

# **RHU AND SHANDON COMMUNITY COUNCIL**

## **Torr West Native Woodland, Rhu**

Comments on a draft Management Plan prepared by the landowner Mrs Anne Ferguson dated June 2021 and community site briefing on 10 June 2022.



## Torr West Wood

Torr West Wood is an approximately 3ha mixed broadleaf woodland located at NS 27358 84557 and NS 27526 84443. It is recorded in the Ancient Woodland Inventory as Long Established Plantation Origin (LEPO) and in the Native Woodland Survey of Scotland as native woodland. It is shown on the First Edition Ordnance Survey map of c.1860.

The General Roy Maps of the 1750s do not provide detailed mapping for the Helensburgh and Gareloch area and no woodlands at all are shown; the earliest map evidence in 1860.

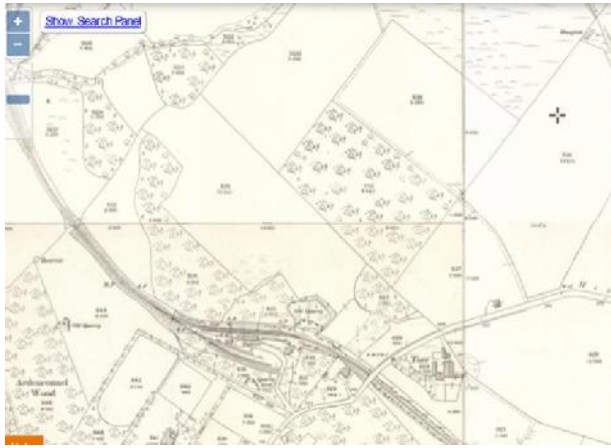
However, a LEPO woodland can be so well established, as is the case with Torr, that it can develop many features associated with ancient woodland. In particular, species of plants, lichens, bryophytes, birds, invertebrates and mammals. Forestry experts advise it takes almost 40 years for an unmanaged broadleaf woodland to be left undisturbed before it reaches a purely natural and native state where it regulates itself in terms of natural selection for species dominance, balanced and undisturbed biodiversity and genetic resilience and adaptation to disease and climate adaptation.

Undisturbed woodlands also have important and increased carbon capture capacity aided by undisturbed soils and woodland floor. Torr has not been managed for 35 years according to the landowner and is currently a naturally regenerating woodland.



**1862 First Edition OS map showing Torr West woodland**





**1892**



**2022**

**.....130 years.....**

The woodland is healthy, by the owner's admission and as seen at the site meeting on 10 June 2022. The woodland is wet woodland and dominated by Alder, with Beech (non-native plantation), Oak, Rowan, Ash and Birch are also present and there were many seedlings in the glades. Alder has been managed for coppice in the past. The woodland has a high biodiversity value due to being left to its own devices for over three decades. It is home to a wide variety of birds including owls, woodpeckers, nuthatches, corvids and tits and has a varied woodland floor. However, no environmental study or surveys of any kind have been undertaken so there is no environmental baseline.

### **Torr Management Plan Basic Proposal**

The Torr Management Plan proposes felling 26% of the woodland, equivalent to 685 trees and 480 cubic meters of timber, over a ten year period.

### **Community Consultation**

Rhu and Shandon Community Council (RSCC) were contacted by the landowner on 11 May 2022 and provided with a draft Management Plan for the woodland dated June 2021. The community was invited to a site meeting led by Mike Strachan, Operations Manager, Scottish Forestry on 10 June 2022. Twenty nine people were present at the meeting. At this meeting it was advised the draft Management Plan was 'out of date' and has changed. It is therefore difficult for RSCC to provide a clear consultation response as the management plan documentation is not current. The draft management plan is also incomplete and lacking in detail and it would be a matter of concern if a management plan that is so incomplete and lacking in detail were to be approved by the government regulator Scottish Forestry.

While the opportunity for the community to contribute to the revised version of the management plan is welcome it is difficult to provide a comprehensive or detailed response on the basis of additional oral information presented in an informal site meeting where many side conversations took place. RSCC have therefore focussed our response on the written information provided in the draft plan, although information provided at

the site meeting is acknowledged, and would expect that the variations and new proposals advised at the meeting will be reflected in a second draft management plan to be circulated in due course. We hope that the comments given here will be addressed in the revised version 2 of the draft management plan

### **Relevant Legislation**

- Forestry and Land Management (Scotland) Act 2018
- Felling (Scotland) regulations 2019
- (And see also Felling Permission – Application Guidance (Scottish Forestry, May 2019))  
<https://forestry.gov.scot/publications/678-felling-permission-application-guidance>
- Wildlife and Countryside Act 1981
- Nature Conservation (Scotland) Act 2004
- Wildlife and Natural Environment (Scotland) Act 2011
- Flood Risk Management Act (Scotland) 2009

### **Woodland Policy**

Scottish Forestry is the Scottish Government agency responsible for forestry policy, support and regulation. They were established as an Executive Agency of the Scottish Government on 1 April 2019, following full devolution of forestry to the Scottish Parliament as a result of the **Forestry and Land Management (Scotland) Act 2018**. The Act requires Scottish Forestry to produce and maintain the Scottish Forestry Strategy.

**Scottish Government:** Scottish Government's policy on **Control of Woodland Removal 2019, states:** *'There is a strong presumption against removing ancient, semi-natural woodland. Only in exceptional circumstances should the strong presumption against woodland removal be over-ridden.'*

### **Scottish Forestry:**

**Scottish Forestry Strategy Implementation Plan 2020-2022** states an objective is *'Maintaining and enhancing biodiversity, in particular by using the recruitment of natural regeneration and improving mitigation of the risks posed by invasive non-native species, deer and other herbivores.'* The Strategy states it will deliver this objective by *'Use (of) incentives, regulation and partnership working to protect and improve native woodland condition'*.

**Forestry Strategy Activities** are listed as:

- *Supporting and enabling design and management of forests and woodlands to increase their positive impacts on air, water, soils, biodiversity and landscapes*
- *Safeguarding priority habitats and species*
- *Identifying and managing the cultural and historic value associated with our forests and woodlands*

- *Supporting activity to improve the ecological condition and habitat quality of native forests and woodlands, including PAWS*
- *Supporting the management of forests and woodlands to provide natural flood management and shelter for livestock*

### **Nature Scot:**

*NatureScot's position is: 'Ancient and semi-natural woodland is an important and irreplaceable resource. It must be protected, as should all native and mature woodland.'*

### **The United Kingdom Forestry Standard (UKFS) 2017:**

*If native species are still present, natural regeneration and colonisation are the most appropriate way of creating and restoring woodland habitats. ... the highest sustained levels of woodland ecosystem carbon are found in ancient woodlands, mature woods managed for conservation, and continuous cover silviculture systems. standing and fallen deadwood provides a vital element of ecosystem carbon, and actions to remove forest residues for woodfuel have to be carefully balanced against the benefits of retaining them for ecosystem carbon storage.*

*In semi-natural woodland, limit felling to 10% of the area in any five-year period unless there are overriding biodiversity or social advantages.*

*Semi-natural native woods are characterised by predominantly natural features. These include a range of native, naturally regenerated tree and shrub species, old trees and deadwood, woodland flora, and rich and undisturbed woodland soils.*

*The ecological processes that shape natural forest ecosystems include vegetation succession, natural regeneration, windthrow, flooding, drought, the activities of herbivores, insect attack, disease and fire.*

*Encourage natural regeneration of native tree and shrub species to promote natural selection and climate change adaptation, and conserve distinctive genetic patterns – especially in and around semi-natural woodlands..... Leave a proportion of standing and fallen deadwood in each forest management unit,*

*Native woodlands are among the richest habitats for biodiversity and they support a high concentration of UK priority species. Native woods are broadly defined as woodlands mainly composed of native species and can include both semi-natural and planted trees.*

*Generally, the greater the volume of deadwood, the higher the biodiversity value. ..Deadwood occurs as whole standing trees, fallen branches and stumps, while veteran or ancient trees – although alive – have rot holes, dying limbs and heart rot. all of these different deadwood types have their own characteristic fungi, flora and fauna.....native species provide the most valuable deadwood for biodiversity, especially in sections of 200 mm diameter or more..... Up to a fifth of woodland species depend on dead or dying wood for all or part of their life cycle. ....Old trees and deadwood are particularly significant for woodland biodiversity.*

*Forest edges that grade into open ground and, where possible, contain mixtures of native trees and shrubs are far more beneficial to biodiversity than abrupt edges.*

*Careful assessment and prioritisation, linked to the monitoring of outcomes, is needed to ensure that management will be effective in securing biodiversity and ecosystem objectives.*

In 2019 Scotland was the first country in the world to declare a climate emergency. The Government has stated in the [Climate Change \(Scotland\) Act 2009](#), amended by the [Climate Change \(Emissions Reduction Targets\) \(Scotland\) Act 2019](#), that Scotland aims to reach net zero by 2045. It is Scottish Government policy to increase biodiversity (Scottish Biodiversity Strategy 2022) and the Scottish Government's forestry regulator, Scottish Forestry, is tasked with protecting and enhancing ancient and native and semi native woodland.

According to the United Nations, deforestation is one of the biggest contributors to global warming (<https://www.unep.org/resources/factsheet/deforestation>). Scotland has only 4% of native woodland (including 1-2% of ancient/LEPO) and our country is racing against time to try to increase native woodland and contribute to worldwide efforts to tackle the declared climate emergency. Native saplings planted now will take 80-160 years or more to start sequestering carbon at the current levels mature trees are providing this service.

### **Unauthorised Felling in 2020 – 2021**

The landowner has admitted she 'made a mistake' and clear felled 66 trees in one area in January – April 2021 and a further approximately 40 trees in 2020. The 2021 felling was in excess of the 5 cubic m per quarter permitted without a licence under the **Felling (Scotland) Regulations 2019**. The landowner advised she had consulted Argyll and Bute Council as to whether she could fell the woodland and was advised as there was no TPO and it was not in a Conservation Area she could do so. It would appear the **Forestry and Land Management Act 2019** and **Felling (Scotland) Regulations 2019** and **Wildlife and Countryside Act 1981** were not consulted before the clear felling of 66 trees took place in 2021.

Following a site visit to inspect and assess the unauthorised felling Scottish Forestry (Mike Strachan) on 13 April 2021 advised Argyll and Bute Council in writing '*Having now investigated the felling works carried out, we are now actively pursuing a breach of the Forestry and Land Management (Scotland) Act 2018. The freshly felled area has at least 21m<sup>3</sup> of trees felled recently (the exemption is for only 5m<sup>3</sup>). Given the amount of works carried out here over the last 12 months or so, I would suggest that the woodland is under threat and that the use of a TPO for both the area you looked at and the area to the north would be appropriate.*' It would appear that Scottish Forestry, the government regulator with the powers to take enforcement action, has decided not to enforce the law and instead are working with the landowner to develop the management plan for the woodland.

At the community meeting the following question was asked of Mike Strachan of Scottish Forestry, 'How do we get from SF stating it was going to take enforcement action for the



unauthorised felling of 66 trees and just under 22 cubic metres to SF supporting a proposal to fell 685 trees and 480 cubic metres (over ten years). This is almost 150% more felling than if the permitted 5 cubic metres per quarter just continued'. Mr Strachan did not provide a clear answer to this question and the tour of the woodlands did not provide the answer.

It is unhelpful to the community consultation process that the landowner commented in the local press (Helensburgh Advertiser, 16 June 2022) that she was subjected to 'unsubstantiated allegations and accusations 'at the meeting and to dismiss concerns expressed by the community as 'unfounded'. Concerns were expressed by attendees about the felling of veteran beech trees and felling during the bird nesting season. The landowner has subsequently provided evidence from Scottish Power that they felled one of the beech trees in October 2020 after she notified it to them as dead, and confirmed she felled the other dead tree which had been struck by lightning years ago. Mrs Ferguson categorically denied she had undertaken any felling during bird nesting season (1 February – 31 August), which would be a breach of the **Wildlife and Countryside Act 1981**. However, the unauthorised clear felling was discovered in early April 2021 after a sustained period of chainsaw noise, which all near neighbours and adjacent land users were aware of and sought to investigate.



**April 2021, clear felling of 66 trees in one area.**

## **Landowner's explanation for the proposed felling of 26% of Torr West woodland**

The 'crop' requires management as it is overgrown with dead and self-seeding trees.

Felling would ensure the existing trees are provided with the environment and space to thrive.

It is her intention to restore the woodland to what it was.

There is no commercial interest and wood for her own private supply only will be harvested.

Up to 10% if the wood will be left on the ground to rot *in situ* – contradicted by – it is too difficult to extract the felled timber.

Felling 26% of the woodland will allow new trees to grow up and replace the old ones and create a healthy, well stocked and diverse woodland.

It is costing her money in its present condition

## **Community Concerns**

- Loss of native woodland
- Loss of biodiversity
- Adverse impact on birds and other declining 'red list' species like hedgehogs
- Adverse impact on drainage and increasing flood risk
- No control over felling 'self-select' which trees to fell is a *carte blanche*
- Unclear agenda, many comments to the effect that folk feel there is an underlying and unidentified motive
- Carbon capture – reducing the woodland by 26% will reduce not enhance carbon capture and is contradictory to the climate emergency and net zero targets which promote planting 14,000 hectares of new woodland per annum and increasing woodland cover of Scotland to 21% by 2032.
- The argument for cutting down old trees showing signs of disease because a branch or tree might fall and kill someone is disingenuous considering the woodland is not accessible to the public

## **The draft Management Plan**

- **Details 1:** The nearest locality is Rhu, not Helensburgh.
- **Details 1:** It is correct the woodland is not covered by a Tree Preservation Order. Argyll and Bute Council were requested to apply a TPO by Scottish Forestry in April 2021. This has been pursued with Argyll and Bute Council by RSCC on several occasions and the CC was advised it would be determined in June 2022. It did not appear on the agenda of the June 2022 Helensburgh and Lomond Area Committee Meeting.
- **Details 1: Declaration** This is dated 16 June 2021 and declares that all stakeholders have been notified and their views sought. It further declares the



application is complete. Neither of these declarations are accurate assuming RSCC would be considered a stakeholder, and the management plan is not complete.

- **Maps required 2.1** – The two supplied hand drawn maps are incomplete and not of the standard required in the **Felling Permission – Application Guidance (Scottish Forestry, May 2019)**.
- **History of Management 2.2** states *‘In the last 2 years there has been gradual clearing of small self-seeding scrub, felling and tidying of dead trees in an attempt to begin to bring the woodland into a manageable condition. Prior to this the woodland has been left untouched for the last 35 years, previous to that it is unlikely that any significant woodland management took place.’*  
This is incorrect. Healthy trees in excess of 30 years of age were felled, the 66 trees that were clear felled were not small self-seeding scrub or dead. ‘Tidying up’ a native woodland that has been unmanaged for over 35 years is an unusual description for clear felling. The landowner indicated the woodland had been managed more recently during the site meeting.
- **Species and age 2.3** does not provide an assessment of the original age of the woodland but notes that Oak, Beech and Ash are generally over 80 years old, and the woodland is described as a ‘crop. The wood is shown as established by 1862 and is therefore in excess of 160 years old. The felling list (Table 1) indicates the trees to be felled are up to 150 years old, these would be considered as veteran trees.  
(See: <https://www.woodlandtrust.org.uk/media/1836/what-are-ancient-trees.pdf>)
- **2.4 Constraints and Designations** – the answer states *‘There are no statutory and non statutory constraints’*. This fails to acknowledge the inclusion of the woodland in the Ancient Woodland Inventory and the Native Woodland Survey of Scotland. It raises considerable concern that the landowner does not have a full appreciation of the significance, biodiversity and diminishing resource of native woodland.
- **2.5 Public Access** the answer states public access is limited, not on a walking route and not frequented by visitors. The argument for felling veteran trees showing bracket fungus because they are dangerous to people is contradictory. Access is described as difficult due to smaller self-seeding trees (i.e. natural regeneration), fallen branches and trees (i.e. natural decay that nourishes the soil increasing carbon capture and supporting biodiversity) and streams creating boggy areas (which support wet native woodland dominated by species such as Alder which soak up the water and prevent flooding).
- **2.6 Woodland Protection** The woodland is correctly described as generally healthy. Ganoderma tree fungus is described as causing trees to die or be dead (see the value of tree fungus to biodiversity and as a marker of veteran trees in the Woodland Trust link above, UKFS extracts and various other sources).
  - The reasoning that trees are not maturing is because of overcrowding does not acknowledge the primary reason that smaller trees are not reaching maturity, which is herbivore browsing and grazing.
  - There is no mention of the invasive *Rhododendron ponticum* starting to colonise the woodland.
  - There is no mention of deer or other mammals in the question that specifically asks about deer and livestock and other mammals.

- The questions on **water and soil** and **Environment** are both blank indicating no assessment has been made of the vegetation classification, soil classification, Groundwater Dependent Terrestrial Ecosystems (GWDTE), biodiversity of the woodland floor, water pooling or flood assessment. There is a second prompt on invasive species.
- **Climate Change Resilience.** This question is also blank. It is well known that trees capture (or sequester) carbon. Hence the Scottish Government's objective of 21% woodland cover to tackle the declared climate emergency and increase carbon capture leading to 'net zero' by 2045. Natural native woodland is a premium carbon sink collecting in the woodland floor and soils as well as through photosynthesis of the canopy.
- **3.1 Vision.** The Vision is admirable, but it could be argued that the woodland is well stocked already, is healthy and, having been left unmanaged for 35 years, is self-regulating.
- **3.2 Management Objectives.**
- How will the outcomes be measured? There is no information on pre-felling and proposed post-felling density.
- There is no baseline ecological survey to establish to current biodiversity status of the woodland. It cannot be argued that the felling would increase biodiversity if we don't know what the biodiversity is to start with.
- Is felling of 26% of a woodland (over 10 years) thinning or felling? Does felling of veteran and mature trees over 80 years of age in favour of saplings increase biodiversity and carbon sequestration?
- How will the saplings be protected from herbivore damage?
- What are the social considerations and how will our collective social responsibility to tackle the climate emergency be addressed?
- Will up to 10% of felled wood be left to rot to provide increased biodiversity or is a higher percentage going to be left in the wood? At the site meeting when discussing old coppiced Alder the landowner stated it would be too difficult to remove the felled wood. Is the Alder to be coppiced for a supply of firewood (economic benefit) or is it going to be left to decay in the woodland?
- The woodland edge appeared to be dispersed and accessible to people and livestock at the site meeting.
- Felling veteran trees to c.3m high stumps (with castellated crowns) is stated as a method to provide an abundance of insects and habitats and improve on-site biodiversity. Considering any ailing trees have been determined not to be a threat to the public is not allowing the natural cycle of life and death (nature knows best) the best biodiversity strategy? **UKFS** states old and dying trees and deadwood provide maximum biodiversity and they should be retained.
- Removing any saplings growing within 1.2m of the collapsed drystone dyke (and transplanting them elsewhere) is sensible to provide further deterioration of the wall. However, removal / felling of trees already established in the dyke (as per Parcel 10) is a Catch 22 – the dyke is already disturbed and the options are - a rotting stump will create voids and the dyke will collapse; the tree will die and rot and the dyke will collapse; or the tree will fall and the dyke will collapse.
- Is this sustainable management and how will this be demonstrated?

- What is the restocking strategy if there is one?
- What will happen to the felled stumps? Will they be allowed to regenerate?
- What is the timescale for felling to minimise impact on wildlife?
- There is no assessment of carbon capture.
- There is no mention of addressing invasive species
- There is no mention of a strategy to protect the woodland from grazing to allow saplings to develop
- The selection of trees for felling is all noted as ‘feller select’. This is not an acceptable approach. If the woodland is to be managed for regeneration of selected species the species, age, condition, carbon capture contribution, biodiversity value etc of any tree to be felled needs to be understood first.

**4. Stakeholder Engagement** Whilst the circulation of this Management Plan to RSCC and the site meeting are to be welcomed it is disappointing that this management plan is a year old, described as out of date and was not circulated to RSCC in June 2021. It is also disappointing that the declaration says stakeholder engagement had been undertaken when it had not. RSCC welcome the opportunity to comment on a revised Management Plan in due course. Notification of neighbours and publicising the 10 June event to local residents was undertaken by RSCC.

**5. Analysis and Management Strategy.** This section is not completed and therefore RSCC are unable to comment. The only information is under **5.1 Constraints and opportunities** and lists difficult access, water / boggy land and some diseased trees as presumably the main reasons for this proposal to fell 26% of the woodland.

**6. Management Proposals** This section is not fully completed and is inadequate.

**6.1 Silvicultural Practice** simply says refer to 3.2 suggesting the applicant does not understand the difference between management objectives and silvicultural practice (i.e. how to achieve the management objectives in a sustainable manner). This is further indicated by the across the board ‘feller select’ system for ‘marking of trees’ in Table 1 which is interpreted as there will be no pre-felling survey, assessment and selection of trees by a qualified person and the landowner can choose what to fell with no guidance or controls exercised over the process. This latter scenario is not considered an acceptable approach to responsible woodland management.

It is concerning that no analysis has been undertaken, no management strategy and no silvicultural practice identified on a signed application form submitted to Scottish Forestry for approval, whether it is a draft or not.

**6.1 Thinning Prescription and Table 1 and two hand drawn maps.** The maps are of poor quality and should meet the standards required in the Felling Application Guidance. It is concerning to see 30%, 40% and 50% of woodland compartments are suggested for felling. 50% does not sound like thinning, whereas 10% does, it sounds like clearance.

There is no suggestion of measuring pre and post felling stock density. Without this it will be impossible to determine what percentage of woodland has been removed.

**To work out stocking density:**

1. Before thinning:



- a. Set out a 10 m x 10 m square in a representative area.
- b. Count all the trees.
- c. Repeat in at least two more squares. More for bigger areas.
- d. Calculate the average.
- e. Multiply the average by 100.

This gives you Pre stocking density

2. After thinning:

Repeat a – e (ideally use the same 10 m x 10 m squares)

This gives you post stocking density.

## **The Way Forward**

A new, revised and complete Management Plan should be prepared. The current Management Plan is inadequate and incomplete.

Environmental surveys to establish the biodiversity baseline is a prerequisite for developing a management plan. It cannot be argued that felling as proposed will improve biodiversity if the existing biodiversity baseline is not identified and understood. The management plan needs to demonstrate how it will improve biodiversity.

No control of invasive species (rhododendron) has been mentioned in the draft and this needs a management strategy.

There is no mention of fencing or management measures to protect new growth in the woodland. The management plan states felling will allow more light to get in so saplings of preferred species such as oak and beech can grow and thrive, (encouraging non-native Beech is debateable in the first place). It is well known that the main reason saplings fail to reach maturity is due to browsing by grazing animals. **Scotland's Native Woodlands – Results from the Native Woodland Survey of Scotland (2014)** states '*The most widespread threat is from herbivore impacts, mainly through browsing and grazing.*' Deer are present and sheep have been introduced to the pasture further increasing grazing pressure. Fencing is required if the woodland is to be managed to encourage preferred species rather than allowing the woodland to be a self -sustaining predominantly wet native woodland dominated by moisture loving species such as Alder.

What is the restocking programme? Active management of the woodland also requires a restocking programme in addition to felling and fencing. Cutting down 26% of the woodland and then leaving it its own devices may cause more damage than good without effective management, removal of the on-site invasive species and protection of the new saplings from grazing.

It is recommended the landowner studies the **UK Forestry Standard** and follows the **Felling Permission – Application Guidance** (Scottish Forestry, May 2019) and **Management Plan application guidance** and carries out the necessary studies and

statistical assessments and presents these in a revised management plan for consultation. <https://forestry.gov.scot/publications/643-management-plan-guidance/download>

Management of coppice for firewood would meet the needs of the landowner for a firewood supply and provide light for saplings to grow up without the need for felling of mature trees in the existing open glade woodland where there is no relict coppice. Coppicing would reflect the historic management pattern of the woodland and provide a crop of economic value to the landowner.

## **Appendix**

**Written comments received by RSCC** (the majority of feedback was given orally and has been covered in the general response above)

### **One**

Having attended the recent meeting regarding the ancient woodland I would make the following comments.

1. Ancient woodlands are our country's heritage belonging to us all and although it is on privately owned land I do not think its management should be at the discretion of the landowner.
2. Although Ms Ferguson appears to be acting in the best interest of the woodland I was not reassured by her plans. It seemed that although she has the support and advice of the forestry department she would be very much left to do what she alone believed to be correct. I feel that such a site should have stronger control and nothing should progress without professional supervision.
3. These woodlands have survived perfectly well for very many years and I am not convinced of the advantages of introducing a 'management' policy now.

### **Two**

- I am concerned about flooding to dwelling houses in the Station Road/old railway station area and also about old drainage pipes running under the railway line being able to cope with increased water levels the proposed scale of tree felling could cause. It was obvious this aspect had never been considered
- During our walk-round we all observed the clear evidence that illegal felling had in fact taken place and many of the Alder tree stumps were much older and larger than MS initially had us believe.
- It was pointed out the coppicing he was suggesting would remove a significant amount of Alder foliage which was currently capturing carbon and that the small oak tree we were looking at would take many, many years to grow to the size where its foliage would match that of the current Alder. This would create a significant loss of carbon capture in the meantime to the detriment to the

environment for many years during a period when we are advised by environmental experts...time is of the essence. I felt MS had over egged the coppicing situation and had no discernible answers.

- My overall observation is the Plan we were asked to consider is inadequate and lacked important attention to detail in several areas which is the responsibility of the applicant.
- When we had stopped at the site of Beech Trees/Power Lines, Audrey again raised the issue of illegal felling. She reminded him he had declared he intended to take enforcement action. MS again robustly shut down this conversation saying we are not here to discuss this matter by saying “the Procurator Fiscal (PF) has more important matters to deal with than this” or words to that effect. This comment told me he had not reported this offence to the PF and from his manner that day, I think he has no intention of doing so.

Deciding not to bring a criminal case for a clear breach of the Forestry & Land Management (Scotland) Act 2018 for consideration of the PF on the grounds it is somehow too trivial and therefore ‘not in the public interest’ is not how corporate bodies responsible for enforcement of the criminal laws ought to act. Such behaviour is improper and tantamount to Scottish Forestry being judge, jury and executioner – that is what the criminal justice system is for, not a corporate body with enforcement powers.

MS’s assertion the PF is too busy to carry out his lawful duty to consider a report about illegal tree felling is in my opinion absurd nonsense. I think this was bluff and a raw attempt to silence members of the public at the meeting because he did not want to be answerable for failing to enforce the law so he made a ‘claim to authority’ purporting to know what the Dumbarton PF would or would not deal with. His decision not to enforce and report this case to the PF is unfathomable because it acts against the will of the Scottish Parliament legislators who specifically created a criminal offence designed to deter and prosecute illegal felling. His failure to report breaches of the Act therefore undermines the rule of law and that cannot be right.

This attitude sends out the wrong message and is completely counterproductive to what Scottish Forestry should stand for. No one within this body should be closing a blind eye to any acts of criminal wrong doing which comes to their attention.

- There is no doubt the law was broken and AF admitted she was responsible and had made a mistake. Having checked with A&BC and advised the trees are not within a Conservation Area or subject to a Tree Preservation Order she presumed it was ok to cut them down. Had she used Google to make basic enquiries she would have found on the Scottish Forestry site she needed permission and in any case ignorance of the law is no excuse.
- In fairness it would appear AF acted in haste without proper forethought and there is no evidence to suggest personal reward or gain played any part in her actions or evidence to suggest she set out intent on destroying or damaging ancient woodland. The fact that she probably did, would no doubt successfully be argued



as inadvertent due to the manner in which she felled the trees and disposed of the timber which tends to support the assertion her only intent was to create what she perceived as 'improved woodland conditions' to provide animal shelter and grazing for farm animals. This would explain her actions but not necessarily excuse them.

- Another factor often considered when deciding whether or not to prosecute is 'deterrence', especially if a certain type of criminal conduct is becoming more prevalent. Increased prosecution can help deter other offenders and that is why the PF Service is the appropriate independent body to decide whether taking a prosecution in any particular case is in the public interest or not; enforcement bodies are not best placed because they can hardly be described as impartial.

### **Three**

1. I do not believe these woods need a " management plan " as they are classed as LEPO and to quote NatureScot, the Government's own agency, "LEPO woods are often just as valuable as Ancient Woods of Semi-Natural Origin and should be treated as such. Although all woods on the AWI are, anyway, likely to be of value for their biodiversity and cultural value by virtue of their antiquity -LEPO just as much as ASNO."

2. We are living in a time of biodiversity and global warming crisis and the destruction of habitat such as will be caused by "managing" this wood will only add to that, for reasons that have been well documented.

3. The consultation got off to a bad start for me as I'm sure the mature and intelligent attendees did not appreciate a patronising Blue Peter style demonstration of what thinning trees entails.

4. During the walk through the site, only the beech affected by Ganoderma was pointed out as being diseased. I remain to be convinced that this tree is ready to fall over and thus presents a hazard to unwary picnickers....possibly the diseased trees targeted for felling on the (illegible) map could be marked and an explanation given of what disease they have.

5. If the revised plan includes the option for the feller to select what trees to take down, what is there to prevent wholesale clearance, as has been carried out in the areas already clear felled.

6. What measures (not plastic tubes, please!) will be taken to protect the oak saplings that are the preferred species.

7. Will the removal of mature alder trunks not affect the uptake of groundwater by these trees ?

8. If any trees are felled, will the timber be left to rot on the woodland floor, as happens in Ancient Woodland and not stacked ready for removal as has been done in the clear felled areas.

9. As part of the management, will any invasive species, such as rhododendron be removed from the wood?

## Four

On the face of it, the application does not appear to be commercial and, taken at face value, is about an owner wanting to restore the original land for grazing.

The problem is the context of illegal felling previously and the out of date nature of the draft management plan. I was surprised at how quickly it became confrontational and thought the remarks about going to the police and the PF was over the top. It will be interesting to see what Scottish Forestry say to you in writing.

I would have thought that if the applicant reduced the number of trees to be felled, spread them out over the 10 year period talked about and concentrated them on the area next to the field, the proposal would be more proportionate. I agree with the point about carrying out an environmental survey.

## Five

Mike Strachan said the landowner didn't know she was doing anything wrong. I don't think ignorance of the law is a valid argument or useful / sensible approach for the forestry regulator to adopt. If anything this attitude from the regulator demonstrates why the current safeguards of native woodlands are not effective. Mr Strachan advised go to the Police if there is illegal / unauthorised felling (so it seems SF are not the right people to contact).

It is also concerning that the landowner stated she had consulted A&B C and was told that because there was no TPO and it is not in a Conservation Area she was allowed to fell the woodland. I don't expect the Council to give out legal advice but I do expect planning officers to be aware of the implications of a native woodland category and that this means the Felling (Scotland) 2019 regulations require a licence for greater than 5 m<sup>3</sup> per quarter and that the Countryside and Wildlife Act 1981 applies ('All birds, their nests and eggs are protected by the Law and it is an offence to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built.) Anne Ferguson stated she had not felled the woodland in February - April 2021, the beginning of the nesting season, but all neighbours think she did and that was very disappointing.

It would have been useful to have been presented with a fully formed woodland management plan as it was stated on several occasions the one provided is out of date and not the correct figures and the 26% felling would be over a ten year period. It is also a concern that there has been no survey of the woodland – trees, flora, wildlife, birds, bats, archaeology, GWDTE (Ground Water Dependant Terrestrial Ecosystems which are safeguarded by the Water Framework Directive (WFD) and are sensitive to hydrological and ecological change. The '*Water Environment (controlled Activities) (Scotland) Regulations 2011*' requires a licence for certain activities and is regulated by SEPA), so there is no baseline of what is going to be altered / removed. It is all very vague really. Mike Strachan said it was for the community to identify any ecological etc issues and feed the information into the management plan. I don't think this is acceptable to place the onus on local people, I think it is the landowner's responsibility to have the necessary surveys done before they start chopping down the wood, or 'crop' as the owner referred to it.

Mr Strachan said, 'a few not a lot of trees are to be cut', 685 is a lot to my mind. Anne Ferguson said the numbers are indicative and she has not counted the trees, and this is a low impact plan. A quarter of all the trees does not sound low impact and overall it seems not very well thought through.

## **Six**

Anne Ferguson came across as being genuine at the Torr Farm meeting on the 10th June. Anne, in her own words describes herself as "commercially focussed, strong background in business support and development, and government sectors, track record of managing projects, utilising innovative methods, with an expertise in business. And having key skills in "Planning, Organising and Reporting, Project Design and Management"" Her assertions derive from LinkedIn, Twitter, and personal business activity platforms. Anne runs a consultancy business, and describes herself as having a broad experience and exposure with Stirling Council.

I have no doubt Anne would have had the wisdom to seek permission to remove or destroy a substantial amount of trees.

Mike Strachan's presentation at Torr Farm on the 10th, his early comments were "the procurator fiscal has more to do than consider such a report on this tree felling" were somewhat worrying. There may have been cumulative information that the courts may hold, not available to Scottish Forestry, and accordingly the procurator fiscal or court are best placed to consider any hearing, in deciding on best actions, perhaps taking account of the public interest.

## **Seven**

- 2.6 - the final three boxes (water and soil, environment and climate change resilience) are blank.
- 4 - no details are given on stakeholder engagement.
- 5.1 does not appear to have been fully completed – the constraint and opportunity columns are blank.
- 5.2 is blank.

## **Eight**

1. I wish to urge careful conservation of Torr Farm's long established native wood and also respect for the Scottish Government's policy on Control of Woodland Removal 2019, which states: 'There is a strong presumption against removing ancient, semi-natural woodland. Only in exceptional circumstances should the strong presumption against woodland removal be over-ridden.' Also that NatureScot's position is: 'Ancient and semi-natural woodland is an important and irreplaceable resource. It must be protected, as should all native and mature woodland.'

2. The landowner stated she had contacted Argyll & Bute Council to check if she could fell the trees in Torr Farm Wood and claims she was told she could. However, a few seconds on Google would confirm that felling in a native woodland of the scale witnessed at Torr farm requires a licence in order to be legal. It appears the integrity of



the advice provided by the local authority around native woodland felling must be checked.

3. Most people would consider owning a national treasure like a long established native wood is a privilege available to very few. Nature assets that contribute to this nation's net zero, biodiversity and general health and wellbeing targets will always be at risk when the landowner considers them to be burdens that are just 'costing them money'.

4. The felling in Torr Wood took place between Jan-3 April 2021. The nesting season in the UK runs from February to August and when Mike Strachan was challenged about the legality of this in respect of the UK Wildlife & Countryside Act 1981 (which states 'All birds, their nests and eggs are protected by the Law and it is an offence to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built.) he said this was a Police matter. Did he take it up with the Police?

5. When asked if the felling that took place in 2021 complied with the Felling (Scotland) Regulations 2019, Mr Strachan did not answer the question.

6. During the walk through the Wood all who attended were frog marched past the two areas that had been clear felled but, when pushed, Mr Strachan confirmed that clear felling had taken place in 2021. There is currently no detail in the management plan regarding how the damage done in the clear felled areas will be repaired or the areas restocked.

7. Local residents attending talked about their concerns regarding drainage issues due to disturbances to drains under the west highland railway line and increased water run-off resulting from the felling and fewer mature trees on site to soak up rainwater. Why were none of the neighbours consulted prior to the felling?

8. Mr Strachan said the MP included provisions for many more mature trees in the wood to be felled, including as a result of diseases indicated by bracket fungus. Trees can get sick and, like humans, they adapt to manage their diseases and can live on for centuries more. I agree with the local resident who stated she did not want these trees to be felled just because there was a 'one in a million chance' of a branch falling on her head'. This is especially the case at Torr Wood as it is now essentially off limits to the local community.

9. Destructive land practices and invasive species are two of the five biggest threats to Earth according to the United Nations yet there is no provision in the MP to remove the invasive species (primarily rhododendron ponticum), which is spreading in two areas of the wood.

10. This walk through the Wood was merely a box ticking exercise dressed up as a community consultation. Most people asking even vaguely uncomfortable questions were talked over and shut down. The event did not meet the Scottish Government's own national standards for community consultation: <https://www.scdc.org.uk/what/national-standards>.

The Management Plan, Table 1 - Thinning uses the 'Volume to be removed' option. This doesn't enable anyone to check what is left afterwards. If you use Pre/Post stocking density options instead, you can check afterwards that the felling that is advised is what has actually been done. Actions need to be accountable.

Beech is not native to Scotland, if the trees themselves are ancient, or veteran or have important biodiversity attributes they may be worth trying to protect, but otherwise my instinct would be to remove the beech to leave the native alder and ash.

### **Ten**

My only thought re the Torr Woodland is, what did we get from attending that midge invested meeting and the walkabout?

I think we will get what we get, same old same old.

### **Eleven (oral)**

I felt we weren't being told the whole story. Is the real plan to introduce glamping pods or build a house on the cleared area by the big felled beech trees?

### **Twelve (oral)**

I am very concerned about the bird life, the woods are full of owls and woodpeckers. I am also concerned that no thought seems to have been given to increased water run-off and whether the drainage under the West Highland Line will be able to cope and if there might be flooding in the village. Surely if there are less trees there will be less water taken up by them and more surface run off.

### **Thirteen (oral)**

We have been treated like children today and I am incensed at the argument an old and diseased tree might drop a branch or fall on someone so it should be cut down. These woods aren't open or easily accessible to the public and I would take my chances. Letting a diseased or dying tree just die naturally is the natural cycle in a natural woodland. Let it be.

## **Rhu and Shandon Community Council**

24 June 2022

### **Circulated to:**

Mike Strachan (Scottish Forestry)

Mrs Anne Ferguson (landowner)

Jackie Baillie MSP

Councillors Corry, Irvine and Paterson (Lomond North ward)