

Brighton & Hove City Council

Council

Agenda Item 60

Subject: PROTECTING THE CITY'S TREES

Date of meeting: 15 December 2022

Proposer: Councillor Fishleigh

Seconder: Councillor Janio

Ward(s) affected: All

Notice of Motion

Independent Councillors

This Council notes that:

1. Tree Preservation Orders (TPOs) were introduced in 1947 as a tool for local authorities to use to protect individual trees and woodland in the interests of preserving the amenity those trees provide to the area.
2. If a tree is protected by a TPO then it is a criminal offence to cut down, top, lop, uproot, damage or destroy that tree without the written consent of the local planning authority, and this extends to the cutting of the tree's roots.
3. Anyone found guilty of wilfully destroying a protected tree, or wilfully damaging that tree in a way that is likely to destroy it, may be fined up to £20,000 in the Magistrates Court and, in serious cases, they may go to the Crown Court, where the potential fine is unlimited.

This Council agrees that:

4. We should use the full force of the law when trees with TPOs are removed without BHCC's permission.

This Council therefore resolves to request:

5. A report to ETS Committee which brings forward for approval:-
 - a. An enforcement policy in relation to trees with TPOs that are removed without BHCC's permission;
 - b. Guidance for residents and developers to support the Council's enforcement approach.
 - c. Rules about the size, variety and number of trees – as well as agreed watering and maintenance schedules - to replace any tree on private land removed without the required permissions.

Supporting information:

This year a property developer was fined £68k by Southampton Magistrates for breaching TPOs – and ordered to plant 65 new trees to replace the 37 destroyed.

Trees with TPOs at a number of sites in Ovingdean have recently been removed and damaged.

Mature trees within the Rottingdean conservation area have recently been removed.

Planning conditions for new student housing in Falmer required the developer to keep a mature sycamore and wych elm on the site. However, these trees were removed and there was no guidance in place about reparations.

The offence of breaching a TPO is one of strict liability. This means, a landowner may be guilty of an offence even if they had no idea that the TPO existed.

<https://www.brightonandhovenews.org/2022/01/13/developer-says-sorry-for-wrongly-felling-trees-and-agrees-to-plant-more/>