

Public Document Pack

Argyll and Bute Council **Comhairle Earra Ghaidheal agus Bhoid**

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13 June 2013

SUPPLEMENTARY PACK 1

**PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE - COUNCIL
CHAMBERS, KILMORY, LOCHGILPHEAD on WEDNESDAY, 19 JUNE 2013 at 10:45 AM**

I enclose herewith items 16 and 17 marked "to follow" on the above agenda.

I also enclose herewith additional item 21 which was not previously included on the Agenda for the above Meeting.

ITEMS TO FOLLOW

- 16. PROJECT INITIATION DOCUMENT (PID) - DEVELOPMENT AND
INFRASTRUCTURE SERVICES - STRATEGY FOR SIGNAGE**
Report by Head of Planning and Regulatory Services (Pages 1 - 20)
- 17. APPEALS UPDATE**
Report by Head of Planning and Regulatory Services (Pages 21 - 24)

ADDITIONAL ITEM

- E1 21. ENFORCEMENT REPORT (REF: 11/00107/ENOTH2 & 11/00153ENOTH2)**
Report by Head of Planning and Regulatory Services (Pages 25 - 26)

The Committee will be asked to pass a resolution in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the public for items of business with an "E" on the grounds that it is likely to involve the disclosure of exempt information as defined in the appropriate paragraph of Part I of Schedule 7a to the Local Government (Scotland) Act 1973.

The appropriate paragraph is:-

E1 Paragraph 13 Information which, if disclosed to the public, would reveal that the authority proposes-

- (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
- (b) to make an order or direction under any enactment.

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE

Councillor Sandy Taylor (Chair)	Councillor Gordon Blair
Councillor Rory Colville	Councillor Robin Currie
Councillor Mary-Jean Devon	Councillor George Freeman
Councillor Fred Hall	Councillor David Kinniburgh
Councillor Iain MacDonald	Councillor Alistair MacDougall
Councillor Robert Graham MacIntyre	Councillor Donald MacMillan
Councillor Alex McNaughton	Councillor James McQueen
Councillor Richard Trail	

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ARGYLL & BUTE COUNCIL**Planning, Protective Services and Licensing
Committee
19 June 2013****DEVELOPMENT AND
INFRASTRUCTURE SERVICES**

STRATEGY FOR RURAL SIGNAGE, SIGNAGE IN TOWNS AND OBSTRUCTIONS ON FOOTWAYS

1. SUMMARY

Members shall recall a paper on this issue from September 2012, where authorisation was given to develop a project to address growing concerns about the number of unauthorised signs along road corridors, on pavements and attached to street furniture in both our towns and rural areas.

At the Committee it was also suggested that joint working with Loch Lomond and the Trossachs National Park (LLTNP) would be beneficial given this issue extends across boundaries. In dialogue with LLTNP we have agreed to progress the strategy in partnership.

In response, Officers have prepared a draft Project Initiation Document (PID) which sets out the aims, objectives, scope, governance and membership of the project team.

Once the scope, aims and governance have been agreed a project and phasing plan shall be developed and PID shall come back to the PPSL for endorsement.

2. Context

We fully understand our local businesses are operating in difficult economic circumstances and we are keen to support their ongoing trade. Both Argyll and Bute and Loch Lomond and the Trossachs National Park seek to deliver a signage strategy that balances business needs along with obligations to ensure pedestrian / traffic safety and to protect the visual appearance of our area.

Whilst it is appreciated that signs, especially in rural areas, are necessary for businesses to operate we cannot accept signs appearing without consent and those which are of an unsuitable scale, location or design. Likewise, banners, A-Boards and merchandise which traverse across public footpaths (pavements) or attached to street furniture in our towns also have potential to cause trip hazards to the public or damage property as well as their intended advertisement purpose. Provisions of the Disability Discrimination Act 2005 (DDA), Town & Country Planning (Scotland) Act 1997 and The Roads (Scotland) Act 1984 all must be given weighting by the Council in drawing up this new strategy.

There are a number of different organisations that shall be key stakeholders to deliver this new strategy including Planning, Roads and Amenity Services, Transport Scotland, Economic Development, Visit Scotland, the Local Chambers of Commerce, Argyll and the Isles Tourism Partnership, HIE, Scottish Enterprise, National Park Ranger Service, Conservation Officer, Landscape Officer and Elected Members.

2. RECOMMENDATIONS

It is recommended that Members

- I. Note the content of the DRAFT Project Inception Document (PID)
- II. Endorse the aims, objectives, distribution list, scope, membership of project board and governance arrangements
- III. Provide feedback to Project Manager on any aspect of the PID

NB – once this draft has been endorsed a final PID shall be prepared and will include a project and phasing plan. The final PID shall be reported to PPSL. Similar approvals shall be necessary by LLTNP Planning Committee.

8. IMPLICATIONS

- | | | |
|-----|------------------------------|--|
| 5.1 | Policy | No Policy issues as this is an informative report. Seek to set new strategy for signage that will become policy through future Local Development Plan. |
| 5.2 | Financial | Financial implications limited to Officer resource in pulling together partnership and developing strategy. Once strategy in place it may result in new applications for signage (fee associated) and less officer time dealing on reactive basis with signage issues. |
| 5.3 | Personnel | Officer resource in pulling together partnership and developing strategy |
| 5.4 | Equalities Impact Assessment | Strategy seeks to bring signage strategy in line with Disability Discrimination Act 2005 (DDA) especially when dealing with 'pavement clutter' |
| 5.5 | Legal | Strategy seeks to address Council liability if trip hazard or impact on safety from unauthorised obstruction or sign. |

Author of Report: Ross McLaughlin

Date: 13th June 2013

PROJECT INITIATION DOCUMENT



Development and Infrastructure Services Strategy for Signage

Release: **Draft**

Date: 14th June 2013

PRINCE 2

Author: Ross McLaughlin

Owner: Argyll and Bute Planning Protective Services and Licencing Com (PPSL) committee

Client: ABC PPSL

Document Number: Version 0.1

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1 Project Initiation Document History

1.1 Document Location

This document will be held in the common drive PLANNING [\\abck-fsk01](#)
Should an opportunity arise to transfer to SharePoint this will be done at the relevant time.

1.2 Version Control

Revision Number	Revision date	Summary of Changes
0.1	19 th June 2013	Initial Draft for consideration by PPSL

1.3 Approvals

This document requires the following approvals.

Signed approval forms are filed in the Management section of the project files.

Name	Signature	Title	Date of Issue	Version
Cllr Sandy Taylor		Chair of PPSL Committee (Owner)		
Cllr Louise Glen Lee		Depute Lead Councillor for Economic Development and Infrastructure (Tourism remit) (Key Stakeholder)		
Cllr John Semple		Lead Councillor for Economic Development and Infrastructure (Key Stakeholder)		
Cllr Blair		PPSL Member (Key Stakeholder)		
Cllr Freeman		PPSL Member (Key Stakeholder)		
Cllr Hall		PPSL Member (Key Stakeholder)		
Cllr McNaughton		PPSL Member (Key Stakeholder)		
Angus Gilmour		Head of Planning & Regulatory Services (<i>Project co-Sponsor</i>)		
Sandy MacTaggart		Director of Development and Infrastructure Services (<i>Project co-Sponsor</i>)		
Jim Smith		Head of Roads and Amenity Services (<i>Project co-Sponsor</i>)		
Robert Pollock		Head of Economic Development (<i>Project co-Sponsor</i>)		
Gordon Watson		Head of Planning at Loch Lomond and Trossachs National Park (<i>Project co-Sponsor</i>)		

1.4 Distribution

In addition to the above, the published document will be distributed to our key stakeholders who shall be involved and asked to participate in the project:-

Name	Title	Date of Issue	Version
Campbell Divertie/Bill Weston	Roads Engineers (Stakeholder)		
Fergus Murray	Planning Policy Manager (Stakeholder)		
Argyll and Isles Strategic Tourism Partnership	Tourism stakeholder (Stakeholder)		
BID in Oban	(Stakeholder)		
All Chambers of Commerce in ABC + LLTNP	(Stakeholder)		
Transport Scotland	Trunk Road Authority (Stakeholder)		
Ishabel Bremner	Economic Development Manager (Stakeholder)		
Tom Murphy	Streetscene Manager (Stakeholder)		
Lynda Robertson	Conservation Officer (Stakeholder)		
Communications Team / Press Team	PR (Stakeholder)		
Loch Lomond and Trossachs Tourism Team + Ranger Services	(Stakeholder)		
Disability Groups / Local Access Panels	(Stakeholder)		

2 Introduction

2.1 Purpose of the Document

The purpose of this Project Initiation Document (PID) is to define the scope of work to create a new **strategy for signage** for Argyll and Bute Council (ABC) and Loch Lomond and Trossachs National Park (LLTNP).

This is a joint project which stretches across the administration boundaries to address a common issue.

The following sections set out the aims, objectives, key deliverables, timescales and detail specific responsibilities for each task.

For the purpose of this PID we shall using a definition of ‘signage’ that includes signs / adverts on the side of the road, ‘A boards’ on pavements, banners and signs attached to trees or street furniture. We shall also be considering goods / merchandise displayed on pavements and outdoor seating. We do not intend to devise a strategy for shopfronts as this is adequately covered within existing Local Plan Policy.

2.2 Background

Both Argyll and Bute and Loch Lomond and the Trossachs National Park (*hereafter referred to as ‘The Authorities’*), fully understand our local businesses are operating in difficult economic circumstances and we are keen to support their ongoing trade. We seek to deliver a strategy for signage that balances business needs to advertise along with obligations of the Authorities to ensure pedestrian / traffic safety and to protect the visual amenity and appearance of our area.

This project will connect closely with the Authorities’ aims and objectives in terms of safeguarding the special qualities of landscape character and improving visitor experience. In certain areas, the amount of signage currently being displayed has reached the point where it is confusing and detracts from the special quality of our Villages, Towns and open countryside. We cannot accept signs appearing without consent which potentially create a hazard or are of an unsuitable scale, location or design. Banners, A-Boards and merchandise which traverse across public footpaths (pavements) or attached to street furniture in our towns also have potential to cause trip hazards to the public or damage property as well as their intended advertisement purpose. Provisions of the Disability Discrimination Act 2005 (DDA), Town & Country Planning (Scotland) Act 1997 and The Roads (Scotland) Act 1984 all must be given weighting by the Authorities in drawing up this new strategy.

The project aims to be pro-active, constructive and wide in scope by working alongside the Roads and Amenity Service, Transport Scotland, Economic Development, Visit Scotland, All the local Chambers of Commerce, HIE, Scottish Enterprise, Argyll and the Isles Tourism Partnership, Loch Lomond and the Trossachs Tourism Team, landscape officer and Ranger Service.

Whilst a significant portion of the project shall develop policy and guidance founded upon regulation, consistency, natural justice and monitoring / enforcement of signage there is also opportunity to foster enhancements by improving design and branding. Creating better advertisements for visitors to our area is essential in a competitive marketplace and uniformity of signage may act to enhance the Authorities’ identity and appeal. LLTNP have already commenced branding work like this by installing stone signage at all the entrance points to the park and are considering further town and village signs.

3 Project Scope

The project will be led by the Planning Services of both ABC and LLTNP. It seeks to address all pertinent issues about signage in a town, village and countryside setting. Given the cross boundary and inter-departmental nature of the project there will be some impact on other teams involved in activities associated with the Planning Services (e.g. roads and amenity service, economic development, tourism team).

3.1 Core Scope

- Identification of current legislation pertinent to signage and scope Authorities' responsibilities
 - Disability Discrimination Act 2005 (DDA)
 - Town & Country Planning (Scotland) Act 1997
 - The Roads (Scotland) Act 1984
 - Town and Country Planning (Scotland) Advertisement Regulations 1984
- Survey public perception on existing signage and strategy (is it effective and does it influence them)
- Identification of current policy set by Transport Scotland, ABC and LLTNP
- Identifying and pursuing best practice and benchmarking in relation to signage
- Identifying funding opportunities or revenue opportunities
- Consulting, engaging and forming partnership with local business and Chambers of Commerce to develop signage strategy and design guides for signage
- Developing policy and design guides for signage which will be Supplementary Guidance (SG) in the Local Development Plan
- Developing design guides for pavement uses (e.g. outdoor seating, planting, display)
- Developing the concept of branding and area identity through signage
- Identifying priority areas where proliferation of signage is causing concern and recommending action
- Identifying potential areas where signage may be appropriate (e.g. Council Car Parks, entrances to villages)
- Development of a maintenance guidance for signage
- Identifying a protocol for engagement with Planning Officers and Roads Department
- Developing and implementing more efficient and consistent enforcement approach to signage based on risk, visual impact and effectiveness in terms of resource / legislation used
- Communicating new signage strategy
- Measuring improvement in quality of signage and visitor experience

- Post Implementation Reviews

3.2 Peripheral Scope

- Increasing cross border linkages and working practices between LLTNP + ABC
- Delivering EDAP by creating a 'Compelling' Argyll and Bute
- Potential to involve local artists / students / children to assist with design and branding
- Potential to support local trades in signwriting, painting or carpentry
- Increasing links to traders and local businesses
- Potential to examine electronic advertising and mobile apps – Bluetooth / wifi / apps
- Cultural improvements and emphasis through better signage in towns (e.g. Rothesay Blue)
- Creating a perception that Argyll and Bute + LLTNP is open for business

3.3 Not in Scope

- Improvement to areas outwith the control of the Authorities'
- Personnel policies and procedures
- We do not intend to review existing Local Plan Policy relating to shopfronts or their design

4 Project Objectives

The overarching aim is to create outstanding signage network that supports local businesses and complement our high quality built, cultural and natural environment.

To do this, this project must create a clear strategy to manage and monitor the display of advertisements including the development of design guidance to safeguard the statutory aims, responsibilities and policies of the Authorities'. It shall seek to complement the existing policies contained within the Local and Park Plan.

The signage strategy project is premised in the belief that good signage in the right place enlivens built environments and in the countryside it can be a valuable source of direction and information for visitors and residents alike. Unauthorised and inappropriate signage, on the other hand, has the opposite effect on amenity and is the subject of growing public concern. However, it is not intended to '*clean sweep*' the Authorities' of all unauthorised signage; this would not be practical nor in the public interest. There is also no '*one size fits all*' solution and sustainable outcomes will be sought according to the circumstances and environmental constraints of each site.

Advertising and signage is an indispensable part of commercial activity and people who run or own businesses often believe signage is pivotal to the success, or otherwise, of their operations. Advertising is a sensitive and controversial subject. The project shall be led by the planning services of LLTNP and ABC in close collaboration with colleagues in Roads and Amenity Service, Economic Development, business support, tourism, heritage, landscape, press / media, access, the ranger service and external partners particularly Transport Scotland, HIE, Argyll and the Isles Tourism Partnership and local Chambers of Commerce to ensure consistency and an integrated approach. Early engagement with business representatives and community councils along with a wider publicity drive should help to raise awareness of the aims and nature of the project to encourage its support and take-up.

The project will be challenging given the many competing interests that need to be taken into account with very different agendas. For the project to successfully influence and control the display of signage/advertisements it will need to take account of these pressures and be seen to be consistent, transparent, reasoned and in the wider public interest. A communications strategy shall also be formed.

5 Method of Approach

5.1 Project Management

A small, core project board will be established for the life of the project.

Close liaison will take place between the core project board and the project team which is made up of identified representatives of the relevant partner organisations and departments.

Small sub-project teams will be pulled together as and when necessary in order to progress work associated with specific areas of work identified.

The project will be managed by Ross McLaughlin and Iain Nicholson under the direction the ABC PPSL and LLTNP Planning Committee. Resource for specific work streams will be principally drawn from Planning staff from both Authorities' however given the cross disciplinary nature of the project other resources may be required.

Team roles and composition:

Project Governance	
PPSL Committee & Full Council	
Project Board	BPR Board Members
Ross McLaughlin	Project Manager
Angus Gilmour	Executive
Gordon Watson	Executive
Jim Smith	Executive
Robert Pollock	Executive
Cllr Sandy Taylor	Executive
Cllr Louise Glen Lee	Executive
Cllr John Semple	Executive
Cllr Blair	Executive
Cllr Freeman	Executive
Cllr Hall	Executive
Cllr McNaughton	Executive
Project Team	Key Members Involved Throughout Project Life Cycle
Campbell Divertie/Bill Weston	Roads Engineers (project support)
Fergus Murray	Planning Policy Manager (project support)
Argyll and Isles Strategic Tourism Partnership	Tourism stakeholder (project support)
Transport Scotland	Trunk Road Authority (project support)
Ishabel Bremner	Economic Development Manager (Stakeholder)

Tom Murphy	Streetscene Manager (project support)
Lynda Robertson	Conservation Officer (project support)
Communications Team / Press Team	PR (project support)
Loch Lomond and Trossachs Tourism Team + Ranger Service	(project support)

Prince 2 team role definition

Project Manager – to ensure the project deliverables meet expected criteria and project objectives

Project Support – to complete tasks / work packages as required and overseen by the Project Manager

Senior User – responsible for specifying the needs of those who will use the project deliverable

Senior Supplier – those with a vested interest in the implementation and operation of the project deliverable

Executive – responsible for delivery of the project and realisation of the project objectives

5.2 Methodology

The project will be managed in accordance with Prince2 methodology to facilitate auditing and control.

The project will follow the scope identified above and will be split into a number of work streams to deliver meaningful outputs.

The Project Board and Elected Members of the PPSL and Planning Committee as sponsors will champion the cause of this project. The Project Manager will update the PPSL and Planning Committee on a regular basis and seek his input where necessary.

The Project Manager and Members of the Project Board will convene a number of workshops across the area to launch the project, obtain feedback, involve local business, community councils and other groups to communicate and form design guidance.

Following a period of information collection and review of legislation, the core project board will prioritise each of the work streams that have been identified within the scope. Best practice will be sought from other local authorities with a view to emulating success without internally ‘re-inventing the wheel’. In close collaboration with the outer project team, small sub-project teams will be brought together to work on specific work streams with the Project Manager.

5.3 Project Plan

A project plan will be used to identify the phases – including key tasks and milestones – of the overall project and its work streams. It will be key to prioritising workload at the Project Board. The project plan(s) will evolve throughout the life cycle of the project and will be accessible via the shared drive identified in 1.1 (above). It/they will be referenced in the project updates which form the backbone of the communication strategy.

XXXXXXXX THE PROJECT PLAN & PHASING PLAN SHALL NOT BE COMPLETED UNTIL GENERAL SCOPE AND MEMBERSHIP OF PROJECT TEAM IS COMPLETE XXXXXXXX

XX SB note: publish with approx. timings with PID v1.0 XX

5.4 Phasing

Phase one requires the setting up of the governance structure, and associated controls, including relevant documentation, of which this **PID** forms part. The key components will be a **risk register**, **project plan**, and **communication strategy** (with associated documentation).

Phase two involves

Phase three will use the output from the previous phase to formally define the work streams and prioritise the work packages.

Phase four cannot be thoroughly defined at this stage,

Phase five will see

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7. Budget

There is no envisaged requirement for supplementary budget with this programme of work at this stage. Any small miscellaneous costs will be met through the Directorate Budget.

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8 Quality Plan

8.1 Quality Expectations

The project will follow the Prince2 methodology for Project Management and will be managed to achieve the timescales approved by the Project Board.

All documents will be stored in the designated drive and will be managed by the Project Manager with versions of reports being controlled through this.

An initial risk register will identify the key risks to the project. Details of risk controls will be contained within the register and maintained throughout the project by the Project Manager.

Individual work packages will be generated for each agreed work stream. These work packages will be project managed through their relevant project team structures.

8.2 Quality Criteria

The project Board will be responsible for signing off the various work packages and prioritising.

8.3 Project Assurance

The Project Manager will be responsible for ensuring that the overall programme is running to the identified timescale and will report to the Project Board on progress.

9 Initial Project Plans

A gantt chart identifying the initial project plan will be drafted for review/feedback from the Project Board. This Gantt chart will evolve throughout the life cycle of the project and identify various work streams necessary along with the timescales and deliverables expected. If necessary, individual project plans will be created as part of each work package. The project plan(s) will be available on the shared drive as highlighted in 1.1 (above).

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10 Project Controls

The Project Manager will control the project in accordance with the timescales agreed with the Project Board. Any changes to the timescales will be agreed with the Project Board.

Regular review meetings will be scheduled between the Project Manager and Project Sponsors making up the Project Board. In addition, meetings specific to the various work streams will take be chaired by the Project Manager as necessary.

Project Plan(s) will be utilised to control project timescales and milestones. In line with good project management practice, standard documentation will be used: risk register, issue log and also an ideas log to capture cost saving ideas suggested by staff in the field. In addition to this, regular project updates will be issued to keep both users and stakeholders up-to-date with progress.

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**Argyll and Bute Council
Development and Infrastructure Services**

PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE - 19 June 2013

UPDATE ON RECENT SCOTTISH GOVERNMENT PLANNING APPEAL DECISION

A) INTRODUCTION

This report advises of a recent appeal decision by the Scottish Government Directorate for Planning and Environmental Appeals relative to the case set out below.

B) RECOMMENDATION

Members are asked to note the contents of the report.

C) DETAILS OF APPEAL DECISIONS

**PLANNING APPEAL DECISION – TENA – 130-2000
FAILURE TO REPLACE TREES REMOVED IN CONTRAVENTION OF A TREE
PRESERVATION ORDER ON LAND SOUTH OF CUMBERLAND AVENUE
HELENSBURGH G84 8QG**

DATE OF DECISION – 5 June 2013

Authorisation to serve a Tree Replacement Notice (TRN) on this site was given by Committee on 19th December 2012. The TRN required a total of 109 trees to be replanted.

An appeal against the serving of the TRN was subsequently lodged and the appeal was dealt with by way of written representations and an unaccompanied site visit by the Reporter. The decision in this case was to uphold the notice but alter the number of trees which required to be replanted from 109 to 28.

In reaching a decision the Reporter concluded as follows:

- The Reporter found that a TRN could not be served as a breach of the Tree Preservation Order itself (TPO), due to the wording of the TPO, which stated that trees cut down or felled did not require to be replanted in a woodland (the notice is in accordance with the wording of the 1975 Tree Regulations). However, the Council's legal argument that a TRN could and should be served under Section 168(1)(a) of the 1997 Act was upheld. The Council's approach was therefore found to be legally correct, contrary to the arguments of the Appellant that the Council had no powers to require any tree replanting on the site.
- The numbers of trees required to be replanted was reduced. The primary reason for the reduction in numbers is the Reporter concluding that the felling of all trees on the 20m slope was "urgently necessary" in the interests of safety, and therefore replanting was

not required as it was allowed under Section 160(6)(a) of the 1997 Act. This removed 67 trees from the TRN.

- The Reporter determined that the 67 trees felled without authorisation on the 20m slope would be susceptible to falling due to windthrow caused by the felling of surrounding larch and other trees (authorised by PPSL 18.5.11 due to disease and/or the dangerous condition of the trees). The Reporter considered that this would lead to a greater susceptibility to windthrow on the remaining trees, which were on a raised and now more exposed slope, adjacent to residential properties, and potentially without a sufficiently robust root system to withstand winds due to their more sheltered growth history.
- The Reporter also determined that in addition to the 67 trees above, in the absence of any detailed survey after 2005, an additional allowance of a 20% reduction in the number of trees replanted on site to allow for losses since the 2005 survey was appropriate.
- Notwithstanding this, the Reporter did conclude **that an enforceable breach of control had taken place on the lower section of the site**. On the basis of the arbitrary 20% reduction, the Reporter reduced the number of trees required to be replanted on this lower section to the following 28 mixed species. The numbers in brackets refer to the trees on site identified in the original 2005 survey.

§ *One ash tree Whip 175cm to 200cm (Tree 88)*

§ *Four silver birch trees Whips 175cm to 200cm (Trees 87 193 201 and 203)*

§ *One fir tree Whip 175cm to 200cm (Tree 206)*

§ *Three hawthorn trees 231 233 236 Whips 175cm to 200cm*

§ *Seventeen Lawson cypress trees Whips 175cm to 200cm (Trees 126 127 128 129 130 131 132 133 134 183 185 187 188 189 190 192 and 200)*

§ *One sycamore tree Whip 175cm to 200cm (Tree 191)*

§ *One willow tree Whip 175cm to 200cm (Tree 202)*

- The replanting of the trees set out above is required to be carried out in accordance with BS standards and good forestry practice as set out at Schedule 2 of the TRN. This includes the selection of robust and healthy trees, their proper handling, site preparation/clearance works, ground preparation and the use of industry standard planting methodology. All works are required to be carried out by a competent contractor with relevant experience of tree replanting works. The TRN requires that works should not commence before 1 October 2013 and should be completed before 15 November 2013. This is the next available planting season. Officers will monitor the site to ensure that required standards set out in Schedule 2 are met.
- Members should note that a substantial number of the Larch trees which were authorised for felling on 18.5.12 due to disease, were located on this lower area as a dense standing crop and the planting and re-establishment of 28 mixed species trees on this area will, over time, and in conjunction with natural regeneration, secure an

attractive wooded site which will contribute positively to the amenity of the area and the enjoyment of residents meeting the objectives of the TRN. The spacing between the trees, which was previously limited, will also allow a larger variety of flora and fauna to establish due to improved sunlight penetration.

- In summary, the Reporter has upheld the Council's case that both unauthorised felling has taken place, and that the serving of a Tree Replacement Notice requiring tree replanting was correct and reasonable. Although he has formed his own view on not requiring the replanting of the 67 trees on the 20m slope plus a further 20% reduction, the Council has won the substantive argument that an actionable breach of control has taken place and that a TRN could and should have been served on the site owners.
- Members should also note that, as part of the appeal, the Appellant made a further claim for a full award of expenses against the Council on the basis that it acted in an unreasonable manner. In assessing this matter the Reporter noted "the considerable amount of information accumulated by the Council in relation to the woodland since the time when the tree preservation order was first made. A tree survey was carried out in 2005. The Council also had records, both written and photographic, of various site inspections in 2011. Legal advice from an outside source was obtained." He found that the Council did in fact undertake a reasonable amount of investigation and that it was justifiable for it to decide that enforcement action be taken. The Appellant's claim did not show in what way case law or precedent demonstrated that the Council's actions had been unreasonable. As such the claim for expenses was duly dismissed by the Reporter as being unfounded.

D) IMPLICATIONS

Policy: The appeal decision has confirmed that despite the wording of historic woodland TPO's not allowing a TRN to be served to require replanting in a woodland for any unauthorised felling, the Reporter has agreed with the Council's legal argument that a TRN can be served under a breach of the 1997 Act. This decision therefore ensures that there is no need to immediately redraft the wording of historic TPO's in order to ensure a TRN can be served should any unauthorised works to trees take place on other sites covered by a historic TPO.

Financial: None Personnel: None Equal Opportunities: None

Author: David Moore (01436 658916)
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Angus J Gilmour
Head of Planning & Regulatory Services

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