

TONBRIDGE & MALLING BOROUGH COUNCIL
HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

21 May 2024

Report of the Director of Planning, Housing & Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non Key Decision

1 TREE ENFORCEMENT PROTOCOL AND TREE PRESERVATION ORDER PROTOCOL

Summary:

1.1 This report introduces the new Tree Enforcement Protocol and the Tree Preservation Order Protocol. This report seeks to provide an update to Members on how the service deals with all tree related matters and consequently what changes to processes and procedures are needed to facilitate necessary service improvements to address the backlog.

1.1.1 The Tree Enforcement Protocol and Tree Preservation Order Protocol are amended to this document as appendix 1 and 2 respectively.

1.1.2 The Development Management Team discharges the Council's functions in respect of tree-related matters. By way of background, in each of the following calendar years the Service has dealt with the following:

Year	Applications for works to protected trees	Notifications for works to trees in Conservation Areas	Tree Preservation Orders
2022	204	228	10
2021	202	219	9
2020	227	211	8
2019	174	174	9

1.1.3 Full access to 2023 numbers is not possible, due to issues experienced with the tree module caused by the implementation of Agile. However, the numbers are expected to be similar to 2022.

- 1.1.4 The number of applications is largely consistent over this 5 year period with the overall number gradually increasing. It is acknowledged that there was a peak in 2020. This was most likely due to the increase in numbers of people at home during the pandemic.

Landscape officer Workload

- 1.1.5 Added to above applications the Landscape Officer also considers condition applications for TPO trees, prior written consents, felling licences, observations for planning applications, general enquiries and officer training. They also advise on planning enforcement measures concerning trees which is why this report has brought together both protocols. Further challenges that the Tree and Landscape Officer has experienced is with the implementation of Agile. The module is currently being developed further to allow optimum functionality.
- 1.1.6 The establishment for the Council allows for one full time Landscape Officer. With one officer in place it is important that work is prioritised. How work is prioritised is outlined in the proposed protocol.

1.2 The Protocols

- 1.2.1 The aims of the **Tree Preservation Order (TPO) Protocol** are as follows:

- To demonstrate principles of consistency in the assessment and decision-making process of considering whether new Tree Preservation Orders should be made and confirmed.
- To increase public confidence and understanding in the system.
- To speed up decision making by streamlining the assessment process where acceptable and making it more robust.

- 1.2.2 The aims of the **Enforcement Tree Protocol** are as follows:

- To detail the options available concerning the planning enforcement options.
- Details of the prosecution procedures concerning trees and the penalties available.
- Processes and Procedures.

The tree protocol should be read alongside the Planning Enforcement Plan

1.3 Backlog

- 1.3.1 It is acknowledged that there is currently a backlog within the service, especially concerning outstanding TPOs. The backlog of TPO requests stands at 59. It should be noted that these have been triaged along the lines laid out in the proposed protocol and not identified as immediate priorities when compared to other Landscape related tasks carried out by the Landscape Officer.
- 1.3.2 An operational plan has been put in place to allow the Landscape officer the opportunity to look at least one a week to gradually reduce the numbers alongside the other duties that are required as outlined above and expanded upon below.
- 1.3.3 The backlog of TPOs should also be seen in the context of the officers existing workload. Currently the Tree and Landscape officer has case load of 73 applications excluding TPOs. Although not directly comparable it is higher than any of the planning officers and considered a substantial amount.
- 1.3.4 On top of this is the planning observations, pre application observations and advice to Councillors and general advice, which fall to the officer as detailed above.

1.4 Measures to tackle the backlog

- 1.4.1 Reports have already been streamlined and shortened to allow for maximum efficiency.
- 1.4.2 Delegated authority on no objections for Section 211 Notices will be cascaded to the Landscape officer, who will be able to determine applications without the need for further checking to maximise time efficiency. Spot checks on signed reports will be undertaken monthly to ensure sound decisions are being undertaken.
- 1.4.3 A weekly tree surgery with planning case officers will also be introduced for simple observations. This will be recorded to mitigate the need for written observations to save time.
- 1.4.4 The planning validation checklist, which is currently out to agent's consultation, has introduced requirements for tree applications, which will promote faster decision making, as information will be provided up front. This also will promote better outcomes for trees on development sites. The checklist is an operational tool.
- 1.4.5 Enforcement Officers will do some of the tree visits for tree applications as they are often out on site. The Landscape officer will be providing training and advice what photos and information is needed. If the tree officer needs to visit a site themselves, this will be undertaken. The Enforcement Officers already work alongside the Landscape Officer for enforcement related tree cases and this is seen as a useful, natural extension of their collaborative working.

1.4.6 The measures above are about freeing up capacity to allow the Landscape Officer to tackle the backlog and ensure a consistent approach is taken to all elements of their wide-ranging workload. A target of reducing the backlog by at least one case every week will be implemented. The process of triaging all TPO requests will continue. Trees in immediate danger will always be prioritised.

1.4.7 These measures will be also aimed to make the tree service more efficient and more sustainable in the long run. The measures described above do not need Member approval, as they relate to operational service delivery, but have been put in the report for information and context as requested by members.

1.5 Legal Implications

1.5.1 Not having a comprehensive and consistent Protocol in place could increase the risk of Council decisions being challenged both through appeal and judicial review.

1.6 Financial and Value for Money Considerations

1.6.1 Having a comprehensive Protocol in place will ensure appropriate skills and expertise are utilised in an efficient and cost-effective manner and limit exposure to costs awards being made against the Council in appeal scenarios.

1.7 Risk Assessment

1.7.1 Protocols are there to limit risk as they allow consistency and robustness. Not having an up-to-date protocol creates additional work as priorities and process are essential to the efficient running of a service.

1.8 Policy Considerations

1.8.1 The service improvements set out within this report are in accordance with the Council's wider corporate priorities in respect of the Service Plan and the emerging Local Plan.

1.9 Recommendations

1.9.1 That Members RECOMMEND to Cabinet the proposed strategy as set out in this report, namely:

- 1) Adoption of the Tree Preservation Order Protocol to help aid decision making
- 2) Adoption of the Tree Enforcement Protocol to help aid decision making

Background papers:

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Nil

Appendix 1 – Tree Enforcement Protocol

Appendix 2 – Tree Preservation Order Protocol including Annex 1 (TEMPO assessment)