

**REPORT TO: PLANNING & TRANSPORTATION COMMITTEE - 20 JUNE 2005**

**REPORT ON: REQUEST PERMISSION FOR SERVICE OF TREE REPLACEMENT NOTICE - DUNDEE CREMATORIUM, MACALPINE ROAD**

**REPORT BY: DIRECTOR OF PLANNING & TRANSPORTATION**

**REPORT NO: 229-2005**

## **1 PURPOSE OF REPORT**

- 1.1 This Report seeks the agreement of the Committee to allow the service of a Tree Replacement Notice on the owner at Dundee Crematorium, Macalpine Road, Dundee.

## **2 RECOMMENDATION**

- 2.1 It is recommended that the Director of Planning & Transportation be remitted, in consultation with the Depute Chief Executive (Support Services), to serve a Tree Replacement Notice as specified in paragraph 6.5, under the terms of Section 168 of the Town & Country Planning (Scotland) Act 1997 ('the Act') on the owners of the Dundee Crematorium, who have failed to adequately protect trees during works carried out on the grounds of the Crematorium with the result that 7 trees have been destroyed and several more are showing signs of distress. Failure to comply with the notice will lead to the Council undertaking direct action as specified in paragraph 6.5.

## **3 FINANCIAL IMPLICATIONS**

- 3.1 The estimated cost of the tree purchase and planting is approximately £900. In the event of direct action being undertaken by the Council, all costs incurred including staff time and administration charges, will be recovered from the owners.

## **4 LOCAL AGENDA 21 IMPLICATIONS**

- 4.1 This request is in line with two Key Themes of the local Agenda 21. Firstly, the diversity of nature is valued and protected. The replacement of the trees within the grounds will ensure that the amenity, previously provided by the affected trees, is returned. Secondly, pollution is limited to levels at which natural systems can cope.

## **5 EQUAL OPPORTUNITIES IMPLICATIONS**

- 5.1 There are no equal opportunity implications.

## **6 BACKGROUND**

- 6.1 The Council has promoted and continues to promote Tree Preservation Orders and the protection of trees in Conservation Areas. In doing so, legal protection is afforded to trees within conservation areas and trees covered by a TPO. In effect, land owners have to seek permission from the Planning Authority to carry out work to such trees within their grounds and have a duty to replace trees which have been destroyed.

- 6.2 The land owner of Dundee Crematorium has carried out engineering works, the result of which was the depositing of large amounts of soil under the canopies of

trees within a part of the site. The trees are protected by a Tree Preservation Order. Seven trees have died as a result of soil compacting and salt leeching and several more are showing obvious signs of distress and may result in their death. Under Section 167 of the Act the owner of the land is under a duty to plant trees to replace these. A plan detailing the proposed new planting scheme is on display in the Members' lounge.

- 6.3 Numerous attempts by the Local Planning Authority, including site visits, where advice was given as to how to remedy the situation, have resulted in no change. The soil bunds are still in place under the canopy of the trees and the dead trees have not been removed and replaced.
- 6.4 Further to this the Council's Forestry Officer has sought from the operators of the site, a Tree Management Plan, to show how they intend to arboriculturally maintain the site and manage the remaining trees. To date no such plan has been forthcoming.
- 6.5 At present the scheme of delegation does not include the service of Tree Replacement Notices in the powers delegated to the Director of Planning & Transportation. The Notice will dictate the planting period, size and species of trees to be replaced and the location within the TPO site where these are to be planted. The Forestry Officer has recommended that 6 trees as replacements be planted before the end of the autumn planting 2005. The Forestry Officer further requests as part of the Notice, that a Tree Management Plan be submitted. If the owner fails to comply with the terms of the Notice the council will undertake direct action and recover the costs from the owner.

## **7 CONSULTATIONS**

- 7.1 The Chief Executive, Depute Chief Executive (Support Services), Depute Chief Executive (Finance) and Assistant Chief Executive (Community Planning) have been consulted and are in agreement with the contents of this report.

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IGSM/IAR/DM/RJ

8 June 2005

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