

# TREE PRESERVATION ORDERS



Local councils have a legal duty to protect trees. The council's make Tree Preservation Orders to do the following.

- Strengthen a condition, which is part of a planning permission.
- Protect trees, which are particularly attractive, even if there is no direct threat to them.
- Protect important trees or groups of trees that are in danger of being cut down.
- Protect woodland by replanting areas of trees that we agree can be cut down.
- Keep and protect woodland, trees and groups of trees that add to the character and appearance of an area.
- Keep and protect the structure and variety of woodland, especially where they offer protection to natural wildlife habitats.
- Make sure new developments take into account that landscape setting.

There are times when a protected tree can be cut down. If the trees are dead, dying or dangerous, or if the trees need to be managed to remove a nuisance, or threat to life or property, you can ask for written permission to cut them down or prune them.

The Tree Preservation Order under *section 198 of the 1990 Town and Country Planning Act* makes provision for prohibiting the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of trees except with the consent of the local planning authority, and for securing the replanting of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order. The Act does not contain a definition of the word 'tree'. According to Lord Denning MR in *Kent County Council (1976)* a woodland tree ought to be something over seven or eight inches in diameter.

According to current policy guidance, the view is taken that a tree preservation order cannot apply to bushes, hedges or shrubs and that if a hedgerow is made subject to such an order, then only the 'trees' in the hedgerows will be protected.

As a garden designer it is essential to know this information as mistakes could lead to a hefty fine and ruined reputation.