

Tree Preservation Order (TPO) Info

A Tree Preservation Order is an order made by a local planning authority in England to protect trees in the interests of Amenity. Amenity has no legal definition.

A local authority does not have to make any TPOs and will only do so when 'expedient'.

The land owner is responsible for safety and maintenance of trees whether TPOd or not.

What the law says:

<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas> and

<https://www.trees.org.uk/Help-Advice/Public/A-brief-guide-to-legislation-for-trees>

According to The Town and Country Planning (Tree Preservation)(England) Regulations 2012 PART 3 Regulation 13

An Order prohibits the:

- cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees without the local planning authority's written consent. If consent is given, it can be subject to conditions which have to be followed.

In the Secretary of State's view, cutting roots is also a prohibited activity and requires the authority's consent.

Paragraph: 001 Reference ID: 36-001-20140306

Consent for work may be refused, granted or given with conditions by the LPA

4 types of TPO:

There are 4 types of TPO, **Woodland, Group, Tree & Area**

Area should only be used on a temporary basis until resolved to Group or Tree types with individual geographic markers and detailed records. Area only protects trees that can be proved to have been in that location when the TPO was served.

[TPO Data Thanet District Council](#) The public mapping of TPO data lacks some of the required information and you will need to check details with TDC Planning Services.

Conservation Area Trees:

Any works to and trees above a specific size (10 cm diam) have to be notified to TDC. Owners must complete a Section 211 notice at least 6 weeks in advance of planned works. TDC may then decide to protect the tree by making a TPO if they decide that the tree's amenity value is high enough.

A note on Expediency:

It is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management, but may be **expedient** to do so if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the **amenity** of the area. It is not necessary for there to be immediate risk. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider that it is expedient to make an Order.

Penalties for infringement:

- £2,500 for non-permitted pruning
- £20,000 for non-permitted felling (Magistrates Court)
- Unlimited, to avoid gaining from the proceeds of crime, (Crown Court). See Enzo Homes, Penllergear case
- A criminal record
- BUT an LPA does not *have* to prosecute, and may often refuse to do so, "in the public interest" despite strong local feeling
- The Forestry Commission may also prosecute if removing over 5 cubic meters of timber without a licence, but is unlikely to do so if the LPA is taking a case forward
- The LPA *should* require replanting for illegally felled trees. Tree Mitigation policy for Broadstairs is part of the Tree Strategy, a background policy document for the Neighbourhood Development Plan

See <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas#enforcing-tree-protection-offences> for detailed info

The LPA has no legal obligation to monitor TPOs

The LPA is the ultimate decision maker despite strong public feeling

Decisions on the grant of new TPO status can be challenged by landowners

Decisions on whether to revoke or grant felling cannot be challenged through planning

The rules for trees in Conservation Areas are weaker still

The implementation of conditions for changes to TPO is at the discretion of the LPA

The balance between Amenity and Expediency is subjective and therefore open to challenge

How to apply and who to call

Who you gonna call?

How do I check if a tree is TPOd?

- Visit [TPO Data Thanet District Council](#)
- Email PlanningServices@Thanet.gov.uk
- Call 01843 577150
- Enlist the help of your local Councillor or Tree Warden

Can I get work done on TPO trees that I don't own?

Yes. A very good website to consult is this one

<https://www.problemneighbours.co.uk/problems-with-neighbouring-trees-action-guide.html>

In the interest of the good health of the tree and good neighbour relations it would be best to ask an Arborist to assess the tree and provide you with a written estimate for the cost of the work. Don't forget that you (or your Arborist) will need to apply for work on TPOd trees.

Find good Arborists through the Arboricultural Association here

<https://www.trees.org.uk/Help-Advice/Public/Choose-your-Tree-Surgeon>

How do I apply for work on a TPOd tree?

Visit <https://www.planningportal.co.uk>

Create a User Login. Search for Tree in the Application Type, complete the required fields and submit

Separately send to planningservices@thanet.gov.uk

- a plan of where the tree is,
- detailed survey and work recommendations, including dimensions of the tree
- reasons for the work and
- any accompanying photographs.

When is the best time to work on trees?

Optimal is November to February. Sub-optimal is October and March. A poorer choice is April to September. There are exceptions, however, depending on tree species. Walnut for example is best worked on in the summer. Talk to an expert.

It is illegal to disturb actively nesting birds, so always check for nesting birds first.

Urgent safety works can be fast-tracked. In addition, TPO'd trees may also be worked on or felled following a successful planning application, which overrides a TPO.

How can I apply to get an important tree TPOd?

- Visit [TPO Data Thanet District Council](#) to check first that it is not already covered
- Email PlanningServices@Thanet.gov.uk
- Call TDC 01843 577150
- Enlist the help of your local Councillor
- Enlist the help of your local Tree Warden, Karen McKenzie, Treewarden@broadstairs.gov.uk

Who can I call if someone is damaging a tree?

- Firstly be sure of your facts. Is the tree TPOd? If yes, has the work been permitted or an over-riding planning permission been granted? If not, you could approach the people damaging the tree and ask them if they know the tree is protected and that they could be acting illegally; they may not know. Always be polite and if they are not responsive, back off.
- You can report a possible TPO breach to Enforcement at Thanet District Council who have powers to immediately stop the work.
<https://www.thanet.gov.uk/info-pages/planning-enforcement>
- Secondly, are nesting birds being disturbed? If yes, then the act could be illegal under the Wildlife and Countryside act 1981. In this case you should report the act to the police on 999 if the incident needs an immediate response.

<https://www.rspb.org.uk/birds-and-wildlife/advice/gardening-for-wildlife/plants-for-wildlife/garden-hedges/hedge-law>