

West Lothian Council submission of 12 August 2022

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

I refer to your letter of 11 May 2022, and further email request of 19 July, with respect to the above petition urging greater protection for the identified woodland types in Scotland. The Citizen Participation and Public Petitions Committee considering the matter, seeks further information from Scottish local authorities on the four issues copied below:

- *The mechanisms in place for reporting a potential breach of a Tree Preservation Order (TPO), including how such information is recorded and analysed.*
- *The number of potential breaches of TPOs reported to you between 2012-22, broken down by year.*
- *The number of prosecutions you have undertaken in relation to Tree Preservation Orders (TPO) between 2012 – 2022; broken down by year; and*
- *The number of occasions where a breach of a TPO has not proceeded to prosecution, and the reasons for not pursuing prosecution.*

With respect to the specific information sought by The Citizen Participation and Public Petitions Committee, the further information from West Lothian is as below.

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

There are a number of ways that West Lothian Council can be contacted regarding potential breaches of the provisions of a TPO – through the call centre, our web site, or by email. Such potential breaches are forwarded to the council's Planning Enforcement team to investigate. The council maintains an annual enforcement register where such cases are recorded after assessment against the respective legal order and associated legislation.

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

Unfortunately, this information is not held by the council.

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

2021 - one enforcement case was undertaken for unauthorised felling at TPO No. 4/ 1995 Newpark, Bellsquarry, Livingston [planning application 1184/MS/18]; incident occurred in 2020 with planning enforcement action launched in 2021 and the case is now with the procurator fiscal.

No other prosecution cases are known over the time period within the council area.

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

2021/22 – one case where a mature tree in a historic blanket TPO was felled after being allegedly damaged by lightning and was considered for planting of a replacement tree under Section 167 of the *Town and Country Planning (Scotland) Act 1997*. As this breach relates to an extremely large, historic TPO that was made to protect trees at the time of the creation of Livingston new town it was viewed that a prosecution

would be difficult to pursue because, since the *Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010* came into force, it is required that TPO maps define the position of trees at a scale to give a clear indication of their location. [refer *Planning Circular 1/2011 Tree Preservation Order*, para. 9]. Whilst West Lothian has reviewed all of its TPOs for legal effectiveness, meaning that all TPOs on the council's register are supported by records in the Scottish land registry office, including subject TPO No. 2/ 1965 Midlothian – Livingston New Town. In effect, the 2010 Regulations undermine the full force of larger blanket TPOs that were made in advance of this legislation and while they are still in use and force it would be unfortunate if such TPOs were challenged until such time as they are fully reviewed.

I trust that this response assists with the committee's inquiries.