Audit & Governance Committee
21st March 2018

Tree Preservation Orders

SYNOPSIS
For the Committee to recommend to Full Council minor amendments to the current Officer Delegation Scheme for the Head of Planning & Environmental Services in relation to the variation and revocation of Tree Preservation Orders (TPOs).

1. Relevant Background Details

What is a Tree Preservation Order (TPO)?
A Tree Preservation Order (TPO) is an order made by the Council to protect specific trees, groups of trees or woodlands in the interests of amenity. A TPO prohibits:-
- Cutting down
- Topping
- Lopping
- Uprooting
- Wilful damage
- Wilful destruction

of trees without the Council’s written consent. If consent is granted by the Council, it can be subject to conditions which have to be followed.

Exemptions
There are certain exemptions from the requirement to obtain consent. Work to a tree, or part of a tree, which is dead or dangerous does not require the Council’s permission. There may however be other considerations – such as whether bats use the tree as a roosting site – and if so the proposed work may be restricted by other regulations.

Current Terms of Reference/Delegation
The Development Control Committee currently has “Powers relating to the preservation of trees”.

The Head of Planning & Environmental Services has delegated authority to “…make Tree Preservation and Replacement Orders”.

In addition the Head of Planning & Environmental Services may grant “…consent to fell, lop or top a tree including trees subject to a Tree Preservation Order” subject to certain conditions.

2. Report

Currently the Officer Delegation Scheme allows the Head of Planning & Environmental Services to make and confirm Tree Preservation Orders. In addition the officer has delegation to allow certain works to those trees subject to a TPO.

Approval is being sought for the officer to have delegation to vary or revoke TPOs, except where there are registered objections from affected members of the public. In those cases the matter would be referred to the Development Control Committee for determination.
The additional delegation being sought would not undermine the Development Control Committee’s rights to determine TPO matters which are ancillary to a request for planning consent subject to an officer’s report to Committee.

3. **Options to be considered (if any)**
   
   Option 1 – NO CHANGE. This will result in continued delays in processing TPO matters.
   
   Option 2 – See proposed changes below -

   **Proposed Amended Officer Scheme of Delegation**
   
   That the Head of Planning & Environmental Services –
   
   1. Has delegated authority to make Tree Preservation Orders;
   
   2. Has delegated authority to confirm Tree Preservation Orders;
   
   3. Has delegated authority to make Tree Replacement Notices;
   
   4. Has delegated authority to vary Tree Preservation Orders once confirmed;
   
   5. Has delegated authority to grant consent to fell, lop or top trees (including those subject to a Tree Preservation Order) unless –
      
      - A written objection is received from or on behalf of an affected person.
      
      in which case the matter will be referred to the Development Control Committee for determination.
   
   6. Has delegated authority to revoke an existing Tree Preservation Order unless –
      
      - A written objection is received from or on behalf of an affected person.
      
      in which case the matter will be referred to the Development Control Committee for determination.
   
   7. The Development Control Committee retains authority to deal with matters relating to trees as an ancillary matter connected with the issuing of a planning consent requiring Committee determination.

4. **Issues to be taken into account:-**

   **Financial**
   
   None specific to this report.

   **Risk**
   
   It is proposed to update the Officer Delegation scheme in order to streamline the current system, ensure the Council’s records are kept up-to-date and “tidy-up” the current delegation arrangements.

   **Legal & Data Protection**
   
   The law on Tree Preservation Orders is in Part VIII of the Town and Country Planning Act 1990 as amended and in the Town and Country Planning (Tree Preservation)(England) Regulations 2012. Section 192 of the Planning Act 2008 made further amendments to the 1990 Act which allowed for the transfer of provisions from within existing Tree Preservation Orders to regulations. Part 6 of the Localism Act 2011 amended section 210 of the Town and
Country Planning Act 1990 concerning time limits for proceedings in regard to non-compliance with Tree Preservation Order regulations.

Performance Information, Best Value, Sustainability, Community Safety, Policy Priorities

None.

Human Rights & Equalities

None specific to this report.

5. Conclusion

The Council needs to deal with TPO matters in a timely and efficient manner, ensuring any appropriate conditions are observed. Currently the Officer Delegation Scheme does not cover all eventualities. It is suggested that the most efficient means of addressing these issues is by modifying the existing Scheme, whilst protecting the rights of legitimate objectors and ensuring that the role of the Development Control Committee is re-enforced.

6. Recommendation

The Committee:

   i) Recommend the revised delegation scheme for Tree Preservation Orders (TPO) as detailed in the report; and
   ii) Confirm that the Monitoring Officer may use his delegation under 5.2 of the scheme to amend the scheme accordingly.

Background Papers

Corby Borough Council Constitution

External Consultations

None

List of Appendices

None

Officer to Contact

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