



COUNCILS CAN PROTECT TREES.

We can do this under the Town & Country Planning Acts by making them subject to a tree preservation order (TPO). This leaflet will tell you what you should do if you would like a visually important tree to be preserved. It will also tell you what you can do if a tree you may wish¹ to do works to or have removed is subject to a TPO.

TREE PRESERVATION ORDERS

A Tree Preservation Order can be applied to any species of tree Rare or unusual trees that have particular historic interest are more likely to be granted an order. Trees in hedgerows can be included but not hedges, bushes or shrubs themselves What's more, TPOs are not normally placed on fruit trees cultivated for fruit production or on trees within areas we control such as those on highways or in parks.

We have made over **800** Tree Preservation Orders protecting more than **3,000** trees in the Borough. It is a **criminal** offence to cut down, top, lop, uproot, willfully damage or destroy any tree covered by a TPO unless we have specifically permitted this work

We have a duty to make a TPO when we are considering planning applications for development. This is because development sites often contain trees that make an important visual contribution to the area Many TPOs result from this process

We also make TPOs when people bring to our attention trees or groups of trees that they consider important to an area.

HOW ARE TPOs MADE?

First, one of our qualified staff will assess the tree. The tree will have to pass a number of key tests.

- it should be in a reasonably healthy and safe condition, or capable of being made so, and likely to have reasonably long life expectancy
- it should be a good and attractive specimen and not be seriously misshapen or damaged
- it should make a visual contribution to the community-at large and not be simply for private benefit
- it should not be so close to existing or proposed buildings that it will seriously diminish amenity • interests of occupiers or the buildings' structural stability.

Additionally a TPO will only be made where a tree is at risk. such as through proposed building development.

If a TPO is considered appropriate, our first step will be to make a "**provisional TPO**" This has immediate effect but only lasts for six months and will then lapse unless we formally make it a "**confirmed TPO**".

Copies of a provisional TPO will be served on all owners and occupiers of land directly affected by the Order All new TPOs are recorded on the Local Land Charges Register which will mean that they

appear in the Conveyancing search when a property is being sold

If you wish to object to a **provisional TPO** you must do so in writing, within 28 days of the Notice being served (You must make clear which trees you are objecting to and why). Objections are often resolved by voluntary negotiation. Otherwise, we will formally consider the objection at a special Development Control Committee, which decides whether or not to confirm the Order following a visit to view the trees).

In the case where no objection is made to a provisional TPO, we will normally simply confirm the Order upon expiry of the objection period.

APPLICATIONS FOR TREE SURGERY OR FELLING

Responsibility for maintaining trees covered by a Tree Preservation Order normally remains with the **owners** of those trees

When owners or neighbours want to prune or fell a TPO tree they must apply in writing to our Head of Development Control. Special forms are available from the Environmental Services Reception and from the Council website www.Havant.gov.uk.

The tree will be inspected by one of our qualified officers who will prepare a report, recommending whether or not the work proposed can go ahead. The inspection will consider the health and the condition of the tree, its relationship with nearby buildings and its effect upon the amenities of their occupiers. A decision will then be made to grant or refuse permission by either the Head of Development Control or the Development Control Committee depending on the circumstances of the case. (See Development Control Advice Note No 5 - "Making a decision on your planning application").

If permission is given for the felling of a TPO tree there is no automatic obligation on the owner to replace the tree. However, in order to protect the visual character of the locality, we would usually impose such a condition on felling consents.

If an application to carry out work to a TPO tree is refused, the applicant has **right of appeal to the appropriate**

Secretary of State. An applicant may also appeal to the Secretary of State against the requirements of any **conditions** imposed by us on consent to carry out such tree works

Appeals to the Secretary of State must be lodged within 28 days of receipt of our decision. Such appeals are usually determined by the Secretary of State on the basis of written statements following a visit by a tree expert, although both parties have the right to ask the Secretary of State to hold a public local inquiry or hearing into the matter.

In certain Circumstances, if consent is refused (or granted subject to conditions) by us, compensation can be sought, but only in limited circumstances and if actual loss or damage results. Specialist advice from an independent solicitor is desirable in pursuing such a claim.

TREES IN CONSERVATION AREAS

Older historic parts of the Borough, such as central Emsworth and Langstone Village, are designated as "Conservation Areas" under the Town & Country Planning Acts. There are now 13 such Conservation Areas in the Borough as a whole

Conservation Area status protects most trees within them not already covered by a TPO. With certain exceptions anyone intending to carry out work to or fell a non-TPO tree. Such exemptions do not extend to the erection of other minor buildings not requiring planning permission from the Council. If you are in any doubt about this do not hesitate to telephone us for advice on (023) 9244 6525 or (023) 9244 6581/6582

DANGEROUS, DEAD & NUISANCE TREES

If a Tree Preservation Order or Conservation Area tree proves to be dead, dying or dangerous it can normally

case of TPO trees, it is a legal requirement that a replacement tree be planted unless we confirm replacement to be unnecessary. Any replacement tree is protected by the original Tree Preservation Order.

In cases of dead or dangerous trees, we must * reasonable opportunity to inspect the tree before the days notice.

Permission is sometimes not required to carry out works to a TPO or Conservation Area tree in order to abate a nuisance or in compliance with an obligation imposed by or under an Act of Parliament. In this particular context a "nuisance" has to be one that is actionable in law. Such matters of "nuisance" can involve complex legal issues and in such cases it is with the work involved.

Notifying or liaising with us is important because the persons) involved in carrying out the work may otherwise become vulnerable to prosecution.

FURTHER ADVICE & ASSISTANCE

If you need any further advice contact our Tree Officer, on [023] 9244 6525. Please bear in mind however that

site inspections, so you may only be able to leave a message in the first instance. Alternatively you can write to the Tree Officer c/o Head of Development Control, Civic Offices, Civic Centre Road, Havant, P09 2AX.

It is important to ensure that any tree works are carried out by a qualified and competent tree surgeon in accordance with the relevant British Standard Specification (BS 3998:1989). Before employing a tree surgeon, always ask to see his/her current certificate of insurance to ensure they are covered against third party claims and other risks.

Tree surgeons are also a valuable source of independent advice on tree-related matters. A list of local contractors can be obtained from the Arboricultural Association, Ampfield House, Romsey, Hants, S051 9PA, Tel. 01794368717.

SOME USEFUL TREE SURGERY TERMS

CROWN: a tree's crown is the whole of the above ground part of the tree with the exception of its main trunk.

CROWN REDUCTION: a reduction of the overall size or circumference of a tree's crown by generally reducing the overall length of its branches but without destroying the basic shape of the crown.

CROWN THINNING: removal of a proportion of secondary branches within the tree's crown so as to reduce branch density within the crown. This will often include removal of crossing, weak, dead or damaged branches within the crown.

CROWN RAISING/CROWN LIFTING: removal of lower branches or parts of branches of the tree to a specific height above existing ground level (e.g. 4 metres) so as to provide increased head clearance beneath the tree.

TOPPING: the cutting out of the top of the tree's crown. Topping is nowadays considered poor practice because it increases vulnerability to disease entry and stimulates abnormal

tree growth; it is unusual for us to grant consent for such topping in isolation.

POLLARDING: a cutting back of all branches of a tree. leaving only its trunk or cutting back branches to a lower point for the formation of a new head. Pollarding is also considered poor practice because it increases vulnerability to disease and deformity of a tree's basic shape; again therefore, it is unusual for us to grant consent for pollarding nowadays.

DEADWOODING: removal of dead and damaged branches back to sound wood.

SUMMARY

If you are contemplating any work to any tree you should always take the following steps - if it is, make a formal application to the Head Development Control and do not commence tree works unless consent is granted

approach only qualified and reputable tree surgeons to obtain quotations for the works, making sure that they are able to carry out the work to British Standard Specification 3998:1989 and that they are fully insured against third party risks etc.

This advice note deals with only the basic legislation and procedure relating to Tree Preservation Orders. If you are in any doubt at all seek qualified advice by contacting us on (023) 9244 6525.

Information and advice

and 5.00pm

Head of Development Control

Havant Borough Council

Civic Offices

Havant

Hampshire

P092AX

Email: env.services@havant.gov.uk

