

East Dunbartonshire Council submission of 26 July 2022

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

Thank you for your letter of 11 May 2022 to requesting information in regard to the CONSIDERATION OF PETITION PE1812: Protect Scotland's remaining ancient, native and semi-native woodlands and woodland floors.

We note the questions raised by the Citizen Participation and Public Petitions Committee, following its meeting on 4 May 2022, namely:

1. The mechanisms in place for reporting a potential breach of a Tree Preservation Order (TPO), including how such information is recorded and analysed.
2. The number of potential breaches of TPOs reported to you between 2012 and 2022, broken down by year.
3. The number of prosecutions you have undertaken in relation to Tree Preservation Orders (TPO) between 2012 - 2022; broken down by year; and
4. The number of occasions where a breach of a TPO has not proceeded to prosecution, and the reasons for not pursuing prosecution.

In RESPONSE to the questions raised, East Dunbartonshire Council can advise as follows:

Point 1.

Reporting a potential breach of a Tree Preservation Order (TPO) to EDC.

- By Telephone: to the Planning Department or direct to the Council's Arboricultural Officer.

- Via The Council's online [Planning Enforcement Form](#)
- By e-mail: Planning Department or direct to the Council's Arboricultural Officer.

Recording of such information.

- Creation of a Case File on the Council's Uniform (Planning Enforcement Module) software system.
 - Provides a Unique Case Reference number.
 - Records the nature of the complaint i.e. Unauthorised Tree Works.
 - Records the address of the land associated with the report.
 - Provides a Unique Property Reference Number for the address.
 - Identifies the Officer allocated the Case for investigation.
 - Identifies the Priority of the Case i.e. 'A' - Immediate action.
 - Records the details of the Reporter of a potential breach of a TPO.

Analysis of such information.

- The records of the Council are researched to confirm that the tree(s) are actually afforded protection i.e. protected by a TPO, within a conservation area or by a condition of a valid planning permission.
- If so, whether the Council has granted permission for the alleged works i.e. if the tree(s) are protected by a TPO has a formal application been submitted and approved for those specified works.
- If so, the Council's Arboricultural Officer will visit the site to ensure that the works have been carried out in accordance with the permission granted.

- If no application has been submitted or approved, a joint visit to the address by the Council’s Planning Enforcement Officer and Arboricultural Officer to establish the facts.
 - Identify the tree(s) subject to works in contravention of the TPO.
 - Identify the nature of those works.
 - Record details of those works - written and photographic.
 - Record details of the landowner/contractor together with a brief statement and their individual contact details, if provided.

The findings from this visit will indicate the likelihood of referring the matter for prosecution. Further consideration will be in terms of the quality of the evidence acquired thereafter. The final decision being in consultation with the Council’s Legal Department.

RESPONSE: Points 2 and 3

The number of potential breaches of TPOs reported to EDC between 2012 and 2022.

Year	Reports Received	Reports Relating to TPOs	Prosecutions Undertaken
2012	1	0	0
2013	2	0	0
2014	3	1	0
2015	2	0	0
2016	0	0	0
2017	4	2	0
2018	3	1	0
2019	3	1	0
2020	5	2	0
2021	3	2	0
2022 (July)	4	1	0
Total	30	10	0

RESPONSE: Point 4

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

Between 2012 and 22 July 2022, no prosecutions were pursued by EDC.

However, one recent case is currently under consideration. The reasons for no prosecutions being pursued are:

- The Council has had mixed results when previously referring cases involving unauthorised works to trees within a conservation area, with one case being successfully prosecuted and another, where the Council felt it had an iron-cast case, being returned as not in the public interest to prosecute.
- The works had been carried out in a professional manner and if the Council had received the appropriate application, it would have granted permission for the works.
- A genuine mistake had occurred, and the landowner instigated mitigation measures i.e. appointed a professional Arboriculturalist to report on and monitor the condition of the tree(s) and to carry out further works if required with reports being submitted to the Council or to plant a replacement tree.
- A formal written warning was issued.
- A suitable replacement tree(s) was planted.
- An opportunity to refer one case for prosecution was missed due to the restrictions which were in place due to COVID-19.

We trust the information provided is satisfactory. Please note that Officers would be keen to meet with The Crown Office and Procurator Fiscal Service to determine whether any of the processes highlighted could be improved upon.