across their administrative area, Aberdeenshire Council reviewed the Tree Preservation Order made by Kincardine & Deeside District Council in 1990. The new Order was served on the owners of the land in April this year. Neighbouring proprietors and other interested parties including Forestry Scotland and the Community Council were also notified. The TPO was advertised in the local press.
- 2.3 One representation has been received and there remains an outstanding objection to the Order. The issues raised and officer comments are summarised in Appendix 2. A copy of the outstanding objection is attached.
- 2.4 Currently both the existing Order and the new Order are in force. If the new Order is confirmed the original Order will be revoked. If the new Order is not confirmed and is allowed to lapse the original Order will remain in force until such time as it might be reviewed.
- 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. They 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 to which there are outstanding objections.

4 Implications and Risk

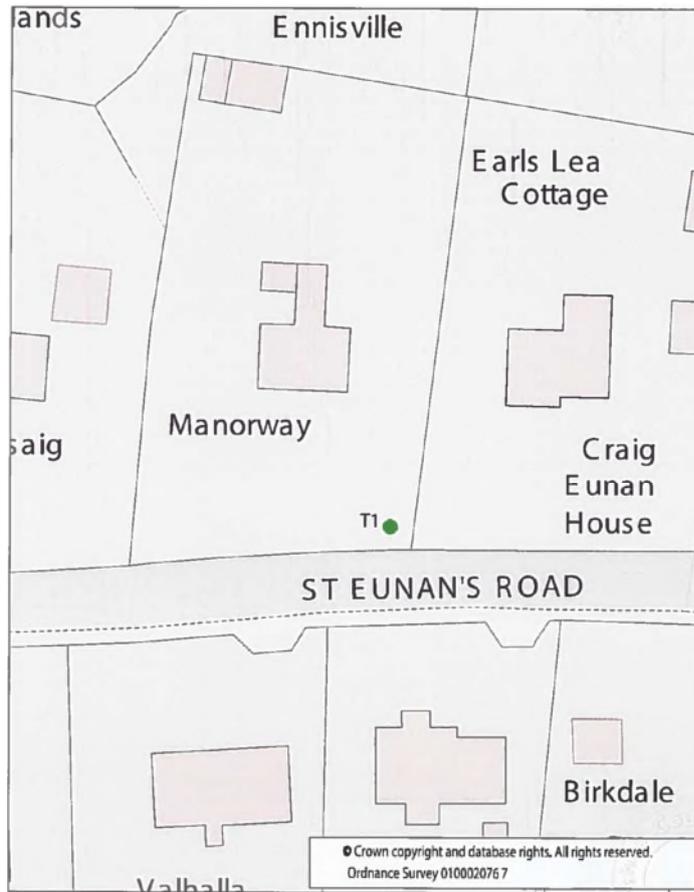
- 4.1 An equality impact assessment is not required because the recommended actions will not have a differential impact on any of the protected characteristics.
- 4.2 There are no staffing implications.
- 4.3 The costs of making this Order is expected to be approximately £500 and will be met from the Environment Line for TPOs (A.P346041). Costs accrue principally from advertisement, postage and from Registration on title.
- 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 2019

AC TPO 98 (2019) Manorway, St Eunan's Road, Aboyne

Appendix 1: Maps

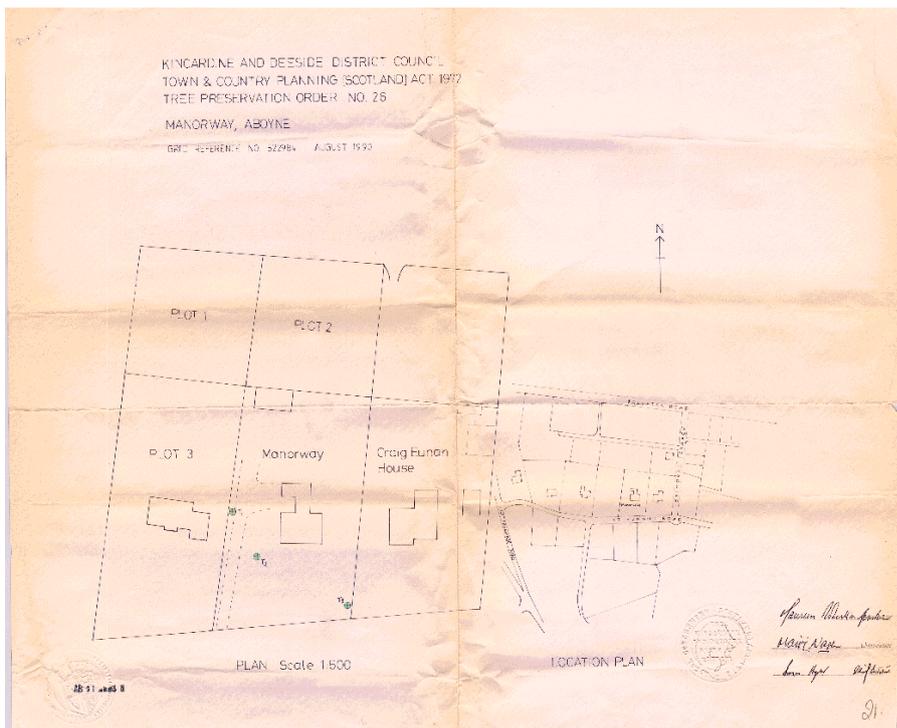


Manorway, St Eunan's Road, Aboyne
This is the plan referred to in the foregoing
Tree Preservation Order AC No. 98 (2019)

SCALE 1:500



Map 1 as Served



Map 2 Original Order

AC TPO 98 (2019) Manorway, St Eunan's Road, Aboyne

Appendix 2. Discussion

Background

The protected tree lies in a prominent position adjacent to the road and is significant for visual amenity. Although the site lies within the designated Aboyne Conservation Area which affords trees some legal protection it is considered that continued protection in the form of a TPO is appropriate. A new TPO was made in April this year.

Outstanding Objections

The neighbouring proprietor of land adjacent to the protected tree has made representation. He strongly objects to the Order due to the large and increasing size of the Beech tree which is in an inappropriate location. Impacts include structural damage to the boundary wall, loss of amenity and use of the garden, increasing risk and ongoing expense. He requests that the current order be reviewed in the light of the information provided. A copy of the outstanding representation is attached.

Officer Response

The original Order was made at the request of the owner concerned about the loss of trees in the area. There has been development to the rear and the side of the property. Originally three trees were included in the Order. However the review concluded that only one tree, a Copper Beech on the road frontage warranted protection in the interests of amenity due to its prominence and location. The other two garden trees are less visible and less significant. All the trees within the site are afforded some protection as they lie within the Aboyne Conservation Area. If a protected tree does need to be removed then where appropriate replacement planting can be sought to ensure continuing tree cover in the area.

The imposition of the new Order does not change the situation relating to liability for the trees, which remains with the owner of the land on which they stand. Any works to protected trees if justified will not be unreasonably withheld and safeguarding of life and property are paramount. If it is considered that there is an immediate health and safety risk works can be carried out immediately without application to the Council provided that the necessary notification is submitted as soon as possible and is accompanied by photographic evidence or a report from a suitable qualified person supporting the case for such immediate action.

Unfortunately the planning authority have no remit under the legislation to require management of trees protected by a TPO.

Recommendation:

Confirm the Tree Preservation Order without modification as shown on Map 1 in Appendix 1

APPENDIX 3

Aberdeenshire Council
Infrastructure Services
Planning and Building Standards
Gordon House
Blackhall Road
Inverurie AB51 3WA

Craig Eunan House
St Eunan's Road
Aboyne
AB34 5HH
30th April 2019

Ref TRIM/2019/0009849

Attention Environment Planner - Mary MacLeod

Aberdeenshire Council
Tree Preservation Order Number AC TPO Ni 98 (2019)
Manorway, St Eunan's Road, Aboyne.

Dear Mary,

Further to our recent telephone conversation regarding the subject Order.

I would confirm that our property is adjacent to Manorway.

I am unaware of any site surveys in relation to this proposed order, or indeed the existing order. but to put this proposal in context, the subject Beech tree is in the region of 60 to 70ft tall, it has a trunk of approx 3ft diameter, which is within 2ft of the granite boundary wall between the two properties . It has and continues to cause structural damage to the boundary wall., The canopy of the tree extends to approx 20/30 ft into our garden and creates a very dry and virtually unusable corner of our front garden.

We have been resident here for 27 years and naturally this tree just gets bigger year by year.

I would confirm that we discussed tree management. There has been no planned management of this tree, but much more importantly, this specimen is in an inappropriate location on the Manorway plot, such that it is causing structural damage, restricting the growth of mature trees in my garden and robbing us of amenity on our own land.

I cannot accept that the subject order should give legal protection to a tree which is progressively increasing risk in my garden, creating ongoing expense to me and precluding us from the full utilisation of our front garden.

I must therefore strongly object to this proposed Tree Preservation Order and respectfully

request that the current order be reviewed in the light of the information provided herein.

Please confirm receipt of this letter of objection.

Yours faithfully

Alan A White