

THE HIGHLAND COUNCIL
SOUTH PLANNING APPLICATIONS COMMITTEE

23 June 2015

Agenda Item	10.1
Report No	PLS/051/15

**TREE PRESERVATION ORDER NO HC126, 2015
ESKART, BALMACAAN, DRUMNADROCHIT**

Report by Director of Development and Infrastructure

Summary

A Tree Preservation Order has been served on an area of mature oak woodland at Eskart, lying on the southern edge of a larger oak woodland owned by the Woodland Trust just off Balmacaan Road, Drumnadrochit. The Committee is invited to consider confirmation of the Order as it stands.

1. Background

- 1.1 A Tree Preservation Order was served on 23 January 2015 covering an area of woodland on the southern edge of a Woodland Trust property just off Balmacaan Road, Drumnadrochit. A location map (Appendix 1) and copy of the Order map (Appendix 2) are attached.
- 1.2 The serving of the Order was as a result of tree removal on two occasions in 2013 and 2015 which the owner has stated was clearance of storm damage. The site was subject to a planning application for one dwelling (10/02103/PIP) which was refused and a Notice of Review (11/00001/RBIREF) which was dismissed.
- 1.3 A Tree Preservation Order lasts for a period of six months then lapses if not confirmed.

2. Representations

- 2.1 One letter of objection has been received from Mr George MacWilliam of McArthur & Co on behalf of the owner, Mr David Turnbull. A copy of the letter is appended (Appendix 3).
- 2.2 In summary, the points of objection are as follows: -
 - a) Trees were felled following storm damage.
 - b) Trees were not felled as a direct result of the refusal of planning applications.
 - c) The woodland is not regarded as an important amenity feature.
 - d) The Notice states that objections shall specify the particular trees or groups of trees in respect of which the Order is made. In terms of Schedule 1 of the Order no trees or groups of trees are specified. The Notice in so far as it

requires specification of particular trees or groups of trees is incorrect and accordingly invalid.

- e) It is unreasonable for the Council to include the whole area within the Order and the Order should be modified so that it refers only to trees of an appropriate quality.

2.3 One letter in support of the TPO has been received from Mr N J Curley. A copy of the letter is appended (Appendix 4).

3. Appraisal

3.1 The woodland cover within the TPO area has local visual amenity value; it acts as separation and setting for existing properties and forms part of a larger area of ecologically important oak woodland.

3.2 Under the Tree Evaluation Method for Preservation Orders (TEMPO), the woodland has been scored as “Definitely merits TPO”. The Council uses TEMPO as an independent method for assessing the need for Preservation Orders. TEMPO is used by almost all Local Authorities in the UK when evaluating a possible TPO.

4. Response to Objection

4.1 Trees were storm damaged

On visiting the site in 2013 it was found that one twin stem willow had been storm damaged and felled. There were a number of birch trees which had also been felled and the stumps showed no evidence of storm damage.

4.2 Trees not felled as a direct result of the refusal of planning applications

It was not suggested that the trees were felled as a direct result of the refusal of planning applications. It has been noted that there is a planning history on the site and that since then trees have been felled.

4.3 The woodland is not regarded as an important amenity feature

The TPO area is regarded by Highland Council as an area which offers amenity value to the properties Eskart and Tordarrach and also to walkers linking through from Balmacaan Road to Balmacaan Wood. The decision to serve a TPO is based on the use of the Tree Evaluation Method for Preservation Orders (TEMPO) which is used by most local authorities in Britain.

4.4 No trees or groups of trees are specified in the Order

The Notice states that objections and representations shall specify trees or groups of trees in respect of which the order is made and should also contain the word ‘woodland’, as it appears in Schedule 1. It will be arranged with colleagues for future copies of the Notice to also contain the word ‘woodland’. It will in this instance be taken that the representation relates to the woodland area (W1) in Schedule 1.

4.5 Modification of the Order to only include trees of appropriate quality

The TPO was served as a woodland TPO and as such trees of all ages and quality are protected, not just the specimen trees. This allows for younger trees to be protected by the TPO as they will be the mature trees in the future.

5.0 Conclusion

In conclusion, it is considered that the woodland has local visual amenity value; it acts as separation and setting for existing properties and forms part of a larger area of ecologically important oak woodland. Ongoing management is a key consideration and a TPO provides for that. The Council will be pleased to work with all owners in securing longer term management.

Recommendation

Members are invited to consider confirmation of the Order as it stands.

Designation: Director of Development and Infrastructure

Date: 15 June 2015

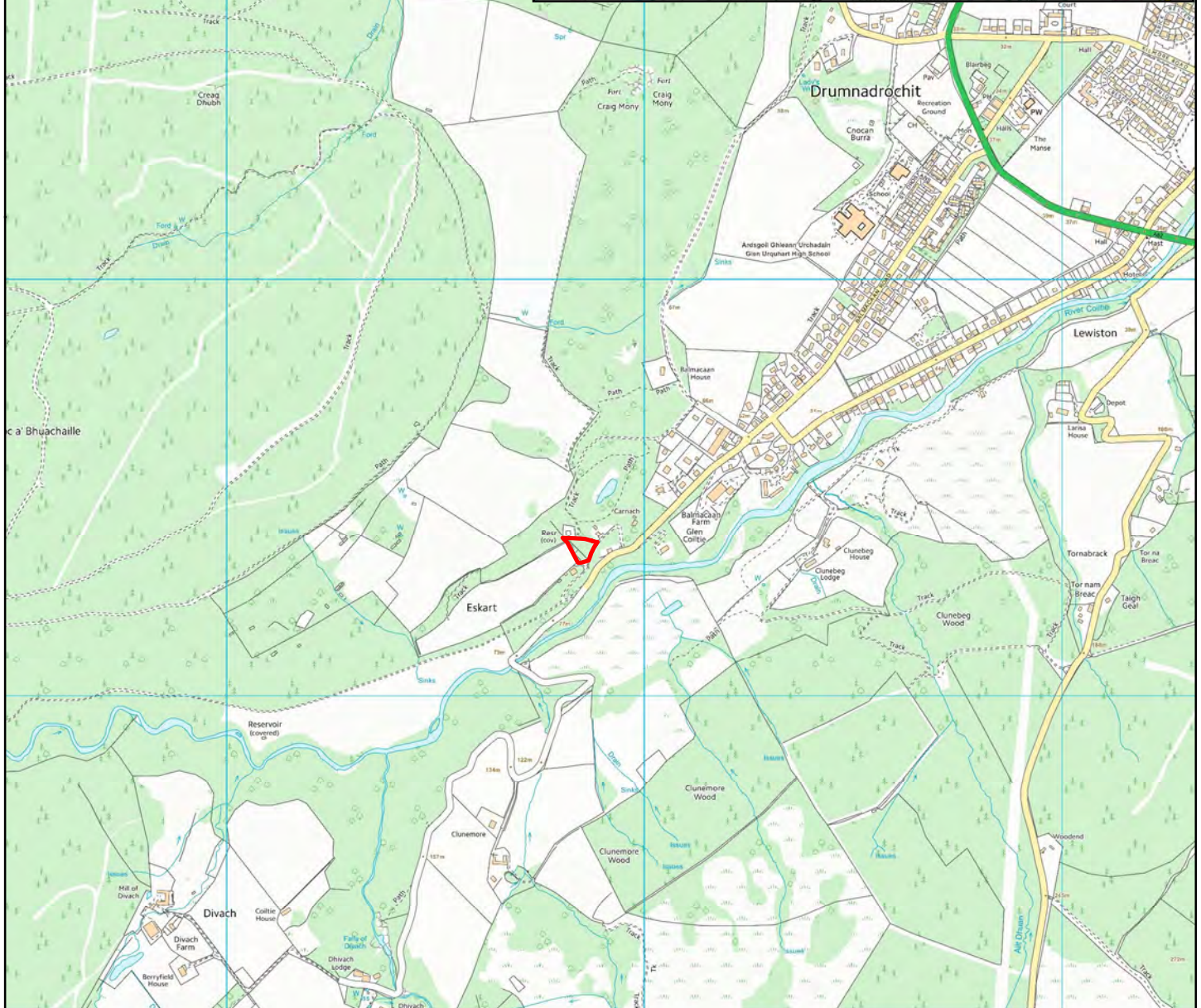
Author: Grant Stuart, Forestry Officer



THE HIGHLAND COUNCIL
Planning & Development Service

TREE PRESERVATION ORDER No.HC126

Eskart, Balmacaan
January 2015



Scale @ A4 1:15,000

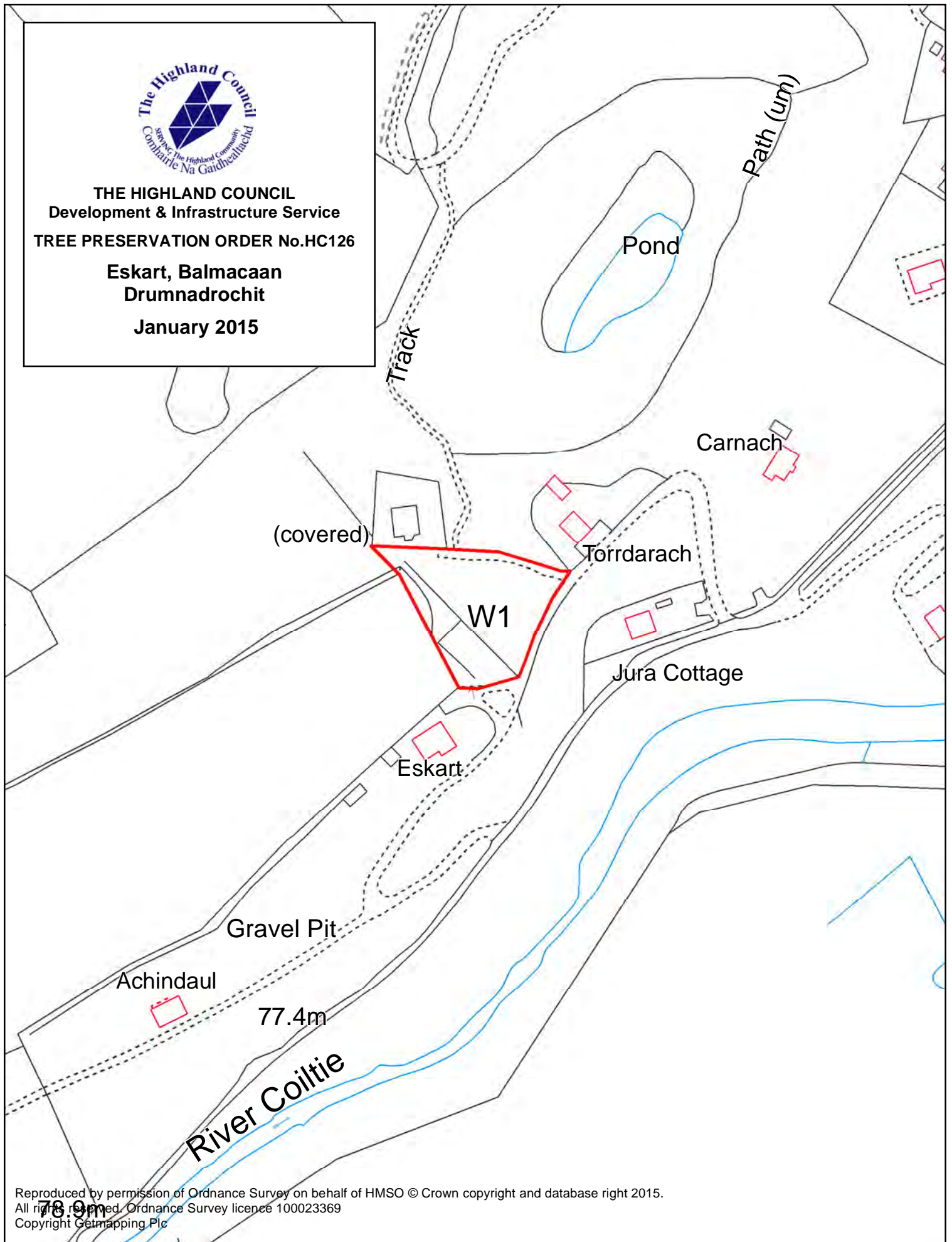
0 125 250 500 750 metres

Reproduced from the Ordnance Survey Mapping with the permission of the Controller of Her Majesty's Stationery Office. © Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. The Highland Council 100023369.



THE HIGHLAND COUNCIL
Development & Infrastructure Service
TREE PRESERVATION ORDER No.HC126

**Eskart, Balmacaan
Drumnadrochit
January 2015**



Reproduced by permission of Ordnance Survey on behalf of HMSO © Crown copyright and database right 2015.
All rights reserved. Ordnance Survey licence 100023369
Copyright Getmapping Plc



Scale @ A4 1:2,000

0 10 20 40 60 80 metres

IN/12/F/6

MACARTHUR & CO

Solicitors and Estate Agents

OUR REF GM/CEM/TURND01.002
YOUR REF GS/TPO HC126
DATE 11 February 2015

DEVELOPMENT & INFRASTRUCTURE SERVICE
DATE RECEIVED:
12 FEB 2015

Development & Infrastructure Service
The Highland Council
Council Buildings
Glenurquhart Road
INVERNESS
IV3 5NX

IAN A. MACDONALD
GEORGE MACWILLIAM
IAN DONALDSON
TORQUIL F. MACLEOD

ASSOCIATE
CAROLINE MCINTOSH

CONSULTANT
ALEC A. D. KEITH

7 ARDROSS STREET
INVERNESS IV3 5PL
TELEPHONE: 01463 234445

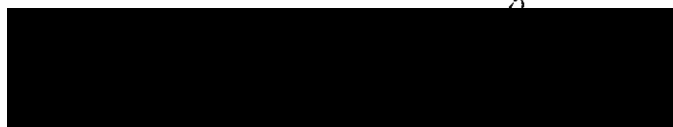
Dear Sirs

DAVID P TURNBULL
LAND AT ESKART, BALMACAAN, DRUMNADROCHIT
TREE PRESERVATION ORDER NO. HC126.2015

We refer to the Notice dated 23 January being a Notice in respect of the above numbered Tree Preservation Order. We act for David Paterson Turnbull of 106 Balmacaan Road, Drumnadrochit upon whom the said Notice was served. Mr Turnbull wishes to object to the Tree Preservation Order on the following basis.

- 1 The occasions when trees have been felled on the site in the recent past were in late 2013 and January this year. On both occasions our client required to deal with trees which had been damaged by storm force winds. The trees were not felled as a direct result of the refusal of the Planning Applications. The said area is described in the Order as an important amenity feature when this is not the case. The facts and circumstances do not justify the issuing of the Order.
- 2 The Notice states that objections and representations shall specify the particular trees or groups of trees in respect of which the Order is made. In terms of Schedule 1 of the Order no trees or groups of trees are specified. The Notice in so far as it requires specification of particular trees or groups of trees is incorrect and accordingly invalid.
- 3 There are several specimen trees within the area specified in the Order. These are situated near to the boundaries of the area identified on the plan. It is unreasonable for the Council to include the whole area within the Order and the Order should be modified so that it refers only to trees of an appropriate quality which have been identified in the Order.

Yours faithfully



MacArthur & Co
georgemacwilliam@macarthur.co.uk

FAX: 01463 224995
DX: IN9
LP: 14 INVERNESS 1
e-mail: law@macarthur.co.uk
www.macarthur.co.uk

Walled Garden
Balmacaan
Drumnadrochit
Inverness-shire
IV63 6UP

4th February 2015

The Highland Council
Development & Infrastructure Service
Council Buildings
Glenurquhart Road
Inverness, IV3 5NX

Ref: TREE PRESERVATION ORDER No. HC126, 2015, ESKART, BALMACAAN, DRUMNADROCHIT

Dear Sir,

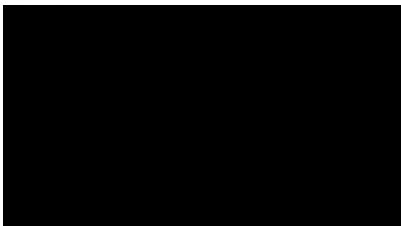
I am writing in support of the above referenced tree preservation order.

I must immediately state that I have a direct interest as I own the property adjacent to this site. I'm also aware, and respect, the rights of a landowner to manage the trees on their property and cut a certain amount for firewood annually.

When I purchased my property, I researched the adjacent planning applications and was aware from the drawings that certain large oak trees had been designated to be preserved should the planning consent be granted. I was therefore very surprised to see one of these trees and others on the site being cut down, especially as I knew that they had fortunately not suffered any damage in the recent storms.

The ancient trees at Eskart certainly provide my property with a pleasant outlook, but perhaps more importantly provide locals and the many visitors walking in the area an attractive approach to the adjacent woodland trust forest walks.

Yours faithfully,



N.J. Curley

DEVELOPMENT
DATE RECEIVED:
06 FEB 2015