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Tree Preservation Orders and Trees in Conservation Areas

Applications for works to protected trees

When is consent required?

1. Formal consent from the Council is required to carry out any works (e.g. felling or pruning) to trees that are covered by a Tree Preservation Order (TPO).
2. The Council must also be given six weeks written notice of an intention to carry out any such to trees in designated conservation areas. This is called a 'Section 211 notice'.

Who Can Apply?

3. Anyone can apply for consent to carry out works to a tree(s), whether or not they are the owner. If you are not the owner of the tree(s) in question you are of course advised to notify the owner of your application. **If consent is granted it is for the applicant to make sure any necessary permission is obtained from the owner of the tree before carrying out the work.**

The Application

4. Three copies of the completed form/notice is required, duly signed and dated.
5. It is very important that the precise location and the species (if known) of the tree(s) to which the application or notice relates are clearly indicated on a reasonably accurate drawing or plan.
6. It is equally important that the application sets out as clearly as possible what work is proposed. This should be straightforward if the proposal is to fell a tree, as long as the tree is clearly identified. But if the proposal is to prune a tree the application should clarify exactly what work is envisaged. A proposal simply to "top" the tree or to "lop" or "cut back" some branches is too vague because it fails to describe the extent of the work. Applicants may wish to take some advice from an arboriculturalist in this regard before submitting their application or notice.
7. For large sites or applications proposing work to a substantial number of trees an accurate site survey may be required.

FAILURE TO PROVIDE SUFFICIENTLY ACCURATE OR FULL INFORMATION MAY RESULT IN AN APPLICATION BEING RETURNED, DELAYED OR EVEN REFUSED.

Timescale

8. The Council will endeavour to determine applications for works to trees covered by a TPO within eight weeks of the date of receipt of the application, sooner if possible.
9. On the expiry of a period of six weeks from the date of a Section 211 notice (giving the Council notice of an intention to carry out works to trees within a conservation area) the notified works may be carried out unless a TPO has been made on the trees in question in the meantime.

Publicity

10. When an application is received to fell a tree(s) subject to a TPO the Council will post a site notice advertising the application. Interested persons will have a period of 21 days from the date of posting to make representations on the application.

Conditions

11. In granting consent for works to trees protected by a TPO the Council may choose to impose conditions. Most commonly these cover a requirement to plant replacement trees in the case of felling, to specify a time limit for the works to be carried out (normally 2 years), and to regulate the standard of the authorised work.

Right of Appeal

12. Applicants have a right of appeal to the Secretary of State against the Council's decision or its failure to determine the application within the 8 week period.

Exemptions

Dead, Dying and Dangerous Trees.

13. The Council's consent is not required for cutting down or carrying out work on trees, which are dead, dying, or have become dangerous. This exemption allows the removal of dead wood from a tree or the removal of dangerous branches from an otherwise sound tree.
14. Determining whether a tree is dead, dying or dangerous is not always a straightforward matter. **Anyone proposing to cut down a tree, or carry out major pruning works, under this exemption is advised to give the Council five days notice before carrying out the work, except in an emergency.** Anyone who is not sure whether the tree falls within the exemption is advised to obtain the advice of an arboriculturalist. If subsequently challenged in respect of an unauthorised felling or other works, the burden of proof rests with the defendant to show, on the balance of probabilities that the tree, or limb, in question was dead, dying or dangerous at the time the work was carried out. The danger must be present and not anticipated.

Planning permission

15. The Council's consent is not required for the cutting down or carrying out of work on trees if **directly required** to implement a full planning permission.

Bushes and Saplings

16. The Council's consent is not required to cut down or prune bushes or shrubs (either within a TPO or conservation area), **although works to any saplings (young trees), trees in hedges, or an old hedgerow that has grown into a line of trees of reasonable height and is not subject to hedgerow management that are referred to in a TPO will require consent.**

NB: In the case of a tree within a conservation area that is not subject to a TPO the requirement to serve a Section 211 notice (i.e. giving the Council 6 weeks notice of the intended work) does not apply to a tree with a diameter not exceeding 75mm (as measured 1.5 m. above ground level). **This exemption does not apply to trees protected by a TPO.**

REMEMBER! CARRYING OUT UNAUTHORISED WORKS TO PROTECTED TREES MAY RENDER YOU LIABLE TO PROSECUTION.

IMPORTANT NOTE - DISTURBANCE TO WILDLIFE (BIRDS & BATS)

Under the provisions of the Wildlife and Countryside act 1981 (as amended) it is an offence to remove, damage or destroy the nesting or roosting site of any wild bird. In effect this means that the felling, lopping or pruning of trees is best not undertaken between the months of March to July inclusive to avoid any risk of this happening.

A dead or dying tree may provide a habitat for plants and wildlife protected under the Wildlife and Countryside Act 1981. Most notably trees with hollows and crevices may well provide important natural roost sites for many bat species. All native bats are European Protected Species and it is an offence to kill or destroy such a species or to damage or destroy their breeding site or resting places. When proposing to fell or carry out other work to such a tree care must therefore be taken to ensure that there are no bats or roost sites present before commencing the work.

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