

<b>Report To:</b>	<b>Environment &amp; Regeneration Committee</b>	<b>Date:</b> 13 January 2022
<b>Report By:</b>	<b>Interim Service Director, Environment &amp; Regeneration</b>	<b>Report No:</b> LS/006/22
<b>Contact Officer:</b>	<b>Emma Peacock</b>	<b>Contact No:</b> 01475 712115
<b>Subject:</b>	<b>Tree Preservation Order (No IC33) at Glen Avenue, Gourock</b>	

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### 1.0 PURPOSE

- 1.1 Further to the statutory consultation process undertaken in terms of the Town and Country Planning (Scotland) Act 1997 and Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010 in relation to the Tree Preservation Order (TPO) (No. IC33) at Glen Avenue, Gourock, the purpose of this report is to:
- Request that the Committee adopt the Rules of Procedure for the purposes of the special meeting;
  - Advise the Committee in relation to the TPO of the discussion between Council Officers and persons who have objected to the TPO (the Objectors); and
  - Facilitate the effective, fair and proper hearing by the Committee of the Objectors in order that the Committee can consider the objections (the Objections) and decide whether or not to authorise the Interim Head of Legal & Democratic Services to proceed with the confirmation process.

### 2.0 SUMMARY

- 2.1 The Inverclyde Council as Planning Authority made the TPO under and in exercise of the power conferred on it by the Town and Country Planning (Scotland) Act 1997 on 26 July 2021. A copy of the TPO is included with this report as Appendix 3.
- 2.2 The TPO took effect on 2 August 2021 and will expire on 2 February 2022 if it is not confirmed by the Planning Authority before then.
- 2.3 A copy of the Order and the map was issued to all parties who had an interest in the land affected by the TPO on 28 July 2021. Such parties were invited to make any objection in writing to the Interim Head of Legal & Democratic Services by 30 August 2021, stating the ground thereof and specifying the particular trees, groups of trees or woodlands in respect of which the objection/representation is made.
- 2.4 Eight representations were received in connection with the TPO and of these, three objections were received from interested parties. Officers corresponded with the Objectors but the Objectors maintained their objections in spite of this correspondence. These objections must now be considered by the Council before the Order is confirmed. Officers consider that the most appropriate way for the Council to consider these objections is by way of a public hearing at this special meeting.
- 2.5 The process associated with hearing objections to Tree Preservation Orders is not set out in legislation, however the Council are required, in terms of Regulation 5(3) of the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland)

Regulations 2010, to consider any representations made before a tree preservation order is confirmed. The Council's procedures for hearing objections to Traffic Regulation Orders are considered to be suitable procedures for hearing objections to this TPO.

- 2.6 Because of the requirements of natural justice and the formal nature of the special meeting, it is vital that the Objectors have a fair and impartial hearing and the Rules of Procedure provide for this.

### **3.0 RECOMMENDATION**

3.1 It is recommended that the Committee:

- a) Allows the Objections received in relation to the TPO to be considered by way of this special meeting;
- b) Approves the Rules of Procedure as detailed in Appendix 1;
- c) Considers the terms of Appendix 2 in relation to the Objections;
- d) Allows the Objectors an opportunity to be heard at the special meeting in accordance with the Rules of Procedure; and
- e) Considers the Objections and such oral representations made by the Objectors and Officers at the special meeting and thereafter **either**:

e.1 Dismisses the Objections and authorises the Interim Head of Legal & Democratic Services to proceed with the confirmation process;

**or**

e.2 Upholds the Objections and allows the TPO to expire on 2 February 2022 without being confirmed.

All in accordance with the Rules of Procedure.

**Anne Sinclair**  
**Interim Head of Legal & Democratic Services**

## **4.0 BACKGROUND**

4.1 The Council made the TPO on 26 July 2021 in respect of the trees within the Glen Avenue area of Gourrock for the following reasons:-

- (1) To preserve individual trees and groups of trees in the interests of amenity as they contribute considerably to the character of the area;
- (2) To preserve many trees of good quality;
- (3) To safeguard individual trees and groups of trees against unnecessary or indiscriminate felling; and
- (4) To retain and preserve the natural habitat of wildlife.

4.2 The Council commissioned a Tree Hazard Management Report relating to woodland in the Glen Avenue area in 2018. The main purpose of the Report was to assist the Council in meeting its duty of care in respect of possible risks posed by trees in the Glen Avenue woodland. The assessment of the woodland was carried out and the report received in August 2018. In addition to reporting on the condition of the woodland and the trees within it, the report suggested that a TPO be applied to the woodland. In response to this report, officers from Inverclyde Council's Planning Service visited the woodland and assessed that it provided a number of benefits including visual amenity, local access to green space, informal recreation opportunities such as dog walking, and provision of a valuable wildlife habitat for a variety of species. It was therefore assessed as worthy of protection through a TPO. As part of the woodland is already covered by a TPO (at Caledonia Crescent, made on 26 February 1983), the proposed TPO would offer the same level of protection across all of the woodland.

4.3 The TPO took effect on 2 August 2021 and will expire on 2 February 2022 unless it is confirmed by the Planning Authority before then.

4.4 Three objections were received from parties with an interest in the land affected by the TPO. Officers wrote to the objectors and the three objections have been maintained.

4.5 Officers have continued to engage with the Objectors to advise them of the arrangements for and proposed procedure at this special meeting. Officers have provided the Objectors with a Statement of Case which sets out the position of the Planning Service as regards the TPO. The Statement of Case is in Appendix 4. The written representations/documents submitted by the Objectors are in Appendix 5.

4.6 Appendix 2 provides the full text of each of the Objections and the correspondence with officers.

4.7 The process associated with hearing objections to Tree Preservation Orders is not set out in legislation, however the Council are required, in terms of Regulation 5(3) of the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010, to consider any representations made before a tree preservation order is confirmed. The Council's procedures for hearing objections to Traffic Regulation Orders are considered to be suitable procedures for hearing objections to this TPO.

4.8 As the consideration of the Objections by the Council is a statutory entitlement for the Objectors, the Committee will be discharging legal responsibilities at the special meeting effectively as if it were a formal tribunal or board with the obligations which are already familiar to Elected Members as regards hearing and continuity of attendance.

## **5.0 PROCEDURE**

5.1 A copy of the TPO is included at Appendix 3 of this report.

5.2 The special meeting will proceed effectively as if a formal tribunal or board. In the interests of fairness, openness and transparency it is therefore necessary that the basis on which the hearing element of the meeting will proceed be formalised. Officers have therefore prepared

draft Rules of Procedure of this meeting per Appendix 1. These have been circulated to the Objectors prior to this meeting and are recommended for approval by the Committee.

- 5.3 Because of the formality of the hearing process and the statutory process for traffic calming measures, only certain decisions of the Committee in this matter are competent. Further it is vital that the Objectors have a fair and impartial hearing and the Rules of Procedure provide for this. The decisions which the Committee can competently make are to dismiss the Objections or to uphold the Objections. These eventualities are addressed in the possible Committee outcomes specified in paragraph 3.1(e).

## 6.0 IMPLICATIONS

### Finance

- 6.1 One-off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
-	-	-	-	-	-

### Legal

- 6.2 The Inverclyde Council as Planning Authority made the TPO under and in exercise of the power conferred on it by the Town and Country Planning (Scotland) Act 1997 on 26 July 2021. A copy of the Order and the map was served upon all parties with an interest in the land on 28 July 2021 inviting parties to make any objection or representation in writing to the Interim Head of Legal & Democratic Services. Three objections were made in relation to the TPO. In terms of Regulation 5(3) of the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010, the Council are required to consider any representations made before the tree preservation order is confirmed.

### Human Resources

- 6.3 There are no HR implications arising from this report.

### 6.4 Equalities

Has an Equality Impact Assessment been carried out?

YES	
X	NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required.

### Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

	YES – A written statement showing how this report’s recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.
X	NO

Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedoms of individuals.
X	NO

**Repopulation**

6.5 There are no repopulation implications arising from this report.

**7.0 CONSULTATIONS**

7.1 The Interim Head of Legal & Democratic Services and the Interim Service Director – Environment & Regeneration have been consulted on the terms of this report.

**8.0 LIST OF BACKGROUND PAPERS**

8.1 None.

# **APPENDIX 1**

## **Rules of Procedure**

### **INVERCLYDE COUNCIL**

#### **ENVIRONMENT AND REGENERATION COMMITTEE**

##### **PROCEDURE AT PUBLIC HEARING INTO OBJECTIONS IN RELATION TO TREE PRESERVATION ORDERS**

At the hearing, the order of the proceedings will be as follows:

- a) The Chair will conduct the hearing. Immediately after opening it, he will introduce the members of the Committee and the officer(s) present and identify and list those persons who wish to be heard during the hearing. It is therefore vital that any person who wishes to participate attends the opening.
- b) The Chair will outline the procedure, explaining that the hearing will take the form of a discussion which he will lead based on the agenda issued to those objectors who have indicated to the Council that they wish to attend and be heard at the hearing.
- c) The arrangements for the hearing have been designed to create the right atmosphere for discussion, to eliminate or reduce formalities and to give everybody a fair hearing.
- d) As each objection listed on the agenda is reached, the Chair will identify those persons who wish to engage in the discussion of the particular issue(s) raised by the objection. Several objectors with shared concerns may choose a spokesperson and this will be helpful to the process; in the event that a number of objectors decide to act together in this way, the Chair will allow a reasonable extension of the time limits set out below.
- e) The Council officer(s) will be invited to describe and present the case for the tree preservation order in respect of which the objection has been made, to set the scene for the discussion, with a time limit of 5 minutes per objection.
- f) Each objector will be invited to speak to his objection and comment on the description/presentation by the Council officer(s), with a time limit of 5 minutes. Repetition of similar points is to be avoided and will be managed by the Chair.
- g) The Council officer(s) will be invited to reply to the speech of the objector (introducing no new material), restricted to a time limit of 5 minutes. The Chair will allow the objector the final word (introducing no new material), if he/she wishes it, restricted to a time limit of 5 minutes. The Chair will discourage repetitive or superfluous comments. He will indicate when he considers that sufficient clarification of a topic has been achieved, and the discussion will then move on to the next item on the agenda. At no time will cross examination be permitted.

h) The members of the Committee will then be invited by the Chair to ask questions of both the Council officer(s) and the objector. The role of the members of the Committee is only to hear, consider and make a decision on the evidence given by Council officer(s) and objectors.

i) The members of the Committee will then adjourn to consider their decision. The decision of the Committee will be intimated to the Council officer(s) and the objectors orally. Any votes will be held in public. It is anticipated that the decision of the members of the Committee will be intimated on the day of the public hearing but, if that is not possible for any reason, the public hearing will be re-convened. If the decision of the members of the Committee is to uphold an objection in whole or in part, the matter may be remitted to Council officer(s) to modify the tree preservation order to deal with the objection in accordance with the decision of the members.

Enquiries to: Emma Peacock  
Telephone: 01475 712115  
E-mail: [Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)  
Our Ref: EP/CPL0265  
Your Ref:  
Date: **20 December 2021**

Alan Puckrin CFPA  
Interim Director  
Finance & Corporate Governance

Municipal Buildings  
Clyde Square  
Greenock  
PA15 1LY

Adam and Julie Kelly  
17 Glen Avenue  
GOUROCK  
PA19 1XL

Also by email to: [REDACTED]  
and [REDACTED]

Dear Adam and Julie Kelly,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
THE INVERCLYDE COUNCIL (GLEN AVENUE, GOUROCK)  
TREE PRESERVATION ORDER 2021 (NO IC33)**

I refer to our previous correspondence in relation to the above Tree Preservation Order (TPO).

I now write to confirm that a Special Meeting of the Environment & Regeneration Committee is to be held in this connection. The Meeting will commence at **2.00pm on Thursday 13<sup>th</sup> January 2022** in the Council Chambers, Municipal Buildings, Clyde Square, Greenock, PA15 1LX.

I attach for your information a copy of the Council's Procedure for Hearings along with a copy of the Council's Statement of Case in relation to the TPO to which the Council intends to refer at the Special Meeting.

As a person who has objected to the TPO, if you so desire, an opportunity will be afforded to you to be heard at the Special Meeting of the Committee in support of your objection. Should you wish to accept this opportunity, I would be obliged if you could respond to me no later than **5<sup>th</sup> January 2022** in order to confirm your desire to attend the Special Meeting of the Committee.

Given the ongoing public health crisis caused by the Covid-19 pandemic, the Special Meeting of the Committee will take place online by way of the Council's WebEx platform. Should you wish to attend the Special Meeting, I will be in touch in due course in order to confirm whether you will require to attend the Special Meeting by WebEx or whether you may be permitted to attend the Council offices for the purposes of this Meeting.

Please note that all public proceedings at the Special Meeting of the Committee will be recorded.

I confirm that you have the right to send written representations for the consideration of the Committee. Should you wish to provide the Council with written representations, please ensure that these are delivered to the Council no later than **5<sup>th</sup> January 2022**. In addition, if you wish the Committee to have regard to any documents which support your case, please ensure that these are also delivered to the Council no later than **5<sup>th</sup> January 2022**.

In this connection, Inverclyde Council's Privacy Notice explains how the Council will use any personal data you have provided as part of the TPO process and a copy of this Notice is attached for your information.





It is open to you to withdraw your objection at any time before the Special Meeting of the Committee.

I look forward to hearing further from you in this regard.

Yours sincerely,


**Anne Sinclair**  
**Interim Head**  
**Legal & Democratic Services**

Enquiries to: Emma Peacock  
Telephone: 01475 712115  
E-mail: [Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)  
Our Ref: EP/CPL0265  
Your Ref:  
Date: 15 December 2021

Alan Puckrin CFP  
Interim Director  
Finance & Corporate Governance

Municipal Buildings  
Clyde Square  
Greenock  
PA15 1LY

Adam and Julie Kelly  
17 Glen Avenue  
GOUROCK  
PA19 1XL

by email to: [REDACTED] and  
[REDACTED]

Dear Adam and Julie Kelly,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
THE INVERCLYDE COUNCIL (GLEN AVENUE, GOUROCK)  
TREE PRESERVATION ORDER 2021 (NO IC33)**

I refer to your letter dated 2 August 2021.

The Council's Planning Service has noted and considered your objection and would respond to your grounds for objection as follows:-

Background

The Council commissioned a Tree Hazard Management Report relating to woodland in the Glen Avenue area in 2018. The purpose of the inspection was primarily to assist the Council to meet its duty of care in respect of possible risks posed by trees in the Glen Avenue woodland. The assessment of the woodland was carried out and the report received in August 2018. In addition to reporting on the condition of the woodland and the trees within it, the report suggested that a Tree Preservation Order (TPO) be applied to the woodland. In response to this report, officers from Inverclyde Council's Planning Service visited the woodland and assessed that it provided a number of benefits including visual amenity, local access to green space, informal recreation opportunities such as dog walking, and provision of a valuable wildlife habitat for a variety of species. It was therefore assessed as worthy of protection through a TPO. As part of the woodland is already covered by a TPO (at Caledonia Crescent, made on 26 February 1983), the proposed TPO would offer the same level of protection across all of the woodland.

Maintenance

The purpose of the study referred to above was to assist the Council in meeting its duty of care with regard to possible risk posed by trees in the Glen Avenue woodland. The Council has acted on the recommendations of the study and has continued to inspect the woodland for maintenance purposes and in response to concerns raised by residents. The management of the woodland from a safety perspective is not affected by the making of the Tree Preservation Order. Any concerns over the safety of trees should be raised with the Council's Grounds Maintenance Service through the Customer Service Centre on 01475 717171.

## Anti-Social Behaviour

Any anti-social behaviour occurring in the woodland or the surrounding area would be a matter for the police or community wardens. As stated above, the maintenance of the woodland is not affected by the making of the TPO. Planning Officers note that the making of a TPO over the trees in this area is a factor which could attract funding to improve the woodland.

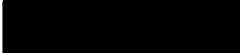
I trust the above addresses all of your concerns and allows you to consider your position on your objection to the Tree Preservation Order. The Council are arranging a Special Meeting of the relevant Council Committee to consider maintained objections to the TPO.

**I would be obliged if you could advise me if you intend to withdraw your objection to the Tree Preservation Order. Unless I hear from you to the contrary, I will assume that your objection is being maintained. It is open to you to withdraw your objection at any time.**

You will be notified of your right to be heard by or represented before the Special Meeting of the relevant Council Committee. If you wish to exercise this right, you will be given at least 21 days' notice of the date of the Special Meeting. Please also note that any person having an interest in the subject matter of any Special Meeting which may be convened has the right to send written representations for the consideration of the Special Committee.

I look forward to hearing further from you in this connection.

Yours sincerely,



**Anne Sinclair**  
pp **Interim Head**  
**Legal & Democratic Services**

## Emma Peacock

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**From:** Emma Peacock  
**Sent:** 15 December 2021 16:03  
**To:** [REDACTED]  
**Subject:** (Official) TPO at Glen Avenue, IC33  
**Attachments:** Kelly Objection Response.pdf

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Classification: Official

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Dear Adam and Julie Kelly,

Please find attached correspondence in connection with the above.

Kind regards,

Emma

**Emma Peacock**  
Solicitor  
Legal and Democratic Services  
Inverclyde Council  
Municipal Buildings  
Clyde Square  
Greenock  
PA15 1LY

Email: [Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)  
Tel: 01475712115

Ms Anne Sinclair  
Interim Head of Legal Services  
Inverclyde Council  
Municipal Buildings  
Greenock  
PA15 1LY

2 August 2021

Dear Ms Sinclair

**TREE PRESERVATION ORDER 2021 (NO IC33)**

Recently we received a letter regarding the above noting that the trees around our property have been requested for a Tree Preservation Order. We write to object to this.

The trees within Glen Avenue are large and as a result do not look safe which is extremely worrying as we have a young family (two children aged 6 and below). One of the trees sits directly in front of our property and should it fall it would do so directly on to our house and our childrens bedrooms. We have lived on the street for 3 years and the trees have never been maintained during that time and speaking to neighbours it appears no one is aware of any maintenance whatsoever.

Over the past couple of years 'the Glen' has attracted a significant amount of anti social behaviour, Police Scotland and our local Councillor can confirm this. In particular burglaries, stabbings in the woods, garage break ins, loitering and throwing litter away, school children using the trees down the side of our garage as a toilet (reported to the school), we personally have had drugs thrown at our door by individuals running down in to 'the Glen' as a getaway and had a brick thrown at our daughters bedroom window which smashed when she was 5 weeks old, again the individuals making off in to 'the Glen'. If this area was better maintained and trees cut down/maintained as required then this would ease some of the aforementioned issues.

Our main concern however is the tree directly across from our house. We are extremely worried about this and would like assurances that this is maintained along with others and that it is in no danger of falling.

We therefore strongly object to the Tree Preservation Order and look forward to hearing from you further in relation to this matter.

Yours sincerely

Adam & Julie Kelly  
**17 Glen Avenue**  
**Gourock**  
**PA19 1XL**

Cc Councillor Lynne Quinn

Enquiries to: Emma Peacock  
Telephone: 01475 712115  
E-mail: [Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)  
Our Ref: EP/CPL0265  
Your Ref:  
Date: **20 December 2021**

**Alan Puckrin CFPA**  
Interim Director  
Finance & Corporate Governance

Municipal Buildings  
Clyde Square  
Greenock  
PA15 1LY

Hugh McColl  
40 Duthie Road  
Gourock  
PA19 1XS

Also by email to: [REDACTED]

Dear Mr McColl,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
THE INVERCLYDE COUNCIL (GLEN AVENUE, GOUROCK)  
TREE PRESERVATION ORDER 2021 (NO IC33)**

I refer to our previous correspondence in relation to the above Tree Preservation Order (TPO).

I now write to confirm that a Special Meeting of the Environment & Regeneration Committee is to be held in this connection. The Meeting will commence at **2.00pm on Thursday 13<sup>th</sup> January 2022** in the Council Chambers, Municipal Buildings, Clyde Square, Greenock, PA15 1LX.

I attach for your information a copy of the Council's Procedure for Hearings along with a copy of the Council's Statement of Case in relation to the TPO to which the Council intends to refer at the Special Meeting.

As a person who has objected to the TPO, if you so desire, an opportunity will be afforded to you to be heard at the Special Meeting of the Committee in support of your objection. Should you wish to accept this opportunity, I would be obliged if you could respond to me no later than **5<sup>th</sup> January 2022** in order to confirm your desire to attend the Special Meeting of the Committee.

Given the ongoing public health crisis caused by the Covid-19 pandemic, the Special Meeting of the Committee will take place online by way of the Council's WebEx platform. Should you wish to attend the Special Meeting, I will be in touch in due course in order to confirm whether you will require to attend the Special Meeting by WebEx or whether you may be permitted to attend the Council offices for the purposes of this Meeting.

Please note that all public proceedings at the Special Meeting of the Committee will be recorded.

I confirm that you have the right to send written representations for the consideration of the Committee. Should you wish to provide the Council with written representations, please ensure that these are delivered to the Council no later than **5<sup>th</sup> January 2022**. In addition, if you wish the Committee to have regard to any documents which support your case, please ensure that these are also delivered to the Council no later than **5<sup>th</sup> January 2022**.

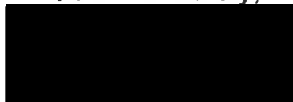
In this connection, Inverclyde Council's Privacy Notice explains how the Council will use any personal data you have provided as part of the TPO process and a copy of this Notice is attached for your information.



It is open to you to withdraw your objection at any time before the Special Meeting of the Committee.

I look forward to hearing further from you in this regard.

Yours sincerely,



 **Anne Sinclair**  
**Interim Head**  
**Legal & Democratic Services**

## Emma Peacock

---

**From:** Emma Peacock  
**Sent:** 17 November 2021 14:43  
**To:** 'hugh mccoll'  
**Subject:** RE: (Official) EP/CPLO265

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**Classification: Official**

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Dear Mr McColl,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
THE INVERCLYDE COUNCIL (GLEN AVENUE, GOUROCK)  
TREE PRESERVATION ORDER 2021 (NO IC33)**

I refer to our previous correspondence in relation to the above TPO. I have noted that your objection is maintained. Details regarding the special meeting will be provided in due course.

Kind regards,

Emma

**Emma Peacock**  
Solicitor  
Legal and Democratic Services  
Inverclyde Council  
Municipal Buildings  
Greenock  
PA15 1LX

Phone: 01475712115  
Email: [Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)

Neither this email nor any attachments hereto are intended to be binding nor to form part of any contract to follow hereon.

Inverclyde Council website – [www.inverclyde.gov.uk](http://www.inverclyde.gov.uk)

Inverclyde Council - Best Government Services Employer in the UK 2016 – Bloomberg Business Best Employer Awards 2016  
Inverclyde Council is an accredited Living Wage employer

**From:** Emma Peacock  
**Sent:** 21 October 2021 16:31  
**To:** 'hugh mccoll' [REDACTED]  
**Subject:** RE: (Official) EP/CPLO265

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**Classification: Official**

---

Dear Mr McColl,

Please find attached correspondence in connection with the above.



Kind regards,

Emma

**Emma Peacock**  
Solicitor  
Legal Services  
Inverclyde Council  
Municipal Buildings  
Greenock  
PA15 1LX

Phone: 01475712115

Email: [Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)

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**Inverclyde Council - Best Government Services Employer in the UK 2016 – Bloomberg Business Best Employer Awards 2016**

**Inverclyde Council is an accredited Living Wage employer**

**From:** hugh mccoll [REDACTED]  
**Sent:** 31 August 2021 15:19  
**To:** Emma Peacock <[Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)>  
**Subject:** Re: (Official) EP/CPLO265

Dear Emma

Please regard this as an objection to the Tree Preservation Order.

Regards  
Hugh McColl.

On Monday, 30 August 2021, 11:16:25 BST, Emma Peacock <[emma.peacock@inverclyde.gov.uk](mailto:emma.peacock@inverclyde.gov.uk)> wrote

Classification: Official

Dear Mr McColl,

Thank you for your email.

I have forwarded this to my Client Services – Planning and Environmental and Public Protection – for comment and a full response will be provided in due course. Your email below will not be treated as an objection to the Tree Preservation Order. Should you wish your email to be regarded as an objection, please advise me accordingly.

Kind regards,

Emma

**Emma Peacock**

**Trainee Solicitor**

Legal Services

Inverclyde Council

Municipal Buildings

Clyde Square

Greenock

PA15 1LY

TEL: 01475712115

**From:** hugh mcoll [REDACTED]  
**Sent:** 26 August 2021 14:50  
**To:** Emma Peacock <[Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)>  
**Subject:** EP/CPLO265

Dear Emma.

As per phonecall I would to point out the following concerns I have.

I have lived at 40 Duthie Road since 1985 and when I moved in the trees were at a reasonable height some were lopped and grounds maintained, with nice views over the river and Gourrock Pier unobstructed.

Which was the selling point of the house.

Apart from a short while ago where a few trees were taken down there has been there has been no maintenance what so ever from the council or anyone. Most of the trees in this area should have been lopped a long time ago for appearance and safety . As a lot of the roots are uplifting the pathway through them which many school children use

as a way to get to and from school. I see this as a safety concern On top of this I have lost my views over the river and Gourrock Pier.

Another point is the tree to the left of my house is very close to his house and mine

And could potentially damaged house or

Wall

The second serious concern I have is the presence of Japanese Knotweed which requires urgent attention.

Again Inverclyde council made a half hearted effort last year with no follow up as to see how far this has spread .

Yours Sincerely

Hugh McColl.

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Enquiries to: Emma Peacock  
Telephone: 01475 712115  
E-mail: [Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)  
Our Ref: EP/CPL0265  
Your Ref:  
Date: 21 October 2021

Inverclyde  
council

Alan Puckrin CFPA  
Interim Director  
Corporate Services and Organisational Recovery  
Environment, Regeneration & Resources

Municipal Buildings  
Clyde Square  
Greenock  
PA15 1LY

Hugh McColl  
40 Duthie Road  
Gourock  
PA19 1XS

Also by email to: [REDACTED]

Dear Mr McColl,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
THE INVERCLYDE COUNCIL (GLEN AVENUE, GOUROCK)  
TREE PRESERVATION ORDER 2021 (NO IC33)**

I refer to your letter dated 26 August 2021.

The Planning Policy Team Leader has noted and considered your objection and would respond to your grounds for objection as follows:-

Background

The Council commissioned a Tree Hazard Management Report relating to woodland in the Glen Avenue area in 2018. The purpose of the inspection was primarily to assist the Council to meet its duty of care in respect of possible risks posed by trees in the Glen Avenue woodland. The assessment of the woodland was carried out and the report received in August 2018. In addition to reporting on the condition of the woodland and the trees within it, the report suggested that a Tree Preservation Order (TPO) be applied to the woodland. In response to this report, officers from Inverclyde Council's Planning Service visited the woodland and assessed that it provided a number of benefits including visual amenity, local access to green space, informal recreation opportunities such as dog walking, and provision of a valuable wildlife habitat for a variety of species. It was therefore assessed as worthy of protection through a TPO. As part of the woodland is already covered by a TPO (at Caledonia Crescent, made on 26 February 1983), the proposed TPO would offer the same level of protection across all of the woodland.

Maintenance

The purpose of the study referred to above was to assist the Council in meeting its duty of care with regard to possible risk posed by trees in the Glen Avenue woodland. The Council has acted on the recommendations of the study and has continued to inspect the woodland for maintenance purposes and in response to concerns raised by residents. The management of the woodland from a safety perspective is not affected by the making of the Tree Preservation Order. Any concerns over the safety of trees should be raised with the Council's Grounds Maintenance Service through the Customer Service Centre on 01475 717171.



The Council's policy is to eradicate Japanese Knotweed where it is found growing on Council land. The treatment of Japanese Knotweed on private land is the responsibility of the landowner. The making of the TPO will have no impact on the Council's treatment of Japanese Knotweed in the area. Further information on Japanese Knotweed can be found at <https://www.inverclyde.gov.uk/environment/grounds-services/grounds-maintenance/japanese-knotweed>

#### Impact on View

The Council's Planning Service appreciates that the view from your property i.e. over the river and Gourock Pier may have been a selling point in purchasing your property. However, the loss of a view or loss of light does not provide grounds for the Council to remove or lop trees on its land. Information on High Hedge legislation may be of interest and can be found at [www.inverclyde.gov.uk/planning-and-the-environment/high-hedges](http://www.inverclyde.gov.uk/planning-and-the-environment/high-hedges)

I trust that the above is of assistance to you and addresses your queries, however, please do not hesitate to contact Margaret Pickett, Senior Planner (Tel: 01475 71 2493) should you require any further information.

I trust the above addresses all of your concerns and allows you to consider your position on your objection to the Tree Preservation Order. However, should you feel that this information does not address your concerns so that you maintain your objection, the Council will arrange a Special Meeting of the relevant Council Committee to consider maintained objections.

**I would be obliged if you could advise me if you intend to withdraw your objection to the Tree Preservation Order. Unless I hear from you to the contrary within 14 days of the date of this letter, I will assume that your objection is being maintained.**

You will be notified of your right to be heard by or represented before the Special Meeting of the relevant Council Committee. If you wish to exercise this right, you will be given at least 21 days' notice of the date of the Special Meeting. Please also note that any person having an interest in the subject matter of any Special Meeting which may be convened has the right to send written representations for the consideration of the Special Committee.

I look forward to hearing further from you in this connection.

Yours sincerely,

  
Anne Sinclair  
Interim Head of Legal Services

## Emma Peacock

---

**From:** Emma Peacock  
**Sent:** 21 October 2021 16:31  
**To:** 'hugh mccoll'  
**Subject:** RE: (Official) EP/CPLO265  
**Attachments:** CPL0265 McColl.pdf

---

Classification: Official

---

Dear Mr McColl,

Please find attached correspondence in connection with the above.

Kind regards,

Emma

**Emma Peacock**  
Solicitor  
Legal Services  
Inverclyde Council  
Municipal Buildings  
Greenock  
PA15 1LX

Phone: 01475712115

Email: [Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)

Neither this email nor any attachments hereto are intended to be binding nor to form part of any contract to follow hereon.

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**From:** hugh mccoll [REDACTED]  
**Sent:** 31 August 2021 15:19  
**To:** Emma Peacock <[Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)>  
**Subject:** Re: (Official) EP/CPLO265

Dear Emma

Please regard this as an objection to the Tree Preservation Order.

Regards  
Hugh McColl.

On Monday, 30 August 2021, 11:16:25 BST, Emma Peacock <[emma.peacock@inverclyde.gov.uk](mailto:emma.peacock@inverclyde.gov.uk)> wrote

Classification: Official

Dear Mr McColl,

Thank you for your email.

I have forwarded this to my Client Services – Planning and Environmental and Public Protection – for comment and a full response will be provided in due course. Your email below will not be treated as an objection to the Tree Preservation Order. Should you wish your email to be regarded as an objection, please advise me accordingly.

Kind regards,

Emma

**Emma Peacock**

**Trainee Solicitor**

Legal Services

Inverclyde Council

Municipal Buildings

Clyde Square

Greenock

PA15 1LY

TEL: 01475712115

**From:** hugh mccoll [REDACTED]  
**Sent:** 26 August 2021 14:50  
**To:** Emma Peacock <[Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)>  
**Subject:** EP/CPLO265

Dear Emma.

As per phonecall I would to point out the following concerns I have.

I have lived at 40 Duthie Road since 1985 and when I moved in the trees were at a reasonable height some were lopped and grounds maintained, with nice views over the river and Gourrock Pier unobstructed.

Which was the selling point of the house.

Apart from a short while ago where a few trees were taken down there has been there has been no maintenance what so ever from the council or anyone. Most of the trees in this area should have been lopped a long time ago for appearance and safety . As a lot of the roots are uplifting the pathway through them which many school children use as a way to get to and from school. I see this as a safety concern On top of this I have lost my views over the river and Gourrock Pier.

Another point is the tree to the left of my house is very close to his house and mine

And could potentially damaged house or

Wall

The second serious concern I have is the presence of Japanese Knotweed which requires urgent attention.

Again Inverclyde council made a half hearted effort last year with no follow up as to see how far this has spread .

Yours Sincerely

Hugh McColl.

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Enquiries to: Emma Peacock  
Telephone: 01475 712115  
E-mail: [Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)  
Our Ref: EP/CPL0265  
Your Ref:  
Date: 20 December 2021

Alan Puckrin CFP  
Interim Director  
Finance & Corporate Governance

Municipal Buildings  
Clyde Square  
Greenock  
PA15 1LY

Peter McElwee  
38 Duthie Road  
Gourock  
PA19 1XS

Also by email to: [REDACTED]

Dear Mr McElwee,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
THE INVERCLYDE COUNCIL (GLEN AVENUE, GOUROCK)  
TREE PRESERVATION ORDER 2021 (NO IC33)**

I refer to our previous correspondence in relation to the above Tree Preservation Order (TPO).

I now write to confirm that a Special Meeting of the Environment & Regeneration Committee is to be held in this connection. The Meeting will commence at **2.00pm on Thursday 13<sup>th</sup> January 2022** in the Council Chambers, Municipal Buildings, Clyde Square, Greenock, PA15 1LX.

I attach for your information a copy of the Council's Procedure for Hearings along with a copy of the Council's Statement of Case in relation to the TPO to which the Council intends to refer at the Special Meeting.

As a person who has objected to the TPO, if you so desire, an opportunity will be afforded to you to be heard at the Special Meeting of the Committee in support of your objection. Should you wish to accept this opportunity, I would be obliged if you could respond to me no later than **5<sup>th</sup> January 2022** in order to confirm your desire to attend the Special Meeting of the Committee.

Given the ongoing public health crisis caused by the Covid-19 pandemic, the Special Meeting of the Committee will take place online by way of the Council's WebEx platform. Should you wish to attend the Special Meeting, I will be in touch in due course in order to confirm whether you will require to attend the Special Meeting by WebEx or whether you may be permitted to attend the Council offices for the purposes of this Meeting.

Please note that all public proceedings at the Special Meeting of the Committee will be recorded.

I confirm that you have the right to send written representations for the consideration of the Committee. Should you wish to provide the Council with written representations, please ensure that these are delivered to the Council no later than **5<sup>th</sup> January 2022**. In addition, if you wish the Committee to have regard to any documents which support your case, please ensure that these are also delivered to the Council no later than **5<sup>th</sup> January 2022**.

In this connection, Inverclyde Council's Privacy Notice explains how the Council will use any personal data you have provided as part of the TPO process and a copy of this Notice is attached for your information.



It is open to you to withdraw your objection at any time before the Special Meeting of the Committee.

I look forward to hearing further from you in this regard.

Yours sincerely,



**Anne Sinclair**  
**Interim Head**  
**Legal & Democratic Services**

ps

Enquiries to: Emma Peacock  
Telephone: 01475 712115  
E-mail: [Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)  
Our Ref: EP/CPL0265  
Your Ref:  
Date: 21 October 2021

Alan Puckrin CFPA  
Interim Director  
Corporate Services and Organisational Recovery  
Environment, Regeneration & Resources

Municipal Buildings  
Clyde Square  
Greenock  
PA15 1LY

Peter McElwee  
38 Duthie Road  
Gourock  
PA19 1XS

Also by email to: [REDACTED]

Dear Mr McElwee,

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997  
THE INVERCLYDE COUNCIL (GLEN AVENUE, GOUROCK)  
TREE PRESERVATION ORDER 2021 (NO IC33)**

I refer to your email dated 30 July 2021.

The Planning Policy Team Leader has noted and considered your objection and would respond to your grounds for objection as follows:-

Background

The Council commissioned a Tree Hazard Management Report relating to woodland in the Glen Avenue area in 2018. The purpose of the inspection was primarily to assist the Council to meet its duty of care in respect of possible risks posed by trees in the Glen Avenue woodland. The assessment of the woodland was carried out and the report received in August 2018. In addition to reporting on the condition of the woodland and the trees within it, the report suggested that a Tree Preservation Order (TPO) be applied to the woodland. In response to this report, officers from Inverclyde Council's Planning Service visited the woodland and assessed that it provided a number of benefits including visual amenity, local access to green space, informal recreation opportunities such as dog walking, and provision of a valuable wildlife habitat for a variety of species. It was therefore assessed as worthy of protection through a TPO. As part of the woodland is already covered by a TPO (at Caledonia Crescent, made on 26 February 1983), the proposed TPO would offer the same level of protection across all of the woodland.

Land Management Plan

The Council's Planning Service have taken the decision to preserve the amenity value of the trees in this area through a TPO. This TPO is unrelated to any Land Management Plan which would be prepared by the Council's Ground's Maintenance Team. Your comments have been passed to the Ground's Maintenance Team, and such Land Management Plan will be considered separately from this TPO.

Maintenance

The purpose of the study referred to above was to assist the Council in meeting its duty of care with regard to possible risk posed by trees in the Glen Avenue woodland. The Council has acted on the recommendations of the study and has continued to inspect the woodland for maintenance purposes and in response to concerns raised by residents. The management of the woodland from a safety perspective is not affected by the making of the Tree Preservation



Order. Any concerns over the safety of trees should be raised with the Council's Grounds Maintenance Service through the Customer Service Centre on 01475 717171.

The Council's policy is to eradicate Japanese Knotweed where it is found growing on Council land. The treatment of Japanese Knotweed on private land is the responsibility of the landowner. The making of the TPO will have no impact on the Council's treatment of Japanese Knotweed in the area. Further information on Japanese Knotweed can be found at <https://www.inverclyde.gov.uk/environment/grounds-services/grounds-maintenance/japanese-knotweed>

I trust that the above is of assistance to you and addresses your queries, however, please do not hesitate to contact Margaret Pickett, Senior Planner (Tel: 01475 71 2493) should you require any further information.

I trust the above addresses all of your concerns and allows you to consider your position on your objection to the Tree Preservation Order. However, should you feel that this information does not address your concerns so that you maintain your objection, the Council will arrange a Special Meeting of the relevant Council Committee to consider maintained objections.

**I would be obliged if you could advise me if you intend to withdraw your objection to the Tree Preservation Order. Unless I hear from you to the contrary within 14 days of the date of this letter, I will assume that your objection is being maintained.**

You will be notified of your right to be heard by or represented before the Special Meeting of the relevant Council Committee. If you wish to exercise this right, you will be given at least 21 days' notice of the date of the Special Meeting. Please also note that any person having an interest in the subject matter of any Special Meeting which may be convened has the right to send written representations for the consideration of the Special Committee.

I look forward to hearing further from you in this connection.

Yours sincerely,

  
**Anne Sinclair**  
Interim Head of Legal Services

PP

## Emma Peacock

---

**From:** Emma Peacock  
**Sent:** 28 October 2021 15:31  
**To:** 'Peter McElwee'  
**Subject:** RE: (Official) Tree Preservation Order 2021 ( NOIC33)

---

Classification: Official

---

Dear Mr McElwee,

Thank you for your email below. I have forwarded this to my Client Service – Planning. Details regarding the special meeting will be provided in due course.

Kind regards,

Emma

**Emma Peacock**  
Solicitor  
Legal Services  
Inverclyde Council  
Municipal Buildings  
Greenock  
PA15 1LX

Phone: 01475712115

Email: [Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)

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**From:** Peter McElwee [REDACTED]  
**Sent:** 28 October 2021 15:15  
**To:** Emma Peacock <[Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)>  
**Subject:** RE: (Official) Tree Preservation Order 2021 ( NOIC33)

Dear Emma, ref the above tree preservation order. I thank you for the response to my appeal. I am writing to advise that I am unhappy with the explanation and can confirm that I am not willing to withdraw my appeal. I would like to address the meeting referred to in your letter and I plan to appear in person. Yours, Peter McElwee, 38 Duthie Road, Gourrock.

On 21 Oct 2021 16:28, Emma Peacock <[Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)> wrote:

---

Classification: Official

---

Dear Mr McElwee,

Please find attached correspondence in connection with the above.

Kind regards,

Emma

**Emma Peacock**

Solicitor

Legal Services

Inverclyde Council

Municipal Buildings

Greenock

PA15 1LX

Phone: 01475712115

Email: [Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)

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**From:** Peter McElwee [REDACTED]  
**Sent:** 30 July 2021 15:29  
**To:** Emma Peacock <[Emma.Peacock@inverclyde.gov.uk](mailto:Emma.Peacock@inverclyde.gov.uk)>  
**Subject:** Tree Preservation Order 2021 ( NOIC33)

Dear Ms Peacock, I am formally raising an objection to the tree Preservation order ( Glen Avenue, Gourock). Whilst it is desirable to protect the urban woodland adjacent to Glen Avenue this should be done part of a Land Management Plan for the area which includes the reduction of tree height adjacent to roads and footpaths to protect pedestrians and vehicles. This particularly applies to overhangs at Caledonia Crescent, Glen Avenue and gardens at Duthie Road.

In addition the plan should include the eradication of the significant amount of Japanese knotweed in the area. This invasive species is spreading rapidly in the area and the landowners must step up to their responsibilities to remove the knotweed. This presents the greatest risk to the well being of the area as it is inhibiting the growth of trees as well as potential damage to properties.

It's disappointing that the 14 pages of detail supplied to residents excludes the single greatest risk to the woodland.

Yours sincerely , Peter McElwee, 38 Duthie Road, Gourock.

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## **Appendix 3**

### **TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 THE INVERCLYDE COUNCIL (GLEN AVENUE, GOUROCK) TREE PRESERVATION ORDER 2021 (NO. IC33)**

THE INVERCLYDE COUNCIL (in this Order referred to as "the planning authority"), in exercise of the powers conferred on them by Section 160 of the Town and Country Planning (Scotland) Act 1997 and of all other powers enabling them to do so hereby make the following Order:

#### **Citation, Commencement and Interpretation**

1. (1) This Order may be cited as "The Inverclyde Council (Glen Avenue, Gourock) Tree Preservation Order 2021" (No. IC33) and shall come into effect on 2 August 2021.
- (2) In this Order:
  - (i) "the 1992 Order" means the Town and Country Planning (General Permitted Development)(Scotland) Order 1992;
  - (ii) "the Act" means the Town and Country Planning (Scotland) Act 1997;
  - (iii) "protected tree" has the meaning given in article 2;
  - (iv) "diameter" means the diameter measured over the bark, at a point 1.5 metres above ground level;
  - (v) "outline planning permission" has the same meaning as in section 59 of the Act as it applied immediately before section 21 of the Planning etc. (Scotland) Act 2006 came into force; and
  - (vi) "SEPA" means the Scottish Environment Protection Agency established under section 20 of the Environment Act 1995.

#### **Protected Trees**

2. (1) A protected tree is a tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland specified in that Schedule.
- (2) The position of such trees, groups of trees or woodlands is identified in the manner indicated in Schedule 1 and on the map annexed to this Order.
- (3) Where any ambiguity as to the identification of a protected tree arises between the map and the specification in Schedule 1 to this Order, the map is to prevail.

#### **Prohibited Acts**

3. Subject to the provisions of the Act and the exemptions specified in Article 4, no person is except with, and in accordance with, the consent of the planning authority:
  - (a) to cut down, top, lop, uproot, willfully damage or willfully destroy; or
  - (b) to cause or permit the cutting down, topping, lopping, uprooting, or willful damage or willful destruction of,a protected tree.

#### **Exemptions**

4. Nothing in Article 3 is to prevent:



- (a) the cutting down of a tree in accordance with a felling licence granted by The Forestry Commissioners under the Forestry Act 1967;
- (b) the cutting down, uprooting, topping or lopping of a tree on land in the occupation of a planning authority when this is done by or with the consent of that authority;
- (c) the cutting down, uprooting, topping or lopping of a tree having a diameter not exceeding 75 millimetres;
- (d) the cutting down or uprooting in a woodland of a tree having a diameter not exceeding 100 millimetres where this is done to improve the growth of other trees;
- (e) the cutting down, uprooting, topping or lopping of a tree by, or on behalf of, The Forestry Commissioners on land placed at their disposal in pursuance of the Forestry Act 1967 or otherwise under their management or supervision;
- (f) the cutting down, topping, lopping or uprooting of a tree or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary:
  - (i) in the interests of the safe operation of the undertaking;
  - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
  - (iii) to enable the statutory undertaker to carry out development for which planning permission is granted by the 1992 Order,

Provided that notice in writing of the proposed operations is given to the planning authority as soon as practicable after the operations become necessary;

- (g) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
- (h) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
- (i) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to carry out works to implement a planning permission (other than an outline planning permission or planning permission in principle) granted on an application under Part 3 or Section 242A of the Act, or deemed to have been granted (whether for the purposes of Part 3 of the Act or otherwise); or
- (j) the cutting down, topping, lopping or uprooting of a tree by, or at the request of, SEPA to enable SEPA to carry out development for which planning permission is granted by the 1992 Order.
- (k) the cutting down, topping, lopping or uprooting of a tree if:-
  - i. It is urgently necessary in the interests of safety;
  - ii. It is necessary for the prevention or abatement of a nuisance; or

- iii. It is in compliance with any obligation imposed by or under an enactment.

### **Directions as to replanting**

5. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the planning authority may give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which the owner must replant trees on that land.
- (2) Where a direction is given under paragraph (1) and trees on the relevant land are felling (pursuant to the consent), the owner of that land must replant trees on the land in accordance with the direction.
- (3) Any direction given under paragraph (1) may include requirements as to:
  - (a) species;
  - (b) number of trees per hectare;
  - (c) the erection and maintenance of fencing necessary for the protection of the replanting;
  - (d) the preparations of ground, draining, removal of brushwood, lop and top; and
  - (e) protective measures against fire.

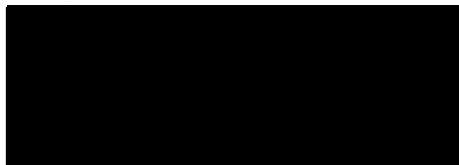
### **Adaptation and Modification of the Act**

6. (1) The provisions of the Act mentioned in Column 1 of Part 1 of Schedule 2 to this Order are to have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications specified in Column 2 of Part 1 of that Schedule.
- (2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part 2 of Schedule 2 to this Order.

### **Compensation**

7. (1) Subject to paragraphs (2) to (5), any person who has suffered loss or damage caused or incurred in consequence of:
  - (a) any refusal of consent required under this Order; or
  - (b) any grant of any such consent subject to conditions,is entitled to recover from the planning authority compensation in respect of such loss or damage.

- (2) A claim for compensation under this Order shall be made by serving on the planning authority a notice in writing stating the grounds of the claim and the amount claimed.
- (3) The time within which any such notice shall be given is a period of six months:
- (a) from the date of the decision of the planning authority; or
  - (b) where an appeal has been made to Scottish Ministers against the decision of the planning authority, from the date of the decision of Scottish Ministers on the appeal.
- (4) No claim may be made under this article if the amount in respect of which the claim would otherwise have been made is less than £1,000.
- (5) No compensation shall be payable to a person:
- (a) for loss of development value or other diminution in the value of the land;
  - (b) for loss or damage which was not reasonably foreseeable when consent was refused or was granted subject to conditions;
  - (c) for loss or damage reasonably foreseeable by that person and attributable to failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
  - (d) for costs incurred in appealing to the Scottish Ministers against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.
- (6) In this article:
- “development value” means an increase in value attributable to the prospect of development, and, in relation to any land, the development of it shall include the clearing of it.



**Interim Head of Legal Services**

## SCHEDULE 1

Article 2

Trees specified individually  
(coloured green on the map)

<b>No. on map</b>	<b>Description and Situation</b>
-------------------	----------------------------------

[None]

Trees Specified by References to an Area  
(within a continuous black line on the map)

<b>No. on map</b>	<b>Description and Situation</b>
-------------------	----------------------------------

[None]

Groups of Trees  
(within an broken black line on the map)

<b>No. on map</b>	<b>Description and Situation</b>
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[None]

Woodlands  
(within a continuous red line on the map)

<b>No. on map</b>	<b>Description and Situation</b>
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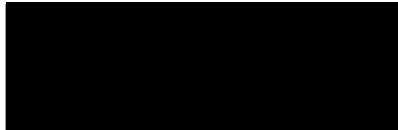
W1

The mixed trees consisting mainly of the following species viz:- sycamore, common ash, Scots pine, silver birch, horse chestnut, elm, beech, rowan, goat willow and hybrid black poplar within ALL and WHOLE the subjects comprised in:

(i) REN40180; (ii) the Lands, Barony and Estate of Gourrock, being the subjects more particularly described In the First Place in and disposed by Disposition by Duncan Darroch of Gourrock in favour of Duncan Darroch dated Nineteenth and recorded in the New General Register of Sasines Etcetera at Edinburgh on the Twenty fifth, both days in April Eighteen hundred and sixty four; (iii) REN36252; (iv) REN105956; (v) Feu Disposition by George Wimpey & Co. Limited in favour of Raymond Davie Bruce and Christine McNeil Bruce dated First December, Nineteen hundred

and seventy six and recorded in the Division of the General Register of Sasines applicable to the County of Renfrew on Fourteenth February, Nineteen hundred and seventy seven; (vi) Feu Disposition by George Wimpey & Co. Limited in favour of Norman Ritchie Campbell and Margaret Carson Campbell dated Twenty third November and recorded in the said Division of the General Register of Sasines on Seventeenth December, both months in the year Nineteen hundred and seventy six; (vii) Feu Disposition by the Trustees of Duncan Darroch in favour of D. McEwing & Sons Limited dated the Seventh and Ninth days of October, Nineteen Hundred and seventy one and recorded in the said Division of the General Register of Sasines on the Twentieth day of June, Nineteen hundred and seventy three; (viii) Disposition by D. McEwing & Sons Limited in favour of John Morrison dated Seventeenth May and recorded in the said Division of the General Register of Sasines on the Sixth day of June, both months in the year Nineteen hundred and seventy four; (ix) REN19490; (x) Feu Disposition by George Wimpey & Co. Limited in favour of John Grierson Robb and another dated Tenth December, Nineteen hundred and seventy five and recorded in the said Division of the General Register of Sasines on the Seventh day of January, Nineteen hundred and seventy six; (xi) Disposition by D. McEwing & Sons Limited in favour of George Wimpey & Co. Limited dated Second and recorded in the said Division of the General Register of Sasines on Twenty first, both days in October Nineteen hundred and seventy four; (xii) REN147137; (xiii) Feu Disposition by George Wimpey & Co. Limited in favour of John Chesnutt McNeil and another dated Fifth and recorded in the said Division of the General Register of Sasines on the Nineteenth, both days in November, Nineteen hundred and seventy five; (xiv) REN12382; (xv) Feu Disposition by George Wimpey & Co. Limited in favour of Ian Forsyth Lynch dated Tenth and recorded in the said Division of the General Register of Sasines on Thirty first, both days in October Nineteen hundred and seventy five; (xvi) REN28425; (xvii) Feu Disposition by George Wimpey & Co. Limited in favour of John Paterson Lillie and another dated Twenty eighth October and recorded in the said Division of the General Register of Sasines on Eighteenth November, both months in the year Nineteen hundred and seventy five; (xviii) REN66131; (xix) Feu Disposition by George Wimpey & Co. Limited in favour of Michael Alexander and another dated Ninth October and recorded in the said Division of the General Register of Sasines on Eleventh December, both months in the year Nineteen hundred and seventy five; (xx) Feu Disposition by George Wimpey & Co. Limited in favour of Alexander Ballantyne and another dated Seventeenth November and recorded in the said Division of the General Register of Sasines on the Fourth day of December, both months in the year Nineteen hundred and seventy five; (xxi) REN48257; (xxii) Feu Disposition by George Wimpey & Co. Limited in favour of William

McCartney dated Fourteenth and recorded in the said Division of the General Register of Sasines on Twenty first, both days in August, Nineteen hundred and seventy five; (xxiii) REN13237; (xxiv) Feu Disposition by George Wimpey & Co. Limited in favour of Gordon Hugh Livingstone and another dated Twenty second August and recorded in the said Division of the General Register of Sasines on the Twelfth day of September, both months in the year Nineteen hundred and seventy five; and (xxv) REN10500.



**Interim Head of Legal Services**

## SCHEDULE 2

### PART I

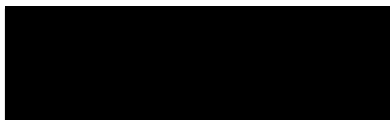
#### PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 APPLIED WITH ADAPTATIONS OR MODIFICATIONS

Provision of the Town and Country Planning (Scotland) Act 1997	Adaptation or Modification
Section 36 (Registers of applications etc.)	<p>For subsections (1) to (3) substitute:</p> <p>“(1) The planning authority shall in relation to this Order keep a register of all applications for consent under this Order, containing -</p> <ul style="list-style-type: none"> <li>(a) information as to the nature of such applications, the decisions of the planning authority thereon;</li> <li>(b) information as to any appeal to Scottish Ministers and the decisions of Scottish Ministers thereon, any compensation awarded in consequence of the decisions of the planning authority or Scottish Ministers; and</li> <li>(c) any directions as to the replanting of woodlands.”</li> </ul>
Section 37 (determination of applications: general considerations)	<ul style="list-style-type: none"> <li>(a) In subsection (1): <ul style="list-style-type: none"> <li>(d) for “planning permission” where those words first appear, substitute “consent under a tree preservation order”;</li> <li>(e) for “sections 27B(2) and 59(1)(b)” substitute “subsections (1A) and (1B)”;</li> <li>(f) for “planning permission” in both of the other places where those words appear substitute “consent under the order”;</li> <li>(g) after “think fit”, insert “(including conditions limiting the duration of the consent or requiring the replacement of trees)”;</li> </ul> </li> <li>(b) After subsection (1) insert: <p>“(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</p> <p>(1B) Where the authority grant consent for the felling of trees</p> </li> </ul>

	<p>in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).”.</p> <p>(c) Omit subsections (2) and (3); and</p> <p>(d) In subsection (4) for paragraphs (a) to (c) substitute:</p> <p>“(a) consent under a tree preservation order; or</p> <p>(b) any consent, agreement or approval required by a condition imposed on the grant of such consent.”</p>
<p>Section 44 (effect of planning permission)</p>	<p>(a) references to “planning permission” are to be treated as references to “consent required by a tree preservation order”;</p> <p>(b) for “the permission” substitute “the consent”;</p> <p>(c) for “to develop land” substitute “to carry out works”; and</p> <p>(d) after “land” insert “on which the tree or trees to which the consent relates are situated”;</p> <p>(e) Omit subsections (2) and (3)</p>
<p>Section 47 (right to appeal against planning decisions and failure to take such decisions)</p>	<p>(a) For subsection (1) substitute:</p> <p>“(1) Where a planning authority:</p> <p>(a) refuse an application for consent under a tree preservation order or grant it subject to conditions;</p> <p>(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order;</p> <p>(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or</p> <p>(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 2 months beginning with the date on which the application was received by the authority,</p> <p>the applicant may by notice appeal to the Scottish Ministers against the decision.”</p> <p>(b) Omit subsections (1A), (2) and (4).</p>



	<p>(c) For subsection (3) substitute -</p> <p>“(3) Any appeal under this section shall be made in writing, specifying the grounds on which the appeal is made; and such notice shall be served -</p> <p>(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority’s decision or direction or within such longer period as the Scottish Ministers may allow;</p> <p>(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.”.</p> <p>(d) For subsection (5) substitute -</p> <p>“(5) For the purposes of the application of section 48(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.”</p>
Section 47A	
Section 48 (determination of appeals)	<p>(a) In subsection (5)(a):</p> <p>(i) for “sections 33, 37(1) to (3), 38(1) to (3), 41(1) and (2) and 42 and Part 1 of Schedule 3” “section 37(1), (1A) and (1B)”; and</p> <p>(ii) for “planning permission” substitute “consent under a tree preservation order”.</p> <p>(b) Omit subsections (5)(b) and (6) to (8).</p>



**Interim Head of Legal Services**

## SCHEDULE 2

### PART II

#### PROVISIONS OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Act, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consents, and applications for consent, under this Order.

#### Section 36

36. (1) The planning authority shall in relation to this Order keep a register of all applications for consent under this Order, containing -
- (a) information as to the nature of such applications, the decisions of the planning authority thereon;
  - (b) information as to any appeal to Scottish Ministers and the decisions of Scottish Ministers thereon, any compensation awarded in consequence of the decisions of the planning authority or Scottish Ministers; and
- any directions as to the replanting of woodlands.
- (4) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

#### Section 37

37. (1) Where an application is made to a planning authority for consent under a tree preservation order:
- (a) subject to subsections (1A) and (1B) they may grant consent under the Order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
  - (b) they may refuse consent under the Order.
- (1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.
- (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).
- (4) The date of the grant or refusal of:

- (a) consent under a tree preservation order; or
- (b) any consent, agreement or approval required by a condition imposed on the grant of such consent,

shall be the date on which the notice of the planning authority's decision bears to have been signed on behalf of the authority.

#### **Section 44(1)**

44. (1) Without prejudice to the provision of this Part as to the duration, revocation or modification of consent required by a tree preservation order, any grant of consent required by a tree preservation order shall (except in so far as the consent otherwise provides) inure for the benefit of the land on which the tree or trees to which the consent relates are situated and all persons for the time being interested in it.

#### **Section 47**

47. (1) Where a planning authority -
- (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
  - (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order;
  - (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or
  - (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 2 months beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Scottish Ministers.

“(3) Any appeal under this section shall be made in writing, specifying the grounds on which the appeal is made; and such notice shall be served on the Scottish Ministers within a period of three months beginning with, in the case of an appeal made under -

- (a) an appeal under paragraphs (a) to (c) of subsection (1), the date of the decision notice or the direction, as the case may be; and;
  - (b) in paragraph (d) of that subsection, the date of expiry of the period mentioned in that paragraph,”.
- (5) For the purposes of the application of section 48(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

#### **Section 47A**

- 47A (1) In an appeal under section 47(1), a party to the proceedings is not to raise any matter which was not before the planning authority at the time the decision appealed against was made unless that party can demonstrate:-
- (a) that the matter could not have been raised before that time, or
  - (b) that its not being raised before that time was a consequence of exceptional circumstances.
- (2) Nothing in subsection (1) affects any requirement or entitlement to have regard to:-
- (a) the provisions of the development plan, or
  - (b) any other material consideration.

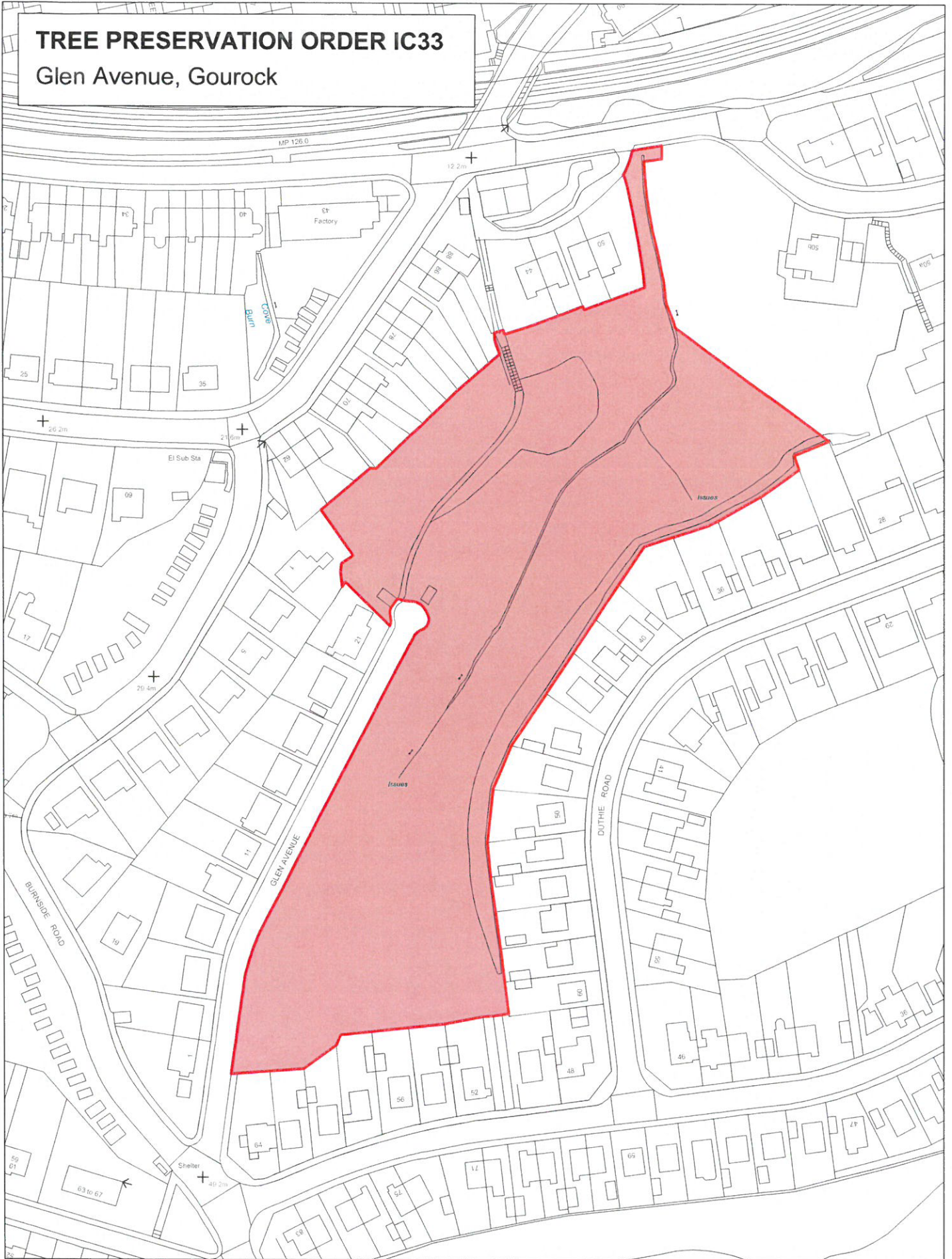
#### **Section 48**

- 48 (1) On an appeal under section 47 the Scottish Ministers may –
- (a) allow or dismiss the appeal, or
  - (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),
- and may deal with the application as if it had been made to them in the first instance.
- (3) If the Scottish Ministers propose to reverse or vary any part of the decision of the planning authority to which the appeal does not relate, they shall give notice of their intention to the planning authority and to the appellant and shall give each of them an opportunity of making representations about their proposal.
- (5) In relation to an appeal to the Scottish Ministers under section 47 –
- (a) sections 37(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Scottish Ministers under section 47 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.
- (9) Schedule 4 applies to appeals under Section 47, including appeals under that section as applied by or under any other provision of this Act.



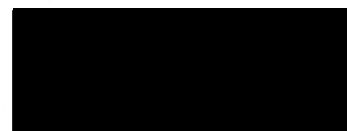
**Interim Head of Legal Services**

**TREE PRESERVATION ORDER IC33**  
Glen Avenue, Gourrock



Inverclyde Council  
Regeneration & Planning

SCALE 1:1500  
GMCC OCT 2019



**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**  
**THE INVERCLYDE COUNCIL (GLEN AVENUE, GOUROCK) TREE PRESERVATION ORDER**  
**(No. IC33)**

2021

Dated: 26 July 2021

Confirmed:

Recorded:

Interim Head of Legal Services  
The Inverclyde Council  
Municipal Buildings  
GREENOCK  
PA15 1LY

**APPENDIX 4**

**THE INVERCLYDE COUNCIL (GLEN  
AVENUE, GOUROCK)  
TREE PRESERVATION ORDER 2021 (NO  
IC33)**

**STATEMENT OF CASE**

## **Introduction**

A Tree Preservation Order is a means of legally protecting individual trees, groups of trees or woodlands that are considered to contribute to the setting of the landscape or built environment, are a good example of their species or provide a natural habitat for wildlife and whose removal would have a significant negative impact on the amenity of the area. Policy 34 of the adopted Local Development Plan supports the protection of trees through Tree Preservation Orders. Inverclyde currently has 33 Tree Preservation Orders in effect across the authority.

A number of complaints were received about inappropriate activities in the woodland causing detriment to the trees. These have included fly-tipping of garden waste, which could introduce invasive species to the woodland, and illegal, dangerous and inappropriate felling causing damage to trees and leaving some areas inaccessible.

A tree surgeon was appointed by the Council in 2018 to undertake a tree survey of the woodland and produced a Tree Hazard Management Report which made the following recommendations:

- erecting 'No Fly Tipping' signs with details of the penalties;
- applying a Tree Preservation Order to this woodland; and
- notifying local residents, informing them of the penalties for fly-tipping and that wilful damage of trees is an offence.

## **Benefits**

Inverclyde Council considers that the woodland contributes to the amenity and character of the area and is important as a wildlife habitat for the biodiversity of the area, providing a link in the connectivity of habitats. The woodland also provides an undeveloped green space in a built up area with opportunities for informal recreation such as dog-walking and access through it from the nearby school. The confirmation of a Tree Preservation Order would protect this woodland's contribution to the setting of the area.

## **Public Consultation**

The Tree Preservation Order was made on 26 July 2021 and came into effect on 2 August 2021. The Tree Preservation Order was advertised for consultation from 2 August - 30 August 2021 and during this period, representations in connection with the Tree Preservation Order could be made to the Council. All properties with boundaries to the woodland were also informed. A total of eight representations were received. Officers wrote to the responders to give reasons for the making of the Tree Preservation Order and address the objections. Following the correspondence with officers, three objections remain.

## **Maintained Objections and Inverclyde's Responses**

The maintained objections raised key themes which are listed below with details of Inverclyde's response to each.



**Mr McColl**

**Objection**

*When I moved in the trees were at a reasonable height some were lopped and grounds maintained, with nice views over the river and Gourock Pier unobstructed which was the selling point of the house. Apart from a short while ago where a few trees were taken down there has been there has been no maintenance what so ever from the council or anyone. Most of the trees in this area should have been lopped a long time ago for appearance and safety. As a lot of the roots are uplifting the pathway through them which many school children use as a way to get to and from school. I see this as a safety concern On top of this I have lost my views over the river and Gourock Pier.*

*Another point is the tree to the left of my house is very close to his house and mine and could potentially damage house or wall.*

*The second serious concern I have is the presence of Japanese Knotweed which requires urgent attention. Again Inverclyde Council made a half-hearted effort last year (2020) with no follow up to see how this has spread.*

**Response:**

Background

The Council commissioned a Tree Hazard Management Report relating to woodland in the Glen Avenue area in 2018. The purpose of the inspection was primarily to assist the Council to meet its duty of care in respect of possible risks posed by trees in the Glen Avenue woodland. The assessment of the woodland was carried out and the report received in August 2018. In addition to reporting on the condition of the woodland and the trees within it, the report suggested that a Tree Preservation Order (TPO) be applied to the woodland. In response to this report, officers from Inverclyde Council's Planning Service visited the woodland and assessed that it provided a number of benefits including visual amenity, local access to green space, informal recreation opportunities such as dog walking, and provision of a valuable wildlife habitat for a variety of species. It was therefore assessed as worthy of protection through a TPO. As part of the woodland is already covered by a TPO (at Caledonia Crescent, made on 26 February 1983), the proposed TPO would offer the same level of protection across all of the woodland.

Maintenance

The purpose of the study referred to above was to assist the Council in meeting its duty of care with regard to possible risk posed by trees in the Glen Avenue woodland. The Council has acted on the recommendations of the study and has continued to inspect the woodland for maintenance purposes and in response to concerns raised by residents. The management of the woodland from a safety perspective is not affected by the making of the Tree Preservation Order. Any concerns over the safety of trees should be raised with the Council's Grounds Maintenance Service through the Customer Service Centre on 01475 717171.

The Council's policy is to eradicate Japanese Knotweed where it is found growing on Council land. The treatment of Japanese Knotweed on private land is the responsibility of the landowner. The making of the TPO will have no impact on the Council's treatment of Japanese Knotweed in the area. Further information on Japanese Knotweed can be found at <https://www.inverclyde.gov.uk/environment/grounds-services/grounds-maintenance/japanese-knotweed>

## Impact on View

The Council's Planning Service appreciates that the view from your property i.e. over the river and Gourrock Pier may have been a selling point in purchasing your property. However, the loss of a view or loss of light does not provide grounds for the Council to remove or lop trees on its land. Information on High Hedge legislation may be of interest and can be found at [www.inverclyde.gov.uk/planning-and-the-environment/high-hedges](http://www.inverclyde.gov.uk/planning-and-the-environment/high-hedges)

## **Mr McElwee**

### **Objection:**

*Whilst it is desirable to protect the urban woodland adjacent to Glen Avenue this should be done part of a Land Management Plan for the area which includes the reduction of tree height adjacent to roads and footpaths to protect pedestrians and vehicles. This particularly applies to overhangs at Caledonia Crescent, Glen Avenue and gardens at Duthie Road.*

*In addition the plan should include the eradication of the significant amount of Japanese knotweed in the area. This invasive species is spreading rapidly in the area and the landowners must step up to their responsibilities to remove the knotweed. This presents the greatest risk to the well-being of the area as it is inhibiting the growth of trees as well as potential damage to properties.*

*It's disappointing that the 14 pages of detail supplied to residents excludes the single greatest risk to the woodland.*

### **Response:**

#### Background

The Council commissioned a Tree Hazard Management Report relating to woodland in the Glen Avenue area in 2018. The purpose of the inspection was primarily to assist the Council to meet its duty of care in respect of possible risks posed by trees in the Glen Avenue woodland. The assessment of the woodland was carried out and the report received in August 2018. In addition to reporting on the condition of the woodland and the trees within it, the report suggested that a Tree Preservation Order (TPO) be applied to the woodland. In response to this report, officers from Inverclyde Council's Planning Service visited the woodland and assessed that it provided a number of benefits including visual amenity, local access to green space, informal recreation opportunities such as dog walking, and provision of a valuable wildlife habitat for a variety of species. It was therefore assessed as worthy of protection through a TPO. As part of the woodland is already covered by a TPO (at Caledonia Crescent, made on 26 February 1983), the proposed TPO would offer the same level of protection across all of the woodland.

#### Land Management Plan

The Council's Planning Service have taken the decision to preserve the amenity value of the trees in this area through a TPO. This TPO is unrelated to any Land Management Plan which would be prepared by the Council's Ground's Maintenance Team. Your comments have been passed to the Ground's Maintenance Team, and such Land Management Plan will be considered separately from this TPO.

#### Maintenance

The purpose of the study referred to above was to assist the Council in meeting its duty of care with regard to possible risk posed by trees in the Glen Avenue woodland. The Council has acted on the recommendations of the study and has continued to inspect the woodland for maintenance purposes and in response to concerns raised by residents. The management of the woodland from a safety perspective is not affected by the making of the Tree Preservation Order. Any concerns over the safety of trees should be raised with the Council's Grounds Maintenance Service through the Customer Service Centre on 01475 717171.

The Council's policy is to eradicate Japanese Knotweed where it is found growing on Council land. The treatment of Japanese Knotweed on private land is the responsibility of the landowner. The making of the TPO will have no impact on the Council's treatment of Japanese Knotweed in the area. Further information on Japanese Knotweed can be found at <https://www.inverclyde.gov.uk/environment/grounds-services/grounds-maintenance/japanese-knotweed>

## **Mr and Mrs Kelly**

### **Objection:**

*The trees within Glen Avenue are large and as a result do not look safe which is extremely worrying as we have a young family (two children aged 6 and below). One of the trees sits directly in front of our property and should it fall it would do so directly on to our house and our childrens bedrooms. We have lived on the street for 3 years and the trees have never been maintained during that time and speaking to neighbours it appears no one is aware of any maintenance whatsoever.*

*Our main concern however is the tree directly across from our house. We are extremely worried about this and would like assurances that this is maintained along with others and that it is in no danger of falling.*

*Over the past couple of years 'the Glen' has attracted a significant amount of anti social behaviour, Police Scotland and our local Councillor can confirm this. In particular burglaries, stabbings in the woods, garage break ins, loitering and throwing litter away, school children using the trees down the side of our garage as a toilet (reported to the school), we personally have had drugs thrown at our door by individuals running down in to 'the Glen' as a getaway and had a brick thrown at our daughters bedroom window which smashed when she was 5 weeks old, again the individuals making off in to 'the Glen'. If this area was better maintained and trees cut down/maintained as required then this would ease some of the aforementioned issues.*

*We therefore strongly object to the Tree Preservation Order*

### **Response:**

#### Background

The Council commissioned a Tree Hazard Management Report relating to woodland in the Glen Avenue area in 2018. The purpose of the inspection was primarily to assist the Council to meet its duty of care in respect of possible risks posed by trees in the Glen Avenue woodland. The assessment of the woodland was carried out and the report received in August 2018. In addition to reporting on the condition of the woodland and the trees within it, the report suggested that a Tree Preservation Order (TPO) be applied to the woodland. In response to

this report, officers from Inverclyde Council's Planning Service visited the woodland and assessed that it provided a number of benefits including visual amenity, local access to green space, informal recreation opportunities such as dog walking, and provision of a valuable wildlife habitat for a variety of species. It was therefore assessed as worthy of protection through a TPO. As part of the woodland is already covered by a TPO (at Caledonia Crescent, made on 26 February 1983), the proposed TPO would offer the same level of protection across all of the woodland.

### Maintenance

The purpose of the study referred to above was to assist the Council in meeting its duty of care with regard to possible risk posed by trees in the Glen Avenue woodland. The Council has acted on the recommendations of the study and has continued to inspect the woodland for maintenance purposes and in response to concerns raised by residents. The management of the woodland from a safety perspective is not affected by the making of the Tree Preservation Order. Any concerns over the safety of trees should be raised with the Council's Grounds Maintenance Service through the Customer Service Centre on 01475 717171.

### Anti-Social Behaviour

Any anti-social behaviour occurring in the woodland or the surrounding area would be a matter for the police or community wardens. As stated above, the maintenance of the woodland is not affected by the making of the TPO. Planning Officers note that the making of a TPO over the trees in this area is a factor which could attract funding to improve the woodland.

### Council Comments

For the purpose of this Special Meeting, Planning officers would make the following additional comments:

1. As stated above, a Tree Preservation Order is a means of legally protecting individual trees, groups of trees or woodlands that are believed to contribute to the setting of the landscape or built environment, are a good example of their species or provide a natural habitat for wildlife and whose removal would have a significant negative impact on the amenity of the area. A Tree Preservation Order was considered appropriate for the woodland at Glen Avenue and the consultation process was carried out.

Residents around the woodland who were notified of the Tree Preservation Order consultation understandably used this process to raise concerns with the Council relating to maintenance, safety and anti-social behaviour associated with the woodland area identified for coverage by the TPO. Whilst their concerns are credible, they are however matters that would be dealt with by other Council services and the residents have been directed to the appropriate services. The confirmation of the TPO to raise the status of the Glen Avenue woodland is solely about its retention and protection and is still valid.

2. The Tree Hazard Management Report which was prepared for the Council's Environmental Services in 2018 stated that on balance the woodland at Glen Avenue is worthy of retention because it forms a remnant of the woodland landscape that would have been more common before the area was developed for housing. The report addresses the concerns raised by the residents and makes recommendations for work to be carried out. The confirmation of a Tree Preservation Order is one small element

of the proposals made which does not relate to practical works recommended on the ground.

3. For anyone with concerns about dangerous trees, responsibility for trees, what works can be carried out on trees and implications for trees covered by a Tree Preservation Order, there is extensive information available on the Council website, including contact numbers.
4. If the TPO is confirmed, all the responsibilities for the trees would remain with the existing land owners. The Council would still be responsible for the trees on its own land. It would not take over the responsibility for trees on other people's land covered by the TPO.
5. If the TPO is confirmed, future works on the trees covered by the TPO would require a Tree Works Application to be made prior to any works being carried out. This application is free of charge and can be made through the e-planning website. It is an offence to carry out works on tree(s) protected by a TPO without gaining the consent of the Council. Early discussion with Planning Officers is recommended.
6. As well as consideration of the specific benefits of the woodland at Glen Avenue, it is also necessary to consider the general importance of trees. It is now widely recognised that climate change and biodiversity are interconnected. The protection of green spaces such as the woodland at Glen Avenue would contribute towards net zero emissions and restoration of the natural environment to tackle and adapt to climate change.

Aside from the positive impact trees have on the amenity of the area and the social, recreational and wildlife benefits they provide, trees have a number of additional benefits that justify their protection:

- they naturally absorb CO<sub>2</sub>, helping to create a carbon sink;
- they moderate micro-climates - urban areas where there are trees are cooler in summer and warmer in winter;
- they improve air quality;
- they create a natural filter for water; and
- they act as a sound baffle for noise

## **Conclusion**

Inverclyde Council submits that the objections should not be upheld and that the Tree Preservation Order should be confirmed, as proposed.