

Getting a Tree Preservation Order served – what’s eligible?



There are over a thousand Tree Preservation Orders in Leeds, ranging from individual trees to large tracts of woodland. In addition trees are protected in the City’s 63 conservation areas. This in itself generates a large volume of work for the city council in dealing with applications to carry out work on protected trees, which in turn limits the time available for serving new Orders. Currently between 60 – 100 new Orders are served each year.

This note sets out the circumstances in which Tree Preservation Orders may be served.

Current Government guidance is set out in “Tree Preservation Orders - A guide to the Law and Good Practice” (DETR March 2000) This states that Local Planning Authorities may make a Tree Preservation Order (frequently referred to as a “TPO”) if it appears to them:

“to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”

The Act¹ does not define “amenity”, nor does it set out the circumstances in which it is in the interests of amenity to make a TPO. However, in the Secretary of State’s view² :-

- TPOs should be used to protect selected trees and woodland if their removal would have a *significant* impact on the local environment and its enjoyment by the public
- Local Planning Authorities should be able to show that a reasonable degree of public benefit should accrue before TPOs are made or confirmed
- The trees, or at least part of them, should therefore be visible from a public place such as road or footpath, although exceptionally the inclusion of other trees may be justified
- The benefit may be present or future (e.g. after development has opened up a previously enclosed site)
- Trees may be worthy for their intrinsic beauty or for their contribution to the landscape or because they serve to screen an eyesore or future development
- The value of the trees may be enhanced by their scarcity
- The value of a group of trees or woodland may be collective only
- It would be inappropriate to make a TPO of trees which are dead, dying or dangerous

Effect of an Order on development

An Order should not be used to frustrate or prevent development. Once served, a Tree Preservation Order becomes “a material factor” in assessing future development proposals, but it does not normally prevent development in its own right except on very constrained sites, and a planning approval can override it.

¹ (Section 198 (1) of the Town and Country Planning Act 1990.)

² (as cited in *Tree Preservation Orders – A guide to the Law and Good Practice - DETR 2000*)