
NORTH AYRSHIRE COUNCIL

22nd May 2019

Planning Report Committee

Title:	Grouping of Trees adjacent to the A841 between Rosa and Cnocan Bridge, near Brodick, Arran
Purpose:	To advise Committee regarding the process and merits of protecting a group of trees along the A841.
Recommendation:	That the Council serves a Tree Preservation Order (TPO) under S.160 1997 Town and Country Planning Act in order to allow for further investigation as to whether a TPO should be confirmed for the grouping of trees.

1. Executive Summary

- 1.1 This report highlights the concerns made from stakeholders regarding the welfare of a grouping of trees along both sides of the A841 between Rosa Bridge and Cnocan Bridge north of Brodick on the Isle of Arran.
- 1.2 It is considered that the trees have the potential to meet the criteria for a Tree Preservation Order (TPO) and recommended that a TPO is served in the interests of protecting public amenity. This report outlines the reasons for this recommendation and the procedures involved.

2. Background

- 2.1 Concerns have been raised from the Arran Civic Trust and a member of the public noting that many trees have been numbered and marked with crosses, which is a potential indication that works are due to be carried out to these trees. The trees are located on both sides of the A841 heading North from Rosa Bridge to Cnocan Bridge (see Appendix 1). Those who have raised concerns consider the trees to be of significant amenity value and have requested that the Council serve a Tree Preservation Order (TPO) to ensure that they are not felled.
- 2.2 The Council as the Planning Authority has the power under Section 160 of the 1997 Town and Country Planning (Scotland) Act (as amended by the Planning etc 2006 (Scotland) Act) to make an order specifying any trees, groups of trees or woodlands in their district and providing for their preservation. The Council can exercise these powers providing it meets either or both the following requirements:

(a) that it is expedient in the interests of amenity to make that provision,

(b) that the trees, groups of trees or woodlands are of cultural or historical significance.

2.3 Following a preliminary assessment of the trees, it is considered that the trees contribute to public amenity and the character and setting of the National Scenic Area, and the setting of Brodick. Some of the trees also act as screening from the old gravel works quarry north of the A841. It should be noted that if a TPO is served, a more detailed assessment of the impact on amenity will be undertaken.

2.4 The legislation states that a Tree Preservation Order may, in particular, make provision—

(a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the planning authority, and for enabling that authority to give their consent subject to conditions;

(b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order;

(c) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of the 1997 Town and Country Planning (Scotland) Act.

2.5 The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010 outlines the procedures in which Planning Authorities can exercise their powers. If the Council serves a TPO, it is required to be confirmed within 6 months of the date of that notice. Within this time, all interested parties such as Landowners, Occupiers and Lessees must be notified and given a time to respond to the notice of no less than 28 days. The notice is required to be advertised locally in the relevant newspapers that serve the area.

2.6 The six-month period would allow further investigation to determine what the interested parties' intentions are for the trees and what amenity value they have. The time would also allow the Council to consult with stakeholders and gain direction from Committee on whether to confirm the TPO and put it in place in perpetuity. It may also be the case that the trees are not under immediate risk, but this time would give the Council some assurances that they would be protected if required. The exact number and location of marked trees is unknown, the period before the notice is confirmed will be used to carry out an in-depth survey to determine which trees should be protected. The provisions of the 1997 Act allow the Council to place TPO in person and on site with immediate effect.

2.7 It is understood that a felling licence would be required from Forestry Commission Scotland (FCS). Officers have made initial enquiries to FCS to determine whether a felling licence has been applied for. To date a formal application has not been made. Officers also conducted site visits to confirm the markings on the trees and the extent to which the markings are present. In addition, Officers made a preliminary

assessment to the contribution the trees make to the character of the National Scenic Area, the setting of Brodick and Arran more widely in addition to public amenity.

- 2.8 Consideration was given by Officers to opening discussions with the land owner(s). However, given the need to offer enough protection to the trees, no such discussions have yet been held.

3. Proposals

- 3.1 It is proposed that the Council serves notice of a Tree Preservation Order in order to fully investigate both the risk to the trees and the significance of the amenity that they provide. This will ensure that the trees are afforded an appropriate level of protection while this investigation is ongoing.

4. Implications/Socio-economic Duty

Financial:	Any costs arising would be from existing budgets.
Human Resources:	N/A
Legal:	Should a TPO be served, a draft notice is required to be written and recorded.
Equality/Socio-economic Duty:	All assessments to be carried out during the 6 month period from which a TPO is served and confirmed (if required).
Children and Young People:	N/a
Environmental & Sustainability:	All assessments to be carried out during the 6 month period from which a TPO is served and confirmed (if required).
Key Priorities:	The proposed Order supports the Priority Outcome that North Ayrshire is a vibrant, welcoming and attractive environment
Community Benefits:	N/a

5. Consultation

- 5.1 Should a TPO be served on the site. The Council would be required to consult with interested parties and advertise the notice in local newspapers. Interested parties are to be given no less than 28 days to respond to this notice.

Cere Lerman

Karen Yeomans
Executive Director of Economy and Communities

For further information please contact **Thom Ledingham, Planning Officer**, on
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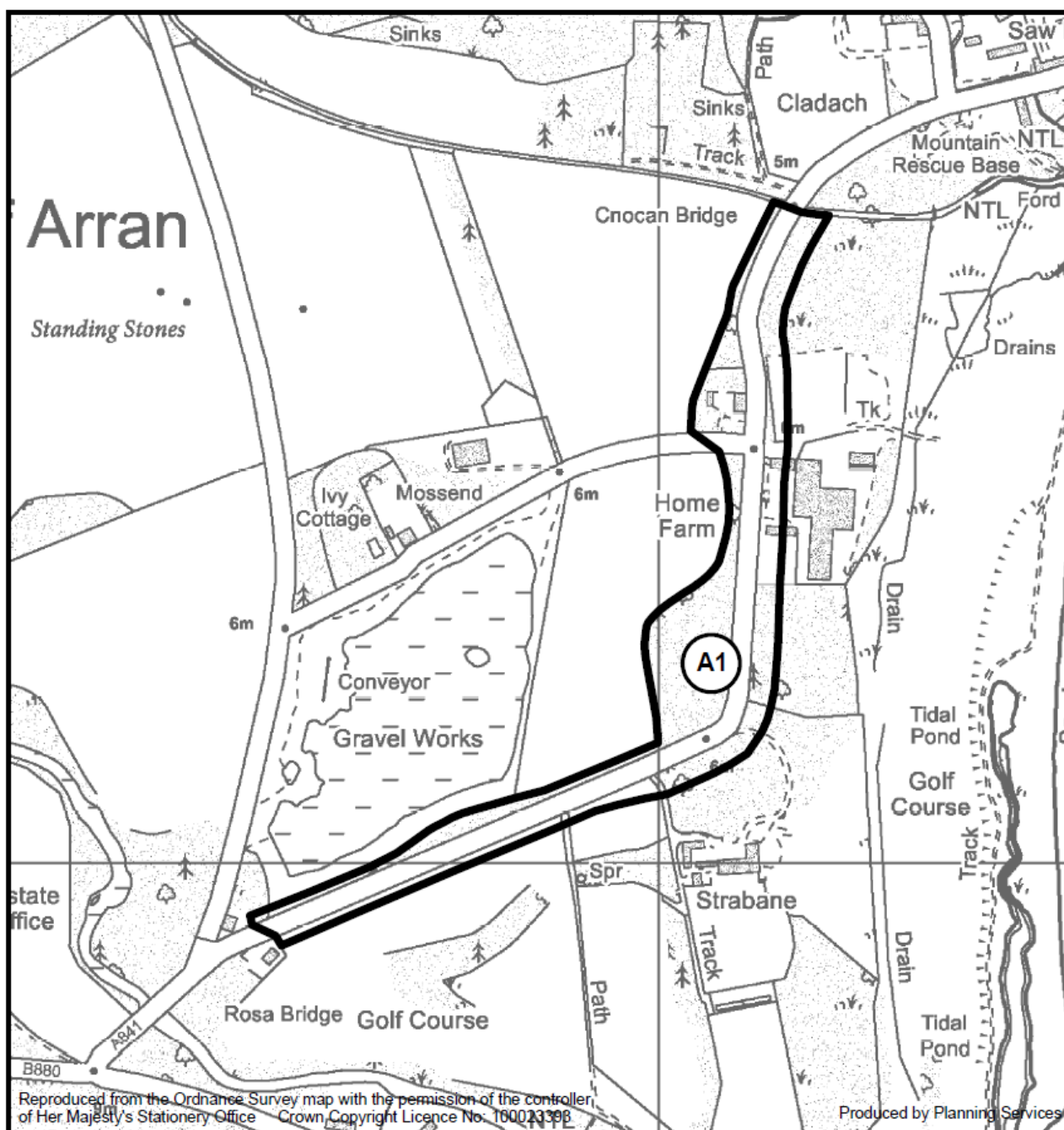
Background Papers

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TREE PRESERVATION ORDER

Rosa Bridge to Cnocan Bridge

APPENDIX 1



Address: Rosa Bridge to Cnocan Bridge,
Brodick

Grid Ref: NS 201001.637196

Area: A1 - 4.08Ha

Description:



NORTH

Scale: 1:4,500