

# East Ayrshire Council submission of 8 June 2022

## PE1812/II: Protect Scotland's remaining ancient, native and semi-native woodlands and woodland floors

I write in response to your email and letter to Eddie Fraser, Chief Executive, regarding the above petition. You have asked East Ayrshire Council to provide information on matters related to Tree Preservation Orders (TPO) and more specifically around potential breaches of TPO's, the number of prosecutions and the reasons for not pursuing prosecution.

To this effect, I have set out below, and in the accompanying spreadsheet, information in response to each of the four questions.

- **The mechanisms in place for reporting a potential breach of a Tree Preservation Order (TPO), including how such information is recorded and analysed;**

Applications for works to TPO trees and investigation of any unauthorised works falls to the Development Management section within the Operations Department of East Ayrshire Council's Planning function. Planning Enforcement is a reactive service and relies on reporting of planning breaches, including those related to Tree Preservation Orders. Reports can be from various sources including members of the public, neighbouring owners or other Council services. Complaints can be made by e-mail, telephone, in writing, online or in person, although it is generally requested that any verbal complaint is followed up in writing/by e-mail. Once received a desk top check is carried out to see whether any protection (TPO or other trees subject to a degree of protection, such as those within a conservation area) exists on the trees and where this is or appears to be in place, an enforcement case is opened in our Uniform record management system. Further investigation can then take place as deemed required including site visits by Enforcement Officers and liaison with the Council's arborist. Other than general reporting on a monthly basis internally and to Scottish Government annually on all

enforcement activity, there is no further analysis undertaken relating purely to tree issues.

- **The number of potential breaches of TPOs reported to you between 2012-22, broken down by year.**

Year	Potential Breaches
2012	5
2013	8
2014	3
2015	5
2016	2
2017	5
2018	1
2019	2
2020	2
2021	4
2022	2 (to date)

Please note that these figures relate to cases that were opened following a reported potential breach and as such, they are reflective of pre-investigation rather than actual confirmed breaches of a TPO. Furthermore, they cover all matters related to trees therefore some recorded cases are not specific to TPO's. Furthermore, a number of these, on investigation, did not actually effect TPO's and the accompanying spreadsheet highlights this.

- **The number of prosecutions you have undertaken in relation to Tree Preservation Orders (TPO) between 2012 – 2022; broken down by year;**

East Ayrshire Council has not had any prosecutions in relation to TPO trees within the above timescale.

- **The number of occasions where a breach of a TPO has not proceeded to prosecution, and the reasons for not pursuing prosecution.**

The information below confirms any breach of a TPO and the reasons why prosecution has not been pursued.

## **2012**

- EN/12/0001/TP: no breach identified.
- EN/12/0051/TP: acceptable breach – removal of tree limbs within TPO'd area, no further action.
- EN/12/0127/TP: not within extent of TPO, no breach identified.
- EN/12/0185/TP: unauthorised works to protected tree, retrospective application submitted, no further action.
- EN/12/0303/TP: no breach identified.

## **2013**

- EN/13/0010/TP: alleged felling of protected trees, not within extent of TPO, no breach identified.
- EN/13/0053/TP: works to trees covered by TPO/planning approval.
- EN/13/0075/TP: duplicate case, works not within extent of TPO, no breach identified.
- EN/13/0077/TP: dangerous tree, works verbally agreed for safety and retrospective application submitted.
- EN/13/0106/TP: removal of trees did not require consent, no breach identified.
- EN/13/0220/TP: not within extent of TPO, no breach identified.
- EN/13/0317/TP: works undertaken in compliance with separate Enforcement Notice, no damage to TPO tree, no further action required.
- EN/13/0433/TP: damage to tree by persons unknown and not owner (Council is owner), no evidence to allow progression to formal action.

## **2014:**

- EN/14/0164/TP: removal of trees within Conservation Area, replacement planting agreed with Council arborist and planted.

- EN/14/0348/TP: not within extent of TPO, no breach identified.
- EN/14/0441/TP: not within extent of TPO, no breach identified.

## **2015:**

- EN/15/0041/TP: trees deemed dangerous and retrospective application submitted.
- EN/15/0161/TP: no work had taken place, advised application for removal could be submitted.
- EN/15/0163/TP: works had been authorised by consent, no breach identified.
- EN/15/0258/TP: following assessment by Outdoor Services arborist it was agreed to seek a retrospective application as the removed trees diseased and replacement trees could be secured through the application.
- EN/15/0313/TP: works undertaken for health and safety reasons, following review by arborist retrospective application accepted and replacement trees agreed.

## **2016**

- EN/16/0118/TP: works agreed by Council's Senior Arboricultural Officer, no further action required.
- EN/16/0294/TP: works agreed by Council's Senior Arboricultural Officer, replacement tree planting agreed.

## **2017**

- EN/17/0059/TP: Inspected and no works or damage to TPO tree. No breach identified.
- EN/17/0229/TP: Tree removed in the interests of road and public safety.
- EN/17/0261/TP: No TPO tree present, query on how to have TPO served. No breach identified.
- EN/17/0350/TP: No works taken place, no breach.
- EN/17/0373/TP: Permission already in place under reference 14/0819/TP, works authorised.

## **2018**

- EN/18/0262/TP: Damage due to storms, confirmed by professional arborist. Retrospective application under reference 18/0917/TP, replacement trees secured.

## **2019**

- EN/19/0047/TP: Unable to identify party who undertook works, no evidence to allow pursuit.
- EN/19/0180/TP: Replacement Planting agreed with Council arborist and planted.

## **2020**

- EN/20/0068/TP: Trees Not Covered by TPO or within Conservation Area.
- EN/20/0071/TP: Retrospective application submitted.

## **2021**

- EN/21/0070/TP: Retrospective application submitted.
- EN/21/0235/TP: Evidence supports immediate removal however retrospective application requested to ensure replacement planting.
- EN/21/0236/TP: No Breach Identified.
- EN/21/0237/TP: No Evidence of who poisoned tree, passed back to Outdoor Services.

## **2022 (to date)**

- EN/22/0014/TP: Site inspected by Council's Senior Arboricultural Officer - no further action required.
- EN/22/0056/TP: Currently obtaining further information.

I trust that the information above provides you with the information sought. If you require any further information or clarification on the information provided please do not hesitate to contact me.