



**CITY AND COUNTY OF SWANSEA**  
**DINAS A SIR ABERTAWE**

Councillor David Cole  
Convenor  
Tree Preservation Scrutiny Working Group

Please ask for:  
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**BY EMAIL**

Our Ref / Ein Cyf: RFD/SH

Your Ref / Eich

Cyf:

Date / Dyddiad:

27 May 2016

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I dderbyn yr wybodaeth hon mewn fformat arall, cysylltwch â'r person uchod.**

Dear Councillor Cole

**TREE PRESERVATION SCRUTINY WORKING GROUP – 21 APRIL 2016**

Thank you for your letter of 9 May 2016 in respect of the above. We agree that trees play a vital part in the landscape and environment of Swansea. We are proud of our woods, parks and urban trees which add to the biodiversity of Swansea and to the Wellbeing of residents. It is important that this is recognised and guidelines and efforts are in place to retain and enhance this. Set out below is my response, jointly made with the Cabinet Member for Wellbeing & Healthy City, to the issues and recommendations raised.

<b>1. Consider providing additional temporary resources to ensure that the review of existing Tree Preservation Orders is completed within a shorter timescale.</b>	<b>Agreed</b>
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**Cabinet Member(s) whose areas of responsibility is affected:  
Cllr Robert Francis-Davies - Enterprise, Development & Regeneration**

Whilst the full review of the tree preservation orders requires specialist technical knowledge, certain aspects of the review can be completed without detailed knowledge.

**COUNCILLOR/Y CYNGHORYDD  
ROBERT FRANCIS-DAVIES  
CABINET MEMBER FOR ENTERPRISE, DEVELOPMENT & REGENERATION /  
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These include:

- Completion of scanning the paper files to improve resilience in the event of fire or flood.
- Identification of known inaccuracies of paper work. A check of each TPO document will identify where there are inaccuracies in the numbering system and if there are missing documents.

The Strategic Planning and Natural Environment Manager has identified potential ad-hoc officer time around key stages to help complete the above actions.

<b>2. Identify a suitable case for prosecution where a Tree Preservation Order has been breached and, if successful, ensure it is widely publicised.</b>	<b>Agreed</b>
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**Cabinet Member(s) whose areas of responsibility is affected:**  
**Cllr Robert Francis-Davies - Enterprise, Development & Regeneration**

The Landscape Team will identify a suitable case for prosecution when it occurs. An initial assessment of all breaches will be made to ensure that prospects of a prosecution are possible taking into account the evidence and quality of the supporting documentation. The suitable case must also pass the public interest test. Any successful prosecution will be reported in the Local Press.

<b>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.</b>	<b>Agreed * may require a budget</b>
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**Cabinet Member(s) whose areas of responsibility are affected:**  
**Cllr Rob Stewart Cabinet Member (Leader) - Finance and Strategy**  
**Cllr Robert Francis-Davies - Enterprise, Development & Regeneration**

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In the event of any removal of a protected tree the owners will in the first instance be instructed to replace the tree. This is a duty as set out in Section 206(1)(b) of the Town and Country Planning Act 1990.

The Council's power to enforce the replacement of trees is discretionary. Clearly the Council must be satisfied that the duty exists, i.e. that the trees were protected by a TPO which was in force at the time they were removed.

In deciding whether to take enforcement action the Council should consider:

- (1) the impact on amenity of the removal of trees, and whether it would be in the interests of amenity (and, in woodlands, in accordance with the practice of good forestry) to require their replacement;
- (2) whether it would be reasonable to serve a tree replacement notice in the circumstances of the case.

If the Council decides not to take formal enforcement action a record should be kept and made available to the public when requested.

If the landowner applies to the Council asking them to dispense with the duty, the Council will give their decision in writing, setting out the reasons.

If the Council believe, in the circumstances, that replacement trees should be planted, the Council will first try to persuade the landowner to comply with the duty voluntarily. The landowner may not fully appreciate that there is a statutory duty to replace the trees in question. The Council will discuss the issue with the landowner, to agree a range of matters such as choice of species, their size and location, the best time to plant and good practice generally. If persuasion, discussion and advice fail, the Council will then consider taking formal enforcement action.

If it appears that a duty to replace trees or woodlands has not been complied with, the Council will within four years from the alleged non-compliance serve on the landowner a tree replacement notice under section 207 of the T&CP Act.

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A tree replacement notice has to be served within four years from the date of the alleged failure to comply with the duty (i.e. four years from the landowner's failure to plant the trees as soon as he or she reasonably could, not four years from the date of the removal of the trees).

Failure to comply with a tree replacement notice is not at present an offence. If a tree is not planted within the period specified in the notice the Council may go on to the land (there is no requirement to give prior notice to the owner or occupier), plant the trees and recover from the landowner any reasonable expenses incurred. Anyone who wilfully obstructs someone from using these powers is guilty of an offence and liable, if convicted in the Magistrates' Court, to a fine of up to £1000.

\*To carry out planting ourselves when replanting is not carried out by the tree owner will require a budget. The costs as mentioned above can be recovered or placed as a charge on the land.

<b>4. Ensure that Tree Preservation Orders are placed on Council land prior to sale</b>	<b>Agreed</b>
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**Cllr Rob Stewart Cabinet Member (Leader) - Finance and Strategy**  
**Cllr Robert Francis-Davies - Enterprise, Development & Regeneration**

This has policy and financial implications.

Once considered for disposal the trees on any site on land owned by the Council will be assessed using Tree Evaluation Method for Preservation Orders. Only trees of suitable quality thus identified may be protected by a tree preservation order. It is important that we treat land being sold by the council the same as any other development site, and consider Tree Preservation Orders where there is a threat to trees that have significant amenity value. Protected trees are not necessarily a constraint to development but are a material consideration in the Planning process where the financial value of a location is balanced with a number of other considerations.

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Strategic Estates and Facilities have been consulted and advise that "any additional protection to any site will have a detrimental effect on development potential and therefore value. Swansea is not a high value location therefore it could be that such initiatives could render a site undevelopable. Consequently any recommendation to proactively apply TPOs needs to be considered carefully".

<b>5. Provide Councillors (including community councillors) with a list of Tree Preservation Orders in their wards</b>	<b>Partially Agreed</b>
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**All CCS Councillors**

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 any variation or revocation within their wards.

Community councils are consulted on and are provided with copies of schedules and plans of provisional TPO's and are notified of confirmations, variations and revocations and are consulted on relevant tree works applications.

<b>6. Look for ways to promote the value and importance of trees amongst key staff members and the public</b>	<b>Agreed</b>
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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.

The Guidance notes "The Protection of Trees on Development Sites" will be updated to ensure the public is provided with current best advice. This may be included as supplementary planning guidance when the new LDP is adopted.

Further information will be provided on the website to increase the information available to the public on matters of relevance to protected trees, trees within Conservation Areas and trees in general e.g. our approach to Ash die back disease.

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The council is working with NRW, the Swansea Environment Centre, Nature conservation and Woodland organisations, and Schools and others to improve appreciation of the wider environment of which trees are crucial. This fits with the Sustainable Swansea goals and the Greener City the council wants to see. This is also one measure the Wellbeing and Future Generations Act will be assessing Swansea on.

<b>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.</b>	<b>Partially agreed</b>
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**Cabinet Member(s) whose areas of responsibility is affected:**  
**Cllr. Mark Child - Wellbeing & Healthy City**

- i) Parks only has space and resources to carry this out on a small and limited scale for their own use.
- ii) There are a very limited number of species that could be reliably grown from seeds collected locally of varieties that are suitable for planting.
- iii) Buying in smaller trees and growing them to sizes suitable for planting in the public realm (except woodlands) would probably take 8 to 10 years.
- iv) While parks can grow a certain number of trees for their own use with little additional resources, taking this to sell commercially would require a large investment that wouldn't see any returns for approximately 8 to 10 years.
- v) It is an aim to ensure that we obtain trees for planting at the most efficient price, which is a small aspect of the Parks and Cleansing review currently underway. Where commercial opportunities do arise, they will be investigated and undertaken if viable, such as the hanging baskets. Clearly, the cost of trees are very important in enabling replacement planting when others are felled for whatever reason.

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<b>8. Ensure that other Council departments replant trees that are removed during the course of their work</b>	<b>Partially agreed</b>
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**Cabinet Member(s) whose areas of responsibility are affected:**

**Rob Stewart (Leader) Finance & Strategy**

**Robert Francis-Davies- Enterprise, Development & Regeneration**

**Mark Child - Wellbeing & Healthy City**

**David Hopkins - Environment & Transportation**

**Jennifer Raynor- Education**

**Andrea Lewis – Next Generation Service**

**Jane Harris – Services for Adults and Vulnerable People**

**Christine Richards (Deputy Leader) - Services for Children and Young People**

We thank the Scrutiny committee for providing the information showing that the Council fells approximately 5 times the number of trees that it plants and acknowledge that this presents a serious challenge. If adopted as a Council Policy it will have significant cost implications across all departments. For example, trees are regularly removed as part of road improvement schemes or as part of street maintenance, or within the grounds of education or social services property for various ground improvement reasons or the death of existing trees; It is anticipated that the cost of replacement tree planting by the Parks Tree Services Unit in green spaces is at least £300 per tree and considerably more for street trees - an average of say £2,000.

Whilst we may not be able to do 1 for 1 replanting, we should be looking to reduce the imbalance between felling and planting.

This would be a key element of a Tree Policy, where at the very minimum we should be justifying why we are not replacing trees in certain circumstances.

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**9. Develop a tree policy for the whole Council**

**Partially  
Agreed**

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**Rob Stewart (Leader) Finance & Strategy**

**Robert Francis-Davies- Enterprise, Development & Regeneration**

**Mark Child - Wellbeing & Healthy City**

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A whole council Tree Policy would require the cooperation and approval of all the relevant Cabinet Members and affected Council Services for 'adoption' following consideration of financial implications and various methods of delivery including memorial, sponsored trees and compensatory planting in lieu of planting on development sites where no space exists.

In advance of this and to inform such a policy the Landscape Team could produce a policy covering protected trees (to include i - iv below) that would facilitate and make more transparent the decision making process and this could be adopted in part whilst the remaining policies are considered.

**Aims:**

The main aims of a Council wide policy would be to include broad objectives on canopy retention or expansion, replacement of trees, contribution to wellbeing and green infrastructure initiatives etc.

The following are broad policy and subject headlines to be included in a 'whole tree policy' with the responsible service area identified.

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i. New Tree Preservation Orders – Landscape Team

**Robert Francis-Davies- Enterprise, Development & Regeneration**

When to make new TPOs

Criteria for making new TPOs

ii. Reviewing Existing Tree Preservation Orders

**Robert Francis-Davies- Enterprise, Development & Regeneration**

Set Targets – with available resources and timeframes

For transparency clarify the priority of type and chronology of TPOs to review.

iii. Work to Protected Trees

**Robert Francis-Davies- Enterprise, Development & Regeneration**

Criteria for allowing felling

Criteria for allowing pruning

iv. Enforcement – Landscape Team,

**Robert Francis-Davies- Enterprise, Development & Regeneration**

Protocol for enforcement

Replacement planting

v. Trees and Development – Landscape Team, Planning Services

**Rob Stewart Cabinet Member (Leader) - Finance and Strategy**

**Robert Francis-Davies- Enterprise, Development & Regeneration**

Requirements for planning applications

Development within woodland TPOs

Selling of council land

Adoption of land

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- vi. Management of Council Trees – Tree Services Unit, Schools, Estates
- Mark Child - Wellbeing & Healthy City**  
**David Hopkins - Environment & Transportation**  
**Jennifer Raynor – Education**
- Duty of care  
Systems used  
Frequency of inspections  
Inspectors' minimum qualifications
- vii. Dangerous trees in private ownership – Environmental Health
- Mark Child - Wellbeing & Healthy City**
- Reporting requirements  
Trees near Highways  
Trees endangering neighbours  
When to intervene
- viii. Subsidence – Landscape Team (Protected trees – onerous burden of proof), Tree Services Unit (Parks).
- Robert Francis-Davies- Enterprise, Development & Regeneration**  
**Mark Child - Wellbeing & Healthy City**  
**David Hopkins - Environment & Transportation**  
**Clive Lloyd – Transformation and Performance**
- Protocol Required
- ix. Woodland Management – Tree Services Unit (Parks), Nature Conservation
- Mark Child - Wellbeing & Healthy City**
- Amenity  
Biodiversity  
Outdoor space
- x. Tree Planting – Tree Services Unit, Highways, Education, Social Services, Estates, Landscape.

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**Mark Child - Wellbeing & Healthy City**  
**David Hopkins - Environment & Transportation**  
**Jennifer Raynor – Education**  
**Andrea Lewis – Next Generation Services**  
Replacement tree planting – right tree, right place  
Highways trees  
Size of trees to be planted

- xi. **Tree Diseases** – Landscape Team, Tree Services Unit, Environmental Heath,  
Highways

**Cllr Mark Child - Wellbeing & Healthy City**

**Cllr Robert Francis-Davies- Enterprise, Development & Regeneration**

Reporting procedures  
Protocol for widespread damage  
Replacement planting  
Biosecurity measures – to follow government guidelines  
Approach to diseased protected trees

Yours sincerely

**COUNCILLOR ROBERT FRANCIS-DAVIES**  
**CABINET MEMBER FOR ENTERPRISE,**  
**DEVELOPMENT & REGENERATION**

**COUNCILLOR MARK CHILD**  
**CABINET MEMBER FOR**  
**WELLBEING & HEALTHY CITY**

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