



PLANNING AND ACCESS COMMITTEE

MEETING: Monday 21st March 2016

SUBMITTED BY:	Head of Planning & Rural Development
APPLICATION NUMBER:	2015/0001/TPO
LOCATION:	Brig O’Turk
PROPOSAL:	Confirm Tree Preservation Order (TPO) on “The Bicycle Tree”

NATIONAL PARK WARD:	Breadalbane and Trossachs
COMMUNITY COUNCIL AREA:	Trossachs
CASE OFFICER:	Name: Simon Franks Tel: 01389 722635 E-mail: simon.franks@lochlomond-trossachs.org

1 SUMMARY AND REASON FOR PRESENTATION

1.1 A provisional Tree Preservation Order (TPO) was served on the 10th December 2015 following approval by the Head of Rural Development and Planning authorised by Chair of the Planning & Access Committee as per the Scheme of Delegation. Once the provisional TPO is served there is a consultation period for at least 28 days. A provisional TPO is valid for 6 months from the date of serving. The Scheme of Delegation requires that the Planning and Access committee make a decision as to whether the provisional TPO is confirmed following a review of the representations and any other matters arising.

2 RECOMMENDATION

That Members:

1. **Note** the decision to serve a Provisional Tree Preservation Order on one Sycamore tree at Glen Finglas Road, Brig O Turk under delegated powers; and
2. **Confirm** the Provisional Tree Preservation Order with modifications to conveyancing (legal site) description.

3 BACKGROUND

Site Description:

- 3.1 The tree proposed for protection by a Tree Preservation Order is located in Dorothy's Field, Brig O'Turk which is located on the south side of the road leading through Brig O'Turk to the Glen Finglas dam opposite Rose Cottage (Figure 1 and 2).

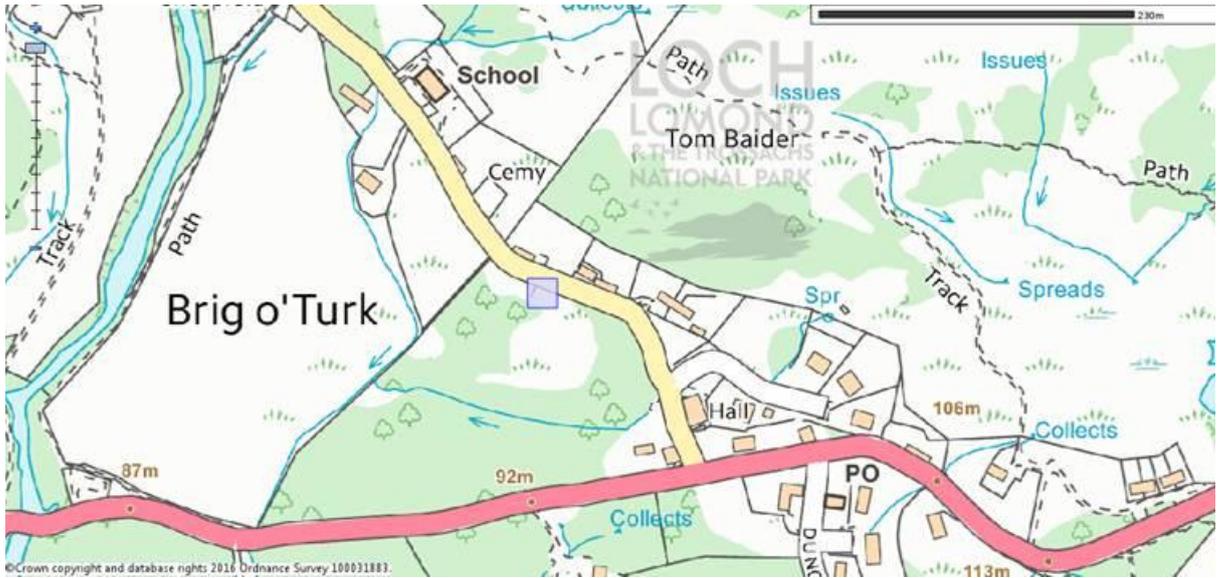


Figure 1 – Small Scale Location plan (Blue square - highlights tree's location)

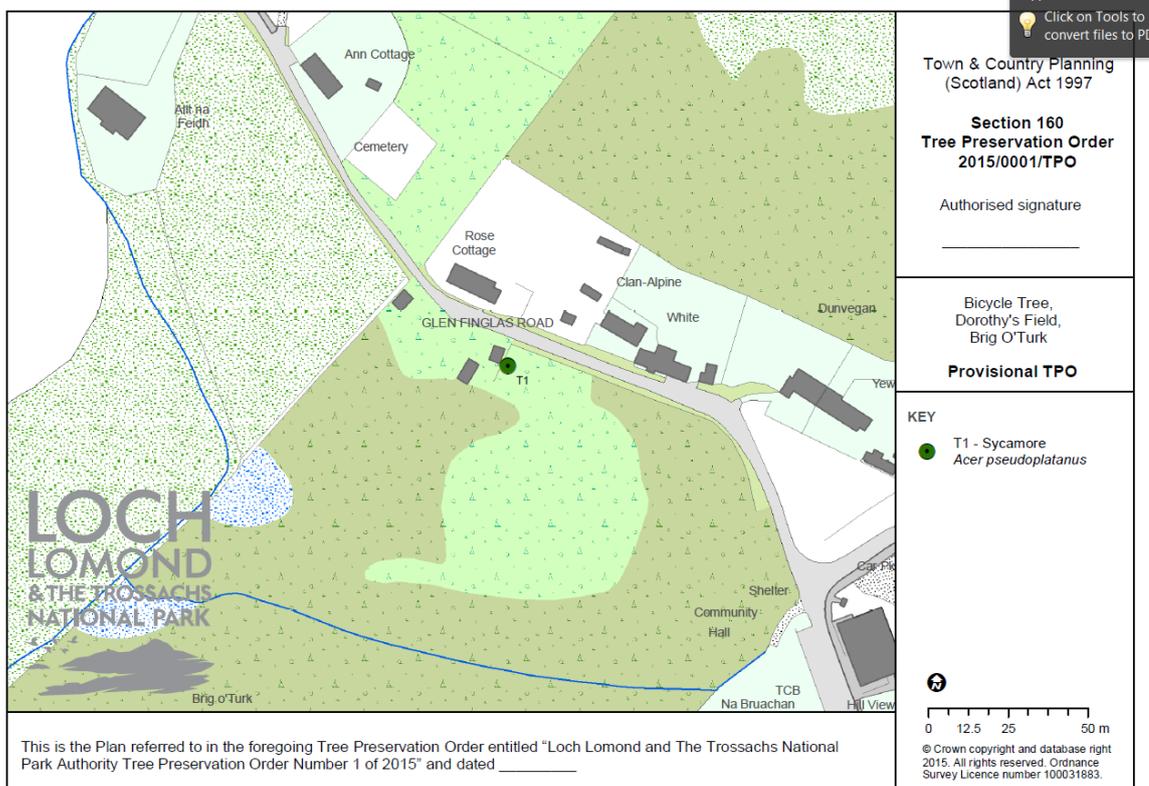


Figure 2 – Large Scale Location Plan

Agenda Item 5

3.2 The tree is an *Acer pseudoplatanus* (Sycamore) estimated age of circa 120-150 years old which splits into main trunks at around 1m above ground level. The south westerly trunk has a number of pieces of metal embedded in it, a bicycle frame and possibly an anchor. Due to these embedded pieces of metal the tree is referred to as “The Bicycle Tree”.

Figure 2: Photographs of the ‘Bicycle Tree’



3.3 The adjacent field (in the same ownership) is currently unmanaged and is a mix of scattered trees and rough vegetation with the tree in question located at the north west corner of the field at grid reference (253459, 706752). The garage to the north west of

Agenda Item 5

the tree is in different ownership (see Figure 2).

Relevant Planning History:

3.4 2011/0251/HAE - Erection of replacement garage – Approved 6/01/12

Note: This garage is on the adjacent site (see figure 2: photos of site) and there is a condition relating to tree protection.

In 2007 a previous assessment of the tree for a TPO was undertaken. However it was concluded not to serve an order at that time.

4 CONSULTATIONS AND REPRESENTATIONS

4.1 The following statutory consultations are required:

- a) Forestry Commission Scotland – Conservancy
- b) The owner, lessee and occupier of the land on which the trees are situated, and any party entitled to:
 - i) fell, top, lop, uproot or otherwise damage or destroy any tree to which the tree preservation order relates; or
 - ii) work by surface working any materials in, on or under such land.

Although not required by statute, the neighbouring land owner and community council were also consulted. In addition, an advert was placed in the Stirling Observer on the 18th December 2015 and site notices were placed adjacent to the tree and at the entrance to the field containing the tree.

Responses to Consultations:

4.2 There were no responses from:

- Forestry Commission Scotland
- Stirling Council Roads Department
- Scottish and Southern Electricity
- Owner of the land at the time of serving (via their solicitor)
- Neighbouring land owner

4.3 Trossachs Community Council: **Supportive** of the proposed TPO and asked that a management plan be put in place to manage the surrounding woodland/regeneration to the long term benefit of the “Bicycle Tree”.

Officer Response: *The TPO does not provide the option to specify works on the adjacent trees and these trees would not meet the criteria for an extension of the TPO. The NPA intends to engage with the new owner to discuss their aspirations for the longer term management of the area around the tree. Any significant change in management adjacent to the tree could have a detrimental impact on the health of tree and hence be construed a breach of the TPO (should it be approved).*

Agenda Item 5

Representations Received:

- 4.4 At the date of the preparation of this report three representations in support and one of objection had been received. Copies of these representations are retained on file and available on request.
- 4.5 Stirling Council Councillor for Trossach and Teith Ward (also a National Park Board Member): **Supportive** of the proposal and stated the national and international profile of the tree and associated metal work.
- 4.6 Local Resident: **Supportive** of the proposal and state that they regularly see tourists from “all over the world” coming to see the tree.
- 4.7 Local Resident: **Objects** to the proposed TPO for a number of reasons summarised as follows:
- a) It is not considered the tree should have been included in previous veteran tree surveys.
Officer Response: *The selection of trees for these previous surveys is not a matter related to the TPO proposal.*
 - b) It is not considered that a TPO is required to protect the tree due to the NPA’s robust planning policies relating to tree protection. In addition the new owner has given an indication to the respondent that they value the “folklore” associated with the tree and do not wish to affect the tree.
Officer Response: *While the NPA planning policies would protect the tree should such a development occur, an owner may undertake agricultural and forestry operations which do not have planning oversight and it is this type of operations which the TPO would protect against. There is no guarantee that a subsequent owner, or any future owners, will have sufficient respect for significance of the tree. A TPO would ensure protection is associated with the title of the land rather than the owner’s understanding of the local sensitivities.*
 - c) While the local newsletter is named after the tree and the school’s logo it is stated that the tree is only of local interest despite it being reported that that the tree is of regular interest to tourists.
Officer Response: *Comments are noted*
 - d) It is considered that the origin of the story associated with the bicycle relating to a WW1 soldier leaving a bicycle against the tree and not returning is a “ridiculous story” dating from circa 2000.
Officer Response: *Notwithstanding the origin of the stories associated with the tree; the tree and the associated metal objects over the last 15 to 20 years have become an attraction/ curiosity which visitors to the Trossachs do visit and that the tree has become a feature of the local community.*
 - e) It is known that a request was made previously for a TPO that was not taken forward by the National Park Authority on the basis that; the tree was not unusually old, a sycamore is not rare or heritage species, it is not unusual for a tree to absorb metal or objects and it is the bicycle not the tree that is of interest. It is considered that these reasons are still valid.
Officer Response: *The recent change in ownership and the developing interest in the tree both locally and from tourists mean the circumstances surrounding the tree have changed and, having reviewed the case for a TPO against an established methodology used across Scotland, the tree is now considered worthy of a provisional TPO.*

Agenda Item 5

5 POLICY CONTEXT

National Park Aims:

5.1 The four statutory aims of the National Park are a material planning consideration. These are set out in Section 1 of the National Parks (Scotland) Act 2000 and are:

- (a) to conserve and enhance the natural and cultural heritage of the area;
- (b) to promote sustainable use of the natural resources of the area;
- (c) to promote understanding and enjoyment (including enjoyment in the form of recreation) of the special qualities of the area by the public; and
- (d) to promote sustainable economic and social development of the area's communities.

5.2 Section 9 of the Act then states that these aims should be achieved collectively. However, if in relation to any matter it appears to the National Park Authority that there is a conflict between the first aim, and the other National Park aims, greater weight must be given to the conservation and enhancement of the natural and cultural heritage of the area.

5.3 National Park Local Plan (Adopted 2011):

Relevant Policies:

- ENV9 Development Impacts on Trees and Woodlands

Full details of the policies can be viewed at:

<http://www.lochlomond-trossachs.org/planning/adopted-local-plan/menu-id-904.html>

Other Material Considerations:

5.4 National Park Proposed Local Development Plan

The 'Proposed Local Development Plan' (LDP) was approved by the National Park Board on 27th April 2015. The 'Proposed Plan' is now at examination. At this time the 'Proposed Plan' is a material consideration in the assessment of planning applications, depending on the policies that would be applied to the proposal. The Proposed Plan provides an indication of likely changes in current planning policy. In this respect, the following policies are relevant:

- NE8 Development Impacts on Trees and Woodlands

5.5 National Park Partnership Plan

No relevant policies.

6 PLANNING ASSESSMENT

6.1 The Members are being asked to confirm the provisional Tree Preservation Order (appendix 2), served on the 10th December 2015, with modifications to the site description to follow the recent site legal description (appendix 3). The provisional TPO was served following concern raised by the Trossachs Community Council due to awareness of development options being discussed with the National Park Authority

Agenda Item 5

(NPA) as planning authority and subsequent new assessment by the NPA. Therefore there was a perceived potential threat to the future of the tree. Policy ENV9 of the adopted local plan and NE8 of the proposed Local Plan state that “*where important trees or woodlands may be potentially affected by development or land-use change, the Park Authority will ...b) seek to use Tree Preservation Orders to protect important trees or groups of trees or woodlands perceived to be under threat of damage of removal if it appears expedient in the interest of amenity, and/or the trees and woodlands are of cultural or historical significance*”.

- 6.2 The request was considered worthy of further re-investigation as it was known that it had been subject to press interest due to the metal items in the tree. Further investigation found that the tree has been recorded in a number of independent veteran tree surveys (Loch Lomond and the Trossachs Countryside Trust, 2013 and Woodland Trust “Ancient Tree Hunt” 2009). The tree is of regional and national importance having been recorded in this survey. The tree is also listed in the top ten trees to see in the National Park on the NPA’s website. In addition, the village’s primary school’s logo is based on the tree, indicating the local significance of this tree. The association of the tree with the village smithy and the presence of the various metal items (including part of a bicycle and an anchor) and various stories as to the origin of this metal objects indicate that the tree has a significant local and regional cultural importance.
- 6.3 The basis for the assessment of the tree is a standard Tree Evaluation Method for Tree Preservation Orders (TEMPO) – used by the majority of Scottish Planning Authorities for assessing where a tree is worthy of a TPO. TEMPO was developed as field guide to consider all relevant factors when to assess tree(s) for a TPO. (See Appendix 1 to full guidance document)
- The TEMPO method scores a tree on a number of categories as follows:
- a) Condition (relates to health and physical form) ;
 - b) Retentions span (Remaining lifespan);
 - c) Relative public visibility;
 - d) Other factors; Expediency assessment.
- 6.4 The TEMPO assessment for this tree considered the condition to be fair (some defects, but showing good health) which gave a score of 3 (top score is 5 for good). The tree has a 40-100 years retention period and scores 4 (top score is 5 for 100+years). It is a large tree and is clearly visible to the public, and it has identifiable historic, commemorative or habitat importance; both considerations which merit a high score. In terms of threat to the tree it is considered there is a foreseeable threat, scoring 3. Therefore the ‘Bicycle Tree’ scores 17 out of a maximum of 25 and when a score is great than 15, then it is considered that the tree definitely merits a TPO.

7 CONCLUSION

- 7.1 The ‘Bicycle Tree’ meets the standard assessment criteria (TEMPO) for a TPO, therefore, it would be expedient to make a TPO in this instance in accordance with policies ENV9 and NE8 of the adopted and proposed Local Plan. Although there was one representation received expressing dissatisfaction with the TPO, there were three representations of support. In conclusion, the confirmation of the TPO would protect the tree against any negative management which would not have planning oversight. It is therefore recommended that the Order be confirmed.

Agenda Item 5

Background Documents: *Tree Evaluation for Preservation Orders (TEMPO) and assessment notes, consultation responses and representations available in electronic file - Reference 2015/0001/TPO.*

List of Appendices *Appendix 1 - TEMPO guidance*
Appendix 2 - Provisional TPO schedule and plan
Appendix 3 - Amendments to TPO schedule 1 for consideration