

ABERDEEN CITY COUNCIL

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COMMITTEE	Enterprise Planning and Infrastructure
DATE	21 May2013
DIRECTOR	Gordon McIntosh
TITLE OF REPORT	Motion by Councillor Thomson: Consultations over applications to remove protected trees.
REPORT NUMBER:	EPI/13/062

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- 1. PURPOSE OF REPORT**  
To report on the implications of introducing a system of neighbour notification of applications by private individuals to remove protected trees.
- 2. RECOMMENDATION(S)**  
To maintain the existing arrangements for consultation.
- 3. FINANCIAL IMPLICATIONS**  
There is currently a system in place for carrying out the statutory neighbour notification for planning applications. It is envisaged that if the Council were to carry out neighbour notification for tree works then it could make use of the same system. There is a financial burden resulting from neighbour notification for planning applications in terms of the costs of administration. These costs are broadly speaking staff time for plotting the location of the application, assessing the neighbours to be notified and printing and sending out the notices. These costs are to some extent covered by the fee that is applicable to planning application. No such fee structure exists for applications for works to protected trees.
- 4. OTHER IMPLICATIONS**  
The major implication would be in terms of staff resources. Few objections or representations are currently received. Neighbour notification is likely to greatly increase the numbers received and increase the expectations of objectors. Taking on this additional workload would reduce the specialist tree officer's involvement in other areas of the planning service unless extra resources were provided.

## 5. BACKGROUND/MAIN ISSUES

- 5.1 At its meeting on the 6<sup>th</sup> March 2013 the Council referred the following Motion by Councillor Thomson to this Committee for consideration:

“Where trees fall into either TPO or Conservation area category and an application for removal has been submitted by private individuals, enhanced neighbour notification and consultation should be put in place. Before any work is carried out neighbours should be notified either in person or in writing, local public notices should be displayed and ward councillors should be given advance notice.”

- 5.2 There is a statutory duty to serve notice of planning applications on the owners of neighbouring land. This is defined as land within 20 metres of the site boundary. There is no statutory duty to carry out this neighbour notification in the case of works to protected trees.
- 5.3 The Planning Authority is required to keep a register of applications for works to protected trees and to make this available for public inspection. This applies to trees in conservation areas and to trees that are subject to Tree Preservation Orders. There is no statutory duty to carry out any public consultation on such applications. The Council, however, already goes beyond what it is statutorily required to do. It is the practice of the City Council to include tree work applications in the weekly list of new planning applications that is published on the Council's website. Thus, this information is available to Councillors, Community Councils and members of the public.
- 5.4 It would be possible to adapt the system currently used to identify and serve notice on neighbours in the case of planning applications so that it could be used with applications to remove privately owned protected trees. There are, however, a number of issues related to such a proposal which would need to be carefully considered.
- 5.5 There would need to be a clear rationale and justification for introducing neighbour notification for tree works. For planning applications the legislative requirement stems from the potential direct adverse impact on near neighbours from a proposed development: for example loss of sunlight, increased noise, overlooking etc. These are clear material issues. In the case of trees the issues become more subjective and often arouse very strong feelings. The process of neighbour notification would tend to raise expectations of objectors to the weight that should be given to their views. This is likely to lead to disproportionate demands on officer's time.
- 5.6 The officer charged with dealing with applications and notifications for tree work is also required to provide specialized advice in support of the Councils planning functions. In addition the officer also provides free and impartial advice and support directly to members of the public

in relation to matters on trees and woodland. Additional public consultation will impeded this service provision unless additional staff resources are put in place.

- 5.7 There is also the issue of ensuring that all applications for tree works by both individuals and the Council are dealt with consistently. If an individual is notified over the potential loss of a tree in the neighbouring garden there may be an expectation that they are also personally notified of the Council's intention to remove a street tree in front of their house, a practice not currently employed by the Council and one that could have considerable consultation implications.
- 5.8 Planning legislation makes provision for the protection of trees when these are recognised as contributing to amenity. In assessing an application to remove a protected tree the tree officer will be considering its contribution to public amenity value but should not be expected to give particular weight to the views of individuals simply because of residential proximity. On the other hand, the fact that the Council is publishing details of tree work applications on its website gives the opportunity for Community Councils, and indeed other groups and individuals, to make representations in support of public amenity. It is suggested that these current arrangements provide a satisfactory level of public involvement in this aspect of tree protection.

6. BACKGROUND PAPERS  
None

7. REPORT AUTHOR DETAILS

Duncan McGregor  
Arboricultural Planner  
[dmcgregor@aberdeencity.gov.uk](mailto:dmcgregor@aberdeencity.gov.uk)  
(01224) 522440