

# Dumfries and Galloway Council submission of 17 June 2022

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

I refer to your letter of 11 May 2022 to Derek Crichton, Chief Executive, requesting information from Dumfries and Galloway Council in regard to the above petition.

Dumfries and Galloway Council recognise that ancient and semi-natural woodlands are important and irreplaceable features which should be protected and enhanced. This also applies to other native and long-established woodlands with high nature conservation value. Other woodlands, hedgerows and individual trees may also have significant biodiversity value and make a significant contribution to landscape character and quality, so should be protected from adverse impacts resulting from development. Dumfries and Galloway Council's Local Development Plan contains Policy NE7 which applies to woodland/forestry felling, planting and replanting proposals which do not require planning permission but where the Council acts as a consultee. The Policy states that proposals should seek to ensure that ancient and semi-natural woodlands and other woodlands with high nature conservation value are protected and enhanced.

The Local Development Plan also contains Policy NE8 on Trees and Development which sets out the requirements where the works to a protected tree or trees form part of a development proposal. The applicant must demonstrate that:

- The benefits of the development, including any replacement planting, will outweigh the loss or potential harm caused by the works to the trees or trees; and
- The development has been designed and located in order to minimise potential adverse impacts on the protected tree or trees.

Supplementary Guidance on Trees and Development has been produced which provides further advice and guidance in respect of survey work, designing around trees, new planting, protection during

construction, maintenance and removing of existing trees.

[Trees and Development SG LDP2 Adopted.pdf \(dumgal.gov.uk\)](#)

Dumfries and Galloway Forestry and Woodland Strategy also contains a key policy objective to: *Protect and retain trees valued for their rarity, visual amenity or cultural significance or ensure appropriate compensatory planting occurs where trees are lost as part of permitted development works.*

[\(Forestry and Woodland Strategy April FINAL1.pdf \(dumgal.gov.uk\)](#)

The register of existing Tree Preservation Orders is publicly available on the Council web site, on a dedicated page about Protected Trees [Protected trees - Dumfries and Galloway Council \(dumgal.gov.uk\)](#).

There are currently 86no. TPOs across Dumfries and Galloway. It should be noted that trees within the 36 Conservation Areas are also protected and permission is required to undertake any work on them.

In response to the Committee's questions:

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

- Reporting of a potential breach of a Tree Preservation Order is handled in the same way as any breaches of planning controls. The Council website has a dedicated page on Enforcing Planning Controls ([Enforcing planning controls - Dumfries and Galloway Council \(dumgal.gov.uk\)](#)) providing a contact email address to report possible breaches and which sets out the information to be provided.

Investigations into breaches are prioritised based on the effect of the breach and the significance of the site. The time to resolve issues or take action will vary on a case by case basis. Each case will be considered and a decision made on the best solution. The aim is to resolve problems rather than punish mistakes. Only a small number of cases usually require formal enforcement action, we'll try to resolve matters through negotiation if possible.

Details of an enforcement notice, breaches of condition notices and stop notices are entered into an Enforcement Register which form part of the Planning Register. A summary of the Enforcement

Register is available on the dedicated website page, and the notices can be inspected in full by arrangement at a Council Office.

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

- There was one potential breach of a TPO reported to the Council between 2018-22 which occurred in 2021. (Records prior to 2018 are not accessible however Officers involved with TPOs are not aware of any breaches since 2014)

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

- Dumfries and Galloway Council has undertaken no prosecutions in relation to Tree Preservation Orders between 2014 -22.

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

- Dumfries and Galloway Council has not proceeded to prosecution in relation to the TPO breach in 2021. The case relates to a small woodland which had some unauthorised removal of dying trees compounded by tree loss due to storm damage. It was felt unlikely that the Procurator Fiscal would pursue prosecution and, due to challenging ground conditions, instructing replacement tree planting was not viable. The Council has therefore instructed the woodland owner to undertake a specialist survey of the woodland and produce a Tree Management Plan for consideration and approval. The works planned with the TMP will encourage re-growth and natural regeneration, which will benefit and enhance the whole woodland.

Please do not hesitate to get in touch if you require further information.