

LODERS PARISH COUNCIL
TREE WORKS - GUIDANCE NOTES

RULES GOVERNING TREES IN A CONSERVATION AREA

All trees, regardless of species, which are not protected by a Tree Preservation Order (TPO) are protected by the conservation area status as long as the trunk diameter is greater than 75mm when measured at 1.5m above ground level.

This protection is in the form of a requirement to provide six weeks' notice to the local planning authority, under section 211 of the Town and Country Planning Act 1990, of work of any kind planned on any tree(s) within a conservation area. During the 6 weeks' notice the local planning authority considers whether the tree is worthy of a Tree Preservation Order (TPO). If appropriate, it may consult local residents and Conservation Area Advisory Panels to give them an opportunity to comment on the proposal.

There is no statutory requirement for a local planning authority to consult with parish councils on notifications for works to trees in a Conservation Area. However, councils and interested individuals are able to look up tree works notices (for both works to trees covered by a Tree Preservation Order and in a Conservation Area) and comment if they wish. Since autumn 2022 Dorset Council has notified town and parish councils of notices to fell trees, but not of notices for any other tree works.

At the end of the notice period the local planning authority will either:

- make a TPO if justified in the interests of amenity
- allow the 6 weeks to expire, at which point the proposed work may go ahead, as long as it is done so within 2 years from the date of notice
- decide not to make a TPO and inform the applicant that the work can go ahead

It cannot refuse consent, nor grant consent subject to conditions because the section 211 notice is not an application for consent under a TPO.

If trees are dead or dangerous six weeks' notice is not required, although records and proof of the said trees should be kept to avoid issues later and notify the local authority, e.g. a photograph. There may be a requirement to replant a tree similar to the dead tree, likewise for any trees removed without consent.

Fruit trees can be pruned as part of the growing of fruit. But they cannot be felled if in a conservation area without notice.

Anyone who cuts down a tree in a Conservation Area without giving notice is liable, if convicted in the Magistrate's Court, to a fine of up to £20,000 or on conviction in the Crown Court to an unlimited fine. Anyone who carries out work in a way that is not likely to destroy the tree is liable to a fine in the magistrate's court of up to £2,500.

TREE PRESERVATION ORDERS

The majority of TPO's are made provisionally and take immediate effect, remaining in force for six months. During this period the local planning authority will consider any objections and either confirm the order (with modifications if necessary) or revoke it. If no decision is made, the order lapses after the six month period.

Consent from the local authority is required to fell or prune trees protected by a Tree Preservation Order. If permission is granted the landowner has a duty to replace the tree. This is also true if the tree is dead, dying or has become dangerous.

The landowner must plant another tree:

- of an appropriate size and species
- at the same place
- as soon as he or she reasonably can.

If the land is sold before the landowner has replanted the tree, this duty passes to the new owner.

When the tree is replaced it is covered by the original TPO no matter what the new species is. The local planning authority should generally then update the TPO to make sure it covers any slight changes to the location or changes to the species.

HEDGEROWS

Hedgerows are protected by law. Removing one in the countryside requires an application to the local authority under the Hedgerow Regulations 1997.

Six weeks' notice is required. Failure to do so is a criminal offence.

Hedges that form part of a garden and clearly managed as a hedge are not protected. Permission may be granted as part of a planning permission.

TREE FELLING IN THE OPEN COUNTRYSIDE

The Forestry Act 1967 (as amended) governs the felling of trees in the open countryside. It is controlled by the Forestry Commission through the granting of licences.

There is a presumption against permanent loss of woodland cover, in particular ancient woodland. Most felling licences which are issued contain conditions that require felled trees or areas of woodland to be replaced by replanting or allowed to regenerate. The exception to this is a thinning licence, where sufficient woodland cover is retained so as not to require restocking.

POSITION OF PARISH COUNCIL

Loders Parish Council is notified by Dorset Council of notices to fell trees in the Lodors Conservation Area, but not for any other tree works.

A member of the Parish Council (currently David Pullan) monitors all notices in respect of planned tree works in the Lodors Conservation Area and alerts members of the PC to those that are considered significant, particularly where a felling is proposed. These are considered by the PC and a formal response lodged with Dorset Council by way of comment. In most cases there will be a preference for every tree in the Conservation Area to be protected, unless there is a good reason for a tree to be felled, for example if diseased and/or dangerous. In this regard the PC will be guided by the Dorset Council Tree Officer.

GFM
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