

## Tree Preservation and Conservation



Trees can draw mixed reactions from people – most people agree they are attractive and are keen to live in an environment which contains trees and woodlands, but some are not so keen to have them close to their own houses. Whilst most developers realise that retaining suitable trees can add value to a site, others may sometimes see trees as an obstacle to their site plans.

### Tree Preservation Orders

Major changes have been made to the Tree Preservation Order Process in England. These new changes came into effect on April 6th, 2012.

On 6 April 2012, the Town and Country Planning (Tree Preservation)(England) Regulations 2012 put all tree preservation orders ('orders') onto the same footing and consolidated existing legislation into one new set of regulations. These new regulations:

Cancel the provisions in every existing tree preservation order, except for the information necessary to give the orders legal effect and identify the trees protected, and replace them with provisions in the new regulations. These regulations introduce a new model order in a slimmed-down format. This also introduces a unified system, removing the inconsistencies that local planning authorities and the Planning Inspectorate have had to resolve. The aim is a simpler system for authorities to administer and easier for tree owners and others to use;

Consolidate existing legislation that deals with procedural matters for making and administering tree preservation orders in one new set of regulations. This has been achieved by using powers in section 192 of the Planning Act 2008 to replace (in so far as they relate to England)

- The Town and Country Planning (Trees) Regulations 1999 (SI 1999, No.1892);
- The Town and Country Planning (Trees)(Amendment)(England) Regulations 2008 (SI 2008, No.2260);
- The Town and Country Planning (Trees)(Amendment No. 2)(England) Regulations 2008 (SI 2008, No.3202);
- subsections 198(3), (4), (6), (8) and (9), and sections 199, 201, 203-205 of the Town and Country Planning Act 1990

The duty imposed on authorities by section 197 of the Town and Country Planning Act 1990 to make tree preservation orders as they think necessary when granting planning permission remains unchanged. The more general power, in section 198 of that Act, to make tree preservation orders in the interests of amenity also remains unchanged.

The consolidation and streamlining does not change the level of protection provided to trees.

### Immediate protection from a Tree Preservation Order

Under the regulations that have been replaced, there were two ways for making a tree preservation order. In the first, the order only came into force once a local planning authority had considered all objections, made any amendments and confirmed the order. Alternatively, where it appeared there was a need for the order to come into force immediately, a local authority could include a direction to that effect and, in practice, most new tree preservation orders were made in this way. The direction provided provisional protection for a period of six months and the authority concerned would have needed to confirm the order to continue that protection. The new regulations adopt one system where all new orders provide immediate provisional protection that lasts for six months and long-term protection once authorities confirm them after considering any objections or representations

### **Informing Interested Parties**

Prior to August 1999, local planning authorities were required to send copies of tree preservation orders to the owners and occupiers of the land affected by a new or varied order. The 1999 Regulations added a requirement to send copies to the owners and occupiers of any adjoining land, even where they had no rights over the trees protected. This created extra work for planning authorities as, for example, they would have had to send multiple copies to all the occupiers of neighbouring blocks of flats even though they may have been located some distance from the trees in question. The regulations refocus the service of new orders on those who have a right to prune or fell the trees covered by the order. Authorities will still be able to notify others, but this is now discretionary.

### **Exemptions from the need for obtaining consent**

Under the tree preservation order regulations that have been replaced, there were several circumstances where consent from the local planning authority was not required to carry out work to protected trees. This included trees that were dying, dead or had become dangerous. The broad scope of this exemption presented some uncertainty for those wanting to carry out what they believed to be exempt work. The new regulations omit “dying” from the exceptions. They also introduce an exemption for removing dead branches from a living tree.

### **Prior notification of intention to carry out exempted work**

The new regulations include a requirement for a tree owner to give at least five working days written notice of proposed work on dead trees, unless there is an urgent risk to safety. This requirement was present in pre-1999 Orders and has been recommended as good practice.

### **Consents**

Tree preservation orders made before August 1999 contained a power for local planning authorities to modify or revoke consent they had granted for specific work. The 1999 Regulations did not continue this power in relation to orders made on or after that date, thereby complicating the system. The new regulations have revoked the power in relation to all such orders, thereby simplifying the system by removing a power that was in any case rarely used.

### **Default period for duration of consents**

The new regulations set a two year default period for the duration of consents for work on protected trees, with a power for the local planning authority to vary this if appropriate.

### **Planting Replacement Trees**

Under the regulations that have been replaced, when a local planning authority granted consent to remove a protected tree, they considered whether a condition requiring a new tree to be planted was necessary. However, when replacement planting was required in woodland, the authority gave the landowner a direction (not a condition) to replant. The new regulations remove the need for directions by enabling conditions to be used in all cases where replanting is required.

### **Compensation claims to the local planning authority for loss or damage arising from refusal of consent or conditions**

Before 6 April 2012 there were two compensation systems in operation:

For all tree preservation orders made before 2 August 1999, local planning authorities were able to issue an 'article 5 certificate' which removed their liability to pay compensation under the order. These certificates were issued where the authority was satisfied that their decision was made in the interests of good forestry practice or that the trees or woodlands were of outstanding or special amenity value.

The 1999 Regulations did not include this power, but introduced a revised and more clearly defined compensation framework for orders made on or after 2 August 1999.

The new regulations extend the approach in the 1999 Regulations to all tree preservation orders by removing the power to issue article 5 certificates. The same compensation framework therefore applies to all orders, irrespective of when made.

TPO's are legal orders intended to ensure important trees are preserved. Tree Preservation Orders are not intended to prevent any work ever being done to a tree. They are intended as a way to balance the sometimes conflicting desires of individuals with the benefits to the wider community.

### **Applications for Tree Works**

On 1st October 2008, a number of amendments to the Tree Preservation Order (TPO) Regulations were implemented by Act of Parliament. The principal reasons for the changes were firstly, to standardise the application process and make it suitable for online submission; secondly, to streamline the process of appealing against a local planning authority's decision on applications.

One amendment requires that, from now on, all applications to carry out works to trees protected by a TPO have to be made on a standard government form.

This form, known as "Application for tree works" is available from the [Planning Portal](#) website or we will post a printed copy to you on request. The form may be completed online, submitted electronically or you can fill in the printed form by hand and post it to Breckland Council.

**Please note that the form must be completed in its entirety.**

A separate plan is now absolutely essential and must clearly identify the protected trees to be worked upon and their relation to adjacent roads, boundaries and buildings, as well as providing a clear indication of the wider locality and showing the direction of north. You may still submit hand drawn plans but you are strongly urged to use Ordnance Survey (OS) based plans. If you make an electronic application you will be given the opportunity to purchase an Ordnance Survey plan during this process. Plans that contain errors, such as incorrect location of trees, will not be

validated. If such errors come to light during the site visit, your application may well be invalidated until such time that the correct information can be supplied.

The proposed works must be clearly specified: any crown volume or height reduction, thinning, branch shortening or crown lifting must be described quantitatively. Guidance on the specification of tree works can be found below or will be included in your postal package.

You must include properly explained reasons for the proposed works. Simple statements such as “in the interests of good arboricultural practice” or “amenity” or “for reasons of safety” will no longer be acceptable on their own. If the work is for safety reasons, then you should explain what the problems are and how you propose to resolve them. For example - ‘to remove a fractured branch which is over the house / road / parking area’. Another reason might be that the works are for increasing light to the garden or property. The only instance where works are “in the interests of good arboricultural practice” is one where removing parts of the tree will forestall the possibility of the tree causing itself even greater damage. For example: reduction of an obviously ‘over-extended’ limb to reduce the risk of catastrophic detachment.

Where requests are made to **remove** whole trees because it is claimed that they are diseased or defective, the application must be accompanied by appropriate supporting evidence. For simple and self-evident problems you may include this information in the ‘reasons’ as noted in the preceding paragraph. However, where larger trees or more technical issues are concerned, specialist arboricultural information such as a report from a competent person that identifies the problems and the proposed solutions will be required. In cases where structural damage to buildings is allegedly caused by trees, appropriate engineering, arboricultural and site assessment reports must be attached to the application at the time it is made.

If any information is missing or not provided in the required format, your application will not be registered as valid.

Another of the government’s principal reasons behind these changes is to introduce a new ‘fast track’ procedure for dealing with appeals against refusals of consent by the local planning authority to carry out requested works. This also includes appeals against tree replacement notices. The appeal decision will henceforth be made on the basis of material submitted with the application as originally made to the local planning authority, together with any third party comments received at that time and following a visit to the site by an appointed Inspector. No additional written information will be considered by the inspector so it is important that you submit all relevant information at the outset. Please follow this link for the latest [Appeal Forms and Guidance for Appellants](#).

## Conservation Areas

Conservation Areas are parts of towns and villages that have been identified as being of special architectural or historic interest. The council aims to preserve or enhance the character of these areas.

Trees are included as part of the definition of character. Accordingly all trees with a trunk diameter of 75mm or greater measured 1.5m above the ground, carry the same protection and penalties that they would have if they were covered by a Tree Preservation Order.

Should you wish to carry out work to any trees in a Conservation Area, you are required to give the Council six weeks notice of your intentions and the reasons for them. The Council reserves the six week period in which to make a Tree Preservation Order if it wishes to retain the tree, or

declare that it has no objections. In practice, it will declare its view much sooner than six weeks and if no TPO is forthcoming, work may proceed henceforth.

## Applications Forms & Guidance Notes

An application form to carry out work to a protected tree can be downloaded by clicking on the link below together with guidance leaflets which should help you in the process.

- [Application for Tree Works](#)
- [Guidance Notes for Completion of Application for Tree Works](#)
- [Guide to Pruning Protected Trees](#) (PDF document 25Kb)
- [Choosing a tree work contractor](#) (PDF document 58Kb)
- [Standard terms to describe tree work](#) (PDF document 94Kb)
- [Buying a house with trees in the garden](#) (PDF document 93Kb)
- [Protected trees: a guide to tree preservation orders](#), Communities and Local Government 2012

## Registered Tree Work Applications

### Searching for Tree Work Applications (From January 2014)

The search facilities will allow you to:-

- view all related plans, documents and comments (Application Register)
- look at determined applications

By using the links below you accept the [terms and conditions](#)

**Important information before you search - Please read carefully**

You will need to use the following instructions before you use the search facility below:

1. If you have the application reference number, please type this in full, in CAPITAL LETTERS i.e. TRE/2014/0001/TCA. No other fields needs to be entered. Then click on "search". **Applications for trees covered by a Preservation Order use the suffix TPO; Applications for trees in a Conservation Area use the suffix TCA**
2. You can also search by location, postcode, applicant and parish. It is recommended that you only enter one of these fields in your search.
3. If you don't have the application reference number but you know it was in the year, say, 2014, type the following TRE/2014/% (the % is a wildcard that will enable you to search a wider scope)
4. If you have the message "No Row Returned" appear, our [contact centre](#) will be happy to help you.
5. Please be aware, some hamlets fall under the Parish name, for example, Westfield comes under Whinburgh. Please check the [list attached](#), then you can search for an application under the Parish name (and not the Hamlet name).

### [Search Applications for Tree Works](#)

#### Contact Details

If you require any further information on any of the issues covered by Tree and Countryside please contact us:

**Tel:** 01362 656873

**Fax:** 01362 696771

**E-Mail:** [treeandcountryside@breckland.gov.uk](mailto:treeandcountryside@breckland.gov.uk)

Or write to us at:

Tree and Countryside  
Elizabeth House  
Walpole Loke  
Dereham  
Norfolk NR19 1EE

Hello Susan,

Please see below a list of all the TPO's that fall within the Parish of Yaxham:

1980 No.20- Land at Station Road. G1 (x7 Oaks)

1982 No.21- Village Hall, Norwich Road. G1 (x22 Beech, x9 Yew, x2 Holly)

1991 No.13- Sunnyside, Norwich Road. T2 (Chestnut), T3 (Yew), T4 (Yew)

1994 No.6- Ashbourne House, Well Hill. T1 (Ash)

1994 No.13- Walnut Cottage, Norwich Road. T1 (Walnut)

1994 No.14- The Beeches, Station Road. T1 (Beech), T2 (Copper Beech), T3 (Copper Beech)

2000 No.7- Oaks, Station Road. T1 (Oak), T2 (Oak), T3 (Oak)

2005 No.24- Stone Road. T1 (Oak), T2 (Oak), T3 (Oak), T4 (Oak), T5 (Oak), T6 (Oak), T7 (Oak), T8 (Oak), T9 (Oak)

2005 No.57- Red House Farm, Brakefield Green. T1 (Field Marple)

2007 No.26- 12 St. Peters Close & Oaklands, Norwich Road. T1 (Oak), T2 (Oak)

2007 No.33- The Fieldings, Station Road. T1 (Oak)

I hope this helps with your enquiry. Please contact me if you have any further queries.

Kind Regards

**Tom Donnelly**  
**Technical Support Officer**

Breckland Council  
*working in partnership with*

**CAPITA**

Tel: 01362 656873

DDI: 01362 656318

Fax: 01362 696771

Email: [tom.donnelly@capita.co.uk](mailto:tom.donnelly@capita.co.uk)

Elizabeth House, Walpole Loke, Dereham, Norfolk, NR19 1EE

Submit Planning Applications online at <http://www.planningportal.gov.uk/apply>



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