



ABERDEEN
CITY COUNCIL



A Guide to Protected Trees in Aberdeen

Introduction

The presence of trees and woodlands can have a significant impact on environmental quality, contributing to the city's natural heritage, attractiveness and character. In recognition of the important role of trees, Local Planning Authorities (Councils) have duties and powers to protect trees and woodlands in their area. This leaflet answers some Frequently Asked Questions about protected trees.

How are Trees protected?

In Aberdeen, trees are mostly protected by Tree Preservation Orders, Conservation Areas and by conditions on Planning Permissions.

Outwith built-up areas, tree felling can also be controlled by the Forestry Commission and may require a felling licence.

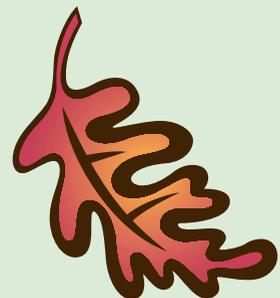
What is a Tree Preservation Order (TPO) and why are they made?

A tree preservation order (TPO) is an order made by us, giving legal protection to trees or woodland. A TPO prevents cutting down, uprooting, topping, lopping, wilful damage or destruction of trees (including cutting roots) without the council's permission.

The purpose of a TPO is to protect trees that contribute to amenity and the character and attractiveness of a locality. Other factors such as heritage and wildlife value can be taken into account. A TPO gives the council an opportunity to assess the impact of work to trees or proposals which may affect them.

A Tree Preservation Order (TPO) may be made to recognise the contribution well managed trees make to the attractiveness and character of a locality or because there may be a potential threat to trees.

A TPO is not intended to prevent the sound management of trees and woodlands, but to allow the council to control works which affect them.



What if work is carried out or damage caused to a protected tree without permission?

It is an offence under the Town and Country Planning (Scotland) Act to do work to or damage a protected tree without the council's consent. Offences are reported to the Procurator Fiscal and if a protected tree is damaged and/or destroyed without permission, the owner or person carrying out the work may be prosecuted and fined up to £20,000 per tree. A replacement tree or trees will also have to be planted.

What type of trees can be covered by a TPO?

Anything that would normally be called a "tree" may be covered by a tree preservation order (TPO). There is no minimum size of tree and no species of tree is excluded.

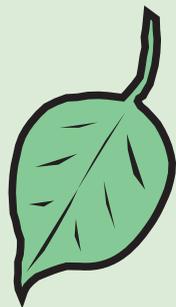


How can I find out if a tree has a tree preservation order (TPO) or is within a conservation area?

The council maintains records of all TPOs and conservation areas in the City and you can find out if a tree or trees are protected by contacting us. A written statement on whether a tree or trees are protected can be requested by sending a letter, e-mail or fax to us with a clear description of the location/address of the trees. Telephone inquiries can be for guidance only.

Is the Council responsible for looking after protected trees?

No, the owner retains responsibility for their trees, their condition and any damage they may cause, but the council's consent is required before carrying out work on them.



What if I want to work on a protected tree?

If you wish to carry out tree pruning or felling, or carry out works which could cause damage to a protected tree you must apply to the council for permission. An application needs to include sufficient information to:

- Identify the trees which the application relates to;
- Explain what works you wish to carry out;
- The reasons for the proposed work.

There is no charge for an application. If a tree is not subject to a TPO but is within a conservation area you can carry out the proposed work after the expiry of six weeks from the date your proposal was received by the council. After considering the proposed work, if the council do not think the work should go ahead, it can make a Tree Preservation Order which then prevents any work taking place. However, the council would normally seek to negotiate a revised proposal rather than making a Tree Preservation Order.

Who can apply to carry out works to a protected tree?

Anyone can apply for permission to carry out works to a protected tree, even if they are not the owners of the tree. However, consent from the council does not allow you to carry out work you are not legally entitled to do. This will need the permission of the owner. It is always recommended that you speak to the owner first before making an application.

Do I need permission to do emergency work?

If a tree is protected, but work is urgently required in the interests of safety, you can generally carry out sufficient work to remove the urgent threat to safety so long as notice in writing of the proposed operations is given to the council as soon as the necessity for the operations arises. The notice given to the council should not be less than 5 days. If work is **immediately** required for safety, you may carry it out subject to the following requirements. You should collect evidence in the form of photographs, tree surgeons report and/or an independent witness statement. The requirement is for you to demonstrate that it was necessary to carry out the work



immediately. Only the minimum amount of work necessary to remove a danger can be carried out e.g. a tree can not be felled if it would have been sufficient to remove a branch.

You must provide us with a written notice of the work you carried out as soon as you possibly can.

Do I need permission for cutting back trees which overhang from a neighbouring property?

Yes, a tree preservation order (TPO) or conservation area takes precedence over any common law right which there may be to cut back branches.

How long will it take to get a decision on an application?

It will take about 8 weeks to get a decision on a tree preservation order (TPO) application and the council will respond to a notification of works to a tree in a conservation area within 6 weeks.

What do I do if I'm not happy with the decision?

If you are not happy with a decision including any conditions attached to a consent, you have the right of appeal to the Scottish Ministers.

How are trees in conservation areas protected?

Any tree within a conservation area with a stem diameter greater than 7.5cm (3 inches) when measured at 1.5 metres above ground level is protected and has potentially the same protection as provided under a tree preservation order (TPO).



How do I find out about applications and decisions on protected trees and can I comment on an application?

The council is required to keep a public register with details of all applications and notices received and the council's decision, including any replacement tree planting required. There is no legal requirement for the council to consult on a tree application but we do include details of applications to carry out work to protected trees on an a weekly list of planning applications which is sent to community councils and local councillors and any comments received will be carefully considered. The public register is available during normal office hours at our office.



How do I get a tree protected?

Anyone who wants the council to make a TPO should write us, identify the tree or trees concerned and state the reasons why it is important to protect them.

Requests for TPO's will be considered against three main criteria:

- The amenity provided by the tree or trees and the contribution made to the attractiveness and character of the locality,
- Issues relating to biodiversity, wider environmental considerations, heritage and individual characteristics of trees, e.g. rarity of species, size etc,
- The level of threat to the tree or trees.

We can also make a TPO as a precautionary measure if there is reason to believe the tree or trees could be at risk in the future and for the short or long-term protection of trees on development sites.

How do I object to or support the making of a tree preservation order (TPO)?

When a TPO is made it is served on the owners and anyone with a legal interest in the land. It is also advertised in the local press. There is then 28 days for any objection or other representation to be made in writing to the City Solicitor. The council will take any objection or representation received into account and will consider whether to confirm the existing TPO as permanent, change it or not to proceed with it.

After the expiry of the 28 days there is no provision for objecting to a TPO.

What can I do if I think unauthorised work is being carried out?

If you see works being carried out that you suspect may be unauthorised, please contact us. If, without putting yourself at risk, you are able to obtain information such as photographs, details of the contractor, vehicle registration numbers etc. this will help the council in any enforcement action.

Planning Permissions

Trees may also be protected by planning conditions attached to planning permissions. They are normally aimed at ensuring that development does not lead to the unnecessary harm, or removal of trees. They would normally only be active for a fixed period of time and the long-term protection of trees would be through a tree preservation order (TPO).

How does a tree preservation order (TPO) affect proposed development or an existing planning approval?

The existence of a TPO can not in itself prevent the development of land taking place, but the council, as planning authority, has a duty to have regard to the preservation and planting of trees and the likely effect of development proposals on trees is a material consideration. It is common practice for the council to place a TPO on land with trees that is, or may become the subject of development proposals. This is not to prevent development, but to ensure that the removal or cutting of trees does not take place until the council has had an opportunity to assess any proposals.

If the council has granted a detailed planning permission on a site where there is an existing or a new TPO, no further express consent is required for the cutting, lopping and felling of trees if directly required to implement the detailed planning consent.

Forestry Commission felling licences

The Forestry Commission also controls tree felling. Outwith gardens, churchyards, orchards and public open spaces a Felling Licence may be required for the felling of trees. Advice should be sought from the Forestry Commission, Grampian Conservancy Office, Huntly.

The consent of the council is not required for carrying out work as part of a plan of operations approved by the Forestry Commission. If an application for a licence is made to fell trees which have a TPO or are within a conservation area, the Forestry Commission will pass the application to the council to determine.

Finding an Arboricultural Contractor

Arboricultural contractors (Tree Surgeons) can be located in Yellow Pages under "Tree Work". Tree work is hazardous and requires properly trained and experienced people. You should always ask to see proof of suitable insurance cover and qualifications. Advice on how to select a tree surgeon is available from us.



For further advice please contact:

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Development
Enterprise, Planning and
Infrastructure
Aberdeen City Council
Business Hub 4
Marischal College
Broad Street
Aberdeen
AB10 1AB

T: 01224 522440

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E: pi@aberdeencity.gov.uk

You can download a tree work application form from the council web-site or request one from us.

