

REVIEW OF TREE PRESERVATION ORDERS

SUMMARY

This paper provides Cabinet on 11 September 2014 with the Environment Select Committee's findings and recommendations for the scrutiny review of Tree Preservation Orders.

RECOMMENDATIONS

1. The Committee recommend that the Scheme of Delegation be amended to require the appropriate Head of Service to provide the final determination for Tree Preservation Orders following the consideration of the Principal Tree and Woodland Officer.

BACKGROUND

The main issues and overall aim of this review was:

- To consider the legislation and the division of responsibilities with regard to tree management within the Council.
- To identify any issues arising from legislation or Council process.

DETAIL

1. On 6th March 2014 the existing Tree Preservation Order guidance was replaced with National Planning Practice Guidance. This short review provided the Committee with the most up to date situation in relation to the process of making a Tree Preservation Order, determining an application for works to a protected tree, appeals against a refusal of consent for works to a protected tree, and Enforcement action if required.
2. A Tree Preservation Order is an order made by a local planning authority in England to protect individual trees, trees within an area, or groups of trees of any size or species or whole woodlands in the interests of amenity. An Order prohibits the cutting down / topping / lopping / uprooting / wilful damage / wilful destruction of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed.
3. The Council as the local planning authority can either initiate this process itself or in response to a request made by any other party. When deciding whether an Order is appropriate, the Council take into consideration what 'amenity' means in practice as this is not defined in law, what to take into account when assessing amenity value, what 'expedient' means in practice, what trees can be protected and how they can be identified.
4. When considering whether trees should be protected by an Order, the Council assesses the amenity value of trees in a structured and consistent way, taking into account the following criteria:

Visibility: The extent to which the trees or woodlands can be seen by the public will inform the Council's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

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Individual, collective and wider impact; Public visibility alone will not be sufficient to warrant an Order. The Council has also to assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- size and form;
- future potential as an amenity;
- rarity, cultural or historic value;
- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area.

Other factors; Where relevant to an assessment of the amenity value of trees or woodlands, the Council may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

5. The process by which the Council considers a request for a TPO can be seen in the flowchart at appendix 1.
6. Interested persons are given the opportunity to object to, or comment on, a new Tree Preservation Order. All notified parties are given at least 28 days from the date of the notice to submit their representations. Objections to a new Tree Preservation Order can be made on any grounds.
7. Anyone wanting to cut down, top, lop or uproot trees subject to an Order must first apply to the local planning authority for its consent unless the proposed work is exempt through an exception. Where an exception applies the authority's consent to carry out works is not needed, but notice of those works may need to be given to the authority. Appendix 2 shows the process for applications to carry out work to protected trees.
8. In the past three years the Council has dealt with the following number of applications for works to protected Trees

	Received	Approved	Refused	Appeal Dismissed	Appeal Allowed
2011	53	48	5	1	0
2012	52	46	6	1	0
2013	73	48	12	0	0

9. This equates to 178 applications in total of which 142 have been approved and 23 refused and 2 appeals which were dismissed.
10. The number of applications rose 40 per cent in 2013 for which the explanation given was an increase in concern over the effect the weather was having on the stability of trees, and more general views about the location of trees.
11. The decisions on TPO applications normally follow the recommendation of the Council's Principal Tree and Woodland Officer, the only exception has been in January 2014 in respect of a protected tree in Egglecliffe where the application was considered by the Planning Committee which granted consent to fell.
12. Tree protection is a complex and time consuming process resulting from statutory requirements which control the process requiring the exercising of professional judgment and resultantly has significant implications for the amenity of the area in terms of timescale if substantial trees are lost.

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13. Stockton Council's system was found to be robust but trees can be a contentious issue with the possibility of harming the reputation of the Council depending on the decisions taken.
 14. Currently the responsibility for TPO's is almost exclusively with the Principal Tree and Woodland Officer which the Committee feel can be overly burdensome on one person and whose focus may not take into account other issues which might affect any decisions.
 15. The Committee therefore believes that additional, but not burdensome, checks and balances should be in place to support the valued work of the Principal Tree and Woodland Officer to ensure the continued good relationships between the Council and residents affected by the proximity of trees to properties.
- R1 The Committee recommend that the Scheme of Delegation be amended to require the appropriate Head of Service to provide the final determination for Tree Preservation Orders following the consideration of the Principal Tree and Woodland Officer.**

Name of Contact Officer: Graham Birtle, Scrutiny Officer
Telephone No: 01642 526187
Email Address: graham.birtle@stockton.gov.uk



