

Relevant considerations in respect of applications to fell protected trees

TPO Guidance Note 3 (Revision 2)

5 June 2009



Oldham
Council

Oldham Council recognises the very significant contribution that trees make to peoples' quality of life and to environmental sustainability in both urban and rural areas and therefore takes the view that, as a general rule, existing trees should be retained wherever and whenever practicable.

In particular, mature and semi-mature trees have usually taken many decades to reach their present size. Once lost, they are clearly irreplaceable in the short to medium term. They represent a critical "*intergenerational asset*" (i.e. a valuable part of our environment that we should seek to pass on to succeeding generations) and consequently we should seek to preserve them wherever possible.

To this end the Council will use its powers under the *Town and Country Planning Act 1990* to make tree preservation orders (TPOs) where it can be considered expedient in the interests of public amenity to do so.

However, although the making of a TPO carries with it the presumption that the trees in question make a significant contribution to the local environment and its enjoyment by the public, it should not be interpreted as indicating that **all** the trees covered by the order must necessarily be retained **indefinitely**.

Area based TPOs, for example, are sometimes made quickly and somewhat indiscriminately to give the Council an element of interim control over the future of the trees on a site when there may be an immediate threat of felling from proposed development or other actions.

Selective felling

Upon further consideration it may become apparent that not all of the trees can or should reasonably be retained and selective felling may subsequently be permitted.

In the case of development sites, for example, the Council is mindful of the necessity to make efficient use of a limited supply of land needed for new development and to ensure that new houses and their gardens are not overshadowed to an excessive degree by trees.

In other instances, most commonly in the case of domestic gardens, an inappropriately sited tree or one of an inappropriate species may have grown to such an extent that it is causing a severe loss of amenity for the householder in terms of excessive overshadowing of habitable rooms or gardens or even damage to property. A dense tree screen can sometimes present a security risk by screening an isolated property from public view.

In such cases a balance of considerations will apply when an application is submitted to fell a tree(s).

Where it is decided that protected trees can reasonably be felled it will always be very important to secure mitigation of impact, whenever practicable, by the planting of suitable replacements on at least a three-to-one basis. Felling the trees at the right time of the year to avoid disturbance to nesting birds will also often be an important consideration.

General considerations

In considering applications to fell protected trees the Council will take into account:

- i) The amenity value of the tree(s) or woodland and the likely impact on the amenity of the area of their removal, and...
- ii) ...in the light of the assessment at (i) above, whether or not the proposal is justified, having regard to the reasons put forward in support of it.

As a general rule, the higher the amenity value of the tree(s) or woodland and the greater the impact of the proposed felling on the amenity of the area, the stronger the reasons need to be before consent is granted.

More specific considerations

More specific considerations may include the following:

- The type of tree(s) in question (e.g. certain trees such as oaks are much slower growing and relatively less common than others such as sycamores in Oldham and are therefore particularly valuable)
- The maturity of the tree - mature and semi-mature trees are effectively irreplaceable in the short to medium term
- The quality/health of the specimens:
 1. dead, dying or seriously diseased trees may warrant removal (although trees with dead wood provide a valuable habitat for wildlife and they should be considered for retention as long as possible where circumstances, including safety considerations, permit - they may provide a habitat for protected species such as bats)
 2. a sapling may be considered more expendable than a mature or semi-mature tree (although the potential amenity value of trees in the future is a material consideration)
- The visual contribution the tree(s) makes to the public realm (streetscape or landscape) - **n.b.** within conservation areas, the Council must pay special attention to the desirability of preserving or enhancing the character or appearance of that area
- Whether felling would detract from or enhance the setting of an historic building
- The value of the tree(s) as a wildlife habitat
- Any loss of an important screening function that would occur (e.g. between commercial and residential property or where trees prevent potential for an undue level of overlooking between adjoining residential property)
- Issues of good arboricultural management (e.g. removal of a poorer quality tree to allow a neighbouring tree to develop more successfully)
- Any undue adverse effect the tree(s) in question may be having on the residential amenity of existing property or are likely to have on that of proposed new residential development (see above)
- Evidence of a tree causing actual or imminent significant damage to property (although this is often very difficult to establish with any certainty)
- Where relevant, the fact that the development that necessitates the felling of the trees may bring substantial benefits to the local community
- The level of public opposition to the felling of the trees and the reasons given

Finally, and crucially, the question should always be asked as to whether the problems attributed to a protected tree could reasonably be overcome by tree surgery (pruning etc.) rather than felling.