

# Protected Trees

A guide to tree  
protection procedures



Development &  
Planning Authority



## PLANNING ADVICE NOTE 4: PROTECTED TREES

### Introduction

This leaflet is written for tree owners, their neighbours and local community groups, and answers some of the most common questions about tree protection procedures in Guernsey. It is for information only and you should consult an advocate if you are unsure of your legal rights or obligations.

Please note that the current Planning and Development Law came into force together with related Ordinances on the 6th April 2009. The legislation is contained in The Land Planning and Development (Guernsey) Law, 2005 which sets out the purposes of the Law and its application. The Law is accompanied by twelve Ordinances of the States that relate to various aspects of land planning. The Special Controls Ordinance (2007), the General Provisions Ordinance (2007) and the Exemptions Ordinance (2007) are of most relevance to tree protection.

### Questions and answers

#### 1. What is a tree protection order?

It is a written order made by the Development and Planning Authority which, in general, makes it an offence to cut down, lop, top, prune, cut or compact the roots or the ground level of the root area, uproot, wilfully damage or wilfully destroy a tree without planning permission.

#### 2. What is the purpose of a tree protection order?

To protect trees which bring significant amenity benefit to the local area. This protection is particularly important where trees are under threat.

#### 3. What type and species of trees does a tree protection order apply to?

A tree protection order can be served on any type of tree but not hedges, bushes or shrubs. An order can protect anything from a single tree to all trees within a defined area or woodland. Any species can be protected, but no species is automatically protected by a tree protection order.

#### 4. How can I find out if a tree is protected by a tree protection order?

Contact the Planning Service. Details of tree protection orders are available for inspection at its offices and on the States of Guernsey website [www.gov.gg](http://www.gov.gg).

An official search of the locality can also be made before you buy a property. This is known as a property search and should reveal the existence of a tree protection order. A fee is charged for a property search and further information is available on the website [www.gov.gg](http://www.gov.gg) in the Planning and Building section. Make sure your legal adviser tells you if any trees are protected.

**5. If I see work being carried out on a protected tree, how can I find out if the owner has permission?**

Check with the Planning Service, which will have a register of applications and decisions that you can look at. An interactive websearch is also available online, in the Planning and Building section of [www.gov.gg](http://www.gov.gg).

**6. There are trees that I think should be protected by a tree protection order. What can I do?**

Contact the Planning Service, preferably in writing, giving details of the trees and why you think they should be protected.

**7. When does a tree protection order come into effect?**

Provisional protection comes into effect as soon as the Development & Planning Authority makes the order. The Development & Planning Authority will then need to confirm the order to provide long term protection.

**8. How will I know when a tree protection order is made?**

The Authority will write to those who may have a right to work on a tree, generally the tree owner and sometimes others such as neighbours. Copies of new orders are available for inspection at our offices and new orders are also advertised in La Gazette Officielle.

**9. How can I object to or express support for a new tree protection order?**

Write to the Authority within the period it allows for comment (28 days), identifying the tree or trees in question and, in the case of objections, giving your reasons for the objections.

Your comments will be taken into account when deciding whether or not to confirm the order (within 6 months). An order can be modified when confirmed, for example to exclude some of the trees. If despite your objections the tree protection order goes ahead and is confirmed, you have the right to appeal to an independent planning appeals tribunal. Further information on planning appeals is available on the States of Guernsey website [www.gov.gg](http://www.gov.gg).

**10. Who is responsible for looking after protected trees?**

Owners remain responsible for trees covered by tree protection orders, their condition and any damage they may cause. However, planning permission is usually required before any work is carried out to the trees (see questions 11-13).

**11. What if I want to work on a tree covered by a tree protection order?**

Apart from special exemptions (see Q13-15) you or your agent must seek planning permission by submitting a standard planning application. The form is available from the States of Guernsey website [www.gov.gg](http://www.gov.gg) in the Planning and building permissions section. Alternatively you can pick up a copy from the Authority's reception desk at Sir Charles Frossard House. It is important to clearly specify the work you want done and provide information to support your case (such as professional advice on the health of the tree and, in cases of alleged damage to buildings, professional evidence on the structure affected and the tree. Before making an application you may find it helpful to consult a tree surgeon or arboricultural consultant to help you clarify what you need to do.

## 12. Do I always need permission to work on a tree covered by a tree protection order?

No. The existence of an order does not mean that necessary routine management work on protected trees, such as selected branch removal or thinning (and even in some exceptional cases, felling) is not permitted.

Rather, the order is in place to ensure that work is only carried out with good reason, it is carried out in line with good arboricultural practice and so it will not have an unacceptable impact on the public realm.

The cutting down, uprooting, topping, lopping or pruning of a protected tree is permitted if:

- The tree has been certified as being dead or in a hazardous state (i.e. it presents an urgent and significant safety risk) by an arboriculturalist, or other qualified person, and provided that the tree is not within a site of special significance;
- This action is required to comply with any requirements by or under any enactment including the Ordinance relevant à la Hauteur des Haies Bordant les Encoignures des Voies Publiques, 1931 and the Cutting of Hedges Ordinance 1953;
- This action will prevent or abate a nuisance (i.e. an actionable nuisance to persons on other properties);
- This action is required to enable a person to implement any planning permission except an outline planning permission;
- This action is required to prevent obstruction of a highway, or to ensure the safe and efficient use for civil aviation purposes of any land, structures, works or apparatus;
- The tree is one of the following species and is a protected tree by virtue of being one of a group or area of trees or woodlands subject to a tree protection order -
  - a. *X Cupressocyparis leylandii* (Leyland Cypress)
  - b. *Chamaecyparis nootkatensis* (Nootka Cypress), or
  - c. *Cupressus macrocarpa* (Monterey Cypress)

Pruning of any protected tree should be carried out in accordance with British Standard Specification 3998/1989 on recommendations for tree work.

If you are in any doubt about what needs permission, check with the us.

## 13. What must be taken into account when considering planning applications relating to protected trees?

In determining applications for planning permission for development in relation to a protected tree, we must have regard to:

- The desirability of protecting the amenity value of the protected tree by reason of which the tree protection order was made, and any future potential amenity value of the tree;
- The health of the protected tree;
- Any harm which is likely to be caused by the protected tree, and
- The likely amenity value of any proposals to mitigate the detrimental effect on amenity which is likely to arise from the development.

#### **14. What happens if I carry out work on a protected tree without permission?**

If you deliberately destroy a protected tree, or damage it in a manner likely to destroy it, **you could be liable to a fine or imprisonment or both**. You could also be liable if you cause or permit such work.

#### **15. When will I have to plant a replacement tree?**

You will have to replant if planning permission is given to cut down a protected tree but replanting a tree is a condition of the consent.

#### **16. What if my application to carry out work under a tree protection order is refused, or if I object to the conditions imposed?**

You have the right to appeal to an independent planning appeals tribunal in writing within 28 days of receiving the planning decision. The Planning Service can provide the address or information is available on the States of Guernsey website [www.gov.gg](http://www.gov.gg). The panel may allow or dismiss the appeal, or vary the original decision.

#### **17. Can I get compensation if my application to carry out work under a tree protection order is refused or conditions are imposed?**

No. The Law does not make provision for compensation.

#### **18. How are trees protected in a Conservation Area?**

Tree protection procedures apply if a tree in a Conservation Area is already protected by a tree protection order. There are no additional protective provisions for trees within a Conservation Area.

#### **19. How are trees on development sites affected?**

They can be protected by a tree protection order or by a condition attached to planning permission, or both. A planning condition may also require trees to be planted, which may then be protected by a tree protection order.

#### **20. Can I stop planning permission being granted - or prevent approved development being carried out - by getting a tree protection order imposed on trees on the site?**

No. A tree protection order does not prevent planning permission being granted. But the Development & Planning Authority will consider the risk to protected trees when deciding planning applications.

Once detailed planning permission is granted, felling that is directly required to enable the development to go ahead may be carried out.

#### **21. Can I carry out work on protected trees which are in the way of proposed development?**

You can only cut down or cut back protected trees if they are directly in the way of development which is about to start and for which detailed planning permission has been granted.

If you have outline planning permission or if the development does not require planning permission (for example, a small home extension covered by planning exemptions) you must still apply to the Development & Planning Authority for permission under the tree protection order in the normal way. If you are in any doubt what is required, check with the Planning Service.

## 22. What happens to trees protected prior to 6 April 2009? (when the current Planning and Development Law and related Ordinances came into force)

The previous law gave trees automatic protection from lopping or felling where development permission had previously been granted. Applications for lopping and felling had then to be made to the Environment Department (formerly the Island Development Committee). This protection lapsed with the introduction of the new law on the 6 April 2009.

Specific planning conditions protecting trees attached to permissions granted prior to the new law remain in effect.

### Further information

References within planning legislation which will provide further information are:

- Section 42-45, The Land Planning and Development (Guernsey) Law, 2005
- Section 5, the Land Planning and Development (General Provisions) Ordinance, 2007
- Schedule Class 7, The Land Planning and Development (Exemptions) Ordinance, 2007
- Section 16, The Land Planning and Development (General Provisions) Ordinance, 2007
- Section 14, The Land Planning and Development (Special Controls) Ordinance, 2007

**Contact Us** For further information or advice at:  
The Office of the Development & Planning Authority  
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St Peter Port  
GY1 1FH  
Telephone 01481 717200 E-mail [planning@gov.gg](mailto:planning@gov.gg)

#### Have you visited our website?

Go to [www.gov.gg](http://www.gov.gg) for additional guidance material and other planning information, or to book a pre-application discussion

This note is issued by the Development & Planning Authority to assist understanding of the provisions of the planning legislation. It represents the Authority's interpretation of certain provisions of the legislation and is not intended to be exhaustive or a substitute for the full text of the legislation copies of which are available from the Greffe. Electronic copies are also available at [www.guernseylegalresources.gg](http://www.guernseylegalresources.gg). Substantive queries concerning the legislation should be addressed to the Authority by telephone on 717200. The Authority does not accept any liability for loss or expense arising out of the provision of, or reliance on, any advice given. You are recommended to seek advice from an independent professional advisor where appropriate.