

Guidance Note - Works to Protected Trees – Exceptions

Works to Protected Trees

THE TOWN AND COUNTRY PLANNING ACT 1990 AND THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION)(ENGLAND) REGULATIONS 2012 prohibits the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees protected by TPO or located in a conservation area without first, in the case of TPOs, gaining permission for the works or, in the case of conservation areas, notifying the LPA of the intended works.

Exceptions

There are exceptions to the above requirements and these are set out in regulations 14 and 15 of **THE TOWN AND COUNTRY PLANNING (TREE PRESERVATION)(ENGLAND) REGULATIONS 2012**.

The advice below is intended to explain Cambridge City Council's interpretation of regulations 14.-(1)(a)(i) and 14.-(1)(c) in relation to dead and dangerous trees.

It addresses works that are excepted from the requirement to make a tree work application or serve a section 211 notice but still require a formal notice to be made to the LPA.

The felling of dying trees is no longer excepted work

What are the requirements to notify the Council?

The 2012 regulations require that:

- Where paragraphs (1)(a)(i) or (1)(c) apply, notice in writing of the proposed activities shall be given to the authority; in the case of works urgently necessary to remove an immediate risk of serious harm, as soon as practicable after the works become necessary and; in any other case, at least five working days prior to the date on which the works are to be commenced.

Cambridge City Council recommends that:

- In all cases that affect dead trees, as much written notice as is practicable is given to the local planning authority, i.e. more than 5 working days.
- In cases that affect dangerous trees, a minimum of 5 working days notice is given unless the magnitude of risk is so great as to make this unreasonable; in these circumstances as much notice as possible should be given in writing as soon as the problem becomes apparent.

- Where the risk is likely to be very serious and work will be required immediately, notice should be given to the Council as soon as is practical after the tree is made safe.

**The regulations make it clear that, relating to exceptions, dangerous means
'immediate risk of serious harm'.**

The benefits of providing adequate notice

The Council can corroborate that works are exceptions. If the Council has not provided corroboration, the onus of proof to demonstrate that the works were excepted lies with the tree owner and/or contractor. Whether or not adequate notice has been submitted, the work must be an exception. If works are carried out that go beyond those excepted, the owner/contractor could be liable to prosecution.

How to submit a notice when an exception applies

A standardised web form has been produced to help you to provide the necessary information. It is not compulsory to use it but it will help the Council to process the notice quickly and efficiently to everyone's benefit. It can be found on the Council's web site.

What information must be provided

Identify the tree

Provide whatever information is necessary for someone who doesn't know the site to find the tree/trees in question.

- Species/type of tree
- Size of tree
- Location of tree
- Location plan – Normally this need not be to scale. A representation of the site, identifying the approximate position of the subject tree/s and other notable trees in relation to identifiable fixed features will usually suffice.

Describe the defect and planned works

The defect and work must be specified clearly and easily identifiable to a person inspecting the tree or engaged to carry out the works, eg: Dead tree - Fell or; Split branch on east of tree at height of 5 metres - Reduce to suitable points below split or Remove branch.

Excepted works are usually limited to felling dead trees or removing specific dangerous branches/stems but in some instances a crown reduction, crown lift etc may be required to mitigate the immediate risk.

Annotated photographs can be very useful in identifying works that are difficult to describe. The Council advises that wherever possible a description of the proposed works is supported by annotated pictures.

Describe why the works are an exception

This is very important. Remember that, in terms of 'danger', excepted works are those required to mitigate the 'immediate risk of serious harm' only.

Photographs again can be very useful.

Replacement tree requirements

Wherever appropriate, Cambridge City Council will encourage the planting of suitable trees. They have an important role to play in creating attractive landscapes for future generations and create environments that are conducive to people's health and wellbeing.

When trees are felled in contravention of a Tree Preservation Order/Conservation Area or because the work is carried out in accordance with regulations 14.-(1)(a)(i) and 14.-(1)(c) it shall be the duty of the owner of the land to plant another tree of an appropriate size and species at the same place as soon as is reasonable. The Council recognise it may not always be appropriate to replace a tree 'like for like' and can agree to a different tree species or location or might waive the duty to replant entirely. Applications to waive the duty to replant or change species and/or location should include:

- Reason why replacement is not appropriate

or

- Type / species of tree
- Planting size
- Location of planting
- When the tree will be planted.