

Agenda



Planning Committee

Date: Wednesday, 2 March 2022

Time: 10.00 a.m.

Format: Hybrid Meeting

Contact: Gabriella Gonda, Committee Officer
Email: Gabriella.Gonda@west-dunbarton.gov.uk

Dear Member

Please attend a meeting of the **Planning Committee** as detailed above.

The Convener has directed that the powers contained in Section 43 of the Local Government in Scotland Act 2003 will be used and Members will have the option to attend the meeting remotely or in person at the Civic Space, Church Street, Dumbarton.

The business is shown on the attached agenda.

Yours faithfully

JOYCE WHITE

Chief Executive

Distribution:-

Councillor Jim Finn (Chair)
Councillor Gail Casey
Councillor Karen Conaghan
Councillor Ian Dickson
Councillor Diane Docherty (Vice Chair)
Councillor Daniel Lennie
Councillor Douglas McAllister
Councillor Jonathan McColl
Councillor Lawrence O'Neill
Vacancy

All other Councillors for information

Date of Issue: 17 February 2022

PLANNING COMMITTEE
WEDNESDAY, 2 MARCH 2022

AGENDA

1 APOLOGIES

2 DECLARATIONS OF INTEREST

Members are invited to declare if they have an interest in the item of business on this agenda and the reasons for such declarations.

3 RECORDING OF VOTES

The Committee is asked to agree that all votes taken during the meeting will be done by roll call vote to ensure an accurate record.

4 OPEN FORUM

The Committee is asked to note that no open forum questions have been submitted by members of the public.

**5 CONFIRMATION OF BRUCEHILL CLIFFS TREE
PRESERVATION ORDER (TPO WDC13 2021)**

5 – XX

Submit report by the Chief Officer – Regulatory and Regeneration seek the agreement to confirm a Tree Preservation Order (TPO) at Brucehill Cliffs, Dumbarton.

WEST DUNBARTONSHIRE COUNCIL

Report by Chief Officer – Regulatory and Regeneration

Planning Committee: 2nd March 2022

Subject: Confirmation of Brucehill Cliffs Tree Preservation Order (TPO WDC13, 2021)

1. Purpose

- 1.1 To seek the agreement of the Committee to confirm a Tree Preservation Order (TPO) at Brucehill Cliffs, Dumbarton.

2. Recommendations

- 2.1 It is recommended that the Committee agree the confirmation of the Brucehill Cliffs Tree Preservation Order (TPO WDC13, 2021).

3. Background

- 3.1 In August 2021, Councillor McLaren wrote to the Planning and Building Standards Service requesting that a Tree Preservation Order be made to protect trees on and around the cliff top at Brucehill Cliffs, Dumbarton. The request was prompted by concerns that proposals for residential development of the former Notre Dame Convent site would involve the loss of the trees.
- 3.2 Following a site assessment, a provisional Tree Preservation Order was made and took effect on 28th September 2021. Legislation requires confirmation of the Tree Preservation Order within 6 months of this date.

4. Main Issues

- 4.1 The provisional Tree Preservation Order applies to an area of woodland located on the southern edge of the former Notre Dame Convent site, and covering the cliff edge and cliff top area of Brucehill Cliffs, between Havoc Road and Craigend House. The Tree Preservation Order includes a mixture of predominantly broadleaved trees, with a significant number of mature and large specimens present. The Tree Preservation Order relates to a woodland area outlined in Appendix 1 meaning it covers all trees within that area, not just individual or specific groups of trees.
- 4.2 The trees form a high quality area of woodland that is prominent in local and wider views, from Havoc Road to the West, Havoc Fields to the South and from within the former convent site. Due to their close relationship with

the clifftop environment, the trees make a very significant contribution to the visual amenity and landscape character of the area. The cliffs, trees, plus 'Wallace's Cave/Havoc Hole' set within the cliff, together form a significant local landmark and popular cultural feature within Dumbarton. They also have a biodiversity value as an area of mature woodland that forms an integral part of the clifftop habitat at Brucehill, which itself is designated a Local Nature Conservation Site for its importance for wildlife and prominence of position and public recreation. Although it is not recorded as such, a number of species present are indicators of ancient woodland. It is also considered that the trees are an important feature that contribute to the character and biodiversity of the adjacent proposed Local Nature Reserve at Havoc Fields, and that the loss of trees could impact on the setting of the Reserve.

- 4.3** Notice of the Tree Preservation Order appeared in the Dumbarton Reporter on 24th September 2021, inviting objections or representations to be made in writing within 28 days. One objection and five supporting representations have been received. Details of the representations and the Council's response to these are set out in Appendix 2.
- 4.4** The representations supporting the making of the Tree Preservation Order raised points relating to the visual, biodiversity and amenity value of the trees, including the relationship with the cliffs, and the importance of the woodland to the local area and to local residents.
- 4.5** One objection was received from the applicant on the site. It queried the technical competence of the Tree Preservation Order and the merits and basis on which the Council was seeking to make the Order.
- 4.6** The Council has considered the details of the representations and objection and has decided that no modifications are required to the Tree Preservation Order and that it should be confirmed.
- 4.7** The former Notre Dame Convent sites is the subject of a current planning application (DC21/211/FUL) for residential development which would require the removal of trees within the area covered by the Tree Preservation Order. The confirmation of the Tree Preservation Order means that the preservation of trees will be a material consideration in the assessment of the application. It does not mean that, on the balance of considerations, no trees will be lost through the development of the site, but that the preservation of the trees will be properly considered by the applicant and Council.

5. People Implications

5.1 There are no personnel issues associated with this report.

6. Financial and Procurement Implications

6.1 There are no financial or procurement implications associated with this report. Costs associated with registering the Tree Preservation Order will be contained within existing budgets.

7. Risk Analysis

7.1 There is a risk that if the Tree Preservation Order is not confirmed that the Council will not be able to apply appropriate weight to the protection of trees in the consideration of any planning application affecting the area of the Tree Preservation Order.

8. Equalities Impact Assessment (EIA)

8.1 There are no equalities impacts associated with this report.

9. Consultation

9.1 Details relating to consultation on the provisional Tree Preservation Order are set out in paragraphs 4.4-4.6.

10. Strategic Assessment

10.1 This report has no direct impact on the Council's strategic priorities. However, the consultation exercise is reflective of meaningful community engagement with active, empowered citizens who feel safe and engaged.

Peter Hessett

Chief Officer – Regulatory and Regeneration

Date: 2nd March 2022

Person to Contact: Pamela Clifford, Planning & Building Standards
Manager
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Alan Williamson, Development Planning & Place Team
Leader
Alan.williamson@west-dunbarton.gov.uk

Appendix: Appendix 1: Map of Brucehill Cliffs Tree Preservation
Order
Appendix 2: Summary of Representations received
and the Planning Authority's Responses

Background Papers: Brucehill Cliffs Tree Preservation Order (TPO WDC13,
2021)

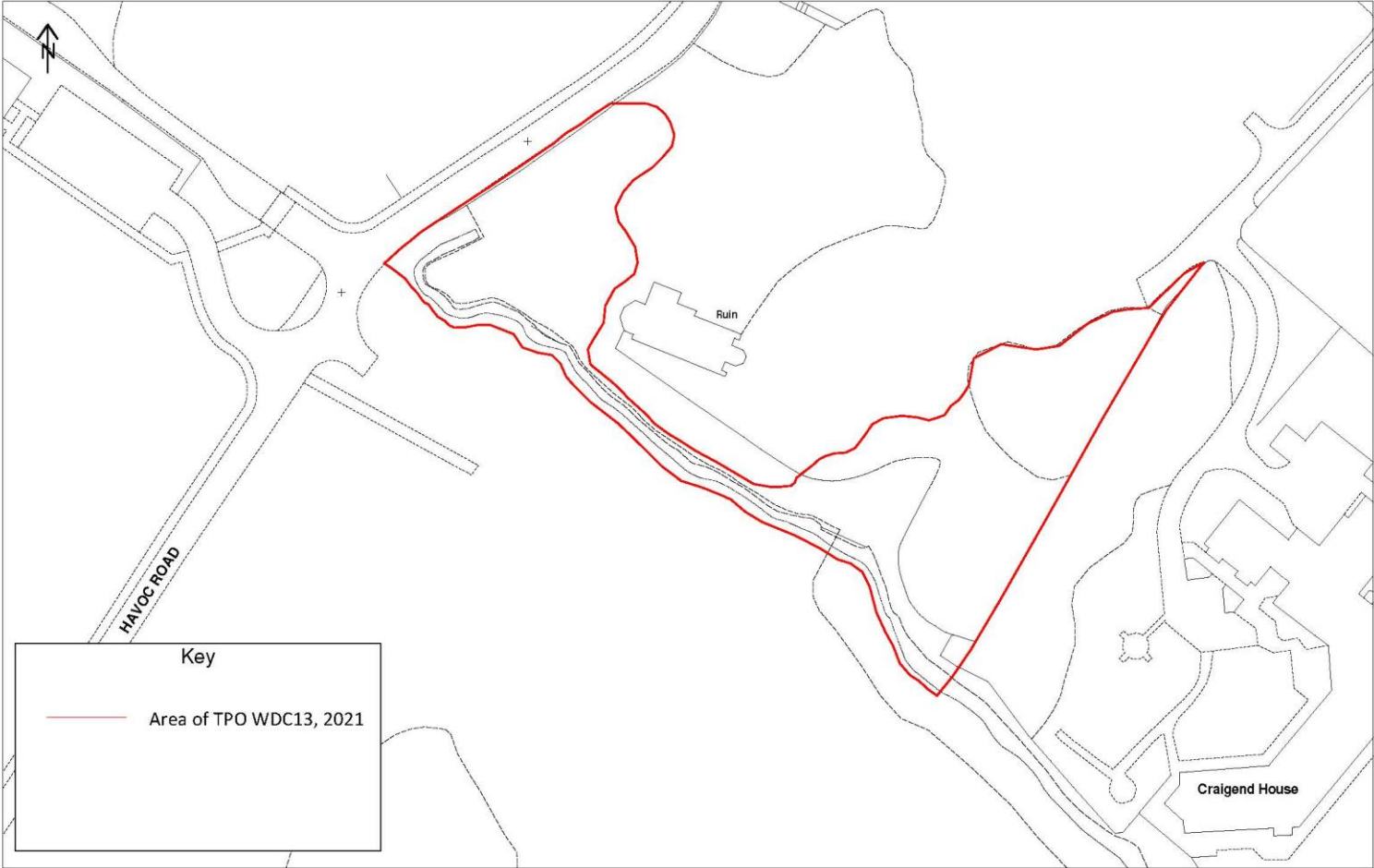
Wards Affected: Ward 3 – Dumbarton

Appendix 1: Map of Brucehill Cliffs Tree Preservation Order

West Dunbartonshire Council Title : Brucehill Cliffs Tree Preservation Order WDC13, 2021

Map Ref : NS3875NW Map No :
Date : 20/09/2021 Scale : 1:1000

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Appendix 2: Summary of Representations received and the Planning Authority's Responses

Name of Person/Organisation	Supporting or Objecting	Summary of Comments	Planning Authority's Response
Martin Docherty-Hughes MP (West Dunbartonshire)	Supporting	<p>The area contains some magnificent specimens of oak, Scots pine, lime and other important species. Much of it forms the treeline at the top of the cliffs above Wallace's Cave down at the proposed Havoc Local Nature Reserve. It is a key corridor for wildlife, and any loss of the trees there would have a huge negative impact on the civic amenity that has been so important during the pandemic.</p> <p>I believe this Tree Preservation Order to be of the utmost importance.</p>	Comments noted.
Cllr Iain McLaren (Dumbarton Ward)	Supporting	<p>The trees within the order are of great environmental value, are necessary for the integrity of the sandstone cliffs, and add greatly to the amenity of Havoc Meadows and the surrounding area. They form a necessary wildlife corridor for many species, and I am completely in support of this preservation order.</p>	Comments noted.
Silverton and Overtoun Community Council	Supporting	<p>We consider that the trees as described in the TPO constitute a valuable contribution to the several adjacent areas of LNCS (both geological and biological aspects), as well as being of considerable biological importance in themselves.</p> <p>We also wish to point out that every effort should be made to protect and preserve trees wherever possible, in order to help reduce the effects of climate change.</p> <p>Finally, we would suggest that the destruction of these trees might adversely affect the stability of the cliff beneath, which includes the Wallace cave, which is of considerable historical importance.</p>	Comments noted.
Ms Zoe Weir	Supporting	<p>Removal of area of mature mixed deciduous woodland featuring ancient woodland indicator species and trees including category A Oak and Scots</p>	Comments noted.

		<p>Pine would be a loss of high-quality habitat adjacent to an interconnected pending nature reserve.</p> <p>Continuous tree corridor along clifftop important for many species not able to fly or otherwise travel long distances. Tree branches overhanging road at Havoc Rd end of cliff and along road border of site extending from cave corner towards Cardross Rd act as bridge to overhanging tree branches on far side of road and thus to wooded area on that side</p> <p>Trees on clifftop provide continuous shade for important shade-loving species on cliff side including Royal fern and other important bryophytes, as well as preventing growth of aggressive light-loving species which would otherwise outcompete these species thus eliminating them. They also provide continuous leaf litter coverage at base of cliff essential to winter survival of many base of food-web invertebrates which then go on to provide the necessary food for nesting birds; they also provide the substrate for various fungi. Removal of trees on clifftop would leave trees and shrubs growing on cliff side exposed to storm action, risking damage or loss</p> <p>Loss of tree roots from clifftop and side could leave cliff rock at risk of erosion and freezewater/flood damage. Certain plants and fungi only found in the TPO area and not elsewhere in the pending nature reserve, although at ground level, would be unlikely to survive during or beyond removal of trees. Continuous treetop line along cliff used by predatory birds and bats to hunt and feed. Studies show these unbroken tree-lines are used to navigate. Their removal would negatively impact various protected species of bat and bird.</p> <p>Removal of clifftop trees would not be in keeping with the surrounding area of tree-covered cliff adjacent and well-used amenity green space, also negatively affecting views from shore path part of Parkrun route,</p>	
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		<p>promoted public walking route from Levensgrove Park and from popular tour ships such as the Waverley which regularly sail by Dumbarton.</p>	
Mr Richard Weddle	Supporting	<p>The trees along the cliff top are an essential part of the ecosystem of the cliffs and proposed Local Nature Reserve at Havoc.</p> <p>I understand the developer thought that removing the trees along the cliff edge would enhance the view along the Clyde Estuary, I would argue the exact opposite, and in fact would expose the clifftop houses to possible adverse weather from that direction; though I would agree that removing some of the younger, scrubbier trees would improve the appearance of the woodland, though that would need to be done in association with a qualified ecologist, so as not to harm the local ecosystem.</p> <p>More specifically, this is an area of mature woodland that supports a number of woodland flora and fauna, and forms an essential part of the woodland wildlife corridor from Kirktonhill along the cliff and further west across Havoc Road. The trees include splendid specimens of Oak and Scots Pine which, though the woods as a whole aren't classified as 'ancient woodland', in my view would qualify as 'veteran trees of high nature conservation and landscape value, which should be protected from adverse impacts resulting from development' (Scottish Planning Policy on Ancient Woodland). Species using the wildlife corridor would include bats and woodland birds, and the trees to the E of Havoc Road above the cave form an essential part of this as they overhang the road.</p> <p>More generally, the trees on the clifftop provide shade for woodland flora, which would be replaced by commoner, more aggressive plants. The trees also help stabilise and prevent erosion of the cliff top, as well as producing leaf-litter where invertebrate species can hibernate.</p> <p>There is currently a general emphasis on increasing the woodland cover across the UK generally; we clearly need to preserve what we already have</p>	Comments noted.

		as well as planting more (in suitable locations). This is a key part of the Scottish Biodiversity Strategy, and in my view should override the short term ambitions of local 'developers'.	
Burness Paull LLP on behalf of Miller Homes	Objecting	<p>The description of the affected woodland in the Order does not refer to the title to the land, which means that the Order will not be capable of being recorded in the General Register of Sasines or registered in the Land Register of Scotland, if the Order is confirmed. The Council will therefore not be able to comply with the requirements of Section 161(2) of the Town and Country Planning (Scotland) Act 1997. It is submitted that the Order is therefore defective and should be withdrawn.</p> <p>A planning authority only has the power to make a tree preservation order if:</p> <p>(a) it is expedient in the interests of amenity to make the tree preservation order, and/or</p> <p>(b) the trees, groups of trees or woodlands are of cultural or historical significance.</p> <p>It is submitted that neither criterion applies in this case.</p>	<p>The Council's Legal Services advise that it is the Keeper of the Registers of Scotland that decides what will go on the register, not the Council, nor a planning applicant. Accordingly, any claim that the TPO will not be recorded/registered is premature, and not one that can be answered by the Council or the applicant. However, the Council is of the view that the plotting and description is more than sufficient for the Keeper to identify the trees and, therefore, register the TPO in the appropriate register/s.</p> <p>The title information will be disclosed in the application form/s for the TPO, so the Keeper will be made aware of the title information. For further assurance, additional clarification can be provided within the confirmation docquet that is to go within the TPO, if it is confirmed by Committee.</p> <p>As described in the Order, the Council considers the trees contained within the TPO are of high amenity and biodiversity value and of significance to the community. They are highly prominent in local and wider views, being located on, and above, the Brucehill inland cliffs. As such they make a very significant contribution to the visual amenity and</p>

		<p>In terms of the first criterion, our clients submit that it is not expedient in the interests of amenity to make the Order. In terms of the second criterion, the Council has not put forward any evidence of cultural or historic significance attaching to the trees.</p> <p>The land that our clients are seeking to develop is allocated for housing development in the West Dunbartonshire Local Plan (adopted 2010) and the West Dunbartonshire Local Development Plan (Proposed Plan 2016). Most recently, the site has been reserved for housing development as Site H2(22) – Notre Dame Convent in the Proposed Local Development Plan 2 with an indicative capacity of 90 units.</p> <p>The Council made the Order on the grounds of protecting the amenity of the trees and woodland in terms of their environmental, visual and biodiversity importance and contribution to landscape character. Our clients commissioned the attached Tree Survey Report (the “Report”), which was submitted with their planning application. The Report assessed the condition of the woodland trees which are affected by the Order. The Report noted that, <i>‘The site has not been maintained for many years and is overgrown and neglected’</i>. Of the 61 individual trees surveyed, only 9 were found to be in good condition, with the majority of trees of trees being assessed as in fair to poor overall condition.’</p> <p>The Report summarises a number of issues related to the health and condition of the trees, including structural defects, suppression and constrained root growth. The Report found that the majority of the trees (72%) fell within the B (medium) and C (low) retention categories with five trees falling in category U (unsuitable for retention). Our clients consider that the Report demonstrates that the trees are not of sufficient amenity value to warrant the making of the Order.</p> <p>Our clients do not object to the Order insofar as it affects the trees on the cliff face (identified as group G1 in the Report) as they agree that these</p>	<p>landscape character of the area and from a number of public viewpoints, including from Havoc Road, Havoc Fields and the proposed Local Nature Reserve to the south, west and east, and also from within the former Notre Dame Convent Site, where they have potential to enhance the amenity of any future residential development.</p> <p>The trees are being protected for their collective value as a mature woodland environment, but also include many mature and fine individual specimens. They have an integral visual and ecological relationship with the Brucehill clifftop and cliff-face environment, which itself is designated as a Local Nature Conservation Site for geological and ecological importance. The cliffs, trees, plus ‘Wallace’s Cave/Havoc Hole’ set within the cliff, together form a significant local landmark and popular cultural feature within Dumbarton.</p> <p>They also have significant ecological and habitat value, given observed ground flora, as part of a long established woodland. Although the site is not classed as ancient woodland, it does contain several species that are indicators of ancient woodland such as bluebells, mature hart’s-tongue fern and hard fern, which would indicate the old nature of the woodland. As a mature, broadleaved woodland integrated with the cliff habitat, it clearly has a high biodiversity value. It is also noted that part of the site is</p>
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	<p>trees are worthy of protection. However, the Order as drafted is too broad and covers trees that are in poor condition and have little amenity value. As noted in the Report, the area is overgrown and there is a large area of rubble and tipped material close by.</p> <p>The woodland is not a safe or attractive environment in its current condition and appears to attract anti-social behaviour.</p> <p>These are issues that would be resolved by our clients' proposed development. Our clients' planning application is for a residential development of 85 dwellings with associated access, parking, landscaping, open space and drainage. If consented, the site would be redeveloped to create a safe and attractive neighbourhood with well-maintained and accessible areas of open space, including new tree planting.</p> <p>In order for our clients to develop the allocated site some of the trees protected by the Order would have to be felled for a sustainable urban drainage system (SUDS) to be installed. The location of the SUDS and the boundaries of the Order area are shown on the attached plan. The need for the SUDS to be located here has been established following a detailed technical design exercise which considered a number of potential options but concluded that it is the optimum location, and the lowest point of the site. Any planning consent granted for development of the site could be conditioned to regulate the felling of trees and planting of replacement trees and landscaping within the development site.</p> <p>We understand that the site has been allocated for housing development for over 20 years but, despite planning permission being granted in 2010, it has lain undeveloped during which time its condition has deteriorated significantly. The making of the Order presents another obstacle to the development of the site.</p> <p>In these circumstances, it is not considered that it is expedient in the interests of the amenity of the area to confirm the Order.</p>	<p>identified within the National Forest Inventory, which has helped to define the boundary of the eastern part of the TPO.</p> <p>It is noted that the original Tree Report for the current planning application on the site states that a "total of 61 individual trees and a single group were recorded on the site, which collectively create a wooded environment" and includes trees in "early to full maturity". The mature trees are "of large size and stature and form the dominant canopy trees. They represent some of the early planting associated with the site".</p>
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		<p>Our clients consider that the Order as made is defective and should be withdrawn. If the Council considers it expedient to make a new tree preservation order, that order should be limited to the group of trees on the cliff face at the southern boundary of the site.</p>	
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