

Dallington Parish Council Tree Warden

Tree Preservation Orders – The Basics

All the information in this document is taken from the HM Government website

<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

which should be consulted for full explanations and background information.

Tree Preservation Orders – general

Who makes Tree Preservation Orders and why?

Local planning authorities can make a Tree Preservation Order if it appears to them to be ‘expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area’.

Authorities can either initiate this process themselves or in response to a request made by any other party. When deciding whether an Order is appropriate, authorities are advised to take into consideration what ‘amenity’ means in practice, what to take into account when assessing amenity value, what ‘expedient’ means in practice, what trees can be protected and how they can be identified.

When granting planning permission authorities have a duty to ensure, whenever appropriate, that planning conditions are used to provide for tree preservation and planting. Orders should be made in respect of trees where it appears necessary in connection with the grant of permission.

What does ‘amenity’ mean in practice?

‘Amenity’ is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.

Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

What might a local authority take into account when assessing amenity value?

When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority’s assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

Dallington Parish Council Tree Warden

Tree Preservation Orders – The Basics

Individual, collective and wider impact

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

size and form;

future potential as an amenity;

rarity, cultural or historic value;

contribution to, and relationship with, the landscape; and

contribution to the character or appearance of a conservation area.

Other factors

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

What can help local authorities identify trees that may need protection?

An authority's tree strategy may identify localities or populations of trees as priorities for the making or reviewing of Orders. Authorities may also refer to existing registers, recording trees of particular merit, to assist in their selection of trees suitable for inclusion in an Order.

What does 'expedient' mean in practice?

Although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management.

It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.

What trees can be protected?

An Order can be used to protect individual trees, trees within an area, groups of trees or whole woodlands. Protected trees can be of any size or species.

Orders covering a woodland protect the trees and saplings of whatever size within the identified area, including those planted or growing naturally after the Order was made. This is because the

Dallington Parish Council Tree Warden

Tree Preservation Orders – The Basics

purpose of the Order is to safeguard the woodland as a whole, which depends on regeneration or new planting.

Can shrubs and hedges be protected by a Tree Preservation Order?

Authorities may only use an Order to protect anything that may ordinarily be termed a tree. This would not normally include shrubs, but could include, for example, trees in a hedge or an old hedge which has become a line of trees of a reasonable height. The removal of countryside hedgerows is regulated under different legislation.

What if trees are on Forestry Commission, Crown or local authority land, in a churchyard or in, or near, an aerodrome or scheduled monument?

Special considerations apply in some of these circumstances.

Making Tree Preservation Orders

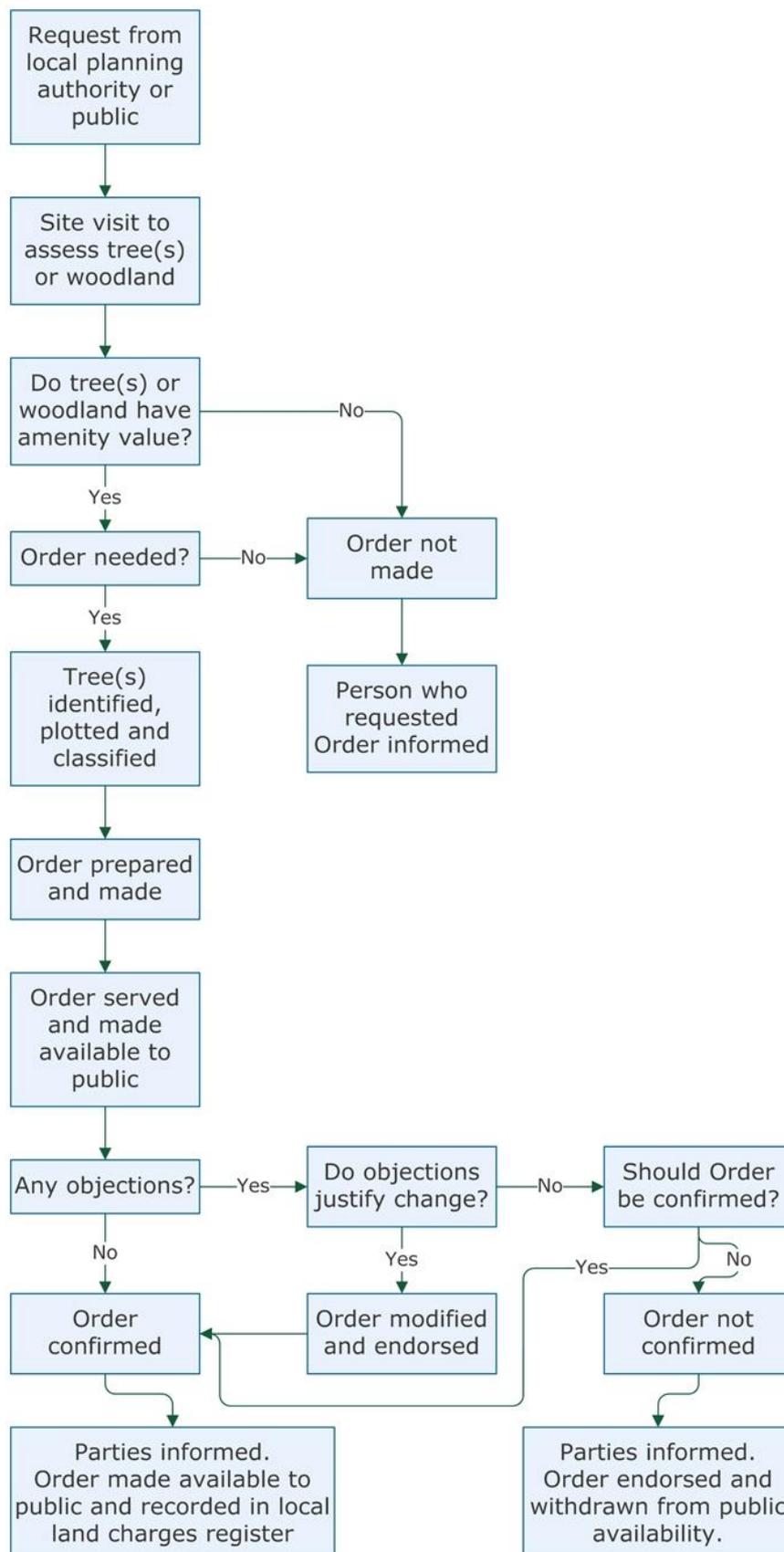
How are Tree Preservation Orders made?

If a local planning authority makes an Order, it will serve notice on people with an interest in the land, inviting representations about any of the trees covered by the Order. A copy of the Order will also be made available for public inspection. Following consideration of any objections and comments the authorities can decide whether or not to confirm the Order.

Flowchart 1 shows the process for making and confirming a Tree Preservation Order.

Dallington Parish Council Tree Warden

Tree Preservation Orders – The Basics



Dallington Parish Council Tree Warden

Tree Preservation Orders – The Basics

Is a site visit needed?

Before making an Order a local planning authority officer should visit the site of the tree or trees in question and consider whether or not an Order is justified. Further site visits may be appropriate following emergency situations where on the initial visit the authority did not fully assess the amenity value of the trees or woodlands concerned.

What evidence should be collected on a site visit?

Where a Tree Preservation Order may be justified, the officer should gather sufficient information to enable an accurate Order to be drawn up. The officer should record the number and species (or at least the genus) of the individual trees or groups of trees to be included in the Order and their location. A general description of genera should be sufficient for areas of trees or woodlands. It is, however, important to gather enough information to be able to accurately map their boundaries.

The officer should also record other information that may be essential or helpful in the future. This may include:

- information on any people with a legal interest in the land affected by the Order (further guidance can be found in paragraph 32 and paragraph 33;

- the present use of the land;

- the tree's or trees' importance as a wildlife habitat; and/or

- trees which are not to be included in the Order.

How accurate does the description and location of trees need to be in an Order?

The legislation does not require authorities to describe the trees in the Order with full scientific names or plot them on the map with pinpoint accuracy. But authorities should bear in mind that successful prosecutions for contravening Orders will be difficult where Orders do not show clearly which trees are meant to be protected.

The standard form of Order provides examples of how information should be recorded in a schedule. Authorities are advised to enter 'None' against any categories not used in the Order.

When should the individual category be used?

If trees merit protection in their own right, authorities should specify them as individual trees in the Order.

When should the group category be used?

The group category should be used to protect groups of trees where the individual category would not be appropriate and the group's overall impact and quality merits protection.

Dallington Parish Council Tree Warden

Tree Preservation Orders – The Basics

When should the woodland category be used?

The woodland category's purpose is to safeguard a woodland as a whole. So it follows that, while some trees may lack individual merit, all trees within a woodland that merits protection are protected and made subject to the same provisions and exemptions. In addition, trees and saplings which grow naturally or are planted within the woodland area after the Order is made are also protected by the Order.

It is unlikely to be appropriate to use the woodland classification in gardens.

The woodland category should not hinder beneficial woodland management. Whether or not they make an Order, authorities can consider encouraging landowners to bring their woodlands into proper management under the grant schemes run by the Forestry Commission. If a woodland subject to an Order is not brought into such a scheme, authorities can still encourage applications to manage the trees in ways that would benefit the woodland without making a serious impact on local amenity, for example by making a single application for regularly repeated operations.

When should the area category be used?

The area category is one way of protecting individual trees dispersed over an area. Authorities may either protect all trees within an area defined on the Order's map or only those species which it is expedient to protect in the interests of amenity.

The area category is intended for short-term protection in an emergency and may not be capable of providing appropriate long-term protection. The Order will protect only those trees standing at the time it was made, so it may over time become difficult to be certain which trees are protected. Authorities are advised to only use this category as a temporary measure until they can fully assess and reclassify the trees in the area. In addition, authorities are encouraged to resurvey existing Orders which include the area category.

When does a Tree Preservation Order come into effect?

An Order comes into effect on the day the authority makes it. This provisional effect lasts for 6 months, unless the authority first either confirms the Order to provide long-term protection or decides not to confirm it.

Commenting on newly made Tree Preservation Orders

Can people object to, or comment on, a Tree Preservation Order?

People must be given the opportunity to object to, or comment on, a new Tree Preservation Order. Before deciding whether to confirm an Order, the local authority must take into account all 'duly made' objections and representations that have not been withdrawn.

Objections and representations are duly made if:

They are made in writing and:

Dallington Parish Council Tree Warden

Tree Preservation Orders – The Basics

delivered to, or could reasonably be expected to be delivered to, the authority not later than the date specified in the Regulation 5 notice;

specify the particular trees, groups of trees or woodlands in question;

in the case of an objection, state the reasons for the objection;

In a particular case, the authority is satisfied that compliance with the above requirements could not reasonably have been expected.

How long should the local authority allow for people to make representations?

The authority should ensure that all notified parties are given at least 28 days from the date of the notice to submit their representations.

Are the reasons for objecting restricted?

Objections to a new Tree Preservation Order can be made on any grounds.

For complete information on TPOs, please consult <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

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