

REPORT TO PLANNING AND LICENSING COMMITTEE

STANDARD TREE APPLICATION RESPONSES



Report Reference PL-21-02
Meeting Date 17th January 2022
Agenda Item 9
Prepared by Planning and Facilities Officer / Town Clerk

1.0 BACKGROUND

At the September Council meeting it was agreed that the committee shall agree a series of standard responses for applications which can be referred to during meetings. The aim of this is to provide members with a ready reference schedule of responses to expedite meetings and provide consistency of responses. The first set of proposed responses have been prepared for tree work applications.

The standard comments will be provided as a reference at each committee meeting. They are intended for convenience and do not prevent alternative comments being agreed by committee.

The committee has previously commented to request that conditions restricting the time at which tree works are undertaken is restricted due to the nesting period. It should be noted that tree works can be undertaken during the nesting period subject to no nesting birds being disturbed. Cheshire East Council issues the following informative on the decision notice of all tree works applications:

Under The Wildlife & Countryside Act 1981, Countryside & Rights of Way Act 2000, and The Conservation of Habitats and Species Regulations 2010 and any future revisions it may be an offence to disturb bats (and their roosting sites) and breeding birds. It is your (and your Contractors) responsibility to ensure that all tree felling & pruning works are carried out in accordance with the above legislation. Please contact the Councils Nature Conservation Officer, Mr J Baggaley (01625 383742), if you require further guidance.

2.0 SECTION 211 NOTICES

2.1 GUIDANCE

Trees within a Conservation Area that are not protected by a Tree Preservation Order (TPO) are protected by section 211 of the Town and Country Planning Act 1990. Under s211, one must notify the planning authority six weeks prior to carrying out certain works on trees within a Conservation Area. The purpose of the notice is solely to give Cheshire East Council an opportunity to make a TPO.

Cheshire East Council can respond to a s211 notice in one of three ways. It may:

- make a Tree Preservation Order (TPO) if justified in the interests of amenity, preferably within 6 weeks of the date of the notice;
- decide not to make an Order and inform the person who gave notice that the work can go ahead; or

- decide not to make an Order and allow the 6-week notice period to end, after which the proposed work may be done within 2 years of the date of the notice.

While considering the 6-week notice period, the authority should allow sufficient time for it to receive objections to the work. The authority should consider duly submitted objections when deciding whether the proposals are inappropriate and whether an Order should be made.

Government guidance states:

The LPA cannot refuse consent. Nor can they grant consent subject to conditions (such as a condition requiring the planting of a replacement tree). This is because a section 211 notice is not, and should not be treated as, an application for consent under a TPO.

The guidance further sets out that:

The mere fact that a tree is publicly visible will not itself be sufficient to warrant a TPO. The LPA should also assess the tree's particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value as a screen or contribution to the character or appearance of a conservation area.

2.2 DRAFT STANDARD RESPONSE FOR S211 NOTICES

Noting the statutory position of s211 notices the council may raise no objections or request that the tree be subject to a preservation order. The recommended standard response for this is therefore:

TS1 The council notes that no evidence has been provided that the [*specify tree/s*] is dead, dying or diseased and recommends that the tree(s) be subject to a Tree Preservation Order as the tree(s) contribute to the character of the conservation area for the following reason(s): the tree,

[specify and tailor reasons from the following

- a) contributes to and provides a strong landscape function being visible to the public and/or providing screening / buffering to the area*
- b) is a landmark tree due to...*
- c) is a rare species*
- d) has cultural/historic significance due to...]*

3.0 WORKS TO PROTECTED TREES

3.1 GUIDANCE

A Tree Preservation Order is an order made by a local planning authority to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits various works to trees without the planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed.

Authorities may only use an Order to protect anything that may ordinarily be termed a tree. This would not normally include shrubs, but could include, for example, trees in a hedge or an old hedge which has become a line of trees of a reasonable height.

3.2 DRAFT STANDARD RESPONSES TO WORKS TO PROTECTED TREE APPLICATIONS

- TP1 The council raises no objections subject to the tree officer being satisfied as to the necessity and methodology of the proposed works.
- TP2 The council raises no objections subject to a condition requiring the replanting of *[specify number]* native trees in the interests of amenity, providing a wildlife habitat and in recognition of the climate emergency.
- TP3 The council objects to the proposed *[works to/felling of]* *[specify tree]* on the grounds that the tree contributes to the amenity of the area and insufficient information has been provided to justify the works.
- TP4 The council objects to the proposed felling of *[specify tree]* on the grounds that it would have a significant detrimental visual impact on the street scene and insufficient justification has been provided to demonstrate the tree is dead, dying or diseased.
- TP5 The council objects to the proposed felling of *[specify tree]* on the grounds that alternative work could be undertaken, namely *[specify]*, which would remove the necessity for felling.

4.0 DECISIONS REQUIRED

The committee should review the draft standard comments.