

## TREES IN CONSERVATION AREAS



Conservation Areas are designated by the Local Planning Authority and usually apply to areas within a town, city or village which is regarded as being of 'special architectural or historic interest'. Insofar as they protect trees, that protection is essentially in order to preserve the character of the town or village in which they grow; they do not imply any recognition of the intrinsic value and importance of trees as trees.

While specific trees within Conservation Areas may be protected by a Tree Preservation Order (TPO), *all* trees with a diameter of 75mm or more, measured at 1.5 metres above ground level, are protected under the provisions of section 211 of the Town & Country Planning Act 1990. This requires that anyone wishing to carry out work on a tree within a Conservation Area must notify the Local Planning Authority of their intention to do. Certain exceptions apply as described below, but in general a notification must be submitted to the Council in advance of the work being carried out. This is known as a '**Section 211 Notice**' and must include enough information to clearly identify the tree or trees in question as well as describing the operations proposed.

Note that this is not an application for permission but is in effect a notice of the intention to carry out the work specified. However the Local Authority is not in a position to either grant or refuse consent unless the tree is protected by a TPO and, assuming it is not already protected by TPO, it has up to six weeks in which to decide if the tree is worthy of being made the subject of a TPO.

If the Authority fails to make a TPO within 6 weeks, or if it fails to inform you of their decision within 6 weeks, then you can carry out your intended works.

Although a section 211 notice does not have to be in any particular format, you are encouraged to submit it by registering and logging into the Planning Portal and filling out the appropriate online form, which is available **HERE**:  
[[https://www.Planningportal.co.uk/info/200126/applications/60/consent\\_types/14](https://www.Planningportal.co.uk/info/200126/applications/60/consent_types/14)]

Alternatively you can submit a notice by email to [dutyofficerandnaturalenvironment@herefordshire.gov.uk](mailto:dutyofficerandnaturalenvironment@herefordshire.gov.uk) or by post, addressed to:-  
**Herefordshire Council Natural Environment Services, PO Box 4, Hereford HR4 0XH.**

## Exceptions

Trees in a Conservation Area with a diameter of less than 75mm (3") measured at 1.5 metres above ground level are not protected.

Other exceptions apply, similar to those that apply to TPO trees, although as in that case it may still be necessary to provide the local authority notice of any proposed works, even if they appear to be exempt from protection.

Exceptions include:

- Removing dead branches from a tree.
- Cutting down or cutting back a tree which is dead or dangerous. However, while a section 211 notice may not be required where work is necessary to make a dangerous tree safe, the Local Authority must be informed in writing 5 working days before the work is carried out.

In situations where a protected tree poses an *immediate* risk of causing *serious* harm, it can be dealt with without giving advance notice, **but only to the extent that it is necessary to remove the risk.** (For example, the presence of a broken branch in a tree is unlikely to justify the felling of the entire tree.)

As soon as practicable after the work becomes necessary, the owner (or their agent) must give written notice to the authority of its extent. They should be able to provide evidence to justify the work carried out.

Where practicable it is advisable to be able to provide photographic evidence.

- Work which is directly in the way of development that is about to start for which detailed planning permission has been granted.
- Tree operations in a commercial orchard or the pruning fruit trees in accordance with good horticultural practice.
- It may be permissible to carry out works to prevent or control an *actionable nuisance*. However it is strongly advised that a solicitor be consulted to determine if a nuisance is indeed 'actionable'.
- Cutting down trees in accordance with one of the Forestry Commission's grant schemes, or where the Commission has granted a felling licence.
- Works that are in line with an obligation under an Act of Parliament.
- By or at the request of certain statutory undertakers.

If you are in any doubt, check with your Local Authority; even if the proposed work is regarded as being exempt from protection, it is prudent to advise the Local Planning Authority of your intentions.