

REPORT TO GARIOCH AREA COMMITTEE - 9 OCTOBER 2018

TREE PRESERVATION ORDER NO. 15 (2018) SAUCHEN

1 Recommendation

The Committee is recommended to confirm the Tree Preservation Order AC TPO 15 (2018) Sauchen, as modified.

2 Background / Discussion

- 2.1 This report seeks confirmation of the new updated Tree Preservation Order AC TPO 15 (2018) at Sauchen, which is the subject of an outstanding objection.
- 2.2 As part of Phase 4 of the ongoing review of Tree Preservation Orders across Aberdeenshire, twelve existing Orders within the Garioch area were assessed. Following the review process five new updated Tree Preservation Orders were served in respect of trees and woodlands which were found to be of amenity or cultural and historic value and at risk of damage or removal. Revocation Orders were served in the five cases where a Tree Preservation Order was no longer considered necessary or appropriate.
- 2.3 Within the settlement of Sauchen three existing Orders, one made by Gordon District Council and two made by Aberdeenshire Council, were reviewed. The review process identified many of the trees included in the original Orders to be of high visual amenity and, due to the proximity of residential dwellings, at risk. Following this assessment and review a new updated Order was prepared. If confirmed the new Order will revoke the three existing Orders. Maps of the existing and reviewed Orders are attached in Appendix 1 and 2. A photograph of the woodland as seen from the A944 road is attached in Appendix 3.
- 2.4 The new Order was served on the owners of the land and advertised in the local press in June 2018. Neighbouring properties and other interested parties, including Forestry Commission Scotland and the local Community Council were also notified.
- 2.5 Three representations were made in respect of this Order. Following consideration of these representations it is proposed the Order be modified to reduce the extent of woodland area W2. The issues raised, officer comments and details of the proposed modification, are summarised in Appendix 4. Copies of the representations are attached in Appendix 5.
- 2.6 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 the confirmation of two Tree Preservation Orders to which there are outstanding objections.

4 Implications and Risk

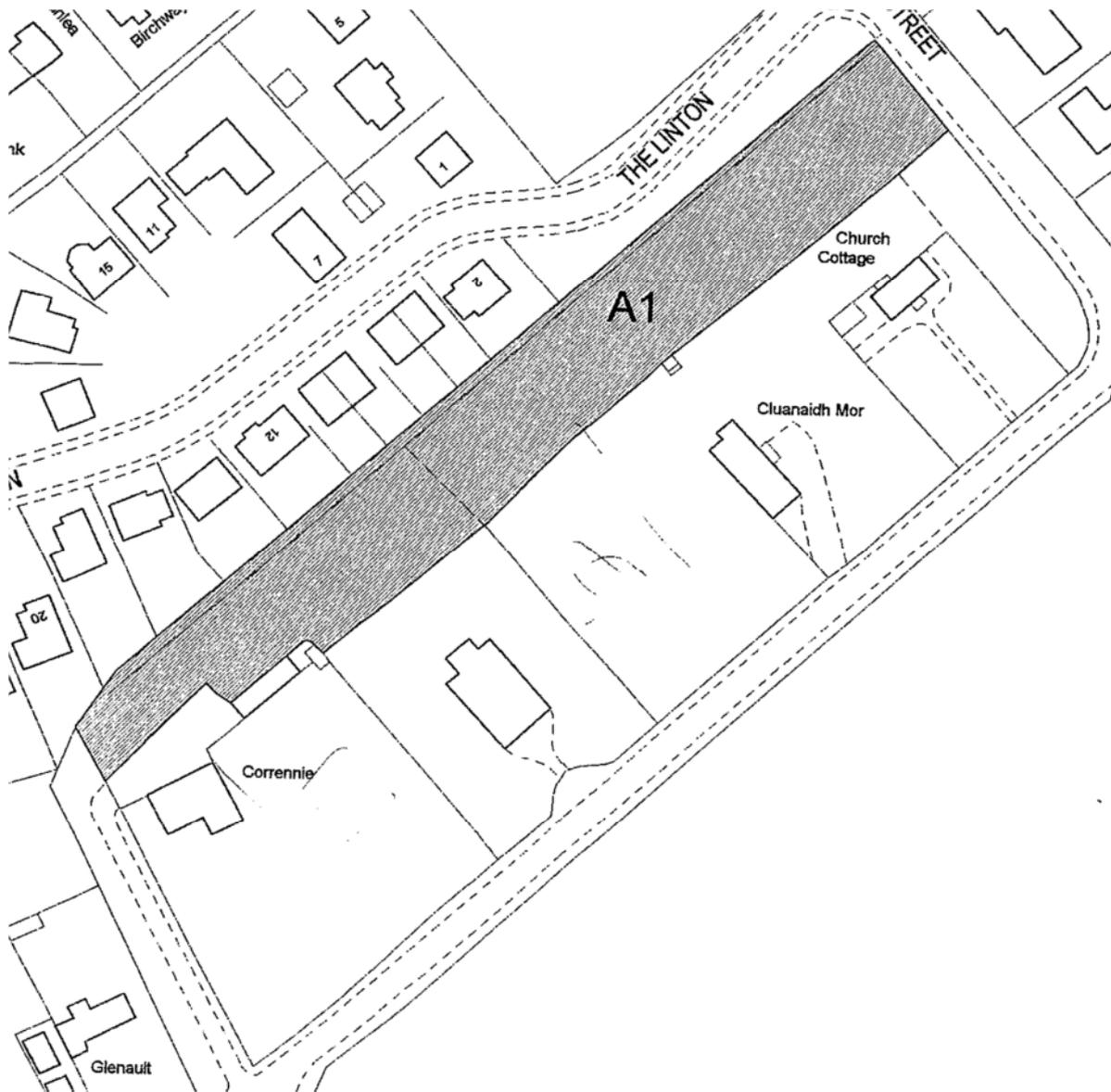
- 4.1 An equalities assessment is not required because the recommended actions will not have a differential impact on people with protected characteristics.
- 4.2 The cost of making this TPO is expected to be approximately £600 and this has been met from the existing Environment Team budget (Line 23). There are no financial implications to the recommended action.
- 4.3 No risks have been identified as relevant to 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 representation made in accordance with the Regulations must be considered before a TPO is confirmed.

Stephen Archer
Director of Infrastructure Services

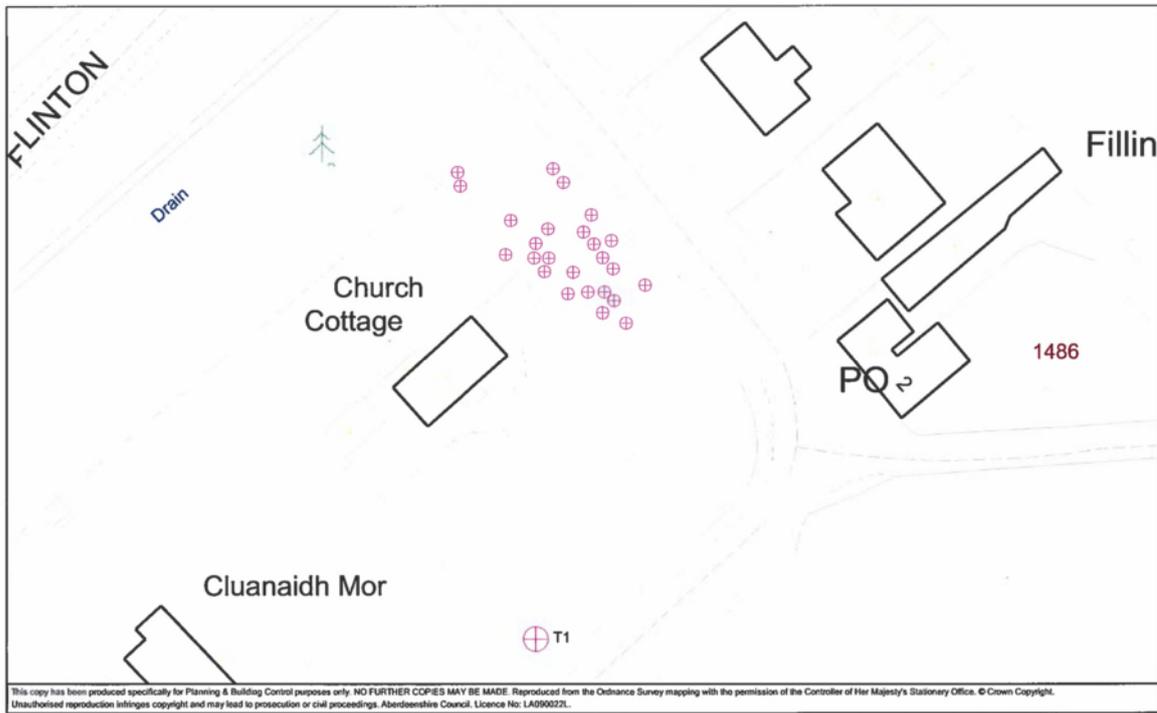
Report prepared by: Fiona Chirnside, Environment Planner
Date: 18th September 2018.

APPENDIX 1: Maps of Existing Tree Preservation Orders

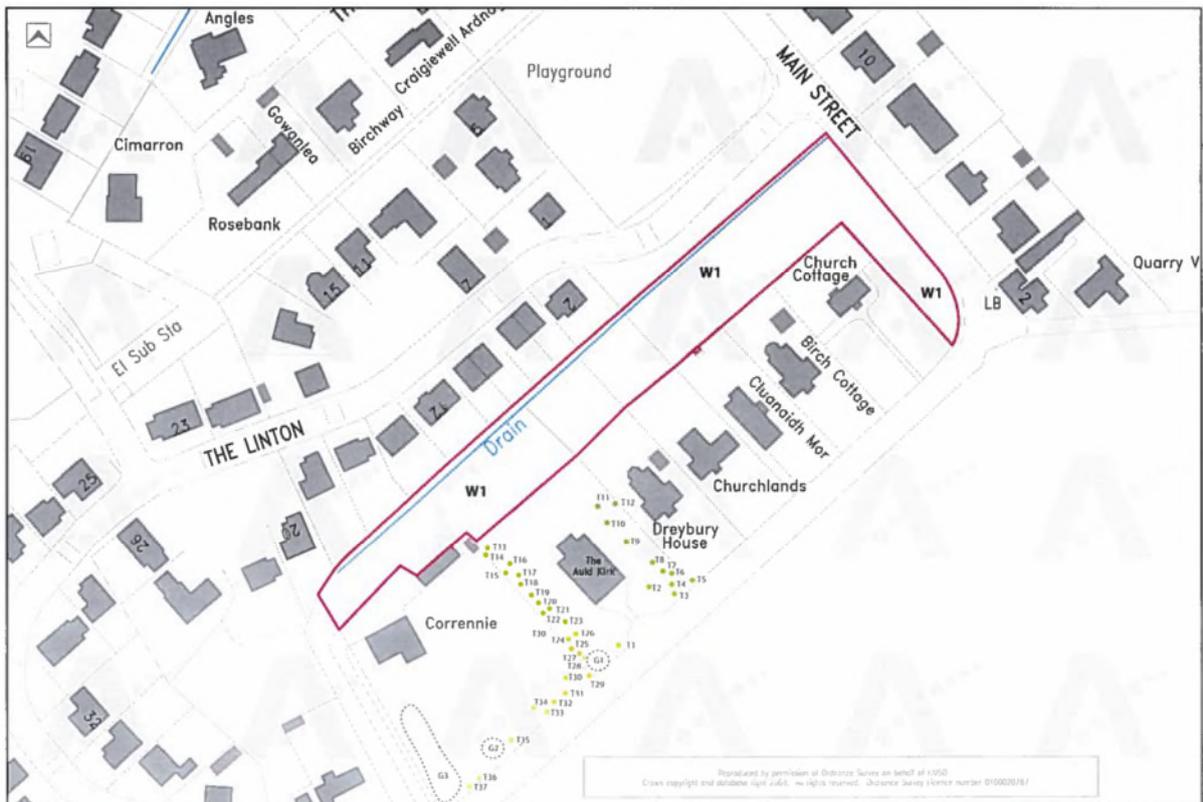
1.1 Map of Existing Order: GDC TPO No. 25 (1996)



1.2 Map of Existing Order AC TPO 18 (2006) Church Cottage, Sauchen

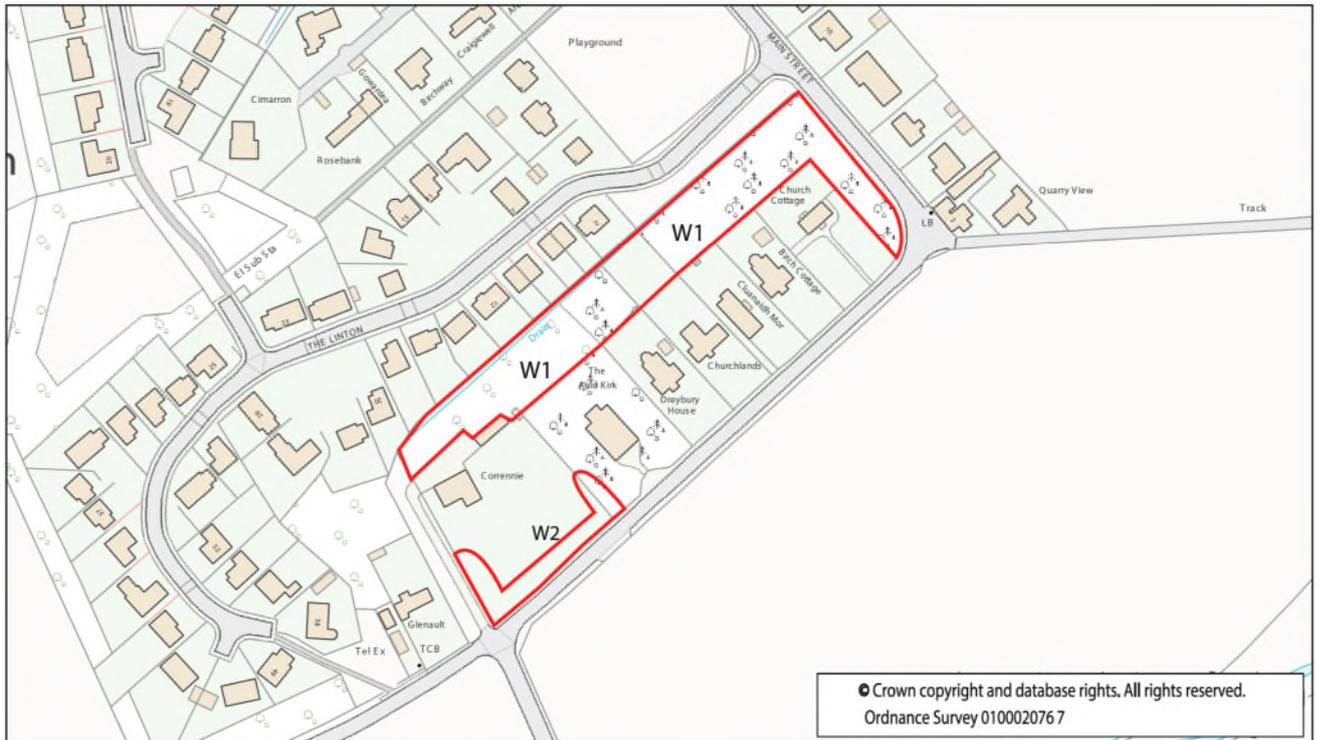


1.3 Map of Existing Order AC TPO 15 (2014) Shelterbelt Trees at Sauchen

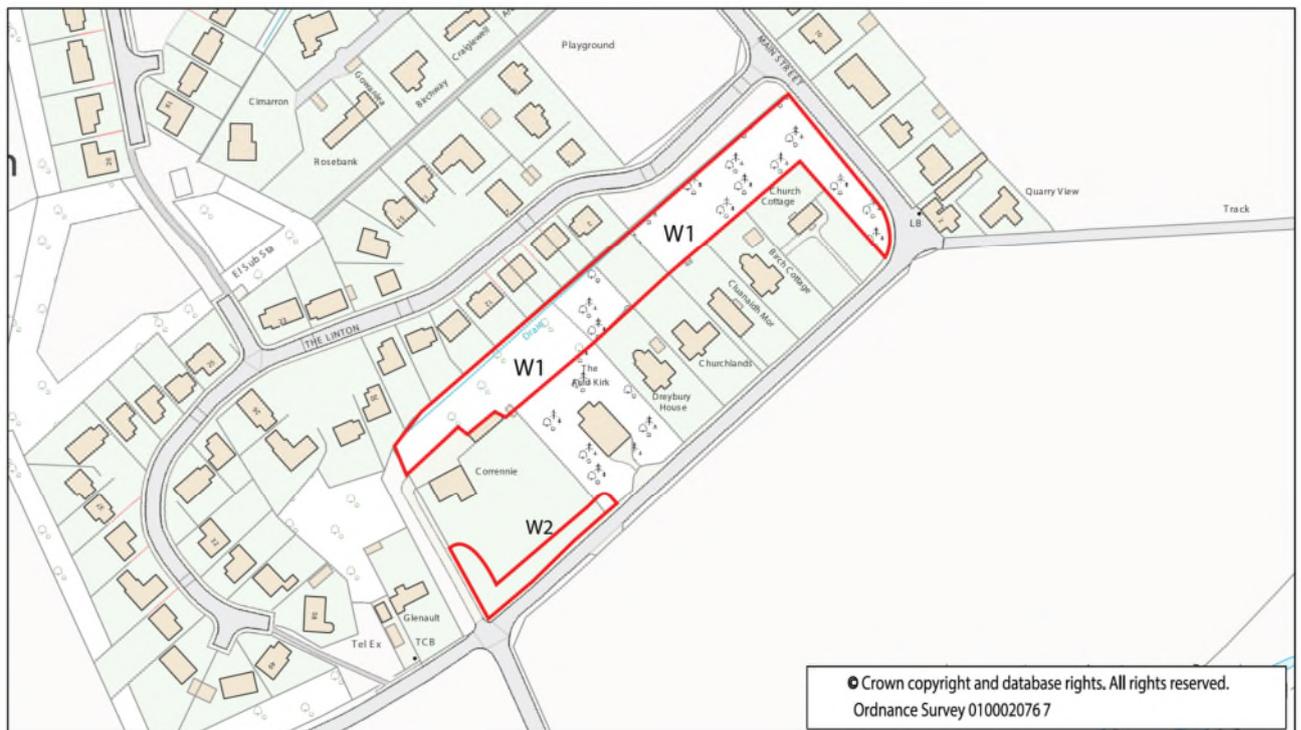


APPENDIX 2: Maps of new Tree Preservation Order AC TPO 15 (2018)

2.1 Map of AC TPO 15 (2018) Sauchen - as served



2.2 Map of AC TPO 15 (2018) Sauchen (as modified)



APPENDIX 3: Photo showing extent of woodland



APPENDIX 4: Discussion

Background	<p>There are three TPOs in existence within the area between the properties known as Corennie and Church Cottage and The Linton, Sauchen.</p> <p>GD TPO 25 (1996) Sauchen This Order is an area Order made by Gordon District Council in 1996 extending across the pine woodland and covering all the trees growing at the time the TPO was made. The Order is outdated and no longer fit for purpose as it utilises the area classification.</p> <p>AC(CD) TPO 18 (2006) Church Cottage, Sauchen This Order was made in the interests of visual amenity to protect 26 individual trees (mostly Scots pine) within the grounds of the property known as Church Cottage when the site was subject to proposed development.</p> <p>AC TPO 15 (2014) Shelterbelt Trees at Sauchen This Order was made to amalgamate the two preceding Orders and bring it up to date. The Order covers both the woodland strip protected by GD TPO 25 and includes the individual Scots pine trees protected by AC(CD) TPO 18 as part of this woodland strip. The Order also identified a number of individual trees and groups of trees at the frontage of the properties and surrounding Corrennie.</p> <p>In undertaking the review of TPOs all existing Orders were assessed. The new Order has included the Scots Pine woodland strip to the rear of the properties and included the trees at the frontage of Corrennie as another area of woodland.</p> <p>The assessment of the existing Orders and a review of the area found the trees selected for inclusion to be of significant value in terms of visual amenity, and due to the proximity of the residential property at risk. A reviewed TPO was therefore considered justifiable.</p>
Detail of Representations	<p>Three representations were received and these are included in Appendix 3. Objections to the TPO were received from the owners of two affected properties. A summary of the objections is as follows:</p> <ul style="list-style-type: none">*The rookery situated within W1 causes significant distress through bird mess, dead birds, appalling smells and noise.*Attempts to deter the birds and remove the nests have, to date, be unsuccessful.*W2 is overgrown, congested and unmaintained. Falling branches and leaves block drainpipes and affect the roof and light is restricted to the bedrooms.*The TPO is being put in place due to the look from the A944 and the residents are living in misery and with stress.

Officer Response	<p>The TPO has been made in the interests of visual amenity as the woodland strip makes a significant impact to the wider amenity of the area and the setting of the settlement of Sauchen as viewed from the A944.</p> <p>A modification to the TPO has been proposed which would reduce the extent of W2, retaining the trees at the front of the property at Corrennie and extending into the adjacent property but removing the protection from the trees along the garden boundary. This would allow the owners of the Auld Kirk to exercise their common law right in pruning back overhanging branches and reduce the impact of their neighbour's trees on their property, should they consider this to be necessary.</p> <p>It is accepted that the volume of nesting birds within the trees is having an impact on residents in a number of the adjacent properties and that to date attempts to remove the birds have been unsuccessful. Any application to fell trees within W1 of this TPO which was submitted on the grounds of removing the nuisance and potential health hazard arising from the nesting birds would require to be supported by evidence that all attempts to remove the birds without felling the trees have been exhausted. This information would then be considered along with the normal arboricultural considerations. In the case of an application to fell trees within W1 being approved, it is likely that the power to require replacement planting would be utilised.</p>
Recommendation	Confirm the Tree Preservation Order with modification

APPENDIX 5: Representations

5.1 Representation from owner of Corrennie - received 25th June 2018

Dear Ms Chirnside,

Tree Preservation Order Number AC TPO 15 (2018) Sauchen

I acknowledge receipt of your letter of 21st June, together with enclosures. These I have passed to my solicitor as you say there may be legal implications. For my part, there seems nothing which gives rise to comment.

To the rear of my property, there are two dead limbs of deciduous trees, roughly 100mm in diameter, the result probably of storm damage. Please confirm that it is in order to have them removed if I decide to do so.

Yours sincerely,

5.2 Representation from owner of The Auld Kirk - received 21st July 2018

Dear Sir/Madam

REF: TRIM/2018/0017215

I write regarding your letter of 21st June 2018 received on my return from holiday.

We would like to object to the Tree Preservation Order Number AC TPO 15(2018) Sauchen.

The area to the front on the plan (W2) was not in place when we purchased our property in 2012. This was put in place whilst we have been occupying our property and was initially put in place without any consultation with ourselves. We believe the owners of Corrennie organised this.

This area in itself causes us a lot of stress and upset as the area which continues through until you reach section W1 between ourselves and the property named Corrennie is overgrown and congested. The property owner of Corrennie apparently owns this area. They do not maintain it and also refuses us access to try and tidy the area. He claims to 'know people in the council' who will support him with regard to the TPO and he refuses to do anything with it including maintenance. Our drainpipes get blocked and our roof is constantly affected by branches and leaves falling off. Our son's bedrooms to that side of the property are very dark therefore we have to put lights on in those rooms any time you are within them. Also the rooks which congregate within these trees dirty on and around our property and we often find debris from nests etc which are made within the roof area and around our property including the pathway surrounding our property and the windows. We are therefore unhappy that such a disgusting area is being granted a TPO when it is completely unsightly.

The area W1 causes us a lot of issues also with the rooks in the area including those dead ones which fall within our back garden. Once again it is dirty, the nice trees which are there and we would like to keep cannot grow to their full beauty due to the lack of light reaching them.

Once again the owner of Corrennie does not want to maintain this part of the property therefore the area to the rear of their property and overlooking ours, the trees are overgrown

and there is a shed or some sort of garage which has fallen down and the grass area totally overgrown therefore overall we are sure attracts vermin.

We believe the TPO is being put in place due to the 'look' from the road across from our property (A944) however, there is more and more properties being built in Sauchen and there are no objections being made to this. There is a pallet company and a truck company just along from us at the beginning of Sauchen which I am sure is more unsightly than that of our properties WITHOUT the trees.

We are not looking to cut down all the trees however, those trees which do not stand straight due to the lack of sunshine getting to them looks more unsightly, the vermin potential, the lack of sleep due to the rooks that congregate there causes so much stress, upset and fear to the home owners in that area. Isn't the happiness of these residents who have spent a lot of money and continue to do so, more important than to those who pass along the road who probably really don't care about the trees in our area?

We have spoken to Steven Gray on a number of occasions regarding this issue and he has in turn visited the property and is aware of these issues.

We are therefore not only objecting to the TPO in place but also submitting this as an official complaint to that of the property between ourselves and the owners of Corrennie due to the overgrown area as explained in this letter.

We look forward to hearing from you.

5.3 Representation from owner of Dreybury House - received 11th August 2018

Dear Sir/Madam

REF: TRIM/2018/0017215

I write regarding your letter of 13th July received on my return, my apologies for not getting this to you sooner but I have been out of the country working and then on vacation.

We do object to the Tree Preservation Order Number AC TPO 15(2018) Sauchen.

We have resided at our current address since April 2015 and from the outset have been bothered by the rookery situated in the strip of polar pines running through the rear gardens facing the A944. We have been in contact with the Council on a number of occasions to help us with the issues we are encountering. Steven Gray from the Council has been out to the property and is well aware of the issues of the rooks living in the TPO trees to the back of our property.

The area at the back of our property is disgusting, the amount of bird mess, dead birds, half eaten vermin etc. that we find there is truly distressing. The noise that the birds make greatly disturbs our sleep, health and wellbeing.

We have over twenty TPO trees at the rear of our property with literally hundreds of birds roosting all year round. We get no respite from the birds, in the summer months they start calling to each other at 3am, we can't have windows open during the any time in the summer months, they come home from feeding in the fields in the evening and the sky turns black with the amount of birds coming in to roost and the noise is horrendous but that is not the

worst time of year. We suffer greatly during the breeding season when they are there 24hrs a day, they swoop down on us, they bully smaller birds in the garden, the mess is disgusting, our plants, flowers, home, garden furniture, cars and grass get completely covered in bird droppings. The smell is appalling and causes all of the neighbourhood great distress, we have spoken to all our neighbours who suffer exactly the same issues as us but yet the council will not do anything to help us and are now about to update the TPO so that there is nothing we can do to resolve the issue.

We have tried everything suggested to us removing the nest (they build them back up within 3 days and it cost us £400), we have tried scaring them with noise, lights etc. we have outside firms that have come round to assist but they refuse due to the sheer number of birds and the height of the trees.

The reply that we get from the council is that they don't want to spoil the view from the road of the village???. What I don't understand is that the council are quite happy to have a lovely view but the residents in the village are living in misery due to the situation.

We do not want to recklessly cut trees down for the sake of it, we want trees in our garden, we would like permission to plant fruit trees in the garden where the current pine trees are, this will result in removing the birds, providing a pretty view from the road and providing food for our wildlife in our gardens and most importantly allowing us to live in peace in the village that we love.

Considering all the above, if my neighbours were causing noise at 3am to 9pm most of the year, I am sure anti-social behaviour legislation would be utilised to resolve the problem, utilising both the council and the police. But the quality of our lives is being lessened, not directly by the trees, but what they house.

Steven Gray has confirmed that during the planning stage for the houses built either side of the strip of trees, no consideration was given by the council to the fact that a rookery was situated in the trees and would suggest that the council are complicit in what has become an unbearable issue.

We look forward to hearing from you.