



Protection of Trees

September 2004

Protected Trees

This leaflet sets out a brief summary of legislation and procedure for the protection of trees and woodland within Richmondshire District Council outside of the Yorkshire Dales National Park. The Development Control section of the Planning and Development Unit at Springwell House is responsible for protected trees under the Town and Country Planning Acts.

There are 2 types of tree protection under planning legislation.

- Tree Preservations Orders
- protection afforded to trees within Conservation Areas

Whilst there is no formal definition of a "tree" within legislation (it should be noted that shrubs are excluded), a tree is generally assumed to have a trunk with a diameter of a minimum of 75 mm at a height 1 metre above ground level. It should also be noted, however, that young and/or newly planted trees can also be protected by Tree Preservation Orders.

Tree Preservation Orders

Tree Preservation Orders are made by the Council to prevent the felling of important trees, or other unacceptable works being carried out, in the interests of protecting the quality of the environment. The relevant primary legislation is the Town and Country

Planning Act 1990 with further supplementary legislation set out in the Town and Country Planning (Trees) Regulations 1999.

Councils may make an Order if it appears to be "expedient in the interest of amenity to make provision for the preservation of trees or woodlands in their area", and it is used to protect selected trees, groups and/or woodland if works to those trees would adversely affect visual amenity. The tree(s) must therefore be in a location where they are visible from public viewpoints and also where there is a perceived threat to the tree(s). If they are being well maintained in accordance with good arboricultural or silvicultural practice, or if the request is made by the owner, then it is unlikely to be expedient to make a Tree Preservation Order.

Making a Tree Preservation Order

In making the Order the Council should be specific about the types of trees and their location identifying them on an Ordnance Survey map either individually; by reference to an area or group; or a woodland. The Council must also give reasons why the Order has been made. The owner or occupier is served with the Order, together with owners or occupiers of adjoining land, and a copy is also made available for inspection at the Council offices.

Anyone is then entitled to object to the Order or make representations about it within 28 days. The Council will consider any

representations or objections before either confirming the Order; confirming the Order with modifications; or not confirming the Order. Confirmation of an Order must take place within 6 months, although confirmation can be issued after that date.

Applications to Carry Out Works to Trees Subject to a Tree Preservation Order

Once a tree is protected by a Tree Preservation Order, consent is required from the Council to carry out works to that tree, although there are certain exemptions; the most notable of which is if the tree is dead, dying or dangerous. If this exception is claimed then it is strongly advised that evidence is made available of the condition of the tree prior to the works being carried out. Applications for works to trees subject to a Tree Preservation Order are made to the District Council's Planning and Development Unit (the appropriate application form is available on request) and the Council is expected to reach a decision within 8 weeks.

In determining an application, an assessment is made concerning the amenity value of the tree(s) or woodland and whether the proposed works are justified. The Council can either refuse consent; grant consent to the application as submitted; or grant approval for less work than has been applied for.

Conditions can be imposed as part of the granting of consent to require, for example,

replacement planting which is an important aspect of this legislation.

If an application is refused or granted with conditions the applicant has the right of appeal to the Secretary of State and such an appeal must be made within 28 days of the date of the Council's decision.

Protection of Trees within Conservation Areas

The primary legislation is the Town and Country Planning Act 1990 although the relevant legislation relating to Conservation Areas is Part II of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Trees make an important visual contribution to the quality of the environment within Conservation Areas, and the District Council must be notified of any proposal to carry out works to any tree. The appropriate application form is available on request. The Council must issue a decision within 6 weeks and if the proposed works are considered to be unacceptable, reduced works can be agreed, or, if the extent of works cannot be agreed, a Tree Preservation Order will be made to give continued protection to the tree(s). A subsequent application may then be made to carry out works under Tree Preservation Order legislation (see above).

Penalties

Any unauthorised works resulting in harm to a tree protected by a Tree Preservation Order or a tree within a Conservation Area, without first

giving the requisite 6 weeks notice, is a criminal offence. If convicted in the Magistrates Court the perpetrator could be liable to a fine of up to £20,000.

Other Legislation

Trees within the countryside can be subject to the need to obtain a Felling Licence from the Forestry Commission, and you are advised to get in touch with the Forestry Commission if felling is proposed. The address of the local office is :

Wheldrake Lane,
Crockley Hill,
York,
YO1 4SG
Tel 01904 448778

For application forms or further information about the protection of trees within Richmondshire District outside the Yorkshire Dales National Park please contact :

The Planning and Development Unit,
Richmondshire District Council,
Springwell House,
Frenchgate,
Richmond,
North Yorkshire,
DL10 4JG.

Tel : 01748 829100

Email :
planningenquiries@richmondshire.gov.uk