

<p>What protection do trees have?</p>	<p>Trees have protection, to varying degrees, under –</p> <ul style="list-style-type: none"> • The town planning system <ul style="list-style-type: none"> ▪ National Planning Policy Framework (NPPF) ▪ Notifications of works to (non-Tree Preservation Order (non-TPO)) trees in conservation areas ▪ Tree Preservation Orders • Forestry Commission felling licence requirements (under the Forestry Act) <p>Further details are provided below.</p> <p>In general, if a tree is part of a planning application, any decision to cut it down will be made as part of the local authority planning decision process. If a tree is not part of a planning application, any proposal to cut it down will be subject to the Forestry Commission felling licence requirements or TPO consent.</p>
<p>What does National Planning Policy say?</p>	<p>The National Planning Policy Framework (NPPF) regards <u>ancient woodland and ancient and veteran trees</u> as irreplaceable habitats (NPPF 180c).</p> <p>Irreplaceable habitats are - <i>Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen.</i> (NPPF Glossary)</p> <p>The NPPF states that – <i>development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists</i> (NPPF 180)</p> <p><i>‘Wholly exceptional reasons’ in c) above, would include – infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.</i> (NPPF footnote 63)</p>
<p>How are non-TPO trees in conservation areas protected?</p>	<p>Anyone proposing to cut down, lop or top a tree located in a conservation area (designated for building character) must give the local planning authority 6 weeks’ notice in advance, if -</p> <ul style="list-style-type: none"> • the tree is not subject to a Tree Preservation Order • the trunk diameter is more than 75mm when measured at 1.5m above ground or 10 cm diameter if thinning to help the growth of other trees.

	<p>This notice gives the local planning authority an opportunity to consider whether the tree contributes to the character of the conservation area and whether a Tree Preservation Order should be made on the tree. If it does not want to impose a TPO, the work can go ahead.</p> <ul style="list-style-type: none"> • Carrying out work without submitting notice is an offence. • A felling licence may still be required from the Forestry Commission for conservation area trees.
<p>What is a Tree Preservation Order (TPO)?</p>	<ul style="list-style-type: none"> • TPOs are administered by local planning authorities (LPAs) under the Town and Country Planning (Tree Preservation) (England) Regulations to protect specific trees and areas of woodland of high amenity value from deliberate damage and destruction. • TPOs are based on visual contribution to the locality/landscape setting for the benefit of the general public • If a tree is covered by a TPO, it is an offence to cut down, top, lop, uproot, wilfully damage or destroy it - without the LPA's permission. An application therefore needs to be made to the LPA for these tree works. • TPO protection includes trees within hedgerows but not hedges, bushes or shrubs. • TPOs can cover individual trees, groups of trees, areas of trees and woodlands. • This covers tree roots as well as the rest of the tree. • If trees are to be retained in a development scheme, TPOs are better than planning conditions for ensuring this • A felling licence may still be required from the Forestry Commission for TPO trees, in which case liaison between the LPA and the Forestry Commission will be required.
<p>What is a felling licence?</p>	<p>Details on felling licences can be found by searching online for - <i>Tree Felling: Getting Permission – Forestry Commission 2020</i></p> <ul style="list-style-type: none"> • It is an offence to cut down a tree (unless it is covered by an exception) without permission, in the form of a felling licence from the Forestry Commission (under the Forestry Act). The felling licence allows the tree to be cut down legally. • Any felling carried out without a felling licence is an offence, (unless it is covered by an exception), and everyone involved can be prosecuted. • The Forestry Commission will investigate reports of illegal tree felling. • In the event of a prosecution for unlicensed felling, the legal burden of proving that an exception existed, rests with the tree feller. <p><u>Who can apply for a felling licence?</u></p> <ul style="list-style-type: none"> • a landowner (or a tenant/lessee whose lease entitles him/her to fell trees) <p><u>What types of tree felling are exceptions that do not need a felling licence?</u></p>

- felling trees immediately required for carrying out development that has **full** planning permission. An **outline** planning permission is not sufficient to demonstrate that the felling of trees is immediately required for the purposes of development. The exception does not simply extend to all trees within the boundary of the permitted development. At least one of the following criteria must be met:
 - trees must be explicitly identified as being permitted for removal;
 - the trees must stand within the footprint of the proposed development;
 - the removal of the trees must be necessary in order to carry out the proposed development (e.g. they block an access route to which there is no alternative, or lie in such close proximity to the proposed development that they prevent the carrying out of that development).
- felling trees in a garden, public open space, orchard, churchyard
- lopping, topping, pruning, pollarding
- felling less than 5 cubic metres in any calendar quarter
- felling trees less than 8 cm diameter (measured 1.3 metres above the ground) or 10 cm if thinning out trees, or 15 cm if cutting multi-stem coppice
- felling trees by statutory undertakers (e.g. for utility supplies of gas, electricity, water, and pipelines, communications, canals, waterways etc.) where trees are obstructing the construction or maintenance of any works or operations for which they are responsible.
- tree felling done in compliance with an Act of Parliament (e.g. bodies such as Highways England, Network Rail and local highway authorities have statutory duties to maintain the safe operation of their infrastructure)
- felling required for trees that are a danger to people, property or infrastructure (with immediate risk of serious harm) or cause a nuisance (where damage has been caused or where there is an immediate risk of damage being caused)
- felling in accordance with a Statutory Plant Health Notice to prevent the spread of a quarantine pest or disease
- felling included in an approved (forestry) dedication plan