

REPORT TO MARR AREA COMMITTEE – 20 AUGUST 2019

ABERDEENSHIRE COUNCIL TREE PRESERVATION ORDER NO 97 (2019) NORBANK, CHARLESTOWN ROAD, ABOYNE

1 Recommendations

The Committee is recommended to:

- 1.1 Confirm the Tree Preservation Order, with modifications 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 the review of Tree Preservation Orders across Aberdeenshire, the Tree Preservation Order made by Kincardine & Deeside District Council in 1986 has been reassessed and resurveyed and a new Order has been made. 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 Two representations were 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 not confirmed and is allowed to lapse the original Order will remain in force until such time as it might be reviewed. If the new Order is confirmed the original Order will be revoked.
- 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

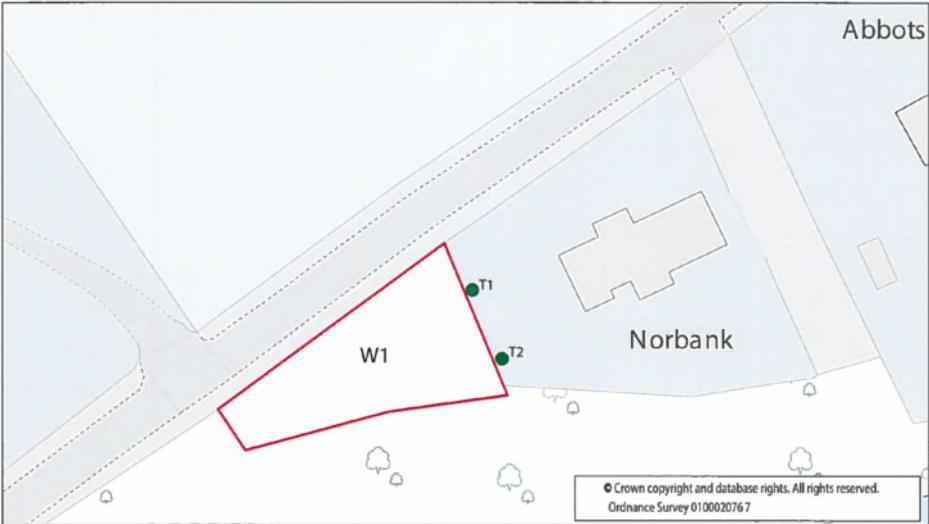
- 4.1 An equality impact assessment is not required because the recommended actions will not have a differential impact on any of the protected characteristics.
- 4.2 There are no staffing implications.
- 4.3 The costs of making this Order is expected to be approximately £500 and will be met from the 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 97 (2019) Norbank, Charlestown Road, Aboyne

Appendix 1: Maps



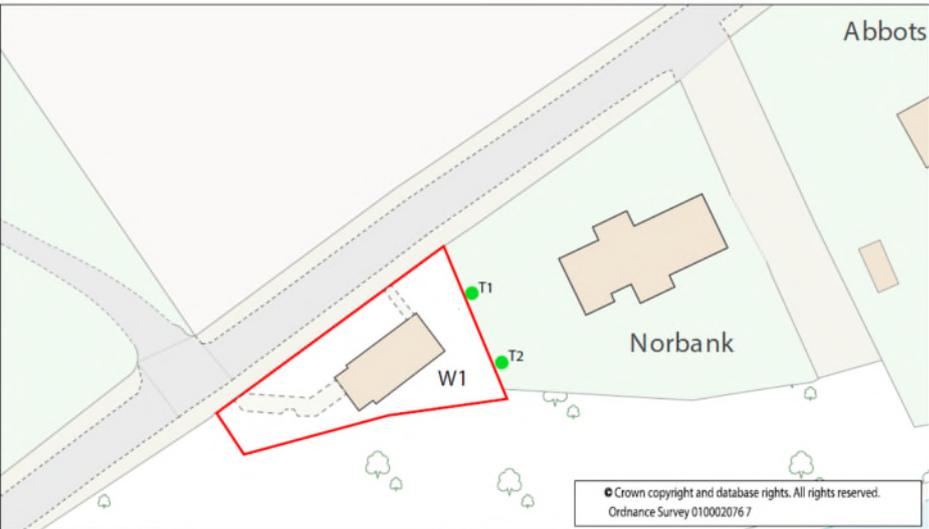
Norbank, Charlestown Road, Aboyne
This is the plan referred to in the foregoing
Tree Preservation Order AC No. 97 (2019)

[Handwritten signature]

SCALE 1:500



Map 1 as served



Norbank, Charlestown Road, Aboyne
This is the plan referred to in the foregoing
Tree Preservation Order AC No. 97 (2019) as modified

SCALE 1:500

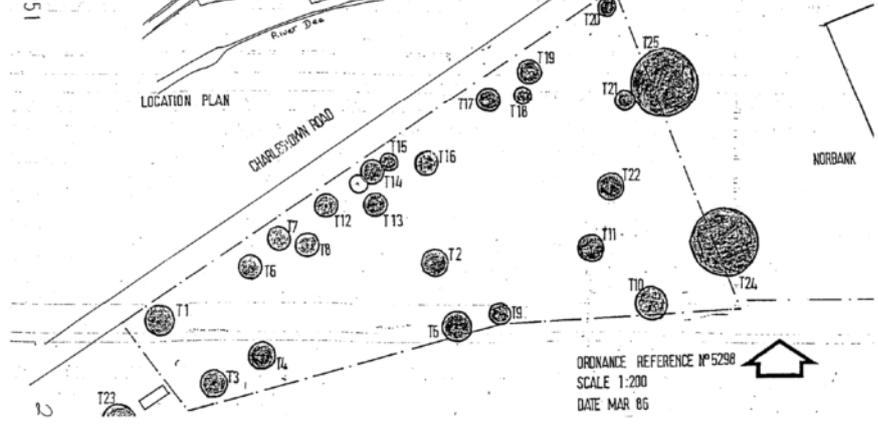
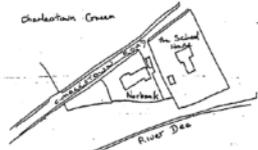


Map 2 as modified

KINCARDINE & DEESIDE DISTRICT COUNCIL
TREE PRESERVATION ORDER N° 11

of Greening Waverley.
11/11/85
Walter *Deputy Chief Executive*

AB 7951



ORDNANCE REFERENCE N° 5298
SCALE 1:200
DATE MAR '85

Map 3 Original Order

AC TPO 97 (2019) Norbank, Charlestown Road, Aboyne

Appendix 2 Discussion

Background

The trees are in a prominent position adjacent to the road and significant for visual amenity. Although the site lies within the designated Aboyne Conservation Area which affords them some legal protection it is considered that continued protection in the form of a TPO is appropriate.

The approved development (APP/2015/3260) of a canoe storage shed and access paths has been completed. Several trees have been removed for health and safety reasons and to facilitate the development and some replacement planting has been carried out. It is considered that the original Order, which identified a significant number of individual trees within the site is out of date and not fit for purpose.

Following formal consultation and receipt of representation from the Canoe Club it has been agreed that the footprint of the new storage building and paths should be identified within the woodland site. This was initially left out as the current planning permission is temporary. However the reality is that no trees should grow on or immediately adjacent to the building or access paths and therefore it is considered that these areas should be excluded on the map of the TPO. The map has been modified accordingly.

Outstanding Objections

Owners of the site have made representation. They consider the TPO is not warranted as a secure TPO already exists. They also advise that the Council must assume liability for the trees. A copy of the outstanding representation is attached.

Officer Response

As part of the re-assessment it was felt that a woodland Order would be more appropriate in this situation. This is the classification normally used for areas or groups of trees where it is the character of the woodland group rather than the quality of the individual trees that justify its protection on the grounds of amenity. Such woodland Orders are also characterised by more informal less managed ground, within which smaller trees and shrubs often exist. However, the two large Sequoias which were also included as individual trees in the original Order continue to be identified individually. This in part because of their position but also because of their very different species and size.

The imposition of a TPO does not in any way change the situation relating to ownership or liability for the trees. Any works to protected trees if justified will not be unreasonably withheld. 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 report from a suitable qualified person supporting the case for such immediate action. If protected trees do require to be removed, then where appropriate replacement planting can be sought to ensure continuing tree cover in the area.

Recommendation:

Confirm the Tree Preservation Order with modifications to the Map as shown on Map 2 above.

APPENDIX 3

From: Kenneth Duell

Sent: 03 May 2019 18:07

To: Planning <planning@aberdeenshire.gov.uk>

Subject: TPO proposed order 97 (2019)

Att: Mary MacLeod

As the senior representation of The Duell Family Trust, we object to the “ Fairy Dusting “ method for the Item called W1.

There already exists a secure TPO, which we have upheld, also if you wish to place a new TPO on T1 & T2, then be advised that you the council must assume all liability for anything happening with these over grown ultra tall trees (Assume Full Liability).

Same as above applies to all existing trees in what you call W1 should you elect to press ahead with this proposed new TPO. A secure TPO already exists.

APPENDIX 3

SCHEDULE 1

Trees specified individually (coloured green on the map)

No on Map	Description	Situation
T1	Sycamore	Located on the south west boundary of ground pertaining to the residential property known as Norbank, Charestown Road, Aboyne AB34 5LJ Registered on Title No ABN 43437
T2	Sycamore	

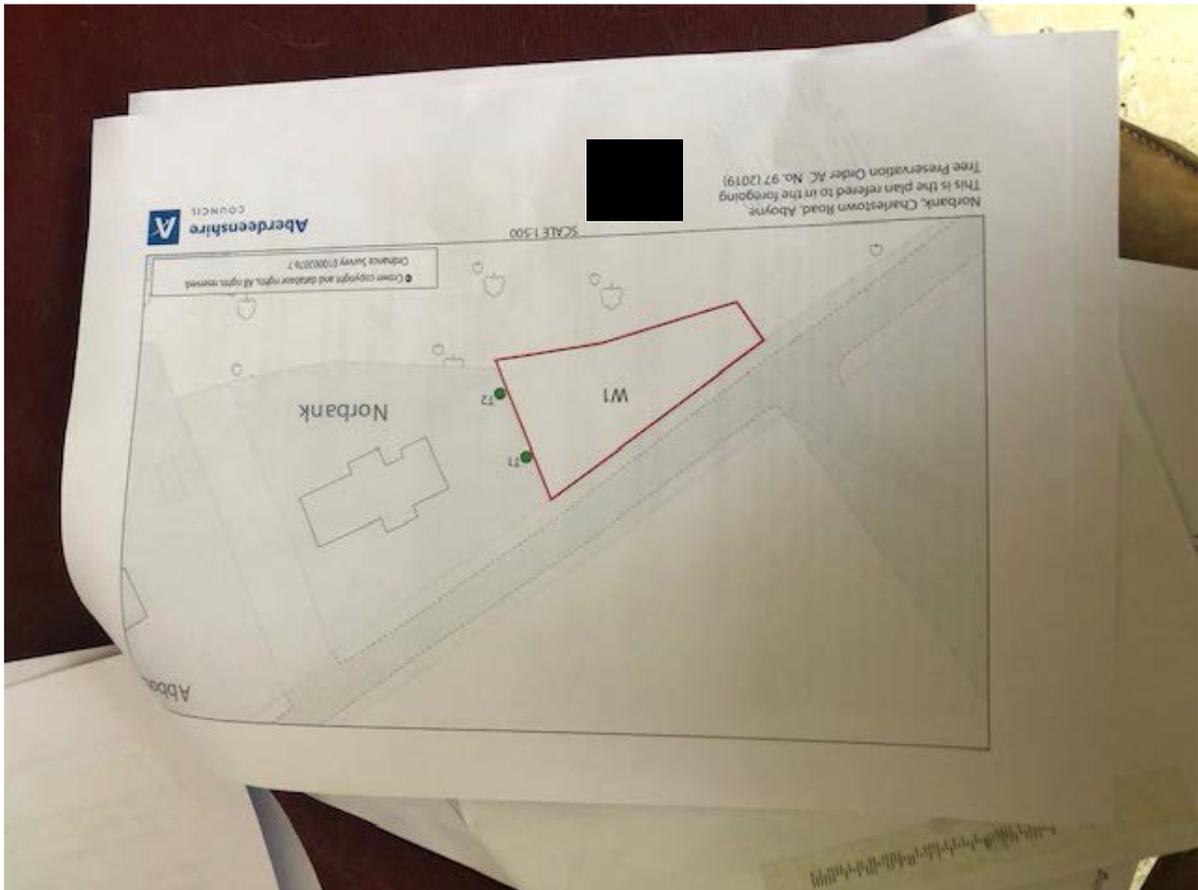
Woodlands (within a continuous red line on the map)

No on Map	Description	Situation
W1	Mixed woodland comprising mature Scots Pine and Beech trees with some new replacement planting of Oak and Beech	Woodland area located to the south and west of the residential property known as Norbank, Charestown Road, Aboyne AB34 5LJ NO 530981 Part of ground described in the Fee Charter in favour of Scotland Banking Company, recorded in GRS (Aberdeen) 19 April 1914

Groups of Trees (within a broken black line on the map)
NONE

Trees specified by reference to an area (within a continuous black line on the map)
NONE

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Regards
Ken Duell
On behalf of The Duell Family Trust
3rd May 2019