

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 20 JANUARY 2006

THE LAIGH FENWICK (WEST)(PROVISIONAL) TREE PRESERVATION ORDER (NO. 2) 2005

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 Laigh Fenwick (West)(Provisional) Tree Preservation Order (No. 2) 2005 and to seek the Committee's approval for the Order to be confirmed.

2. BACKGROUND

2.1 The Laigh Fenwick (West)(Provisional) Tree Preservation Order 2004 was served and advertised on 10 May 2004. No formal objections to the Tree Preservation Order were received by the Council.

2.2 During the six month period when the above Tree Preservation Order was in force ATD Developments Ltd submitted a planning application, 04/0400/FL for 17 dwellinghouses on the site occupied by trees forming woodland W1 as delineated in the Tree Preservation Order. A further provisional Tree Preservation Order relating to the site took effect on 10 November 2004 so that woodland W1 was protected until such time as planning application 04/0400/FL had been determined. The application was withdrawn on 29 November 2004. However, another planning application, ref. 04/1224/FL was subsequently submitted by the aforementioned applicant, this application being refused by the Northern Area Planning Committee on 18 March 2005 because the proposed development failed to meet the criteria required by Policy RES 4 of the Adopted East Ayrshire Local Plan in respect of new housing within settlement boundaries in that it would have an adverse impact on the surrounding natural and built environment and on the amenity of the Conservation Area. An appeal by the applicant against this decision has been subsequently dismissed.

2.3 At its meeting on 15 April 2005 the Committee considered a report by the Head of Planning, Development and Building Standards which recommended that the above Tree Preservation Order be confirmed. However, the Committee agreed:-

- (i) Not to confirm the Tree Preservation Order as proposed in the report;

- (ii) To request the Head of Planning, Development and Building Standards to undertake further assessment of the trees on an individual basis with a view to establishing which specific trees would be worthy of individual protection and to report back to a future meeting; and
- (iii) To create a new Provisional Tree Preservation Order for a six month period to ensure the trees are afforded protection during the review of their condition.

2.4 In accordance with decision (ii) above, the Planning, Development and Building Standards Division, in conjunction with Neighbourhood Services, carried out a survey of the individual trees within woodland W1 above in August 2005. The survey identified, among others considered worthy of protection, 48 individual trees within the site to which the planning applications for residential development referred.

2.5 In accordance with decision (iii) above a further Provisional Order based on the original TPO plan, including woodland W1, was made and took effect on 10 May 2005. A new provisional TPO based on the above tree survey and including reference to individual trees within the former woodland designation W1, was subsequently made and took effect on expiry of the above provisional Order on 10 November 2005. Up to and including the expiry date of 09 December 2005 for receipt of any objections to the new provisional TPO, no such objections had been received.

2.6 A representation from Scott Wilson Scotland Ltd, agents for the aforementioned applicants, was received. Scott Wilson referred to a previous letter to the Planning, Development and Building Standards Division dated 04 July 2005 in which they stated their wish to ensure that 'ratification of the TPO (was) based on an accurate assessment of all the trees that (were) the subject of the Order'. Scott Wilson also drew attention to the Reporter's view, as part of her conclusions regarding the above appeal, that many of the trees were in very poor health and proper management of the woodland area would necessitate their removal. It was Scott Wilson's view that the Council's survey should reflect their arboricultural survey, submitted in support of their client's original planning application.

2.7 It should be noted that of the 213 trees which were the subject of the survey by the above applicants, the Planning, Development and Building Standards Division and Neighbourhood Services concluded that only 72 of these should be retained. These comprised the 48 trees referred to in para 2.5 above and 24 trees within the area covered by TPO 2/1982 – Hallhouse, Fenwick. It is therefore considered that the Laigh Fenwick (West)(Provisional) Tree Preservation Order (No. 2) includes those trees worthy of statutory protection.

3. PLANNING IMPLICATIONS

3.1 In view of the Council having formally implemented proposal PROP 28 of the Local Plan to amend the boundary of the Laigh Fenwick Conservation Area it is considered appropriate that individual trees within this amended boundary that are in good condition and contribute to the amenity of the above Conservation Area be afforded statutory protection through the Laigh Fenwick (West)(Provisional) Tree Preservation Order (No. 2) 2005.

3.2 It is considered that the identification of individual trees within that part of the above TPO that coincides with the amended area of the Laigh Fenwick Conservation Area would assist consideration of any future development proposals within that area through enabling a precise assessment of how individually protected trees might be affected by such proposals.

3.3 The Provisional Tree Preservation Order has been promoted in accordance with Policy ENV 15(ii) through which the Council will protect those individual groups and areas of trees which contribute significantly to the landscape quality of both the built and rural environment.

4. FINANCIAL AND LEGAL IMPLICATIONS

4.1 None.

5. RECOMMENDATION

5.1 It is recommended that the Committee agrees to confirm the Laigh Fenwick (West)(Provisional) Tree Preservation Order (No. 2) 2005.

Alan Neish
Head of Planning, Development and Building Standards

11 January 2006
(JT/MMM)

FV/DVM

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