

Guidance Note 17: Making Tree Preservation Orders

Making Tree Preservation Orders (TPOs):

TPOs are made in accordance with Part VIII of the Town & Country Planning Act 1990, the Town & Country Planning (Trees) Regulations 1999 and with regard to the Countryside Act 1968. Wealden District Council (WDC) can only make a TPO if it appears to WDC that it is expedient in the interests of amenity.

Expediency:

WDC may consider it expedient to make TPOs where there is either;

- evidence of development pressure on trees
- other clear risk to trees eg: risk from a range of activities including; wilful damage, wilful destruction, inappropriate pruning, felling and disturbance of the rooting area,

Amenity:

It is in the interest of amenity to make a TPO if the tree or trees in question make or have the potential to make a significant contribution to their surroundings.

Assessment:

Amenity, the contribution made by trees and the level of risk to trees can be difficult to define. Therefore each case is assessed on its own merits. To achieve consistency and remain objective with the resources available, when evaluating the above criteria, WDC carries out assessments to set standards. Assessments include the following, which is by no means a definitive list:

- **Safety:** A hazard assessment of trees in relation to their surroundings will be carried out from ground level. Trees exhibiting any signs of foreseeable unmanageable hazard will not be included in a TPO.
- **Visual amenity:** An assessment of the visual value of trees is carried out. Visual amenity is dependent on the trees' position within the landscape and their visibility from public places. The value may be present or future, for example; new tree planting, complimenting or screening a development may have significant value as may mature and veteran trees, such as landmark trees, trees on village greens and in churchyards etc.
- **Character Assessment:** A character assessment would include an appraisal of the immediate and the wider setting and context of the trees. However, exceptionally specimen trees not normally considered characteristic of the area may be included in a TPO.
- **Conflicts between Trees & Buildings:** Examples of conflict can include; excessive shading of buildings, overall dominance & proximity, contact between branches/roots & buildings and problems with seeds/leaves/sap/animal droppings falling from trees. Such conflict often results in, excessive pruning and other remedial works beyond established Best Practice & British Standards. Unless judicious management of a tree can provide for a sustainable relationship between trees and property, trees in serious conflict with property will not be included within a TPO.
- **Life Expectancy;** It may not be appropriate to place TPOs on trees with a limited safe life ahead of them, unless they can be appropriately managed to reduce the hazard. A veteran tree might be an example of a tree that may be managed to make it an appropriate subject for a TPO.

Guidance Note 17: Making Tree Preservation Orders

- **Significant Amenity Features:** Trees that exhibit typical form, are of exceptional size, of cultural and/or historical value, Ancient Woodland, Veteran Trees, rare trees and trees of exceptional wildlife value.

After the Site Inspection:

The information collected on site will then be collated in a report that will be enclosed with the TPO when it is served. In exceptional, emergency situations a TPO may be made without a site visit having been made. However, the site visit would be made soon after making such an emergency TPO. The TPO would then be updated as required.

A copy of the legal TPO and the report stating the reasons for its making, will be sent to the land owners and owners of land abutting the land subject to the TPO.

Representations of support and objection can be made regarding the TPO. Representations should be received by WDC 28 days after the date specified on a document known as a Regulation 3 Notice. TPOs must be confirmed within a period of 6 months from when they were made. A TPO cannot be confirmed until representations have been first considered.

Making TPOs on Development Sites:

Government guidance supports the making of TPOs on development sites and accordingly it can be prudent to make use of TPOs in development situations. However applicants for planning permission will in all cases be encouraged to consider trees and woodlands at the initial stages of development design. Primarily therefore all landscape features should be protected through good design. This is an approach encouraged by Government guidance & policy.

TPO Contravention: It is an offence to carry out works or to damage trees' in any way where permission is first required from the Local Authority. Anyone in contravention of a TPO, where the tree or its amenity are not destroyed, may be liable of a fine up to £2,500. Anyone who cuts down, uproots, wilfully destroys a tree, wilfully damages a tree or prunes it in such a way that is likely to destroy it or the amenity that it provides, may be liable to a fine of up to £20,000. In serious cases a person may be committed for trial in the Crown Court and, if convicted, is liable to an unlimited fine.

Further Reading: DETR publication 'Tree Preservation Orders, A Guide to the Law and Good Practice' March 2000 and BS5837: 2005 (Trees in relation to construction – Recommendations).