



REPORT TO BANFF & BUCHAN AREA COMMITTEE - 19 SEPTEMBER 2017

ABERDEENSHIRE COUNCIL TREE PRESERVATION REVOCATION ORDER B&BDC TPRO 15 (2017) CORTES HOUSE, RATHEN

1 Recommendations

The Committee is recommended to:

- 1.1 **Confirm the Revocation Order to revoke the existing Tree Preservation Order on woodland surrounding Cortes House, Rathen.**

2 Background / Discussion

- 2.1 As part of the ongoing review of Tree Preservation Orders being undertaken across Aberdeenshire, the existing Order at Cortes House, Rathen, made by Banff & Buchan District Council in 1987 was reviewed. The review found the TPO to be outdated and no longer fit for purpose for two reasons; firstly, as the trees within the grounds of Cortes House are only visible in the immediate surrounds of the property and therefore have limited significance for the visual amenity of the wider area, and secondly, those areas of woodland along the roadside and visible from the trunk road, are afforded protection under the provisions of the Forestry (Scotland) Act (1967) and additional legal protection by means of a TPO is considered unnecessary.
- 2.2 The Revocation Order was served on 22nd June 2017 and advertised in the local press.
- 2.3 One representation was received in respect of this Revocation Order, a copy of which is appended to the report. The objector raised concerns about the removal of existing tree protection at a time of uncertainty in forestry law in light of proposals by the Scottish Government to repeal and replace the Forestry (Scotland) Act (1967) and stated they expect the Council to use their powers to maintain current levels of tree protection at Cortes House and across Aberdeenshire.
- 2.4 It is acknowledged that the legislation relating to the management and regulation of forestry in Scotland is currently under review. The Forestry and Land Management (Scotland) Bill was introduced to the Scottish Parliament by Fergus Ewing MSP on 10th May 2017, following a public consultation held during 2016 entitled 'The Future of Forestry in Scotland'. This Bill repeals the Forestry (Scotland) Act 1967. The Bill transfers the powers and duties of the Forestry Commissioners in Scotland to Scottish Ministers, provides a duty to promote sustainable forestry management, and publish a forestry strategy and provides wider powers than are currently available for the management of forestry land.

- 2.5 The regulatory regime for felling of trees was previously the responsibility of the Forestry Commissioners and is transferred to Scottish Ministers by the Bill. The Bill sets out powers to regulate felling including; refusing permission, or granting permission with conditions, offences of unauthorised felling and felling of trees subject to tree preservation orders. While the Forestry Act focused on timber production, the regulatory regime has been updated in the Bill to allow for a broader view tied to the principles of sustainable forest management. The specific of the details of the regulatory regime for felling has not been included in the primary legislation (as is the case in the Forestry Act) but will be set out in secondary legislation which is due to be laid before the Scottish Parliament in the course of 2018 with final commencement of the new framework planned for 2019.
- 2.6 In light of the powers and duties set down in the Bill, which include a continuance in the control of felling, the proposed recommendation to revoke the existing Tree Preservation Order is considered appropriate. At present there remains two layers of protection on the area of woodland surrounding Cortes House and this is considered unnecessary.
- 2.7 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.9.2 of the List of Committee Powers in Part 2A of the Scheme of Governance as it relates to revoking a Tree Preservation Orders where objections or relevant representations have been received.

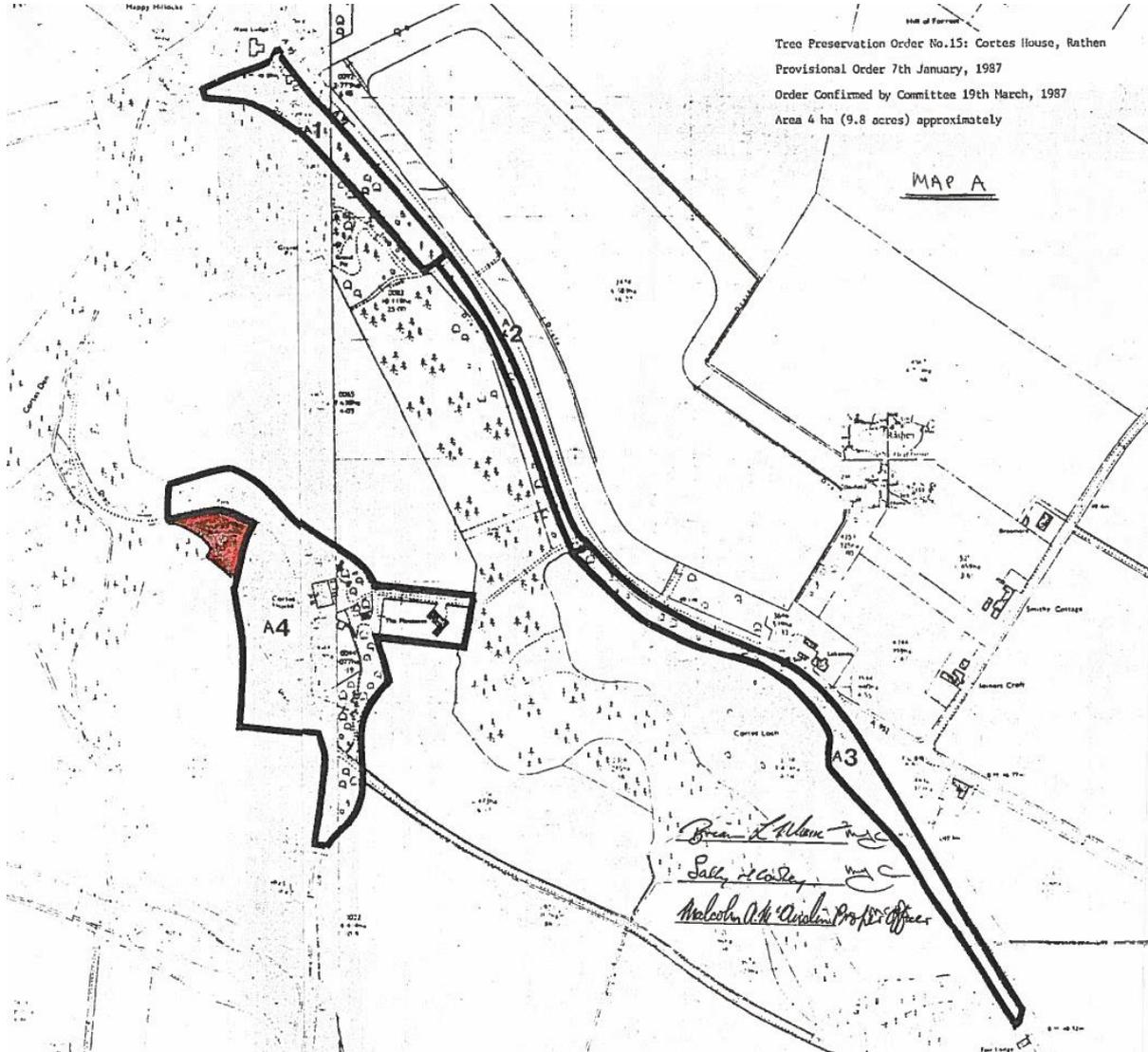
4 Implications and Risk

- 4.1 An equalities assessment is not required because the recommended actions will not have a differential impact on people with protected characteristics.
- 4.2 There are no financial implications to the recommended action. The cost of serving and advertising the Revocation Order has been £140 and has been met from the existing Environment Team budget (Lines 29 and 12). If the Revocation Order is not confirmed, a new Tree Preservation Order will require to be served, advertised and registered, the cost of which is expected to be £500. This would also be met from the existing Environment Team budget.
- 4.3 No risks have been identified as relevant to this matter on either a Corporate Level or Strategic Level.

Stephen Archer
Director of Infrastructure Services

APPENDIX 1:

**Map of Existing Tree Preservation Order
B&BDC TPO 15 (1987) Cortes House, Rathen**



APPENDIX 2:

TPRO 15 (2017) Cortes House, Rathen – Formal Objection

The Pleasance

Lonmay

Fraserburgh

AB43 8SS

25th June 17

Your Ref:TRIM/2017/0019991

Dear Fiona Chirnside,

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (as amended)

ABERDEENSHIRE COUNCIL

TREE PRESERVATION REVOCATION ORDER B&BDC TPO 15 (2017)

Cortes House, Rathen

I see from your recent letter that you are proposing to revoke this tree preservation order.

I cannot agree with the reasons given in your statement for revoking this order. You state that:-

The woodland is afforded protection under the provisions of The Forestry (Scotland) Act (1967) making the additional protection of a TPO unnecessary.

Given that the Scottish Government have announced their intention to repeal The Forestry (Scotland) Act (1967) and replace it with a new, and as yet unseen, act we feel that the existing tree preservation order must remain in place to guarantee the existing protection.

The Scottish Government have further stated that they intend to disband the Forestry Commission and take their regulatory powers into the hands of Scottish Ministers. At a time of such uncertainty in forestry law we expect the Council to use their powers to maintain current levels of tree protection, not just here at Cortes but across the whole of Aberdeenshire.

Yours faithfully



Mr & Mrs J.S. Cutts

The Pleasance

Lonmay.