

WEST DUNBARTONSHIRE COUNCIL

Report by the Executive Director of Infrastructure and Regeneration

Planning Committee: 30 April 2014

Subject: WDC Tree Preservation Order No.5: Damage to Six Trees within Grounds of Alexandria Health & Care Centre, Main Street, Alexandria.

1. Purpose

- 1.1 To update the Committee on the damage to protected trees within the grounds of the new Alexandria Health & Care Centre.

2. Recommendations

- 2.1 That the Committee **notes the outcome** of reporting the offence to the Procurator Fiscal.

3. Background

- 3.1 A report was presented to the Planning Committee in November 2013 advising of damage which had been caused to six trees within the grounds of the new health and care centre. As a result of works to realign and rebuilding the stone wall along the boundary with Main Street, the tree roots were damaged by a mechanical digger along a 40m stretch behind the line of the proposed wall. The damage sustained to the trees was such that the main supporting roots had been severed and the trees had to be removed in the interests of public safety. The trees were covered by a Tree Preservation Order.
- 3.2 It was agreed to report the matter to the Procurator Fiscal and this was agreed by the Committee. A report was presented to the Procurator Fiscal on the grounds that an offence had been committed under section 171(1) of the Town and Country Planning (Scotland) Act 1997, as amended, where the trees were wilfully damaged in such a manner as to be likely to destroy them.

4. Main Issues

- 4.1 The Procurator Fiscal (PF) has reviewed the case and is of the view that there is insufficient evidence to raise proceedings, despite the site contractor having confirmed at a site meeting that they are responsible for the damage carried out by their on-site subcontractor. The PF is not satisfied that there is corroborative evidence in this respect.
- 4.2 Whilst this is disappointing, the parties responsible have partly redressed the situation by carrying out replanting across the site. This consists of twelve trees of advanced stock and six trees to be forest transplants. This level of

planting will enhance the visual amenity of the site and help to ensure the longer term future of the stand of trees.

4.3 The PF decided that no proceedings should be taken despite being supplied with a detailed report. Officers are attempting to ascertain whether the form in which information is supplied to the PF could be adjusted with a view to facilitating prosecution of any future cases. To that end, a meeting between Council officers and the PF will be held in the next few months to discuss how cases could best be presented to increase the likelihood of prosecution. Guidance will then be produced for officers dealing with cases in which there may ultimately be a report to the PF.

4.4 Although this case has not been pursued by the PF, the case does send a clear signal to other developers and landowners that the Council upholds the important role that protected trees play within our environments and that the wilful damage or destruction of such trees is a serious matter which will be taken to the courts if necessary.

5. People Implications

5.1 Any staff implications can be accommodated within existing staff resources.

6. Financial Implications

6.1 There are no financial implications associated with this report.

7. Risk Analysis

7.1 There are no known risks associated with this report.

8. Equalities Impact Assessment (EIA)

8.1 No issues were identified in a screening for potential equality impact of this measure.

9. Consultation

9.1 No consultation was required to be carried out.

10. Strategic Assessment

10.1 The proposal has no implications for the Council's five main strategic priorities for 2012 – 2017.

Richard Cairns

Executive Director of Infrastructure and Regeneration

Date: 03 April 2014

Person to Contact: Pamela Clifford, Planning & Building Standards Manager,
Housing, Environmental and Economic Development,
Council Offices, Rosebery Place, Clydebank, G81 1TG
Tel: 01389 738656
Email: pamela.clifford@west-dunbarton.gov.uk

Appendices: None

Background Papers:

1. Report to Procurator Fiscal dated January 2014
2. Proposed Scheme of Replanting

Wards Affected: Ward 1 (Lomond)