Tree Protection in Bucks

Review of current protection under legislation, how this protection is applied by the Council, and how to ensure trees are protected and maintained in future

Transport, Environment and Climate Change Select Committee

8 September 2022

Powers to protect trees

Power to protect trees is granted to Local Planning Authorities though through a range of legislation, policy, guidance and material considerations such as case law and planning appeal decisions

Key amongst these are:

- The Town and Country Planning (Tree Preservation)(England) Regulations 2012

- Tree Preservation Orders and trees in conservation areas (explains the legislation)

- National Planning Policy Framework

Local Policy including:

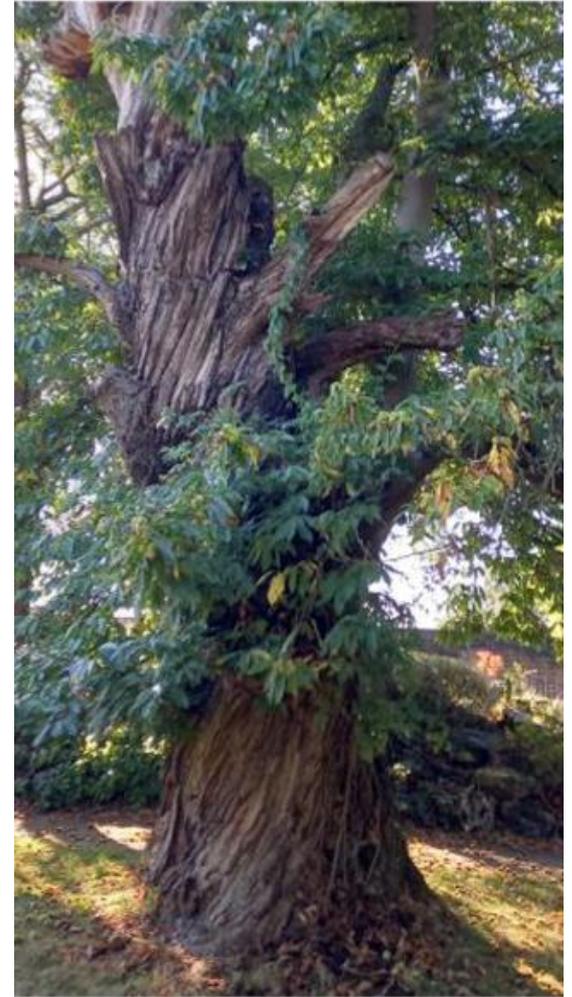- *Chiltern District Local Plan*

- *South Bucks District Local Plan*

- *Vale of Aylesbury Local Plan*

- *Wycombe District Local Plan* & *Canopy Cover Supplementary Planning Document*

Tree Preservation Orders

Local Planning Authorities can make a Tree Preservation Order if *'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'*.

It would not be 'expedient' to make a TPO on trees:

- Under good management

- Already adequately protected by some other means

- Not otherwise known to be at risk from inappropriate work now or in future

- In poor or hazardous condition

- Where planning permission has been granted that requires or allows the removal of the tree

Tree Preservation Orders

TPOs can protect:

- Individual trees
- Groups of trees
- Areas
- Woodlands

Area (blanket) TPOs are only to be used as a short-term measure, until each tree is assessed, plotted and protected individually or as groups.

- TPOs prohibit the felling, topping, lopping, uprooting or wilful damage or destruction of protected trees or woodlands unless permission is specifically given for such activity. i.e. through TPO application or grant of planning permission.
- Protection applies to roots, stems and branches
- TPOS do not allow a LAs to impose or enforce a particular management programme

Tree Preservation Orders

Amenity is not defined in law, but guidance and common practice primarily relates to visual amenity from a public viewpoint, now or in future

Other factors such as nature conservation and climate change may contribute to the case for a TPO, but should not be used as the primary reason for making a TPO.

TPOs should not be made on trees to achieve aims other than those set out in legislation.

Tree Preservation Orders

TPOs are not based on subjective assessment

They are made based on professional arboricultural assessment of the health and quality of the tree using industry standard methodology.

- Biological life expectancy
- Safe & useful life expectancy
- Importance of position in the landscape
- Rarity, cultural or historic value

- Visual amenity value to people
- Presence of other trees
- Relation to setting and other trees
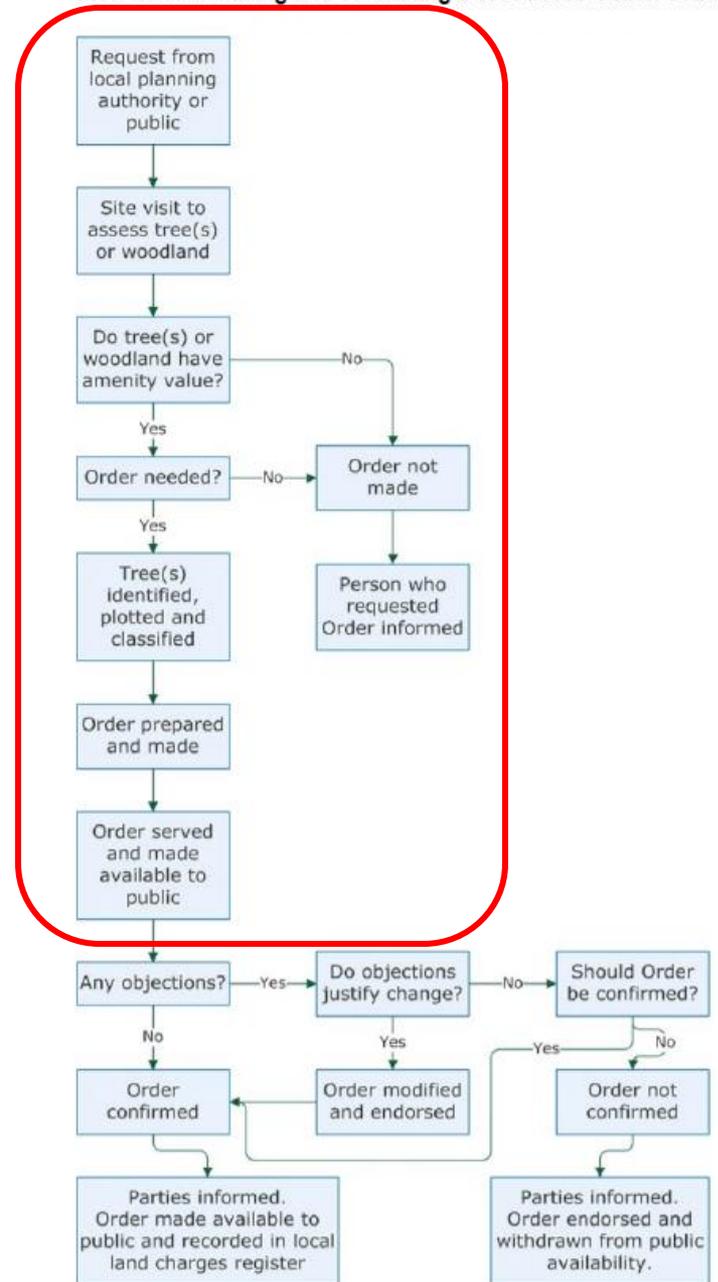- Condition and form

Industry-standard methodologies include:

- TEMPO – Tree Evaluation Method for Preservation Orders, and

- CAVAT Capital Asset Valuation of Amenity Trees

- Helliwell System developed by Rodney Helliwell, arboriculturalist & ecologist

The amount of public support or opposition for a TPO would be a 'material consideration' but would not outweigh the objective assessment
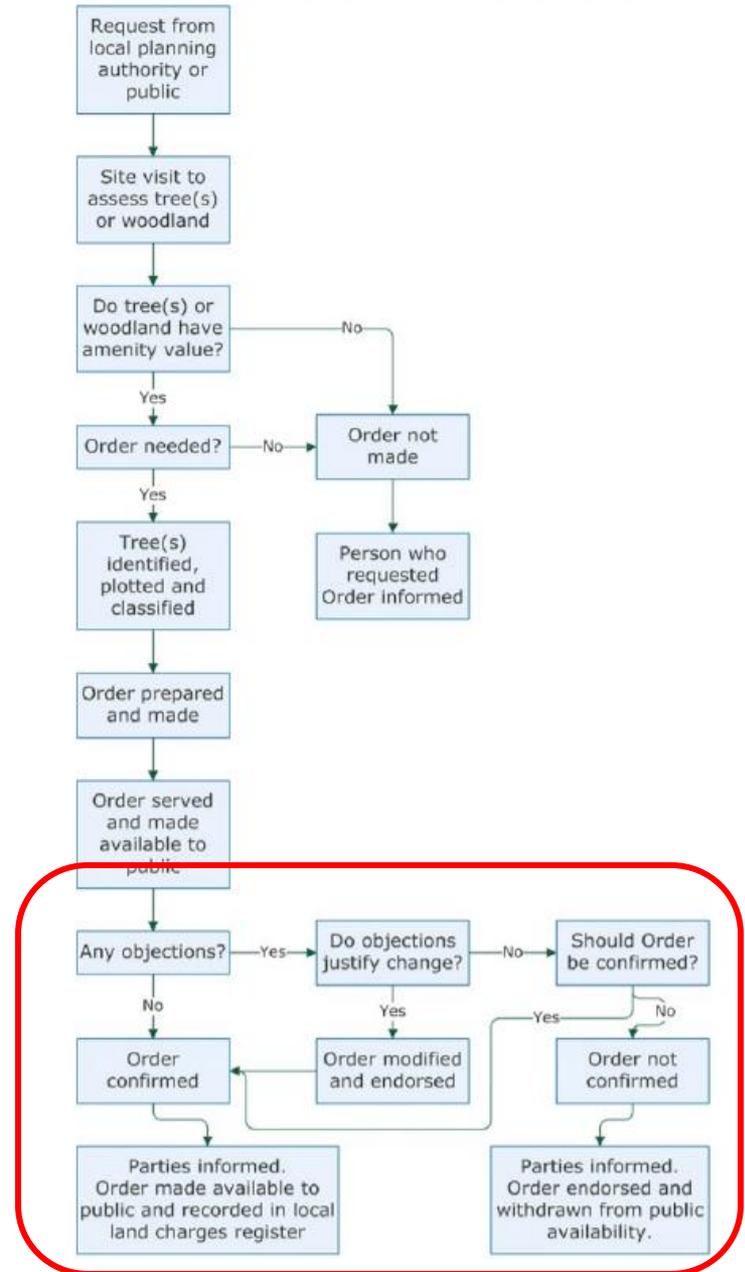
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Flowchart 1: Making and confirming a Tree Preservation Order
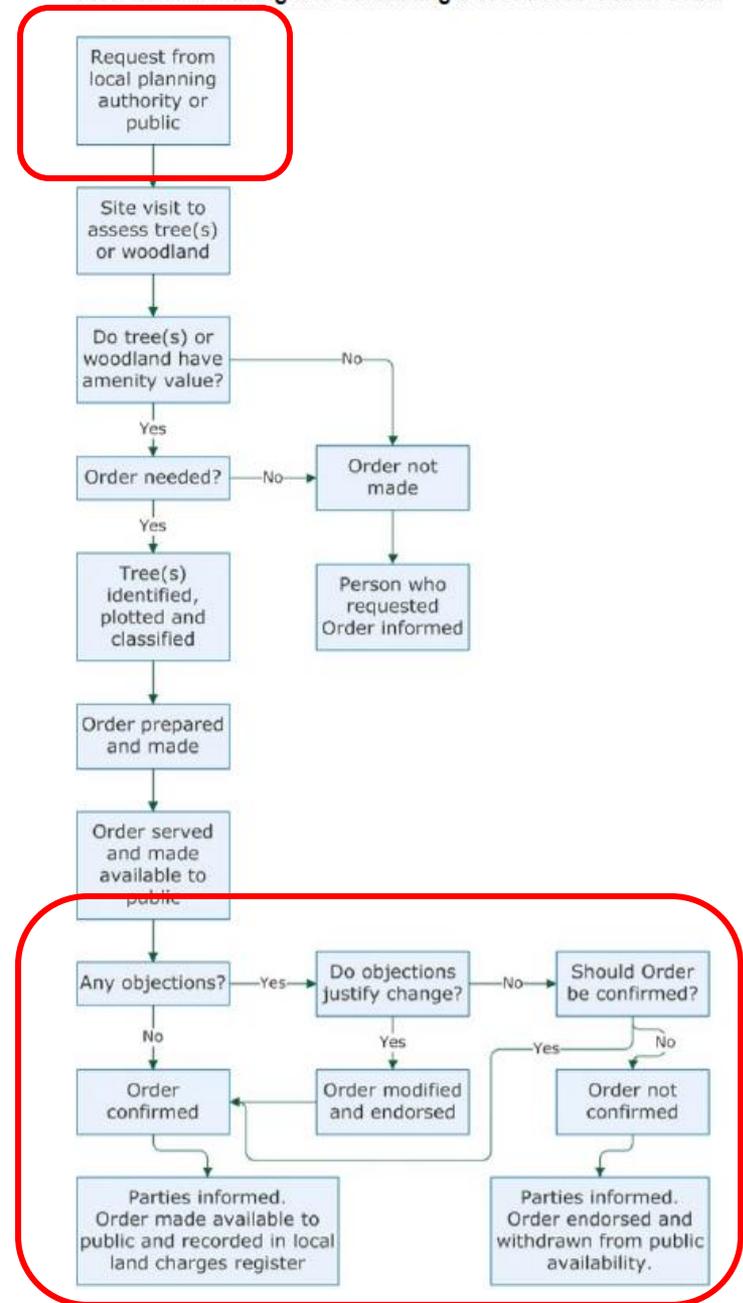
Tree Preservation Orders

- Power to TPOs rests with ARB officers and managers

- Power to confirm TPOs rests with ARB officers & managers, level based on objections and representations received

- The best opportunities for councillors to get involved are when requesting a TPO, or at the confirmation stage

Flowchart 1: Making and confirming a Tree Preservation Order

National Planning Policy Framework

Various paragraphs relate to climate change, biodiversity, street trees and quality of open spaces, but para 131 is of most relevance:

- Highlights the importance of trees to character, quality, & climate change

- The need to incorporate trees within development;

- The need to protect and retain trees wherever possible;

- The importance of LPAs and Developers working together to deliver the right tree in the right place, and

- Deliver outcomes that work for different users.

'131. Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.'

Buckinghamshire Council Policy

Some key policies relating to trees in Buckinghamshire include:

NE8 (Aylesbury) :

- Development should enhance and expand tree & woodland resource

- Development that would result in the unacceptable impacts on important trees will be resisted. Where trees are lost replacements will be required

TW3 (Chiltern) :

- Trees of good quality, or landscape significance, or amenity value, will be expected to be retained in good condition even where this will restrict, or prevent, development.

L10 (South Bucks) :

- Relates to proposals felling or doing works to TPO trees.

EP3 & 4 (South Bucks) :

- Development should make positive use of existing landscaping features, including existing trees and vegetation, and

- Retain existing planting which is or will be important to character and appearance, and provide additional trees where appropriate
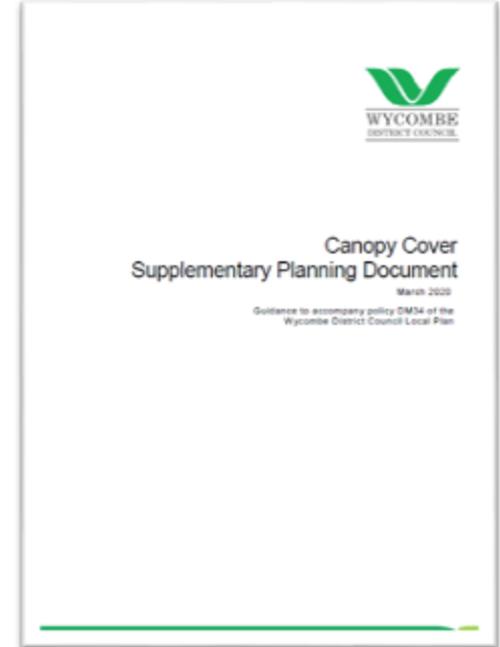
Buckinghamshire Council Policy

DM34 (Wycombe) :

- Protect and enhance biodiversity and green infrastructure

- Maximise green infrastructure through retention and new provision

- Provide 25% tree canopy cover or equivalent green infrastructure on certain sites, through retention and new planting

The Canopy Cover SPD explains that:

- "maximise" means to ensure that all reasonable opportunities are taken to retain and plant trees and provide green roofs and green walls.

- Every effort should be made to meet the canopy cover requirement through retained and new trees on site.

- If the canopy cover requirement cannot be met through trees, green roofs and green walls can be considered

Summary of current position

Retention of trees is sought where appropriate/possible in accordance with policy:

- We can't require that all trees on a site be retained

- We can't require a tree be moved instead of felled

- Where trees are likely to be lost to development, replacement planting can be secured by condition

- Officers work proactively and collaboratively with applicants to secure the best possible outcome, and avoid pre-emptive TPOs unless there is evidence of risk

- Trees are important, but balanced with other policy requirements

Summary of current position

The Council uses TPOs to protect trees in accordance with legislation, when they:
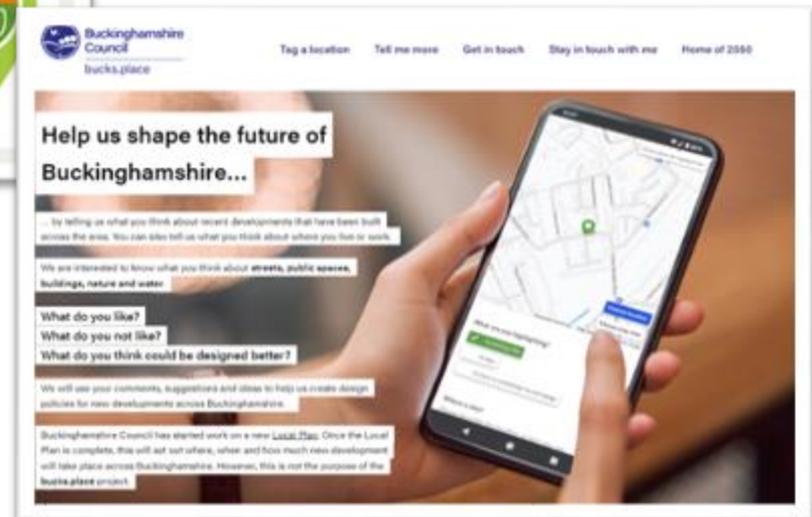
- Provide public amenity (predominantly visual)

- Meet objectively assessed criteria in respect to quality, and

- Are or likely to be at risk of inappropriate works

Moving forward proactively

Work is beginning or under way on:

- Buckinghamshire Local Plan - https://yourvoicebucks.citizenspace.com/planning/local-plan-2021

- The Buckinghamshire Design Code - https://bucks.place

- The Buckinghamshire Tree Strategy, within which the Council may set out priorities for both reviewing existing TPOS, and making new ones

Buckinghamshire Council Tree Strategy

Baseline work is currently underway as part of the Buckinghamshire Council Tree Strategy, including:

- Updating inspections for Council-owned trees

- Migrating to more appropriate tree management tools

- Undertaking a TPO review to update and correct records of TPOs across Buckinghamshire

- Undertaking Canopy Cover mapping to establish a baseline for future strategies and policies

Buckinghamshire Council Tree Strategy

Future stages of the Tree Strategy will cover:

- New tree inspection and management strategy

- Planning and responding to climate change and biohazards

- How and where to focus future tree planting

- When and how we make TPOs, and

- Whether or not we can set out our own interpretation of 'amenity'

We are currently recruiting to support this work

The Arboricultural Team

There are 6 full-time team members, and one part-time consultant.

The budget for the team is £390k

All team members:

- Consider works to trees in conservation area (make a TPO or not)

- Make TPOs

- Determine applications for works to TPO trees

- Determine requests for urgent works to TPO trees as '5-day notices'

- Provide planning advice and formal comments related to trees

- Defend the Council's position at appeal

- Support the enforcement team who investigate and take action in respect to unauthorised works

- Deal with High Hedge Complaints

- Lead on Buckinghamshire Tree Strategy

- Respond to general queries relating to trees ~ 150-200 per week

- Deal with ~1800 tree applications per year (increasing)

- Respond to ~1000 planning consultations per year

The Arboricultural Team

Responsibilities for works to Council-owned trees remains 'patchy'. The tree teams are not ultimately responsible for Council trees, but do advise on their management

In West, Central & North, team members:

- Manage the tender process and the contract for tree contractors who can inspect & carry out work to council owned trees ~£160k

- Advise other responsible Council services on management of council-owned trees and arrange for the works to be carried out if approved by that service ~25k trees (estimate)

- Update and maintain the GIS layers relating to TPO trees

- Arrange for limited, small-scale tree planting on council-owned land ~£10-20k

- Advise the Climate Change Team on site selection and specification for the Council's large-scale tree planting programme

These work areas and practices will be harmonised over time

Enforcement against unauthorised works

Ultimate responsibility for tree-related enforcement rests with the Enforcement Team

From April 2020 ~ 150 cases related to unauthorised works

When deciding what action to take, the two teams consider:

- Whether there is quantifiable evidence of harm

- Can we prove who caused the harm and when

- Can we prove the harm resulted from the works

When we don't have a case for prosecution we will issue a warning letter

We may also seek a contribution to local tree planting

How to get in touch

The ARB team do not deal with trees on the public highway. These are managed by TfB, who can be contacted on Fix My Street-
https://www.fixmystreet.buckscc.gov.uk

The team are currently reliant on legacy points of contact for TPO requests and general queries:

planning.csb@buckinghamshire.gov.uk

trees.av@buckinghamshire.gov.uk

trees.wyc@buckinghamshire.gov.uk

A new webform is being developed to become a single point of contact

Parish & Town Councils

Parish & Town Councils can:

- Set out policies in respect to trees in their Neighbourhood Plans

- Participate in The Tree Council's Tree Warden Scheme. Tree Wardens plant, protect and promote their local trees.   They are organised into local groups managed by a co-ordinator and are autonomous. You can find out more from The Tree Council - https://treecouncil.org.uk/tree-wardens/

- Seek support and funding for tree planting from Buckinghamshire Council. Please see - https://www.buckinghamshire.gov.uk/environment/sustainability-and-climate-change/trees-and-hedges/tree-planting/

Thanks