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CITY AND COUNTY OF SWANSEA

Dinas A Sir Abertawe

BY EMAIL

Councillor Robert Francis-Davies
Cabinet Member for Enterprise,
Development & Regeneration

Councillor Mark Child
Cabinet Member for Wellbeing & Healthy
City

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9th May 2016

Summary: This is a letter from the Tree Preservation Scrutiny Working Group to the Cabinet Member for Enterprise, Development & Regeneration following the meeting of the Working Group on 21 April 2016. It is about the Council's approach to tree preservation and the working group's recommendations.

Dear Councillor Francis-Davies,

Tree Preservation Scrutiny Working Group 21st April 2016

We wish to thank you and the officers, Jeff Saywell, Paul Meller, Alan Webster and Martin Bignall, for attending our meeting and engaging in an interesting and productive discussion. This letter reflects on the main areas of our discussion and provides a summary of our views on the matter of tree preservation.

We discussed the importance of the Council's responsibilities for preserving trees and we agree that this is an essential role. We were advised of the Tawe Catchment iTree Eco-survey and the significant benefits it has identified that are brought through the existence of urban trees, including their contribution in terms of carbon capture, rainwater interception and the removal of air pollution. In addition the Green Infrastructure Policy in the draft LDP lists the wide range of benefits of trees including enhancing the landscape and bio-diversity, improving air quality, reducing the impact of noise pollution, reducing flood risk, capturing carbon and goes on to state that trees should wherever possible be protected as part of new development.

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As a consequence of this we feel that it more important than ever that the Council ensures that it has an effective tree preservation service, both for trees on private land and on Council owned land. We discussed a range of issues and as a result have identified a number of recommendations that have an impact across the Council, and not just for the Landscaping Team.

Resources

We were pleased to hear that the service has become more pro-active since becoming part of the Landscaping Team in 2011. Work is underway to address the accuracy of records by carrying out a review of existing Tree Preservation Orders. We were informed that there are a range of problems with the Council's historic records, which include a lack of original Tree Preservation Orders in the older files and instances of incomplete paperwork e.g. with missing signatures. We were advised that whilst this is not a problem in the planning arena it causes difficulties if the Council wishes to take up criminal proceedings as part of enforcement, as all relevant paperwork would need to be complete. A review of all documents is underway but limited resources means that progress is slow. We believe that the service should consider providing additional temporary resources to ensure that the review of existing Tree Preservation Orders is completed within a shorter timescale.

Enforcement activity

It is important that the Council is seen to be taking action where householders/developers have ignored Tree Preservation Orders. Our preferred option would be for the Council to select an appropriate case and follow through with a prosecution. We understand that there are difficulties in this, partly due to the fact that it would be a criminal case with a high burden of proof placed on the Council and that the time and resources available for this work are limited. However without taking action the Council is seen as a soft touch on this issue and there is no incentive for people to pay regard to Tree Preservation Orders. We were advised that a more straightforward option is the rigorous pursuit of replacement planting or remedial work at the owner's expense. Both routes should be followed and any successful outcomes publicised and promoted.

Protection of trees on Council land

We learnt that Tree Preservation Orders are not placed on Council owned land as the Council is considered to be a responsible landowner. However we feel that this approach should be reconsidered as the increased sales of Council owned land through the asset disposal programme mean that we are reducing our land holdings in order to raise much needed capital receipts. This means that when land passes out of the Council's ownership the trees are unprotected. Therefore we recommend that Tree Preservation Orders are placed on Council land prior to sale. We appreciate that this may have an impact on the land value however the importance of tree preservation needs to be taken into account.

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Provision of information

Overall we feel that more work needs to be done promoting the value and importance of trees both within the Council and with the general public. In particular, key officers within the Council such as planning officers should be fully aware of the importance of trees in order to ensure that appropriate planning conditions are used to protect trees as part of planning approvals. It is also important that clear information is available to the public regarding what can and can't be done to trees that are subject to Tree Preservation Orders.

Identification of protected trees

We raised the issue of ensuring that trees covered by protection order can be identified. We discussed whether it would be possible to tag individual trees so that there is a clear visual marker that a tree is protected. However we were advised that this is not feasible due to the large number of trees and the officer time it would take. In addition, trees would eventually grow around the tags. We accept this advice, however we believe that it is essential that local ward members are provided with details of all Tree Preservation Orders in their wards. We believe that this will assist the service to identify when orders are breached or at risk of being breached by provided additional "eyes and ears" on the ground. We also propose that consideration is given to providing the same information to community councillors.

Tree replanting programme

We learnt during our discussions that the Parks Service is the only section of the Council who carries out a tree replanting programme. We were informed that the service approximately plants 100-150 tree per year, but at the same time has to remove around 400 trees per year. Other departments do not replace trees as a matter of course. We feel that this is an area of concern. In order to maintain the tree population, with its associated benefits, we believe that the Council should ensure that, wherever possible, trees are replaced if they need to be removed.

We discussed the costs associated with this and were advised that the average cost of a 6-8ft tree is £100. We appreciate that the Council has to manage with reduced resources and is facing difficult budget decisions therefore we support the Parks Service idea of developing a Tree Nursery to mitigate the costs of purchasing new trees. We believe that the service should investigate whether this would be a feasible commercial opportunity.

Development of a tree policy

There are a number of issues in relation to tree preservation which we believe should be brought together within an overarching Tree Policy. This should cover all issues relating to trees and not just Tree Preservation Orders, including the relevant issues we have raised in this letter plus the range of issues already

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identified by officers in order to ensure a consistent Council wide approach to the retention and provision of tree cover.

Recommendations

As a result of our consideration of the Council's work on tree preservation we wish to make the following recommendations:

1. Consider providing additional temporary resources to ensure that the review of existing Tree Preservation Orders is completed within a shorter timescale
2. Identify a suitable case for prosecution where a Tree Preservation Order has been breached and, if successful, ensure it is widely publicised
3. When Tree Preservation Orders have been breached, if prosecution is not possible, ensure that the service rigorously pursues replacement planting or remedial work at the owner's expense
4. Ensure that Tree Preservation Orders are placed on Council land prior to sale
5. Provide Councillors (including community councillors) with a list of Tree Preservation Orders in their wards
6. Look for ways to promote the value and importance of trees amongst key staff members and the public
7. Direct the Parks Service to develop a proposal to establish a tree/plant nursery to mitigate costs of purchasing new trees and investigate whether this would be a feasible commercial opportunity
8. Ensure that other Council departments replant trees that are removed during the course of their work
9. Develop a tree policy for the whole Council

Your response

In your response we would appreciate your comments on any of the issues raised in this letter. We would be grateful if you could specifically refer to the recommendations outlined. As some of the issues and recommendations come under the portfolio of the Cabinet Member for Wellbeing & Healthy City we have also sent a copy of this letter to him, however it would be preferable to receive a joint response to this letter.

Please could you provide your response by 30th May 2016.

Yours sincerely,

Councillor David Cole
Convener of the Tree Preservation Scrutiny Working Group

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	Recommendation	Cabinet Member	Decision	Actions include <i>NB these actions are taken from Cabinet Member response – would need to clarify with officers the exact actions that are taking place</i>	Progress
1	Consider providing additional temporary resources to ensure that the review of existing Tree Preservation Orders is completed within a shorter timescale	Enterprise, Development & Regeneration	Agreed	<ul style="list-style-type: none"> • Complete scanning of paper files • Identify inaccuracies in paper work – check each TPO • Identify and allocate ad hoc officer time to complete above actions 	
2	Identify a suitable case for prosecution where a Tree Preservation Order has been breached and, if successful, ensure it is widely publicised	Enterprise, Development & Regeneration	Agreed	<ul style="list-style-type: none"> • Landscape team will identify a suitable case for prosecution when it occurs • Any successful prosecution to be reported in the local press 	
3	When Tree Preservation Orders have been breached, if prosecution is not possible, ensure that the service rigorously pursues replacement planting or remedial work at the owner's	Enterprise, Development & Regeneration; Leader (Finance & Strategy)	Agreed *may require a budget	<ul style="list-style-type: none"> • Decision whether to take enforcement action to be assessed in each case – following persuasion, discussion and advice with tree owner • If Council decides not to take 	

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	expense			<p>formal enforcement action a record will be kept and made available to public on request</p> <ul style="list-style-type: none"> • If replanting not carried out by tree owner tree replacement notice to be served (within 4 years of alleged non-compliance) • A budget will be required if the Council is to carry out replanting in the event of non-compliance by tree owner 	
4	Ensure that Tree Preservation Orders are placed on Council land prior to sale	Enterprise, Development & Regeneration; Leader (Finance & Strategy)	Agreed	<ul style="list-style-type: none"> • When considered for disposal land owned by the Council will be assessed using the Tree Evaluation Method for Preservation Orders 	
5	Provide Councillors (including community councillors) with a list of Tree Preservation Orders in their wards	All CCS Councillors	Partially agreed	<ul style="list-style-type: none"> • Each CCS Councillor will be supplied with electronic “copies” of each TPO present in their Ward • Members will be informed of new TPOs (as at present) and 	

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				<p>any variation or revocation within their wards</p> <ul style="list-style-type: none"> Community councils are consulted on and are provided with copies of schedules and plans of provisional TPOs and are notified of confirmations, variations and revocations and are consulted on relevant tree works applications 	
6	Look for ways to promote the value and importance of trees amongst key staff members and the public	Enterprise, Development & Regeneration	Agreed	<ul style="list-style-type: none"> Training will be provided to Planning Officers by the Landscape Team relating to trees in the planning context in validating planning and tree works applications and the emerging LDP policies. Guidance notes “The Protection of Trees on Development Sites” to be updated to ensure public is provided with current best advice. This may be included as supplementary planning guidance when the new LDP is adopted 	

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				<ul style="list-style-type: none"> • Further information to be provided on website to increase the information available to the public on matters of relevance to protected trees within Conservation Areas and trees in general e.g. our approach to Ash die back disease. 	
7	Direct the Parks Service to develop a proposal to establish a tree/plant nursery to mitigate costs of purchasing new trees and investigate whether this would be a feasible commercial opportunity	Wellbeing & Healthy City	Partially agreed	<ul style="list-style-type: none"> • Parks department to look at space and resources to carry this out on a limited scale for their own use. • Being considered as part of the Parks and Cleansing Commissioning Review – but not felt to be viable to carry out on a commercial basis 	
8	Ensure that other Council departments replant trees that are removed during the course of their work	All Cabinet Members	Partially agreed	<ul style="list-style-type: none"> • Look to reduce the imbalance between felling and planting – unlikely to be able to ensure 1 for 1 replanting. But ensure justifying why not replanting trees in certain circumstances • This to be a key element of a Tree Policy 	

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9	Develop a tree policy for the whole Council	All Cabinet Members		<ul style="list-style-type: none">• A whole Council Tree Policy requires co-operation and approval of all Cabinet and affected Council Services• Landscape team to produce and interim policy covering protected trees to facilitate and make more transparent the decision making process	
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