



The What, Why's and How's of Tree Preservation Orders (TPOs)

When the modern planning system was established by the Town and Country Planning Act 1947, local planning authorities retained powers to protect trees and woodlands in their area by issuing TPOs. These remain an important part of the planning process.

The effect of a TPO is to prohibit the; cutting down, uprooting, topping, lopping, wilful damage or destruction of the tree/s without the relevant local authority's consent. Although not specifically mentioned, the cutting of roots as also potentially damaging requires similar consent. An application to carry out work to tree/s with the benefit of a TPO is subject, like other aspects of the planning process, to a consultation period which allows the public to comment on the proposals. There are potentially criminal sanctions if work is carried out, or a tree is felled without consent. Also there is, in certain circumstances, a duty on landowners to replace trees and woodlands that are removed in contravention of a TPO, with the replacements being automatically protected by the original order.

Anyone can make a TPO request to their local authority by supplying details of the type and location of the tree including photos of the specimen and site together with a justification as to why a TPO should be placed.

A local authority may make an order if it appears to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'. However there is no definition of 'tree', 'woodland' or 'amenity' in the Act, nor is there any species minimum age or size requirements which would justify an order. It is the consideration of 'amenity' that does the heavy lifting - being used to protect selected trees and woodlands if their removal would have significant impact on the local environment and its enjoyment by the public.

The authority must show that a reasonable degree of public benefit will accrue before TPOs are made or confirmed. The tree/s, or at least part of them, should normally be visible from a public place, such as a road or footpath. The extent to which a tree/s or woodland can be seen by the general public will inform the authority's assessment of whether its impact on the local environment is significant. If they cannot be seen or are just barely visible from a public place, a TPO might only be justified in exceptional circumstances.

The public benefit may be in the present or future; trees may be worthy of preservation for their intrinsic beauty, for their contribution to, and relationship with, the landscape or because they serve to screen future development. Their value may be enhanced by their rarity or perhaps the collective value of a group of trees. Their importance in nature conservation or as a response to climate change are increasingly cited. A tree/s importance as a wildlife habitat may be taken into account, but on its own would not be enough to warrant an order. It is considered inappropriate to list a tree which can be shown to be dead, dying or dangerous, despite its age or size. (see note (1) below)

You can find out what trees are protected by TPOs in the local area by submitting an enquiry to Lewes District Council planning department. You will need to state the type of tree and its location such as its address or map reference. At present this information is not available online or via their website. A list compiled for an enquiry in 2017 shows that, amongst other sites, trees in Wet Home Wood, around Westgate, on locations on Beresford and Plumpton Lanes and the Fountain and Half Moon pubs are subject to TPOs

Another resource that can be used to locate remarkable tree specimens in both parishes is the Woodland Trust's Ancient Tree Inventory (2). This identifies the East Chiltington churchyard yew, a London Plane, a statuesque wild cherry and a number of veteran oaks all of which are visible from public paths.

(1) *A dead or dying tree may provide a habitat for plants or wildlife protected under the Wildlife and Countryside Act 1981. Trees with hollows and crevices can provide important natural roost sites for many bat species covered by the 1981 Act. Anyone proposing to carry out work on a tree which is used as a roost for bats should first consult English Nature.*

(2) <http://ati.woodlandtrust.org.uk>