

**WRITTEN QUESTION TO THE MINISTER FOR ENVIRONMENT
BY DEPUTY M.R. SCOTT OF ST. BRELADE
QUESTION SUBMITTED ON MONDAY 30th OCTOBER 2023
ANSWER TO BE TABLED ON MONDAY 6th NOVEMBER 2023**

Question

“With regard to Articles 59 and 60 of the [Planning and Building \(Jersey\) Law 2002](#), will the Minister advise

–

- (a) the number of trees, including their location and Parish, added to the List of Protected Trees since September 2022;
- (b) the number of requests to list trees, including provisional listings, received by his Department since September 2022;
- (c) the process for listing a tree;
- (d) the number of staff involved in the listing of trees, including those available outside of normal office hours should a tree be under threat;
- (e) plans for the future resourcing of this work should the Assembly support [P.71/2023](#), including any additional planning application administration required;
- (f) any future intention to make distinctions between ‘heritage’ trees, trees with public amenity value, and other types of trees; and
- (g) any plans to require planning officers undertaking assessment of planning applications involving the removal of trees, listed or otherwise, to consider the same criteria as a States Arboricultural Officer in making assessments for the purposes of Articles 59 and 60 regarding public amenity value and provide written decisions based on such criteria?”

Answer

(a) A copse/woodland (of approximately 90 trees) at Trinity Grange, La Rue du Presbytere, Trinity was added to the list of protected trees in October 2022.

A group of trees (over 100) was added to the list of protected trees, on a provisional basis, at St Joseph’s, St John’s Road, St Helier in April 2023.

(b) There is currently no formal application process to request the listing of a tree, and this information is not held. Most proposals to consider the formal listing of a tree arise from the planning process within the context of development proposals.

(c) The process for listing a tree is prescribed by Article 59 of the Planning and Building (Jersey) Law 2002:

59 Notice and procedure for inclusion on, or removal from, the List of Protected Trees[218]

(1) Except as provided by Article 60, a tree shall not be included on or removed from the List of Protected Trees unless notice of the inclusion or removal has been duly served in accordance with this Article.

(2) Notice of proposed inclusion on the List –

(a) shall be served –

(i) on the owner of the land on which the tree is growing, or

(ii) (where such service cannot be effected) by being displayed in a conspicuous position on or near the tree; and

(b) shall contain a statement to the effect that any person may make written representations to the Chief Officer in respect of the proposed inclusion of the tree on the List.

(3) A person who without lawful authority removes or defaces a notice displayed under paragraph (2) shall be guilty of an offence and liable to a fine of level 2 on the standard scale.

- (4) In determining whether or not to include a tree on the List –
- (a) any representations made in response to the notice under paragraph (2) shall be taken into account to the extent that such representations relate specifically to the proposed inclusion of the tree on the List;
- (b) any person considered to have relevant expert knowledge may be consulted and the views of that person may be taken into account.
- (5) A further notice of the decision as to whether or not to include the tree on the List shall be served on the owner and (if different) any occupier of the land on which the tree is growing as soon as practicable after the decision has been made.

Trees may also be added to the list, on a provisional basis, where it is considered necessary or expedient to restrain the actual or apprehended removal of, or damage to, a tree suitable for inclusion on the List of Protected Trees. This process is prescribed by Article 60.

- (d) The number of staff involved in the listing of a tree is variable. The process requires the professional assessment of the amenity value of a tree; administration of the formal listing process; and a decision to be made by the Chief Officer, or his delegate, to determine an intent and an addition of a tree to the list.

Staff are not normally available outside of normal office hours to protect a tree that is under threat.

- (e) Work undertaken to add trees to the list of protected trees owing to their amenity value, under the auspices of Article 59 and 60 of the law, and the resource required to undertake this work, is distinct and separate to the provisions of amendment 8 to the Planning and Building (Jersey) Law 2002, which is the subject of P.71/2023.

The latter will better protect trees by bringing works to them under the definition of ‘development’, under the auspices of Article 5(2) of the Planning and Building (Jersey) Law 2002. Separate arrangements have been made to manage the administrative and professional implications of broadening the definition of development to include works to trees, as an integral part of this work.

In its response to the Jersey Tree Strategy (2022), the Government committed to review the efficacy and use of existing legal provisions to identify and protect trees of special importance. This work, when it is undertaken, will consider resourcing.

- (f) The criteria currently used to assess trees, relative to their potential for listing, includes the following factors:

- the tree’s size
- life expectancy
- position (and the public enjoyment it provides)
- the presence of other trees
- its relation to its setting
- its form and other special features, including:
 - o if it is rare
 - o if it is of exceptional landscape value
 - o if it screens an unpleasant view
 - o if it is important in a larger composition

Any change to these criteria would be considered in relation to the future work to be undertaken to review the efficacy and use of existing legal provisions to identify and protect trees of special importance.

- (g) Planning officers are required to assess planning applications to undertake development, and to justify their recommendations and decisions, against the island plan, and any other material factors.

Proposals to remove trees are principally considered relative to bridging Island Plan Policy NE1 – Protection and improvement of biodiversity and geodiversity; and Policy NE2 – Green infrastructure and networks. Policy NE3 – Landscape and seascape character may also be of relevance in some circumstances.

Proposals to list trees, under Article 59 and Article 60, are limited to those criteria set out at (f) above.

In assessing a planning application to remove trees, a broader range of material factors, beyond amenity value, might be considered. It is the Minister for the Environment's intention to publish guidance, setting out those wider factors which might be considered, in support of the implementation of amendment 8 of the Planning and Building (Jersey) Law, as it affects the regulation of works to trees.