

# Housing and Planning Scrutiny Select Committee

03 December 2024

## Part 1 - Public

### Matters for Cabinet - Non-key Decision



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|---------------------|---|
| Cabinet Member      | Cllr Mike Taylor, Cabinet Member for Planning                       |
| Responsible Officer | Eleanor Hoyle, Director of Planning, Housing & Environmental Health |
| Report Author       | Hannah Parker, Development Manager                                  |

### Tree Protocol Update

#### 1 Summary and Purpose of Report

1.1 This report provides an update on how the service is dealing with the backlog of Tree Preservation Order requests following the adoption of the Tree Preservation Order Protocol as agreed by Cabinet and following the request by H&PSSC for a six-monthly update of progress for reducing the backlog in a timely manner and what further measures or amendments could be implemented if the backlog was not being reduced. It proposes a number of options for members to consider.

#### 2 Corporate Strategy Priority Area

- 2.1 Efficient services for all our residents, maintaining an effective council.
- 2.2 This report puts recommendations forward that support improvements in the customer and stakeholder experience of the service.

#### 3 Recommendation

3.1 It is **RECOMMENDED TO CABINET** to consider the options put forward and depending on the option that is chosen, to identify a funding source if this is required.

#### 4 Introduction and Background

4.1 Following on from the adoption of the Tree Preservation Order Protocol and the Enforcement Tree Protocol in May, 2024, Members expressed concern that the measures proposed to address the backlog were insufficient to make a significant improvement in a timely manner. They requested an update report every six months on progress made on reducing the TPO request backlog. This approach was supported by the Committee. Members also requested the update report

include potential alternative measures that could be implemented if performance was not meeting the desired standard. The report suggested one TPO case a week to be progressed with time being given to the Landscape Officer to meet this target. As can be seen from the figures set out in paragraph 4.3 below, this target has not been reached and this report will look to set out available options for members to consider. It should be acknowledged however that there is no identified budget to progress with the suggestions outlined below and therefore depending on the option selected, a suitable reserve will need to be identified.

4.2 This section of the report looks at progress of reducing the backlog of TPO requests in more detail. Since June Councillors have been sent emails regarding the progress of the backlog of TPO requests to allow Members a general overview of this aspect of work. What can be concluded is that although progress has been made in reducing the backlog, the fact that new TPO requests are being received, means the overall number is not reducing at the preferred rate. This is illustrated in the figures below. Additional narrative has been given in the monthly emails.

- July outstanding TPO requests 62
- August outstanding TPO requests 59
- September outstanding TPO requests 56
- October outstanding TPO requests 59
- November outstanding TPO requests 58

4.3 Currently as explained in the previous report to H&PSSC in May, the Council has one Landscape Officer who is responsible for tree related issues. The responsibilities of the officer in this role include:

- Triaging TPO requests
- Writing up reports on each TPO request to determine whether a TPO will be needed
- Making and confirming TPOs and serving the orders
- Applications for works to TPO's trees
- Notifications for works to trees in conservation areas
- Observations on planning application
- General tree enquires
- All tree enforcement matters

- Felling licences
- Providing advice on high hedges. Complaints and Enforcement
- Hedgerow regulations notification

4.4 It should also be noted that enforcement issues are unpredictable due to their nature and can be time consuming so cannot be programmed into a work plan.

4.5 The Landscape Officer currently has a high volume of work. The table below shows the key statistics of the outstanding caseload.

| Observations outstanding for planning application | Application for works to protected Trees | Notifications for works to trees in conservation area | Tree Preservation orders |
|---|--|---|--------------------------|
| 27  | 73                                       | 22  | 58                       |

4.6 This level of casework is considered to be high. The applications for works on protected trees is considered to be especially high. This is a combination of new cases and overtime cases. Overtime cases are classed as those which have passed statutory expiry. The numbers of applications for protected trees can vary considerably week on week. With for example as many as 19 coming in one week and other weeks can be as low as five. The unpredictable nature also contributes to spikes in case numbers. At the time of writing this report the number of overtime cases accounted for 45 out of the 73 cases outlined in the table above. The remainder are within the statutory expiry period. There are also several very old cases (over a year) which have stemmed back from the implementation of Agile. The works to the Agile tree module are still outstanding but are on programmed in. Once these have been completed, we would expect to see efficiency improvements. These case figures also don't include enforcement investigations which involve tree consultation, any of the email responses or other aspects of the role as outlined in paragraph 4.3.

## 5 Options Analysis

5.1 As set out above, it is not considered that the Landscape Officer has the capacity to progress the TPO backlog request in a timely manner as originally envisaged by the May H&PSCC report. The unpredictable nature of his work and the call on his time makes it very difficult to create time in his schedule to progress one TPO request a week. If the backlog was significantly reduced, then it would be easier to progress TPO requests although this would need to be carefully managed. It should also be acknowledged that if the backlog was cleared, then this may trigger an increased number of TPO requests. Again, this will need to be closely

monitored, and the current reporting mechanism would ensure members are notified of this.

- 5.2 As the Landscape Officer does not have the current capacity to clear the backlog of TPO requests in a timely manner, there are a number of options put forward to address this for members to consider. It should be recognised however that one of the options put forward would need a funding stream to be identified.
- 5.3 **Option A:** To seek a consultant to work on the backlog of TPO requests. An example brief that could be used is summarised below. Also detailed in this section is the approximate timings for each of these tasks. These details are estimated based on how long an average cases takes:
1. Review the 58 backlog cases in line with the Tree Preservation Order Protocol (at the time of writing).
  2. Conduct a site visit for each tree(s) where required. A right to entry will be provided. Average time for a site visit is between 1 and 1.5 hours.
  3. Conduct a TEMPO assessment where applicable and in accordance with the Tree Preservation Order Protocol. Estimated time 30 mins to complete.
  4. Write a report as to whether the tree subject to the TPO request merits a TPO, for a manager to review. Templates and examples will be provided. Estimated time for an average report is 2 hours to complete.
  5. Provide a draft map and 1<sup>st</sup> Schedule for trees which merit a TPO to be assessed alongside the delegated report. Example templates will be provided. Estimated time 30 mins to complete.
- 5.4 The costs of assessing a TPO request will vary depending on the tree or number of tree(s) which are subject to the request. What has been outlined in the above is the average time taken. Where a case requires a TPO this will generally take longer as further steps are required.
- 5.5 Based on the time estimates above it will take on average 4 hours to complete. The Planning team have conducted some initial research, the rate of an accredited consultant is £125 an hour. Based on 4 hours of work that is an average of £500 per request. Based on 58 cases that's £29 000. This is considered to be a one-off cost to clear the backlog.
- 5.6 An option could be to contract out the full process to an external qualified consultant. This has benefits including more effective performance management. Payment could be made on an outcome basis. The consultant or company would be paid per case rather than hours claimed. If cases aren't processed to conclusion, then the contract would not be fulfilled, and payment would not be made. An alternative option would be a consultant who works within the service who is paid at a high hourly rate and will get paid no matter the output. An officer

preference would be to contract out completely as this gives greater control over performance.

- 5.7 Members are advised that this option alone will not address the capacity issues being experienced within the service which will still need to be explored. It is a dedicated task to solve a backlog issue of TPO requests and to ensure that they are considered and progressed in a timely manner.
- 5.8 **Option B:** Continue to attempt to reduce the TPO request backlog within the existing resource as has been done over the previous 6 months. The landscape officer will continue and aim to reduce the backlog by the means that we have employed so far. However, it should be acknowledged that TPOs will not be progressed in as timely a manner as Members have previously suggested they would like to see, and it is unlikely that the backlog will be cleared at a rate of one per week as previously outlined.
- 5.9 TPO requests will still be triaged and a tree that merits an immediate TPO will be prioritised in accordance with the Tree Preservation Order Protocol. However, trees which have a lower priority are unlikely to be dealt with quickly. The Landscape Officer has several conflicting priorities which must be managed on a daily basis. The caseload of the Landscape Officer has been illustrated in the headline figures of this report. There is an overall downward trend in the number of outstanding TPO requests. However, trying to maintain a reduction in TPO requests combined with enforcement issues has meant that the outstanding caseload figures for the Landscape Officer have gone up. This upward trend in case numbers is likely to continue.
- 5.10 **Option C:** Wait for the outcome of the wider review of the case work and capacity of the Landscape Officer as part of the Planning Fees Review. This review will help to establish more accurately the costs and inputs required. Waiting will enable members to have additional evidence and establish what capacity and resource is required to enable the Landscape Officer to fulfil his duties. However, this option will mean that the backlog of TPO requests will not be progressed until that review is complete, which is not likely to be until into the 2025/26 financial year.

## 6 Financial and Value for Money Considerations

- 6.1 Robust monitoring should be carried out to ensure we work as efficiently as possible as a service. Depending which option above is chosen, this will depend if funding is required. Option A identifies the approximate costs for this option as being a one-off cost of £29,000. If this option was chosen it could be included as a one-off cost on the forward estimates for 2025/2026.
- 6.2 No funding source has been identified at this time as a decision on the options to progress have not been made at this time. There is no budget within the service

provision to accommodate this so a request from the General Revenue Reserve would be required.

## **7 Risk Assessment**

- 7.1 Regarding Option A, there is a risk of contracting out a service to an external party. However, this will be mitigated by seeking an Arboricultural Association Registered Consultant and a robust selection process will be undertaken. Procurement Procedures Rules would be required to be adhered to, and a contract sent out which will ensure confidentiality. There is also a risk of finding a qualified contractor to carry out the works in the timeframe required.
- 7.2 Options B and C would mean that the risk profile remains as it currently is and work on the requests for TPO would not be progressed in a timely manner as requested by members. However, work would be carried in accordance with the Tree Preservation Order Protocol.

## **8 Legal Implications**

- 8.1 There are no legal implications arising from the options recommended in this report.

## **9 Consultation and Communications**

- 9.1 Monthly emails to Members will continue which will provide an update on the progress made depending which option is progressed. Emails will continue to provide additional narrative when required.

## **10 Implementation**

- 10.1 If Option A is accepted and the financial resource established, then procurement could progress relatively swiftly in line with the Councils Procurement Rules and a consultant appointed. It would be the aim of the Service to have this arrangement in place by April 2025.
- 10.2 If Option B or C, work would continue as currently is and no further implementation is required.

## **11 Cross Cutting Issues**

### **11.1 Climate Change and Biodiversity**

#### **11.1.1 Limited and low impact the environment and emissions**

11.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report.

11.1.3 There are no impacts on Climate change arising from this report.

## 11.2 Equalities and Diversity

11.2.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

## 11.3 Other If Relevant

- None

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| Background Papers | None |
| Annexes           | N/A  |