



**REPORT FROM: PLANNING, ECONOMIC DEVELOPMENT & REGULATORY SERVICES MANAGER**

**TO: POLICY AND RESOURCES COMMITTEE**

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## **TREE PRESERVATION ORDERS**

### **PURPOSE OF REPORT**

To inform Committee of the process when a breach of a Tree Preservation Order is reported.

### **RECOMMENDATION**

That Committee notes the process

### **REASON FOR RECOMMENDATION**

In order that Committee is informed of the process relating to Tree Preservation Orders

### **BACKGROUND**

1. As part of a debate on trees protected under a Tree Preservation Order in Salterforth the West Craven Area Committee asked for clarification on the processes that are followed when a tree(s) protected under a TPO are reported as being damaged or removed.
2. The Town and Country Planning Act 1990, under Section 210, makes it an offence to cut down, damage, uproot or destroy a tree. It is also an offence for someone to cause or permit a person to damage trees. In dealing with issue surrounding TPOs there is guidance such as Government Advice - Tree Preservation Orders: A Guide to the Law and Good Practice.
3. Under section 206 any owner of land has a duty to replace any tree that is damaged or removed. The owner can apply to the Council to dispense with that requirement. If an owner fails to replace the tree(s) then the Council has to serve a tree replacement notice.

4. There are also a number of responses the Council can make to unauthorised work. These are that we can do nothing, we can issue a warning, issue a formal caution, we can issue a tree replacement notice and we can prosecute.
5. In practice there are a range of situations that occur. There are clear breaches where trees are removed and we have good evidence of who undertook the work and when. Equally there are situations where we know that trees have been removed but we have no evidence to prove who did it and whether the owner caused or permitted the work to occur. It is for the Council to prove its case at court and for us to have the evidence to prove who did it and who allowed it to happen.
6. When a case is received it is recorded and an investigation is started. The severity of the work and its impact are considered alongside what evidence there is about who did and authorised the work. A judgement is then made as to what the contravention requires as a response. For example the removal of a prominent tree where the perpetrator is known is likely to result in a prosecution. On the other hand the removal of a branch that has no particular impact on a tree is likely to result in a warning letter being issued.
7. In situations where a prosecution is deemed to be the most appropriate way forward the case is referred to the legal services team who will review the evidence and advice on the likelihood of success at court. We have also seen a range of decisions from the magistrates court ranging from successful prosecutions to unconditional discharges in situations where owners have pleaded guilty. It is not straightforward therefore to assume that unauthorised work will lead to a conviction.

## **IMPLICATIONS**

**Policy:** None as a result of this report

**Financial:** None as a result of this report

**Legal:** None as a result of this report

**Risk Management:** None as a result of this report

**Health and Safety:** None as a result of this report

**Sustainability:** None as a result of this report

**Community Safety:** None as a result of this report

**Equality and Diversity:** None as a result of this report