

Revised February 2023

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### Protecting trees

Trees make a significant contribution to the public enjoyment and amenity of towns, villages and to the countryside landscape. Trees also provide shelter, reduce noise and air pollution, provide a variety of wildlife habitats and help reduce carbon dioxide in the atmosphere.

Please refer to Planning Advice Note [‘Work to Protected Trees in the Park’](#) for advice on how to apply for consent or permission to do work to protected trees in the Park.

There are three ways that a tree or trees can be protected by the Park Authority:

#### 1. Conditions in Planning permissions

Planning permission for development can come with conditions intended to protect trees before and during construction, or to ensure they are retained. Planning authorities are required by law to consider the retention and protection of existing trees and the provision of new tree planting when determining planning applications for new development (see Design and Placemaking Guidance [here](#)). Where appropriate we will require Tree Constraints Plans, Arboricultural Impact Assessments and/or Arboricultural Method Statements during or after permission to achieve tree retention and protection.

#### 2. Trees in Conservation Areas

Our Conservation Areas are parts of the Park that we consider to be of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance. This automatically confers provisional protection of their trees.

In the National Park there are 8 [Conservation Areas](#) - Callander, Drymen, Gartmore, Killin,

Luss, Milton, Tyndrum and St Fillans. In a Conservation Area we must be notified in advance of proposed tree works, including thinning, reduction or lifting of the crown, removing limbs or felling. The notification process gives us a short period to consider whether the trees should be fully protected by a Tree Preservation Order.

#### 3. Tree Preservation Orders (TPOs)

These are made to protect a tree, group of trees or woodland where this would be in the interests of public amenity and/or because of their cultural or historic significance (especially if under threat or development pressure). Written consent is required from us before any lopping, topping, cutting down, uprooting, damage or destruction of these protected trees. Penalties for contravention of tree protection in Conservation Areas or TPOs vary from fixed to unlimited fines.

Across the National Park, there are almost 50 [Tree Preservation Orders](#) which protect individual trees, groups of trees and woodland.

#### The process for making a TPO

Consideration of whether to make a TPO may be triggered by a Conservation Area notification or a perceived threat to important trees, groups of trees or woodlands.

The Tree Evaluation Methodology for Preservation Order (TEMPO) system is currently used by us to help assess whether a tree should be protected. The assessment weighs up aspects of the tree(s) such as condition and retention span (life expectancy) of the tree(s), public visibility, the historic, cultural or arboricultural significance and the current risk of removal.

The Town and Country Planning (Scotland) Act (1997) (Section 159 to 178) provides the legal framework for tree protection and sets out the procedures that we must follow and consultation that we must undertake as a planning authority. In the Park, this takes the following form -

- Before a recommendation to make an Order is made, officers undertake a site visit to assess the tree(s) or woodland and undertake a TEMPO assessment, weighing up tree quality, longevity and visibility.
- Following a recommendation by an officer, the Director of Rural Development & Planning and the chair of the Planning and Access Committee decide whether to make a TPO in the first instance. Should there be an imminent threat to trees then this process can be authorised immediately by the Director alone.
- The TPO is then made and served on people with an interest in the tree i.e. land owner, neighbours, statutory undertakers, and Forestry Commission Scotland.
- An advert is published and a site notice may be placed on the site inviting comments about the tree(s) covered by the Order. A copy of the Order will be made available for public inspection locally and at our headquarters.
- Following consideration of any objections and comments, the officer makes a recommendation to the Planning and Access Committee as to whether the Order should be confirmed.
- The Planning and Access Committee decide whether to confirm the Order. There may be an opportunity for those who have made comments to speak at the meeting.

### **When does the TPO come into effect?**

A TPO comes into effect on the day it is made. The TPO then last for up to 6 months, until it is confirmed or otherwise. If it is confirmed it takes indefinite effect. If the Order is not confirmed then the protection ceases after the 6 month period.

### **Is there a right of appeal?**

The legislation provides no right of appeal against the authority either making or confirming an Order, but a challenge in the Court of Session may be possible on procedural grounds.

### **When is a group or woodland category used?**

We may decide to specify the protected trees individually, or as a group where the group's overall impact and quality merits protection. The woodland category's purpose is to safeguard a woodland as a whole. While some trees may lack individual merit, all trees within a woodland protected by a TPO are protected. In addition, trees and saplings which grow naturally or are planted within the woodland area after the Order is made are also protected by the Order.

### **Managing TPO trees and woodland**

A TPO does not hinder beneficial woodland or tree management; however, the Park's consent is required. We would encourage managing trees to benefit the amenity of the area. There is a separate [planning advice note](#).

### **Reviewing the TPO**

As part of our legal obligations, we must review, from time to time, any Tree Preservation Orders (TPOs) within the National Park. This involves a review of the relevant land ownership deeds, (which should reference the TPO), along with a re-assessment of the merits (amenity, cultural, historic) of the protected trees. It is an opportunity to modify, update or revoke TPOs where, for example, consented tree removal has occurred or trees no longer merit protection.

A review can result in the varying or revoking of an Order. The process to vary a TPO involves serving a replacement TPO and the same notification process as for a new TPO.

### **Felling Permissions**

Trees across Scotland are also protected from felling through the requirement for a "felling permission" from Scottish Forestry, although trees in gardens, orchards, churchyards or designated open space are generally exempt

from the need for a felling permission. See [Scottish Forestry](#) for more details.

### Further advice

Please contact the planning team at [planning@lochlomond-trossachs.org](mailto:planning@lochlomond-trossachs.org) or Tel: 01389 722024 for further advice.

**Further reading** - see links below for more information on the subjects covered in this leaflet:

- Town and Country Planning (Scotland) Act 1997:  
<http://www.legislation.gov.uk/ukpga/1997/8/contents>
- Arboricultural Association guidance notes and leaflets: <http://www.trees.org.uk>
- British Standard 3998: Recommendations for Tree Work 2010:  
<http://www.bsigroup.com/en-GB/standards/>
- Institute of Chartered Foresters - Arboricultural/ Forestry Consultants:  
<http://www.charteredforesters.org/>