

# Tree Preservation Orders

## Overview

Tree Preservation Orders (TPO) are one of the legal instruments that the local planning authority (council) have to protect trees. The other important legislation which may apply to protect trees include: -

1. Felling Licence – required from the Forestry Commission when felling trees, there are exceptions, the main exceptions are: -
  - a. Orchard Trees
  - b. Garden Trees
  - c. Up to 5 cubic meters of timber a calendar quarter
  - d. Trees covered in a planning application
2. Habitat Protection – trees containing bats or bat roosts, nesting birds, badger setts, otters and some rare trees, rare plants, birds and animals in or near trees are protected, or temporarily protected to preserve the habitat.
3. Trees in a Conservation Area – often considered with TPO trees but there are some important differences.
4. Sites of Special Scientific Interest (SSSI) where the trees form part of the protected feature.

## How a TPO is made by the Council

If a tree is deemed suitable for protection with a TPO the Council tree officer will issue a public notice to that effect requesting comments / support or objections. If no objections are made, the tree officer will confirm the TPO and add the tree to TPO register. This is the basic process, there are numerous legal requirements to ensure that the TPO is valid. The TPO can be for an individual tree or trees, a group of trees, an area of trees or for a woodland, each of these types have slightly different requirements on the tree owner. The first three apply to trees that are present at the time that the TPO was made, the woodland TPO protects all trees in the area when the TPO was made and also any natural regeneration (even small seedlings). The TPO needs to identify the tree or trees that it applies to and may also identify other trees in the area which are not covered by the TPO.

Should it appear that a tree which is not protected by a TPO but which has high amenity value is already being damaged or felled, the Council may make an emergency TPO. This legally requires work to stop until the usual process can be followed.

## How a TPO protects a tree

Once a TPO has been made for a tree then it is an offence to prune, damage, cut down or uproot the tree. The offence is potentially committed by both the landowner and the person who does the work on the tree. Fines and court punishments can be severe.

### How a tree can be released from a TPO

There are a number of ways in which work can be legally undertaken on a TPO-protected tree. They include:-

1. Applying for and receiving planning permission for work on a TPO tree or for its removal.
2. If the tree poses an immediate danger the tree can be removed, however, the tree officer needs to be advised of this work and why the removal was required.
3. If the tree dies the TPO does not apply, although killing a TPO by ringbarking or herbicide is an offence.

Removal of a tree with a TPO may be conditionally permitted, the most common condition being a requirement to replant (and maintain for 5 years). However, the TPO is removed, so the replacement tree would need a new TPO if it was going to remain protected.

### How to apply for a TPO for a specific tree or group of trees

The basics for applying for a TPO are relatively simple. Plymouth City Council web site has a page explaining the process. It is under the FAQ section on TPO's. The answer is replicated below:-

“If you would like the Council to consider the suitability of a Tree, Trees (group or area) or Woodland for protection by a Tree Preservation Order (TPO) please visit our [Tree Preservation Orders \(TPOs\)](#) page for more details. To assess your request we will need to know:

- The exact location of the tree(s) - postal address (if known) with a sketch map or a plan with OS co-ordinates would help).
- The species and number of trees (if known) - photos can sometimes be useful but are not essential and can use very large amounts of disk space, memory e.g. in electronic mail.
- The reasons why you consider them to be important or significant enough to be worthy of TPO or why they may be under threat.
- The assessment of a tree(s) suitability for a TPO is made by the council's Tree Officer using criteria including:- visual amenity, form, health, structure, longevity, impact on the local and wider landscape, rarity of species and suitability for its location.
- TPO's are made on a priority basis and can include those under imminent threat through to those that contribute significant amenity but are not considered to be at risk in the short term.”

(<https://www.plymouth.gov.uk/tree-preservation-orders-tpos>)

The basic information required for a TPO application is listed above. This can be emailed to:- [newtporequests@plymouth.gov.uk](mailto:newtporequests@plymouth.gov.uk) or by phone: 01752 304366

### Criteria for making a TPO

There are two main criteria for making a TPO:-

1. The tree needs to be under threat
2. The tree needs to have a high amenity value

Sometimes a tree is obviously under threat or may become so due to a change of land ownership. The threat does not have to be proved so rumour or suggestions that a tree may be under threat could be taken account.

The “high amenity value” can take many forms, some examples include:-

1. A very old or iconic tree in a prominent position.
2. A tree with a specific historic link, such as a local murder, signing of historic document, a battle, a hiding place or the subject of famous literature are some examples.
3. A tree connected to local folklore which may or may not be supported with historic evidence.
4. Tree with local custom such as a tree regularly used in village fetes, celebrations, wedding photos, “nearly home” trees.
5. An avenue or group of trees planted in a pattern or special form.
6. The tree may have unusual form or shape, or it may have unusual growing pattern.
7. There maybe unusual marks, damage or graffiti on the tree, such as names and events carved into its bark, remains of WWII shrapnel or some item embedded in the tree (eg bicycle or even a car!).
8. The tree may interact with buildings or structures in some way that is attractive, unusual or significant.
9. The tree may be prominent, an unusual tree for the area or just well liked by local people.
10. Trees with geolocational significance such as trees at a junction or cross roads, trees that align with landscape features, trees used to navigate at sea or on a lake.
11. Just about anything else that makes a tree “stand out” or be special in some way.

To support a TPO application as many interesting amenity features should be included. Photos showing the amenity features can be very helpful.

Note that there is no weighting put to the environmental, habitat or ecological benefits of the tree. Any interesting ecological features or value should be mentioned in the application but the emphasis should concentrate on the “threat and amenity value” criteria. Any environmental benefits would be translated into amenity value.

## Trees in conservation areas

Owners of trees which do not have a TPO but are in conservation areas are legally required to inform the planning authority should they intend to fell or prune their trees. This is not the same as applying for permission to work on TPO-protected trees but it gives the planning authority the opportunity to consider whether the trees in question ought to be protected by a TPO.

As with planning applications to work on TPO-protected trees, the planning authority will advertise any proposed work on trees in conservation areas so that others may comment, and six weeks is usually allowed for this. During this period, the planning authority may either:

1. Make a TPO by following the usual process
2. Tell the tree owner that there are no objections to the work proceeding

## Appendix A

### Legal and Administrative information on TPOs

Some councils use a flowchart to process applications, this flowchart can be found here:-

[https://assets.publishing.service.gov.uk/media/5c5da17b40f0b676d487d027/TPO\\_flowchart\\_1.pdf](https://assets.publishing.service.gov.uk/media/5c5da17b40f0b676d487d027/TPO_flowchart_1.pdf)

Some councils may have specific forms for TPO applications.

The main act of parliament that governs TPOs is the Town and Country Planning Act 1990 and this is amended by the Town and Country Planning (Trees) regulations. Other legislation can interact and sometimes override TPO's. An example is the Electricity (Supply) Acts which allows felling of TPO trees to protect electricity supply. Similar legislation applies to telecoms, gas, water etc.

Enforcement of TPO legislation is the responsibility of the Local Planning Authority.

## Appendix B

### Differences with individual trees, groups of trees, area of trees and woodland TPOs.

TPOs applied to individual trees must identify the tree uniquely and unambiguously and should also identify the species. The trees should be given a number and their location specified. The TPO could apply to any number of trees with each one being individually identified.

A TPO applied to a group of trees would normally identify the species and an area where the group of trees are located, it may identify the number of trees but does not have to. The area may be described as a linear feature eg "Avenue of Lime trees in the High St".

An area TPO would identify an area containing trees. No individual trees would be identified. Only those trees present when the TPO is made will be covered so saplings and younger trees that emerged after the TPO was made would not be covered by the TPO.

The Woodland TPO would identify an area, any trees inside this area is protected, whatever the age. No individual trees would be identified unless there was also a separate TPO for individual trees. The aim is to protect the woodland and its natural regeneration. Activities such as mowing or flailing the understory would not be permitted as these activities would damage saplings.

## Appendix C

### TPO's and trees in a conservation area (TCO).

TPOs are a protection for trees, any request (via a planning application) for work on these trees can be refused without any particular reason although there are usually council policies which will guide the tree officer. No work can be done unless the planning application is approved. It is normal for the planning application to be conditionally approved, when felling a TPO tree is permitted the normal condition is that the tree is replaced with a tree of a specified size and species. This tree is protected for five years but not by the original TPO.

Any work on trees in a Conservation Area needs to be advertised. This advertisement usually takes the form of a planning application. A decision is not made by the council on this request, only if there is an objection with the council decide if the tree has sufficient landscape value in the conservation area to warrant retaining the tree. If there are no objections to the request for work on a tree in a conservation area then the work can be done. There is no mechanism for requiring a replacement tree.

The result of the differences between TPO trees and TCO trees is significant and as such, any trees in a conservation area that have sufficient amenity value should be fully protected by a TPO