

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Infrastructure and Regeneration

Planning Committee: 27 November 2013

Subject: WDC Tree Preservation Order No.5: Request for Removal of Six Trees within Grounds of Alexandria Health & Care Centre, Main Street, Alexandria.

1. Purpose

- 1.1** To advise the Committee of the circumstances surrounding a request to remove six trees within the grounds of the new Alexandria Health & Care Centre.

2. Recommendations

- 2.1** To **grant** consent for the removal of the six trees on the grounds of public safety, to note that a scheme of replanting is to be implemented and to report the breach to the Procurator Fiscal of causing irreversible damage to protected trees.

3. Background

- 3.1** The application relates to a group of trees situated on the west side of Main Street close to the corner of the new access into the health centre and Vale of Leven District General Hospital. They form a stand of trees, mainly Douglas Firs and European Larches, which reach heights in excess of 20-25m. They occupy a prominent corner of the site and contribute to the amenity value of the site. The trees are covered by a Tree Preservation Order.
- 3.2** Planning permission (DC11/103) was granted for the construction of a new health and care centre with associated roads, parking and landscaping works. The consent permitted the removal of some trees on the site to make way for the building and main entrance but included planning conditions protecting the remaining trees. Barriers were required to be erected around the extremities of the tree crowns during construction works, materials were to be stored away from the trees and any excavation works through the root areas are to be carried out by hand.
- 3.3** The health and care centre has now been operational for several months although minor associated works are ongoing within the grounds of the site. These works included the realignment and rebuilding of the stone wall along the boundary with Main Street, which was required as an amendment to the original permission in order to allow a wider footpath to be formed for the safety and convenience of pedestrians.

- 3.4** The site contractor brought to the attention of the Planning and Building Standards Service that preparatory excavation works for the wall using a mechanical digger had resulted in the severance of tree roots along a 40m stretch behind the line of the proposed wall. A site visit was carried out to assess the damage and it was noted that the roots of six trees have been significantly damaged. This damage has been sustained on the leeward side of the trees so that the main supporting roots have been severed.

4. Main Issues

- 4.1** The trees are protected by a TPO as well as planning conditions and the works are therefore unauthorised and a breach of planning control. Under section 171(1) of the Town and Country Planning (Scotland) Act 1997, as amended, if any person “cuts down, uproots or wilfully destroys a tree or wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it they shall be guilty of an offence”. However, the immediate priority is to ensure public safety and to this end a report into the condition of the trees was requested by Planning Officers and prepared for the site contractor by a qualified arboriculturalist.
- 4.2** The report confirms that serious root damage has been sustained to three Douglas Firs, two European Larches and one Cypress tree. Given the proximity of the trees to the road and footpath at Main Street the consultant’s recommendation is that the trees be removed without delay.
- 4.3** The site contractor has confirmed that they are responsible for the damage which was carried out by their on-site subcontractor. Whilst acknowledging that the damage to the trees should not have happened, the contractor has indicated that the retention of the trees would not have been compatible with the footway widening and relocation of the wall. They argue that even if the area had been dug by hand as required by the planning conditions it would not have been possible to carry out the necessary works without severing the roots. However, this difficulty was not indicated by them at the time the request to re-align the wall was made.
- 4.4** Whilst this may be the case, it is strongly believed that as the exact position of the tree roots would not have been known until digging commenced, the precautionary principle should have applied when working around the trees. The use of mechanical excavation equipment within this area was almost certain to damage the trees to some extent, and it was explicitly prohibited by the planning condition. Furthermore, after severance of the roots of the first tree it should have been apparent that damage was being caused to the trees, and works should have ceased immediately pending expert advice and any necessary consent. Instead excavation work was continued along a 40m stretch causing damage to a further five protected trees. Despite being asked for an account of why this happened the site contractors to date have not provided an explanation.
- 4.5** The contractor indicates that the work was necessary to re-position the wall, which in turn was necessary in order to allow the footway widening. This is

accepted, however, the developer should have recognised the potential for this to impact upon the protected trees. Had the need to remove the trees been highlighted, further negotiation could have taken place with Planning Officers and the Road Services in order to properly consider whether this was acceptable and whether there were any alternative designs. It is extremely disappointing that this course of action was not taken up and the trees have been damaged at the late stage of this important development within Alexandria Town Centre.

4.6 In situations where protected trees have been damaged, planning authorities have powers to report the matter to the Procurator Fiscal. However consideration needs to be given as to what action is appropriate in each instance and Circular 10/2009 advises that enforcement action should always be commensurate with the breach. In this case the trees do provide a presence on the site, frame the new building and contribute to the amenity value of the area. In addition the contractor was well aware that the six trees are protected by a TPO and planning conditions and, as such, have constraints placed on them. In the circumstances it is therefore considered necessary to have the matter reported to the Procurator Fiscal.

4.7 A scheme of replanting has been submitted which proposes 18 new trees across the site. Twelve of the trees are to be advanced stock and six to be forest transplants. Six advanced deciduous species are to be planted along the front of the site, a mix of Norway Maple, Himalyan Birch, Mountain Ash and Sweetgum. Six advanced conifers (Scots Pine, Larch) and six transplants (Douglas Fir) are to be planted within and to the south of the existing stand. This level of planting will enhance the visual amenity of the site and help to ensure the longer term future of the stand of trees.

5. People Implications

5.1 There are no personnel issues associated with this report.

6. Financial Implications

6.1 There are no financial implications associated with this report.

7. Risk Analysis

7.1 There are no known risks associated with this report.

8. Equalities Impact Assessment (EIA)

8.1 No issues were identified in a screening for potential equality impact of this measure.

9. Consultation

9.1 No consultation was required to be carried out.

10. Strategic Assessment

10.1 The proposal has no implications for the Council's five main strategic priorities for 2012 – 2017.

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Date: 27 November 2013

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Appendices: None

Background Papers:

1. "Report on Tree Damage" (Oct 2013) by Iona Hyde,
Arboricultural and Environmental Consultant
2. Tree Survey Report (2011) by Erskine Tree Surgeons
3. Proposed Plan of Replanting

Wards Affected: Ward 1 (Lomond)