

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 16 FEBRUARY 2007**

### **THE WATERSLAP, FENWICK (PROVISIONAL) TREE PRESERVATION ORDER 2006**

#### **Report by Head of Planning, Development and Building Standards**

## **1. PURPOSE OF REPORT**

1.1 The purpose of this report is to advise the Committee on the making, serving and advertising of the Waterslap, Fenwick (Provisional) Tree Preservation Order 2006 and to seek the Committee's views on whether or not the existing Provisional Tree Preservation Order should be confirmed.

## **2. BACKGROUND**

2.1 A planning application (ref no. 06/0747/FL) for erection of a dwellinghouse and garage at 1 Waterslap has been submitted. The application identified that some trees might require felling or lopping to allow the proposed development to proceed.

2.2 The Planning Division and Neighbourhood Services inspected the site and its environs and concluded that trees within the application site, and other trees to the rear of Nos. 11 to 17 Waterslap were important to the residential amenity of the properties situated on the eastern side of Waterslap, forming a significant landscape backdrop to them. Those trees along the rear boundaries of those feus behind the curtilages of the above properties, visually define the eastern village boundary of Laigh Fenwick. Accordingly the Head of Planning, Development and Building Standards considered the trees were worthy of statutory protection under a Tree Preservation Order.

2.3 In view of their amenity value, the fact that the trees were within the Laigh Fenwick Conservation Area and that they could, potentially, be under threat from any proposed works associated with the planning application referred to above the Head of Planning, Development and Building Standards agreed to early making of the Waterslap, Fenwick (Provisional) Tree Preservation Order 2006 which was accordingly made, served and advertised, and took effect on Friday, 15 September 2006. A copy of the schedule and plan relating to the Tree Preservation Order is appended to this report.

2.4 Three formal objections to the Tree Preservation Order were received during the statutory 28 day period, including one from the applicant for the above proposed development.

2.5 The grounds of objection can be summarised as:-

Objector 1

- Trees are not on eastern boundary of village;
- Were the trees removed a clearly defined eastern boundary would still remain through retention of other trees;
- Trees cannot be seen by members of public but only neighbouring residents;
- One tree is damaging a building owned by the objector.

Objectors 2 & 3

- The western hemlocks comprising area A1 are not indigenous and the landscape would not be detrimentally affected by their removal as they are backed by other trees. Views would be opened up to create a more balanced landscape;
- The western hemlock trees are poisonous to animals and would therefore prejudice any potential future use of the land as a paddock;
- The objector states that they have plans for planning permission on this land and that the designation of a TPO is purely based on preserving the privacy and the amenity of neighbouring residents;
- Objector willing to re-plant any trees removed;
- Some trees create cover for illegal exercising of dogs.

2.6 Response to Objections

Objector 1

- The reference to the eastern village boundary is intended as a general term and was not meant to relate specifically to the objector's ownership boundary;
- It is accepted that not all trees are on the actual eastern or other boundaries of the objector's property but it is considered those that are not still have local amenity value within the Conservation Area;
- The fact that the trees are within a Conservation Area, the character of which depends to a great degree on their variety and maturity, is a fundamental reason for including most mature healthy trees within the Order, notwithstanding the fact that some of the trees may not be easily seen from a public place. However, we would accept that the amenity value of conifers T4 and T5 is quite limited and we would intend deleting these from any subsequent amended TPO.

## Objectors 2 & 3

- Just because trees are not indigenous does not mean they should be excluded from being afforded statutory protection. It is considered the character of the Conservation Area would be significantly altered and its amenity diminished by removal of these trees;
- In the opinion of Neighbourhood Services the western hemlock is not a poisonous tree;
- A planning application has been submitted for two houses and access road, and any confirmed TPO would be a material consideration in the determination of that application.
- The issue of trees creating cover for illegal activities is not a material planning consideration.

### **3. POLICY IMPLICATIONS**

3.1 The TPO has been promoted in accordance with Policy ENV15 of the Adopted Local Plan. Under Policy ENV1 the Council will seek to protect, preserve and enhance Conservation Areas. The trees which are the subject of the TPO are situated within part of the Laigh Fenwick Conservation Area and their statutory protection would accord with Policy ENV1.

### **4. LEGAL IMPLICATIONS**

4.1 None.

### **5. FINANCIAL IMPLICATIONS**

5.1 None.

### **6. CONCLUSIONS**

6.1 It is considered that the majority of points raised by the objectors against the TPO as set out in Section 2 above are not acceptable in planning policy terms.

6.2 However, it is suggested that tree T14 be excluded from the TPO because of its potential interference with the structure of the stable building as referred to in Section 2.

6.3 It is considered that conifer trees T4 and T5 are of limited overall amenity value and should not be included in any finalised TPO.

## **7. RECOMMENDATION**

**7.1 It is recommended that the Committee confirm the Waterslap, Fenwick (Provisional) Tree Preservation Order 2006 in amended form to exclude trees T4, T5 and T14 from the Order on for the reasons stated in Section 6 above.**

**Alan Neish  
Head of Planning, Development and Building Standards**

08 February 2007  
(JT/RH)

FV/DVM

### **LIST OF BACKGROUND PAPERS**

1. The Waterslap, Fenwick (Provisional) Tree Preservation Order 2006.

Anyone wishing to inspect the above papers please contact Julian Thorp, on 01563 576789.

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