

DESIGNATION OF TREE PRESERVATION ORDERS - ASSESSING AMENITY VALUE

Report By: Chief Conservation Officer

Wards Affected

County Wide

Purpose

1. To agree to the piloting of an evaluation process for determining the amenity value of trees and amend procedures to enable TPOs to be made urgently where necessary.

Financial Implications

2. Minimal printing costs and the direction of existing staff time towards the pilot exercise, both within existing budgets.

Background

3. Local Planning Amenities may make Tree Preservation Orders (TPOs) if it appears to them to be "expedient in the interests of amenity". The Act covering this power does not define "amenity" nor the circumstances in which the interests of amenity are served by the use of TPOs.
4. The Secretary of State's view is that TPOs should be used to protect selected trees and woodland where a reasonable degree of public benefit would accrue and if their removal would have a significant impact on the local environment and its enjoyment by the public. Government guidance identifies three key criteria to take into account:-
 - visibility – extent to which they can be seen by the general public. They should normally be visible from a public place such as a road or footpath.
 - individual impact – being visible to the public will not itself be sufficient to warrant a TPO, it must be important in terms of size and form either now or anticipated in the future e.g. rarity/scarcity value, screen an eyesore or important within a conservation area.
 - wider impact – significance within wider surroundings, taking into account suitability to setting and in relation to other trees in the vicinity. Trees can have a collective value as a group. Importance to wildlife may be taken into account but on its own would not be sufficient to warrant a TPO.
5. Another factor is the risk that any tree might be cut down or pruned in an adverse way. If there is no risk it may not be expedient to use a TPO. The Secretary of State also advises that it would be inappropriate to make a TPO on a tree that was dead, dying or dangerous. An exception might however be a 'veteran' tree where an assessment of its useful life expectancy, location and importance might be undertaken.

6. Recently, your officers have received criticism from some members of the public upon how they have approached the issue of determining whether to place TPOs on trees. Notwithstanding the resource issues, and although your officers consider they approach each case in a consistent and professional manner, it has caused them to review the transparency of the process. This is particularly so because the task is delegated to officers subject to consultation with the Chairman of the relevant Area Planning Committee and local member.
7. The Council should be able to explain to landowners (and others) why any trees have been protected by a TPO. Local Planning Authorities are advised to develop ways of assessing the "amenity value" of trees in a structured and consistent way, taking into account the criteria set out in paragraphs 4 above.
8. Consequently, your officers are proposing to you that an evaluation rating approach be used (Appendix 1). This is based upon principles suggested by an eminent arboriculturalist Dr Helliwell (1988) and a format already in use elsewhere by a number of local planning authorities. It is proposed to trial this approach over the next 12 months and report back upon its utility and appropriateness.
9. The approach indicates 9 criteria with scores being attributed according to importance in relation to each. It is suggested that a total score of 15 points must be achieved in the rating for a tree or group of trees to be considered for inclusion within a TPO.
10. The approach would not be appropriate for assessing Woodland TPOs. There is also concern that it might not be suitable for Area Orders: Government believes in any event that such orders should be used sparingly and generally in emergencies following which individual or group orders should replace them. The pilot exercise might look in particular at the relevance of the approach to Area Orders.
11. An additional issue is the Council's ability to impose TPOs in an emergency where works are about to commence or are even underway. Delays in contacting members in advance can inhibit the ability to act with the necessary speed.
12. The procedure for imposing a TPO on trees is generally a two-stage one. A provisional Order lasting 6 months is imposed which must be confirmed by the relevant Area Planning Committee within that period. Objections and other representations received are presented to Committee when the matter is reported upon.
13. In emergencies, officers will continue to try to contact the Chairman of the relevant Area Committee and local member. However, should it not be possible to make contact and the matter is considered to justify urgent action, the ability to proceed without completing consultation is requested. The Chairman of the Area Committee and local member will be consulted subsequently and the matter referred to the relevant Area Committee as soon as practical after the event should either have any concerns.

RECOMMENDATION

- THAT (a) the Amenity Evaluation Rating provided in Appendix 1 be used as the basis for determining whether a tree, groups of trees or areas of trees be covered by a Tree Preservation Order;
- (b) a report upon the utility and appropriateness of this approach be prepared and submitted to Planning Committee after the completion of a 12 month pilot exercise; and
- (c) in instances where Head of Planning Services and the County Secretary and Solicitor (or their nominees within the scheme of delegation) are convinced that works to important trees of amenity value are imminent, such that the placing of a TPO on them is urgently necessary, the requirement to consult the Chairman of the Area Planning Committee and local member in advance be dispensed with and they be consulted prior to confirmation of the Order.

BACKGROUND PAPERS