

# National Park Authority Planning & Access Committee

Agenda Item 6



## Tree Preservation Order Recommendations

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### *Paper for decision*

#### 1. Introduction

1.1 As part of the Park Authority's obligations under the Planning etc. (Scotland) Act 2006 section 28(1)(d), the Park Authority is carrying out a review of the Tree Preservation Orders (TPOs) lying within the National Park. As part of this ongoing review, the recommendation in this paper is that two TPOs are revoked and two new TPOs are created.

#### 2. Recommendations

2.1 Members are to:

- a) Note the making of the following four TPOs on the 7<sup>th</sup> September 2016 – issued with approval of the Chair of Planning & Access Committee.
  - 2016-0001-TPO - Lagganbuie
  - 2016-0002-TPO - Creggandarroch
  - 2016-0003-TPO – Creggandarroch and Blarachorine
  - 2016-0004-TPO - Kilmaronock
- b) Confirm the above four TPOs without amendment.

#### 3. Background

3.1 As part of the Park Authority's obligations under the Planning etc. (Scotland) Act 2006 section 28(1)(d), the Park Authority is carrying out a review of the Tree Preservation Orders (TPOs) lying within the National Park. A TPO review involves both the review of the relevant legal titles, which should show the TPO, along with a re-assessment of the merits of the TPO in terms of value to amenity and/or cultural or historical significance. It is also an opportunity to update TPOs where for example consented tree removal has occurred or trees may no longer satisfy the requirements for protection. In order to remove protection by a TPO, the Park Authority must serve a TPO– this process is called revoking a TPO.

3.2 On the 7<sup>th</sup> September 2016, four TPOs were made following approval by the Head of Rural Development and Planning authorised by Chair of the Planning & Access Committee in accordance with the Scheme of Delegation. Once notice of the making of a TPO is given there is a consultation period of at least 28 days during which representations can be made. The 'unconfirmed' TPO is valid for 6 months from the

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date it is made. The Planning and Access Committee are required to make a decision as to whether the four TPOs are to be confirmed, unmodified, following a review of the representations and any other matters arising.

#### 4. Legislative Context

- 4.1 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.

#### 5. Tree Preservation Orders

- 5.1 The four TPOs being considered are described below:

- Lagganbuie (Ref: 2016/0001) – The site lies to the north of the A880, east of Kilmun Mausoleum and west of the Old Kirk in Kilmun (see location plan in Appendix 1). There were 17 trees protected by TPO served by Argyll and Bute Council in 1999 as a result of a planning application for a dwelling house. In the intervening years 15 trees have either blown over or been removed to accommodate the dwelling. There are only 2 trees (Sitka spruce) remaining which are not considered worthy of protection. It is recommended that the TPO is revoked by confirmation of TPO reference number 2016/0001. The detailed assessment is contained within Appendix 1.
- Creggandarroch (Ref: 2016/0002 and Ref: 2016/0003) – The site lies in Blairmore to the west of the A880 on the shore road, to the east of Creggandarroch House (a listed building) and south of Duart Tower. There are 7 trees on this site protected by TPO served by the National Park Authority in 2004 as a result of a planning application for three dwellings. As part of the planning approval and appeal decision, consent was given for 2 trees to be felled to enable the development. Subsequently another protected tree blew over as a result of high winds in 2011/2012. The remaining four trees continue to satisfy the requirements for protection by TPO. In addition, there are trees of merit, on the property known as Blarachorine which is adjacent to the original TPO. They were identified in 2015 following concern about tree

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felling at that property. It is recommended that the original TPO is revoked by confirmation of TPO reference 2016/0002 and a new TPO is confirmed (ref 2016/0003) with the amendments and to include the neighbouring property. The serving of the new TPO protects 14 trees, 4 from the original TPO and 10 new trees in the grounds of Blarachorine. The detailed assessment is contained in Appendix 2.

- Kilmarnock (Ref: 2016/0004) – The site is located to the north of the A811 between Gartocharn and Drymen. The site is to the east of Kilmarnock Church and Manse. The avenue of trees has previously been protected by a TPO served in 2008. As part of the TPO review process, the 60 trees were reassessed and it was considered that a proportion of the trees forming the avenue merited protection by a TPO. There are 37 trees that satisfy the requirements for protection which form an attractive and distinctive avenue in the open farmland connected with the historical building group. It is recommended that TPO reference number 2016/0004 is confirmed.

#### 6. Consultation

- 6.1 A statutory consultation for 28 days was undertaken in relation to the above TPOs by the Park Authority. The relevant parties, including Forestry Commission, property owners/tenants and any party entitled to undertake works to the tree such as a neighbour were given notice and site notices and adverts were used to inform the public and seek any comments. There is a duty to consider any representations before confirming a TPO.
- 6.2 There was only one representation made during the consultation process and this was in relation to the TPOs at Creggandarroch and Blarachorine (Ref: 2016/0002 and Ref: 2016/0003). The comments have been summarised and assessed in Appendix 2 with a detailed officer response to each point raised. Following this assessment, it is recommended that the TPO should still be served and no modifications are recommended.

#### 7. Conclusion

As part of the Park Authority's obligations under the Planning etc. (Scotland) Act 2006 section 28(1)(d) The Park Authority is carrying out a review of the TPOs lying within the National Park.

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7.1 It is recommended that the following new TPOs are confirmed:

- Lagganbuie - Ref: 2016/0001
- Creggandarroch - Ref: 2016/0002
- Creggandarroch and Blarachorine - Ref: 2016/0003
- Kilmaronock House - Ref: 2016/0004

8. Appendices

- Appendix 1 – Lagganbuie
- Appendix 2 – Creggandarroch and Blarachorine
- Appendix 3 – Kilmaronock House
- Appendix 4 – TEMPO guidance

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