

# North Lanarkshire Council

## Report

### Planning Committee

approval  noting

Ref 06/06/RT

Date 17/09/20

### Confirmation of Tree Preservation Order on land at Cleland Hospital Site, Bellside Road, Cleland

**From** Lorna Bowden, Planning and Place Manager

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#### Executive Summary

The purpose of this report is to confirm a Tree Preservation Order on land at Cleland Hospital Site, Bellside Road, Cleland.

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#### Recommendations

It is recommended that under the powers of the Town and Country Planning (Scotland) Act 1997, as amended, that the Planning Committee agree to confirm the Tree Preservation Order which is located on land at Cleland Hospital Site, Bellside Road, Cleland that is identified by the boundaries of this plan which accompanies this report (see Appendix 1).

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#### The Plan for North Lanarkshire

Priority Improve economic opportunities and outcomes

Ambition statement (17) Ensure we keep our environment clean, safe, and attractive

#### 1. Background

- 1.1 A request was received to promote a Tree Preservation Order on land at Cleland Hospital Site, Bellside Road, Cleland following the refusal of a planning application for the development of the land by the Planning Committee on 30 January 2020 (Planning Reference 19/00510/FUL).

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#### 2. Report

- 2.1 Delegated approval to promote the Tree Preservation Order in accordance with the provisions of the Town and Country Planning (Scotland) Act 1997, as amended, was sought and agreed by the Convener of Planning and Elected Members of Ward 20 between 28 February and 5 March 2020.
- 2.2 The proposal was to designate “a group of trees” for the Tree Preservation Order specified by reference to an area, which will ensure that the trees will receive protected

status and would require prior consent from the planning authority before works to lop, top or fell them can be implemented. The designation of the Tree Preservation Order will allow the local planning authority to protect the trees as they are expedient in the interests of amenity of the area.

2.3 The Tree Preservation Order was issued and took effect on 20 May 2020. One objection was received. The main points of objection are detailed below:

1. The report which recommends approval of the TPO contained no proper analysis of the trees the TPO will protect and whether their protection is truly justified in the interest of amenity.
2. The TPO ignores the evidence previously submitted to North Lanarkshire Council ("the Council") regarding the health and amenity value of particular tree specimens. Persimmon Homes and the Board would, if the Council had approached them, given binding legal commitments not to undertake any works on the trees on the Site pending the outcome of the appeal against refusal of planning permission on the Site.
3. The TPO is unnecessary and has not been properly justified. It should not be confirmed in relation to the whole Site without proper analysis of the value of the individual or groups of trees.
4. Notwithstanding the current planning appeal process, the blanket TPO as proposed by the Council would present a wholly unjustified burden on the Board's day to day management and maintenance of the Site. Such an order would require on an ongoing basis a degree of consultation and approval from the Council, in respect of routine matters of the estate and woodland management that is wholly in excess of that which could be reasonably justified.

In response to above points above I would offer the following comments:

1&3. Under Section 160 of the Town and Country Planning (Scotland) Act 1997, as amended "a Planning Authority have the power to make a Tree Preservation Order if it appears to them that the requirements of subsection (1A) are met, make an order specifying any trees, groups of trees or woodlands in their district and providing for their preservation. (1A) Those requirements are (either or both) – (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".

The Planning Authority in this particular instance made a Tree Preservation Order under the requirements of subsection (1A)(a), as it is considered that the designation of a Tree Preservation Order will allow the local planning authority to protect the trees as they are expedient in the interests of amenity of the area.

2. Trees covered by a Tree Preservation Order are protected by legislation to ensure that any works to the trees are controlled by the local planning authority. It does not prevent any necessary works to trees taking place. It does however provide a mechanism to ensure that only acceptable works take place to the protected trees.
4. The applicant would not require to submit separate applications for the maintenance works to each individual tree covered by the Order. The council would be willing to accept the submission a woodland management scheme which would allow the day to day management of the trees over a specified period without the need for continued separate applications. In addition, if any

works were approved by the [Forestry Commission](#) under a felling licence or other approved scheme, they would be exempt from TPO control.

- 2.4 For these reasons I would recommend that the Planning Committee agree to confirm this Order as it will ensure that these trees are protected and prevent any unnecessary tree felling on the site.

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### **3. Equality and Diversity**

#### 3.1 Fairer Scotland Duty

The promotion of The Tree Preservation Order does not affect this Duty.

#### 3.2 Equality Impact Assessment

Is not required in this case.

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### **4. Implications**

#### 4.1 Financial Impact

There will be a financial implication to the Council arising from the confirmation of the Tree Preservation Order, the costs of which will be met from the Planning & Place Revenue Budget.

#### 4.2 HR/Policy/Legislative Impact

Trees covered by a Tree Preservation Order, are protected by legislation to ensure that any works to the trees are controlled by the local planning authority.

#### 4.3 Environmental Impact

The Tree Preservation Order will give greater protection of trees and woodland which supports the objectives contained in the North Lanarkshire Biodiversity Action Plan.

#### 4.4 Risk Impact

There is no risk foreseen as the Tree Preservation Order does not remove the responsibility or “duty of care” from the owner of the trees to ensure that their trees do not become a danger to the public.

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### **5. Measures of success**

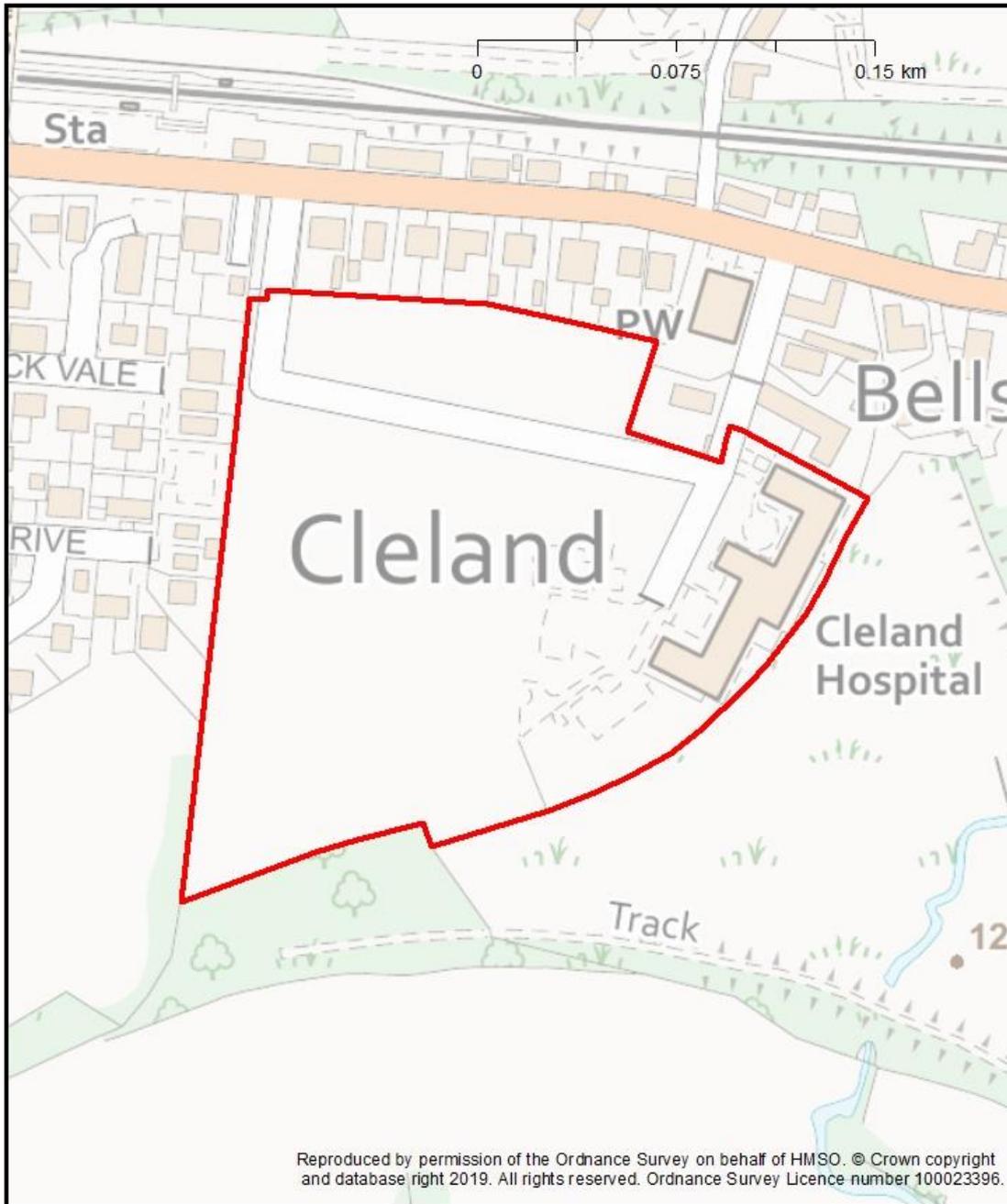
- 5.1 The promotion of the Tree Preservation Order will ensure that the trees are protected.
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**6. Supporting documents**

- 6.1 Appendix 1 – Location plan which indicates the boundary of the Tree Preservation Order.

A handwritten signature in black ink, appearing to read 'L. Bowden'.

**Lorna Bowden**  
**Planning and Place Manager**



**Tree Preservation Order  
NLC/S/17 2020  
Cleland Hospital Site  
Bellside Road, Cleland**

