

Briefing

Protecting trees, woodlands and hedgerows: a practical guide

A Tree Preservation Order, the Hedgerow Regulations 1997 and dedicated conservation sites can secure long-term protection of trees, woodlands and hedgerows. Find out more in this briefing.

This briefing focuses on the position in England & Wales, unless otherwise stated.

What is a Tree Preservation Order?

A Tree Preservation Order (TPO) is an order made by a local planning authority to protect specific trees, groups of trees or woodlands, in the interests of local amenity or where it appears necessary in connection with planning proposals.

Under the Town & Country Planning Act 1990:

“If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order”.¹

What does this mean?

“**expedient**” means that an immediate risk to the trees/woodlands isn’t required to justify a TPO. A TPO can be made to safeguard the amenity a tree or woodland provides, as a precautionary measure.²

“**amenity**” refers to the benefit the trees provide to people. If protection would bring a reasonable degree of public benefit in the present and future, then planning authorities will consider granting a TPO.³

Assessing amenity value is not an exact science and is done by considering the following criteria:

- The extent to which trees/woodlands are **visible** from a public place.

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- Their **individual, collective and wider impact**, including future amenity potential, rarity, cultural or historic value, relation with the landscape, and their contribution to the character of a conservation area. This could include, for example, a social **and personal sense of wellbeing or identity**.
- Relevance for **nature conservation** and in response to **climate change**.

“**preservation**” of trees and woodlands means the prohibition of cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees.⁴

This is especially important regarding planning proposals. The local planning authority has a statutory duty to protect trees, where it appears necessary in connection with the granting of a planning permission that could damage the tree’s amenity value.⁵

Legal effect

A TPO makes it a criminal offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy⁶ relevant trees, without the local authority’s prior written consent. This applies to roots as well as stems and branches. Breaching other provisions of the TPO is also an offence. The TPO also creates a duty to replant a removed tree or potentially be liable to a fine. It’s an extremely useful tool to prevent harm being done and leaves room for [good arboriculture practice](#).

What’s the difference in tree protection between a TPO and a Conservation Area?

A TPO affords stronger individual protection than a Conservation Area but is not adequate for “blanket cover” over an area. In general, for a wider area where tree cover is patchy, campaigning for a Conservation Area may be a better option to consider. However, a Conservation Area application is a slower process than requesting a TPO, so isn’t appropriate for urgent cases. For emergency cases, an area TPO may be more suitable, but won’t include any new saplings following the order being made.

Trees without a TPO in Conservation Areas are subject to slightly different rules. In Conservation Areas, the cutting down, lopping or topping of trees must be notified to authorities 6 weeks in advance. As consent is not necessarily required, this is a weaker protection than that offered by TPOs. During this 6-week notice period, creating a TPO within the area will be considered, based on the amenity of the specific tree or woodland. Those concerned should be alert to these notifications and support cases for vulnerable trees to be better protected by way of a TPO.

What can a TPO protect?

TPOs can protect all types of tree (even privately-owned trees if they provide public amenity benefits) but are not applicable to hedges, bushes, shrubs or commercial orchards. A single TPO can protect anything from an individual tree, a group of trees, trees within a set area or a woodland. This distinction can serve different purposes:

- **Woodland category:** this safeguards a whole woodland that merits protection, even if some trees lack “individual merit”. This includes any new trees or saplings that are planted or grow naturally within the woodland area after the TPO has been granted. Ancient woodlands can be protected under this category.
- **Area category:** this protects individual trees dispersed over an area. Although a useful tool in emergency cases to cover a wider range, it should be used with caution as a tool for long-term protection, as it will only protect those trees that

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were standing when the TPO was made. In the long term it should be reassessed and reclassified.

- **Group category:** this is for cases where a group of trees' overall impact and quality merits protection as a whole.
- **Individual category:** this can be used where a single tree merits protection.

How can I use a TPO?

TPOs can prevent the loss of important trees in imminent danger, in relation to a planning application, or as a precautionary measure to protect the amenity they provide for the future.

The two main issues are whether the relevant trees are already protected, or if not, whether you need to campaign to get them protected.

Where a TPO is in place, it should be applied to protect trees and woodlands which, if removed, would have a significant negative impact on the local environment and its enjoyment by the public.

Written consent from the planning authority to allow action on a TPO tree may be granted, but is likely to be subject to certain conditions (for example, replanting). Consent for tree work is only valid for 2 years. An application to carry out works to a TPO tree should be decided within 8 weeks. Applications must be publicly available on the planning register and are often kept online. The planning authority should also display a notice on or near the site especially where there is a good deal of public interest. **This is a perfect opportunity to contact your council and submit any objections, and/or request a wider public consultation if it is important to the area.**

To **find out if a tree or area is covered by a TPO**, [check your council website](#). Many councils have maps of TPOs in their area available online. However, if this information is not already public, consider contacting their office or submitting an "Environmental Information Request".

If trees don't have a TPO your local authority can create one. They will either do this themselves as part of their planning function, or you can **request a TPO yourself**.

Planning and TPOs

Prior to granting planning permission, your local authority should consider creating an order or attaching conditions to planning permission to secure protection for any important trees. This should include measures to prevent harm before, during and after the construction process. Once full planning permission is granted, TPOs in the development area will be overridden **unless** a condition of the planning permission has specified that certain trees must be retained. **Request** the protection of important trees in any planning consultations you respond to.

Requesting a TPO

To request a TPO, most councils ask for a written request or for an online form to be completed. Requests must include a map showing the area of trees or location of a tree that you wish to be protected and the reasons why you're seeking protection. Requests can be made by anyone, not just the owner of a tree. Contact details for your council can be [found online](#) and by searching "request a TPO" on their website.

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There's no legal obligation for an authority to consider a TPO request. However, by building a strong argument for the importance of the trees or woodland for local amenity, you increase the chance of convincing them to act. **Here are some tips:**

- **Apply pressure.** Multiple applications or an application supported by a petition (of many people), can add pressure and raise the issue for consideration.
- Make sure **your request includes all the necessary information.** The species and exact location of the tree(s) or woodlands is required to request a TPO and must be stated on the final order.
 - You can find a handy guide to identifying tree species at the Woodland Trust website: [here](#)
 - You may be required to include a sketch with recognisable points to show the location of the tree. The [Google Maps](#) satellite view or [Ordnance Survey](#) website might be useful to help find your area and sketch a birds-eye view of the tree and key local points such as street names or monuments.
- Explain how the trees or woodlands are used or experienced, and **why they are so important to you and the public.** Personal evidence is important.
- **Contact your local groups, councillors or MPs** to get them onside with your campaign and to endorse your application.
- Under the National Planning Policy Framework,⁷ development resulting in the loss of an ancient woodland or 'veteran' (i.e. old/large) tree should be refused unless it is wholly exceptional, so **check if prospective trees or woodland are ancient or individually considered 'veteran trees' to strengthen your TPO request.** This information can be found on the Natural England database which is available online. **Currently 85% of ancient woodland is unprotected.**
- Where planning permission or applications within a conservation area **need conditions or an order to protect vulnerable trees in the development area,** highlight cases to your local authority.

What happens next?

To progress a TPO, authorities are advised to conduct a site visit to collect evidence of amenity value and inform all persons affected, before a TPO is made. Once a TPO is made, it will be served on relevant land owners/occupiers. For the first 28 days after notice, authorities must consider any objections or representations made. **This is an opportunity to express support for any planned TPOs and encourage other people to do so too.**

In England, TPOs provisionally take immediate effect for 6 months however, the TPO must be confirmed within 6 months of the order being made. If confirmed, the TPO should ensure long-term protection of the trees or woodlands and can only be challenged legally.

In Wales, the TPO does not come into effect before it is confirmed. However, if the local planning authority thinks that it should be effective immediately, it can include in the TPO a 'section 201 direction' that specifies a start date from which it takes effect. Eventually the TPO will still need to be confirmed within 6 months of the start date to guarantee long term protection.

Limitations

There are certain limitations to TPOs. They won't prevent the cutting down or pruning of trees which present a serious safety risk, where a felling licence or planning permission has been granted or in line with an obligation under an Act of Parliament, such as HS2. But having a TPO in place ensures specific and careful consideration of the public value provided by the tree in each case, which can be very important and ensures a precautionary approach. A full list of limitations can be found on the government's TPO guidance page online: [here](#).

So, what actions can I take?

- If important trees or woodland in your area are under threat or unprotected, then **request a TPO**.
- Keep an eye on your local planning authority's website for notice of TPOs. **Get in touch and show your support to confirm them**
- Check which trees in your area are currently protected – this information should be available at your local planning authority's website or office. Where applications to fell a TPO tree are made, **submit your objections during the consultation period**
- **Be alert to planned work in Conservation Areas with important trees.** During the 6-week notification period submit your case for creating a TPO.
- **Report a threat** to the Woodland Trust on their website: [here](#). They offer support to TPO requests.
- **Make contact with your local tree officer** – they're employed by your local council and are tree experts, so may be able to help with your concerns. Their details can be found on [your council website](#).

Relevant legislation and further guidance

TPOs in England and Wales are very similar in form and make up. However, tree protection comes under devolved governments' jurisdictions, so procedures might vary slightly. Check the below pages for more information.

- [Town and Country Planning 1990, Part VIII.](#)
- [Town and Country Planning Regulations, England 2012 No 605 \("T&C P 2012 reg"\)](#)
- [Tree Preservation Orders and trees in conservation areas Guidance \(England\)](#)
- [Friends of the Earth's Environmental Information Request Guidance](#)
- [A guide to tree preservation orders \(Wales\)](#)

Protection of hedgerows

How are hedgerows protected?

Hedgerows (a boundary line of bushes which can include trees) cannot be protected by a TPO. However, there are other measures available to protect them. Under the [Hedgerows Regulation 1997](#) a hedgerow is **automatically protected** if:

- **It is located** in or next to land used for agriculture or forestry; breeding or keeping horses, ponies or donkeys; common land; village greens; site of SSSI; protected

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European site (such as a special area of conservation), national nature reserve or local nature reserve; or Crown land

AND

- **Length:** it is
 - more than 20 m long, with any gaps of 20 m or less in length; or
 - less than 20 m long but meets another hedge at each end.

OR

- **qualifies as “important”:** is at least 30 years old AND meets at least one of the archaeological and ecological criteria listed in Schedule 1 of the Hedgerow Regulations and can be found [here](#).

Legal effect

Under the Hedgerow Regulations, it's against the law to remove countryside hedges that fall into the above criteria, without permission from the local planning authority.

If someone has sought permission to remove a hedgerow, your local authority will assess if the hedgerow qualifies as “important” as defined above. They will then respond in two ways:

- 1)** Serving a Hedgerow Retention Notice. If the hedgerow is considered important, a hedgerow retention notice will be served unless the authority decides the circumstances of the case justify the hedgerow's removal. If the hedge meets the importance criteria, it's unlikely permission will be granted for its removal. A Hedgerow Retention Notice is permanent, unless circumstances change.
- 2)** Granting permission to remove the hedgerow through a Hedgerow Removal Notice. This means the hedgerow can be removed within 2 years.

Removal includes any actions that result in the hedgerow being destroyed. **It's a criminal offence to remove a protected hedgerow without such permission.** The authority can also legally ensure you replace the hedgerow, which will automatically be considered ‘important’ for 30 years after it's planted. If you're unsure if your hedgerow (or one nearby) is protected, you're advised to speak to the local planning authority. For example, they'll keep records of “hedgerow retention/removal notices” that they've sent, and you can request disclosure of these under the Environmental Information Regulations 2004.

Unfortunately, there's no legal duty to consult with the public about hedgerow removal, but the local planning authority must consult with the relevant parish council and should consider any objections made. If there are many important or potentially important hedgerows in your area, you could **contact your parish council** to emphasise this fact and ask about their policy towards hedgerow conservation.

So, what can I do?

- Understand which hedgerows are protected by **contacting your local planning authority**.
- If you suspect a hedgerow offence, **check with your local planning authority to see if permission has been given.**

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- The local planning authority must consult with the relevant parish council regarding any applications to remove hedgerows. If you know of any threats to an important hedgerow, **make a strong argument to your local planning authority and parish council about the threatened hedgerows** using the [importance criteria](#) (if appropriate) during the 42-day consultation period. The local planning authority must **consider any objections** that it receives.
- Consultations don't have to be made publicly available, but your local planning authority must keep a public record of all hedgerow notices it issues. [Check online or contact](#) your planning authority office for details.
- **Get involved in appeals you hear about.** Only the person who made the application can appeal, but **anybody can comment on an appeal as an interested party.** Appeals must be made within 28 days, so **act fast and apply pressure.** Further guidance and contact details can be found on the government's website [here](#).
- If you're worried about future threats to a hedgerow from development, your local planning authority can attach conditions to planning permission to guarantee its protection. Be vocal about any concerns when planning applications are published and **use the importance criteria to add weight to your argument.**
- Legal protection is also given to birds nesting in hedges⁸. This can **delay hedgerow removal until after the breeding season** (1 March to 31 August). Although garden and amenity hedges do not have specific protection, they will be protected if they host nesting birds during the breeding season.
- The recent rise in the use of nets on trees and hedgerows that prevent birds from nesting has been attributed to developers seeking to remove hedges and trees but avoid the delays caused by the breeding season. It's an offence to destroy an active nest, but unfortunately there are currently no laws to prevent the installation of these nets. The practice of netting contributes to detrimental consequences on bird populations by trapping birds and restricting the already limited areas for nesting – **raise the alarm if you see them being used.**
- It's an offence under the Animal Welfare Act 2006 to cause unnecessary suffering to a bird and wild birds are protected by the Wildlife and Countryside Act 1981. Add your voice to [calls for stricter controls on netting practices](#).

Relevant legislation and further guidance

Check the below pages for more information.

- [The Hedgerows Regulations 1997](#)
- [Natural England "Countryside hedgerows: protection and management Guidance" \(2014\)](#)
- [National Planning Policy Framework \(2019\)](#)
- [CPRE Hedgerows Guidance](#)
- [Friends of the Earth's Environmental Information Request Guidance](#)

¹ [Town and Country Planning Act 1990 s.198](#)

² [Tree Preservation Orders and trees in conservation areas Guidance \(2014\)](#)

³ [Tree Preservation Orders and trees in conservation areas Guidance \(2014\)](#)

⁴ [Town and Country Planning Act 1990 s.198](#)

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⁵ [Town and Country Planning Act 1990 s.197](#)

⁶ It was held in *Barnet London Borough Council v Eastern Electricity Board* [1973] 2 All ER 319 that a tree can be regarded as having been destroyed when it has been rendered useless in the sense of having ceased to have any use as an amenity or as something worth preserving.

⁷ [National Planning Policy Framework \(2019\) section 175\(c\)](#)

⁸ [Wildlife and Countryside Act 1981, s.1](#)