

# National Park Authority

## Planning & Access Committee

Agenda Item 6

### Tree Preservation Order Recommendation 2017/0005/TPO

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#### 1. Introduction

1.1. As part of the consideration of a planning application for a tourism accommodation development (2017/0134/DET) concern was raised by third parties about tree works being undertaken. These works (and works pre-dating the application) resulted in a degradation of the woodland quality and extent. As a result of further discussion with the applicant it was felt to be expedient to protect the woodland on the property with a Tree Preservation Order (TPO). This was undertaken with the making of the TPO on 18th May 2017. Modifications to the TPO are now recommended as a result of representations made and subsequent site visits by officers. The modified TPO protects 2 ha of predominately mature and pole stage oak and wet woodland.

#### 2. Recommendation

2.1 Members are to:

- a) **Note** the making of the TPO on the 18<sup>th</sup> May 2017 – issued with approval of the Chair of the Planning & Access Committee (Reference: 2017/0005/TPO)
- b) **Confirm** the TPO with **modification** (see appendix 1).

#### 3. Background

3.1 On the 18th May 2017 a TPO was made to protect the predominantly native woodland on the property known as Dundarroch, Brig o'Turk. The landowner had obtained pre-application planning advice from the NPA on the 17th May 2016 in which the importance of the woodland was highlighted along with the relevant local planning policies. Nevertheless works had been undertaken to partially dismantle a tree which was indicated for retention on the plans associated with a subsequent application for planning permission (application 2017/0134/DET as referred above). Established native regeneration of trees had also been removed. In the period between pre-application advice and the planning application being submitted there had been removal of native shrubs and trees resulting in a small reduction in woodland extent. The inclusion of the woodland south of the A821 was due to the owner having sought pre-application advice regarding possible development in this woodland.

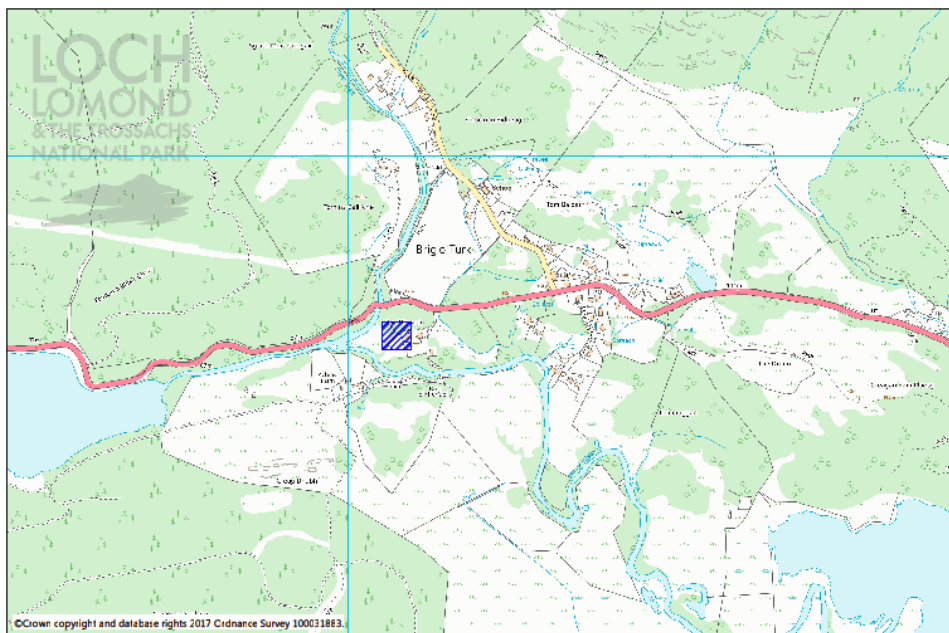
3.2 The National Park Authority considered it was expedient to make the TPO in order to protect the woodland.

4. Site Location and Description

4.1 The woodland is located south of the A821, east of the River Turk and north of the Black Water (see figure 1 and 2 for plans). The northern extent of woodland is located on a prominent knoll while the southern and eastern parts form a riparian woodland edge to the respective watercourses. The woodland forms a backdrop to the property known as Dundarroch and contributes to the setting of a core path running between Brig o’Turk and Achray Farm as well as the western approach to Brig o’Turk. The woodland forms a protective buffer to the adjacent water courses which form part of the River Teith Special Area of Conservation. The woodland provides connectivity between the Great Trossachs National Nature Reserve (GTNNR) and neighbouring woodlands.

5. Proposed modifications

5.1 It is proposed to slightly extend the area of woodland protected and to modify the woodland descriptions. See appendix 1 for further details.



**Figure 1 – Location Plan – Blue Square represents the approximate location of the TPO**

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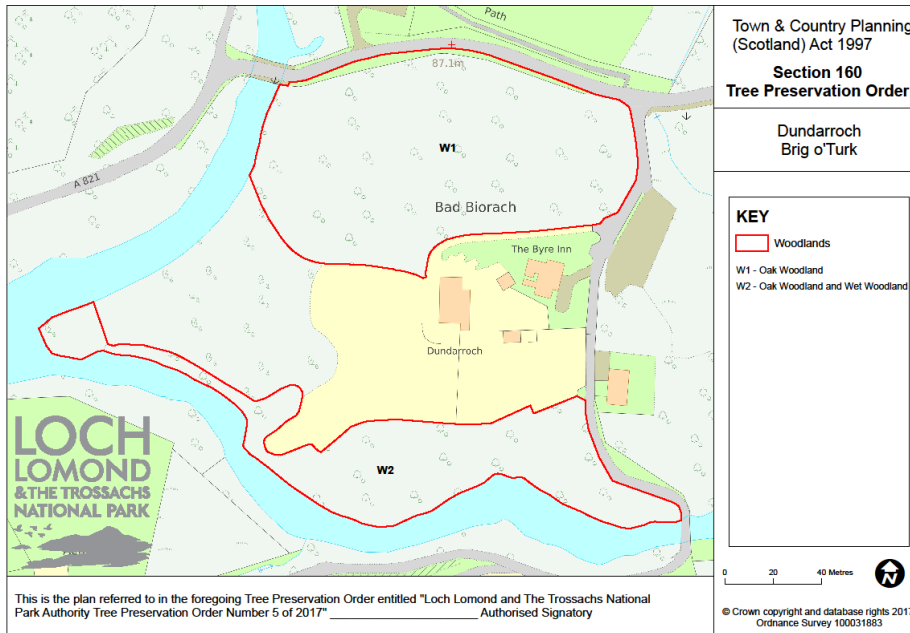


Figure 2a - Site Plan - This plan shows the TPO boundaries 'as made'

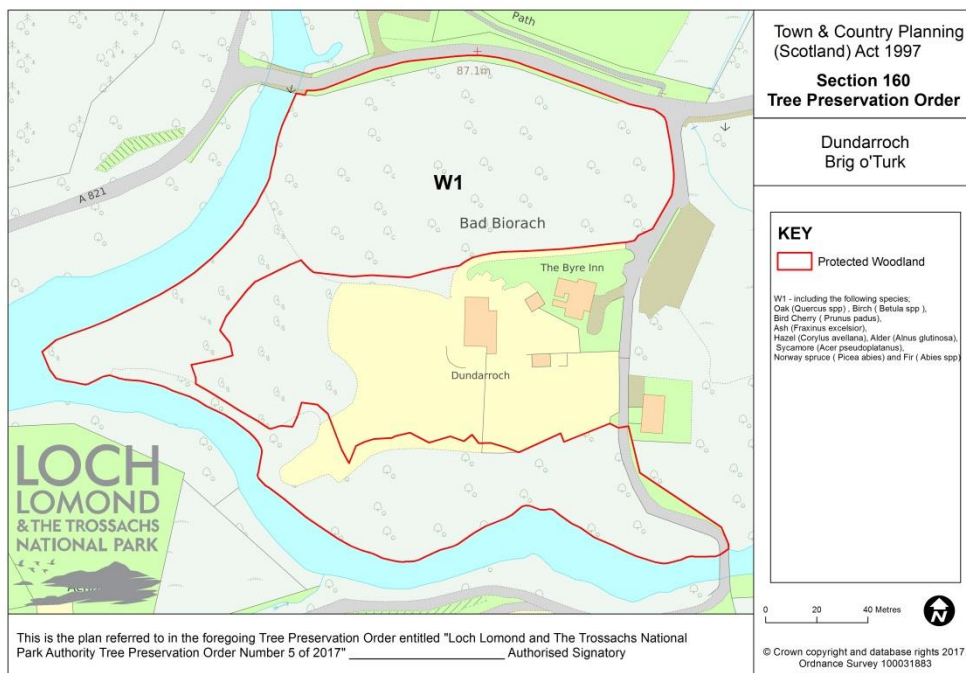


Figure 2b – Site Plan - This plan shows the proposed modified TPO boundary

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Figure 3 – Photographs of parts of the site

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#### 6. Relevant Planning History

6.1 There was a single planning application relevant to the site of this Tree Preservation Order which is listed below:

- 2017/0134/DET - Erection of 3 no. holiday let lodges – This application was **withdrawn** following the making of the TPO - Two of the proposed lodges were proposed within the protected woodland.

#### 7. Consultations and Representations

7.1 The following statutory consultations were undertaken in relation to the making of the TPO:

- 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.

In addition, an advert was placed in the Stirling Observer on the 25<sup>th</sup> May 2017 and the Trossachs Community Council was notified.

#### *Responses to consultation:*

7.2 A single representation **supporting** the confirmation of the TPO was made by Mr and Mrs Maxwell (neighbouring proprietor).

The following is a summary of the points raised:

- The mapped presence of the woodland on the 1747 Roy map is highlighted along with the adjacent designations and a number of omissions from the owner's submission in relation to the planning case (2017/0134/DET).

**Officer response:** *These points are noted.*

7.3 ACS Consulting on behalf of Lomond Active Ltd (owners of the site) objects to the confirmation of the TPO.

The following is a summary of the points raised:

- The amenity of the woodland was not assessed.

**Officer response:** *The assessment of the amenity was included in the assessment of the woodland using a modified Tree Evaluation Method for Preservation Orders (TEMPO) specific designed for woodland which had*

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*been commissioned for the Loch Lomond and Trossachs National Park Authority.*

- The woodlands' Cultural or Historic significance to the area has not been demonstrated and the woodland was not included in the Great Trossachs National Nature Reserve (GTNNR).

**Officer response:** *The woodland is shown on both the Roy map (1747) and the Ordnance Survey 1<sup>st</sup> Edition map (1866) indicating that they would meet this criteria to be considered Ancient Semi Natural Woodland. This means the woodland fulfils the criteria detailed in the TEMPO assessment. The extent of the GTNNR only included land owned by the Great Trossachs Forest Project Partners rather than reflecting the value of woodland hence this woodland not being included in the designation.*

- The tree felling did not constitute reduction of woodland extent and the woodland is in good stewardship.

**Officer response:** *It is accepted that the felling of two mature trees in itself may not constituted a reduction in woodland cover however, when viewed in combination with the removal of the established young trees visible in the photographs taken during the pre app visit and the uprooting of established young trees under the canopy of existing mature oaks, it is considered that there has been reduction in woodland extent. The works detailed above are not considered to be good woodland management by the NPA.*

- The proposed development did not put the woodland under threat and was 'tree-lead' in line with BS 5837(2012).

**Officer response:** *The site plan submitted in support of the planning application omitted a number of mature trees which would be in, or close to, the proposed development footprint. These omitted trees were recorded on the arboricultural report (dated April 2017) provided to the NPA subsequent to the officers' site visit on the 15<sup>th</sup> May 2017 in support of the works undertaken. However the tree which was partially dismantled was to be retained according to the provided report.*

- "The description are incorrect in that they give clear impression that everything in the woodland is protected"

**Officer response:** *This was not the intention and the description has been modified to only mention tree species.*

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- The TPO restricts the owner's ability to undertake tree work creating an unfair burden

**Officer response:** *The TPO would not prevent appropriate woodland management and should the owner wish to submit a tree works application detailing the works which the owner considered necessary then NPA would assess this as per other tree works application. Given the woodland nature of the TPO, works detailed in a woodland management plan would be a pragmatic method to submit an application.*

A further representation **objects** to the confirmation of the TPO was made by Roy W. Macdonald (local resident).

The following is a summary of the points raised:

- The land owners have engaged an arboculturalist who is an advisor to the Loch Lomond and the Trossachs National Park Authority.

**Officer response:** *This is noted although the NPA are not aware which advisor is referred to.*

- The woodland requires work to "tidy damaged and dead trees either from disease to prevent transferal or storm damage"

**Officer response:** *Best practice advice regarding native woodland management is that removal of damaged or dead trees is only necessary to manage the risk to public safety due to the importance of dead and damaged trees to the biodiversity associated with native woodland. Therefore the NPA would not support work unless it followed this best practice.*

- He stated there is a "Managed Growth Plan" in place and that tree replanting is underway.

**Officer response:** *These points are noted although NPA are unclear what is meant by a "Managed Growth Plan" and as of the 4<sup>th</sup> August no tree planting was seen in the area where felling had been undertaken.*

## 8. Legislative Context

- 8.1 The Park Authority, as planning authority, may make a TPO to protect individual tree(s), groups of trees or woodland where it appears expedient in the interests of amenity and/or that the trees/groups of trees/woodland are of cultural or historical significance. The Park Authority has a duty from time to time to review any TPO, as required by the Planning etc. (Scotland) Act 2006 section 28(1)(d). Further information on the legislation and procedures can be found in Planning Circular 1/2011: Tree Preservation Order.

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#### 9. Assessment

- 9.1 The Members are being asked to confirm the Tree Preservation Order, made on 18th May 2017 with modifications.
- 9.2 The basis for the assessment of the woodland was a modified Tree Evaluation Method for Tree Preservation Orders (TEMPO) (See appendix 2 for TEMPO guidance). TEMPO was developed as a field guide to consider all relevant factors when to assess trees/woodland for a TPO.
- 9.3 The woodland is recorded on the Native Woodland Survey of Scotland as predominately mature structure and comprising mainly native species. The woodland is in an unmanaged and fair condition other than the presence of rhododendron on the north portion apart from the recent works prior to making of the TPO. There appears to have been woodland in this location since the area was mapped for the Roy maps (1747-52) and so is considered ancient woodland.
- 9.4 The works which were undertaken during the assessment of the planning application did not appear to have been identified in the arboricultural report provided to the NPA following the officer site visit. The site plans which accompanied the application omitted a number of trees which would prevent the proposed development unless these trees were to be removed.
- 9.5 These two factors, along with the removal of the established regeneration on the development site and previous tree removal in the woodland adjacent to the garden, lead the NPA to consider that a TPO was expedient to protect the woodland. This is in-line with Natural Environment Policy 8 of the Local Development Plan.
- 9.6 As a result of a site visit following the making of the TPO and reviewing the various representations, there are modifications recommended for approval which are detailed in Appendix 1. These relate to combining the two woodland areas as previously identified and the modification of the written description of woodland.
- 9.7 The TEMPO method scores a woodland on a number of categories which are as follows:  
  
Part 1 is the amenity assessment which is broken down into four sections:
  - a) Condition (relates to current management and health);
  - b) Naturalness (age of woodland cover);
  - c) Size of woodland;
  - d) Cultural factors. (historic, natural heritage designation and public use)



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Part 2 is the expediency assessment which is the level of threat to the woodland concerned.

- 9.8 The woodland scored 28 with a score greater than 21 indicating a TPO is definitely merited. This score is comprised from 10 (out of 10) for condition (This is a score based on the whole woodland, however if the area where tree works were undertaken was considered alone then this score would be 5 (out of 10) for naturalness (the woodland appears on the Rory map and subsequent OS maps); 2 (out of 10) for size. The expedience was 2 (out of 5) due to recent tree works.

#### 10. Conclusion

- 10.1 The woodland is prominent from both the public highway and a core path, has clear habitat value providing connectivity between the Great Trossachs NNR and neighbouring woodlands. Despite the withdrawal of the planning application, the NPA consider that the Tree Preservation Order should be confirmed as there is likely to be further development proposals for the property. Outwith the planning process, the NPA would be willing to work with the owner on their woodland management proposals for the woodland

- 10.2 It is therefore recommend that the Order is confirmed with the modifications

#### 11. Background Documents

- 11.1 The original TPO schedule and plan are available on line on the National Park's web site <http://www.lochlomond-trossachs.org/planning/planning-applications/make-an-application/tree-preservation-orders-national-park/>

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Appendix 1 - Recommended Modifications  
Appendix 2 - TEMPO guidance