Local Government and Communities Committee

Planning (Scotland) Bill

Submission from Fife Council

The protection of trees in conservation areas – Section 172 of Town & Country Planning (Scotland) Act 1997

The present legislation requires 6 weeks’ notice to be given to local authorities prior to any work being carried out to trees located within conservation areas. This allows the authority to assess the proposal and consider whether to allow the work to proceed or, if wishing to refuse it, serve a tree preservation order.

Fife Council has 48 conservation areas and can receive between 100 and 200 notifications per year. Where a notification to carry out work to a tree is unacceptable in terms of amenity, a Tree Preservation Order should then be implemented. The making of tree preservation orders is costly to the Council and in some instances can be thousands of pounds. One recent example is where the trees where owned by a residents group of 37 properties and each one had to be notified and registered with the Land Registry. The cost of committee, legal and officers time to Fife Council was considerable.

Fife Council considers that a change in the legislation whereby a Council would be in a position to refuse a notification/application in the conservation area would eliminate the requirement for a Tree Preservation Order. The ability for a local authority to either refuse or grant permission subject to conditions could be introduced, thereby removing the burden of having to make costly tree preservation Orders. An application could be submitted under the legislation, giving six weeks’ notice, and where the proposed works will have a detrimental impact on amenity, the authority should be in a position to refuse it, or approve it with modifications and subject to conditions. Similar to applications under tree preservation orders, a right of appeal could be included in any change to the existing legislation.

Were a change to the Act be implemented, Fife Council would consider this to be an efficient and equitable way in dealing with the large number of notifications experienced and remove the resulting costly tree preservation orders promoted in order to safeguard amenity within the conservation areas. At present where a TPO is served the owners do not have a right of appeal, but this could be included with the change to conservation area notification/applications.

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Tree Protection Officer