



Department of
the Environment
www.doeni.gov.uk

Tree Preservation Orders

A Guide to Protected Trees

Introduction

This leaflet is intended to provide advice for tree owners, conservation groups and the general public on protected trees. It has been prepared for guidance only and should not be taken as an authoritative statement of the law. If you have any concerns regarding legal issues relating to trees you should contact a solicitor.

What is a Tree Preservation Order (TPO)?

A TPO is a statutory protection afforded to trees under the Planning (Northern Ireland) Order 1991. More detailed information on the relevant legislation and associated regulations can be found at **www.planningni.gov.uk**.



What is a tree?

For the purposes of TPOs the Department uses the following definition “A tree may be defined as a woody, perennial plant which can attain a stature of 6m or more on a single stem. The stem may divide low down, but it must do so above ground level”. (Collins Field Guide, Trees of Britain and Europe by Alan Mitchell).

Why Protect Trees?

Trees can have a high amenity value and can make an important contribution to the environment, creating a varied, interesting and attractive landscape. They can help define the character of an area and create a sense of place. Trees can help to screen and integrate development. Trees provide wildlife habitat and contribute to the health and well being of humans. TPOs are imposed in order to protect selected trees or woodland if their removal is likely to have a significant impact on the local environment and its enjoyment by the public.

The Department has specific duty in relation to trees under Article 64 of the Planning (Northern Ireland) Order 1991.

What type of trees can be covered by a TPO?

All types of tree can be protected. The Order can cover anything from a single tree to woodlands. Normally, unless a Woodland TPO is proposed, only trees over 3.5m in height are considered for a TPO. Hedges, bushes and shrubs will not be protected.

What is a Woodland TPO?

A Woodland TPO protects all trees within the defined area, including natural regeneration - seedlings and saplings ie. trees less than 3.5m in height are not excluded.

How are TPOs initiated?

All requests for a TPO, from an elected representative, a member of the public or an interest group, should be sent to the relevant local Planning Office for consideration. Additionally the Department itself may initiate TPOs as a result of a planning application, the Development Plan process or in response to any threat.

How does the Department decide which trees to protect?

The Department may make Tree Preservation Orders for the purpose of:

- Protecting trees considered to be of special value in terms of amenity, history or rarity, which may or may not be under threat.
- Ensuring the continuance of a woodland area which may be felled with Departmental consent, by securing the replanting of trees, where this is considered necessary.

To be considered for a TPO trees must be of high amenity value and in reasonable condition.

The following criteria will be used when assessing the merits of a potential TPO;

Potential Threat: Priority will be given to the protection of those trees deemed to be at immediate risk from active felling or damage from development on site. All other requests will be assessed and prioritised accordingly.

Visibility: The extent to which the trees or woodlands can be seen by the general public will inform the assessment of whether the impact on the local environment is significant.

Individual Impact: The mere fact that a tree is publicly visible will not itself be sufficient to warrant a TPO. The tree's particular importance will be assessed by reference to its size and form, its future potential as an amenity should also be assessed taking into account any special factors such as its screening value or contribution to the character or appearance of an area. In relation to a group of trees or woodland, an assessment will be made of the collective impact.

Wider Impact: The significance of the trees in their local surroundings will also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.

Historical Importance: Certain trees because of their age, association with the setting of listed buildings or the contribution they make to the special character of a conservation area may require consideration for TPO protection.

Rarity: There may be occasions where a tree(s) may be considered for TPO protection solely on the grounds of its rarity. The priority of the consideration will reflect the rarity of the species.

How are TPOs processed?

In most cases the Department will impose a Provisional TPO, which takes effect immediately on the date specified in the notice sent to the owner, and provides protection for the trees for a period of six months. During this six month period a detailed assessment of the trees is carried out by the Department's arboriculturists and a decision is made as to which trees, if any, should be protected. The Provisional Tree Preservation Order will then be confirmed on those trees which are deemed worthy within the six months or allowed to lapse if it is considered, as a result of the detailed assessment, that they are not worthy of protection.

Alternatively a Full TPO may be served in circumstances where the Department considers it unlikely that there is any significant risk to the trees. The Department may give notice to the owner and occupiers of the land that it proposes to make a TPO within a 28 day notice and representation period. Within this period a detailed assessment of the trees is carried out by the Department's arboriculturists and a decision is made as to which trees, if any, should be protected. The Full Tree Preservation Order will then be imposed on those trees which are deemed worthy, within the 28 day period, or not proceeded with if it is considered, as a result of the detailed assessment, that they are not worthy of protection.

At the time a TPO is served on the owner a copy of the order will be attached to a protected tree in an obvious location and neighbours will also be notified by letter.

Are trees in a Conservation Area protected?

Trees in a Conservation Area are also subject to protection as if a TPO is in place. In a Conservation Area anyone proposing to carry out works to trees must apply to the Department which has 6 weeks to consider the proposal and respond. Work can not proceed until the Department has responded or the 6 week period has expired. If the Department considers that the proposed works should not be carried out it will impose a formal TPO to cover the specific trees. In exceptional circumstances, where there is imminent danger, the applicant may proceed, at risk, with works immediately but must satisfy the Department by submitting evidence in the form of a report and photographs.

Can I object to or comment on the imposition of a TPO?

Comments and representations may be made by anyone within 28 days from the date of a Provisional TPO or from the date of issue of the letter of notification for a Full TPO. Representations will be taken into account by the Department before deciding whether or not the TPO is to be confirmed. All representations will be acknowledged in writing.

How can I find out if a tree is protected by a TPO?

The Department holds details of all Orders and these can be made available for inspection by contacting the Tree Officer in your local Planning Office. An official search of the local land charges register can be made before you purchase a property and this should reveal if there are any TPOs affecting the property. This search will also indicate if the property is in a Conservation Area.

Can I carry out works to protected trees?

If you wish to carry out works to protected trees you must first seek the Department's consent to do so by contacting the Tree Officer in your local Planning Office. You must clearly specify the trees involved, identify their locations, the extent of the work you wish to carry out and the reasons why you wish to carry out the work. The Department will consider the application and may grant approval, grant approval

subject to condition or refuse consent. Should an application for consent be refused or granted subject to conditions applicants have the right to appeal in writing to the Planning Appeals Commission (PAC) within 6 months of the decision stating the grounds on which your appeal is based. The PAC then decides on a date for a hearing and requests written representations in the form of a statement of case.

Please note that anyone can apply to carry out works, even if you are not the owner. If approval is granted you would, however, require the owner's consent prior to entering his land or carrying out works on or from his property.

What happens if I carry out works to protected trees without consent?

It is a criminal offence to cut down, lop, top, uproot or wilfully damage a protected tree in a manner likely to destroy it, without the consent of the Department and on summary conviction you could be fined up to £100, 000 (and on conviction on indictment, to an unlimited fine).

What if a tree is dead or dangerous?

Currently consent is not required for the removal of dead or dangerous trees. The Department has the right, however, to require the replanting of trees of an appropriate size and species in the same location as soon as is reasonable. The owner must ensure that he has proof that the tree is dead or dangerous. It is recommended that the Department is made aware of the proposed works prior to them being carried out. Anyone who is unsure as to the condition of a tree is advised to obtain the advice of a qualified arboriculturist.

Can I obtain prior consent from the Department for certain routine and anticipated works to my protected trees?

The Department encourages you to enter into a Tree Management Agreement which may provide you with prior consent for anticipated and agreed tasks over a 5 – 10 year period. To do this you should contact your local Tree Officer.

Does a TPO prevent me from carrying out normal garden maintenance on the land?

No. Normal garden maintenance can continue to be carried out and can include hedge trimming, weeding beds and the removal of geminated tree seeds (seedlings) and saplings less than 3.5m in height from any location unless the TPO imposed is a Woodland TPO which protects the woodland's natural regeneration.

If a TPO is imposed does the Department become responsible for the trees?

No. The landowner remains responsible for the trees, their condition and any liability in relation to damage they may cause.

Where can I get more information?

Further information can be obtained by contacting your local Tree Officer or on the Department's website **www.planningni.gov.uk**.



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Further Information:

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