Report of the Head of Planning and City Regeneration

Planning Committee – 1 May 2018

Adoption of a "Protected Tree Protocol"

To consider the 'Protected Tree Protocol' as a document that formalises the Council's decision making process and implementation of legislative procedure related to protected trees.

Recommendation:

1.   The "Protected Tree Protocol" be approved as the Council's decision making process in relation to protected tree issues.

For Decision

1.   Introduction

1.1   Following a report to Scrutiny Committee Working Group of 21st April 2016 resultant actions required the production of:

"A whole Council Tree Policy requires co-operation and approval of all Cabinet and affected Council Services. **Landscape Team to produce an interim policy covering protected trees to facilitate and make more transparent the decision making process**."

2.   Discussion

2.1   The overall aims of the Protected Tree Protocol are to ensure that important trees within the City and County of Swansea are preserved, thereby ensuring their contribution to amenity is maintained. These aims are translated into the following four areas: 'New Tree Preservation Orders', 'Reviewing Existing Tree Preservation Orders', 'Work to Protected Trees' and 'Enforcement'.

2.2   The areas covered by the protocol are part of the Councils duties in respect of protected trees. At present there is no framework or guidance on these areas beyond general guidance found in "*Tree Preservation Orders A Guide to the Law and Good Practice*" published by the Department of the Environment in 2000. Consequently, the protocol seeks to formalise these duties into 'policies' that reflect current practice.

2.3   Under the provisions of section 197 of the Town and Country Planning Act 1990 (as amended), the Council has a duty to protect selected trees, groups of trees and woodlands in the interests of amenity. Making new tree preservation orders (TPOs) has a subjective element to it and 'Policy 1' outlines the structure of this process, making it fair and defendable.

2.4   It is a duty of the Council to review existing TPOs. Some of the TPOs held on file date back to 1955. Changes to the Regulations, most significantly in 1975, increased the level of protection afforded to trees. Orders made before this date do not have this level of protection unless varied after review. Old area orders also are problematic as they covered trees present at the time of serving the order and this is hard to establish when the TPO is in excess of fifty years old. 'Policy 2' gives a framework to guide officers on the priority that orders should be given when reviewing.

2.5   A TPO is a legal document that makes it an offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy a tree without permission. Applications to do work are assessed by the Council's Tree Officer, and while the decisions have an element of subjectivity to them 'Policy 3' looks to ensure the recommendations made are consistent and fair to Applicants.

2.6   To ensure trees are adequately protected by TPOs the Council must be in a position to take enforcement action. 'Policy 4' outlines steps that the Council can take after illegal work is carried out. This will allow the consequences of illegal tree work to be seen by the public, providing a deterrent to future occurrences and raising awareness of the Council's determination to take action against illegal work to protected trees.

3   Appraisal

3.1   The 'policies' included in the document formalise the approach taken by Officers when carrying out duties related to protected trees.

3.2   The protocol will reduce the level of subjectivity when dealing with matters regarding protected trees and ensure a consistent approach.

4.   Recommendation

4.1   The "Protected Tree Protocol" be approved as the Council's decision making process in relation to protected tree issues.

Background Papers: None

Appendices: Protected Tree Protocol

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