



Lime Down

Solar Park

Environmental Statement

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Appendix 10-4: Summary of Relevant Legislation, Policy, and Guidance

1.1 Legislation, Planning Policy and Guidance

This section provides an overview of the legislation, planning policy and guidance against which the Scheme will be considered for Arboriculture.

UK Legislation

Town and Country Planning Act 1990 (Ref 10-1)

- 1.1.1 Section 198 of the Act empowers local planning authorities to make Tree Preservation Orders (TPOs) where it appears to be “expedient in the interests of amenity to make provision for the preservation or trees or woodlands in their area”. Pursuant to section 210(1), a TPO present on a tree, group of trees or woodland means that it is an offence to do the following in contravention of the TPO:
- Cut down, uproot or wilfully destroy that tree;
 - Top, lop or wilfully damage a tree in a way that is likely to destroy it; or
 - Cause or permit such activities.
- 1.1.2 A TPO does not prevent the management of trees or removal of trees for development. Trees subject to a TPO can be managed (for example branch removal) once an application for consent to carry out those works has been approved by the local planning authority. Similarly, trees subject to a TPO can be worked upon or removed for development (without the need for a tree works application) so far as such work is necessary to implement a full planning permission. A TPO does however prevent unauthorised removal or work to protected trees prior to full planning permission being granted or an application for tree work being consented.
- 1.1.3 Section 211 of the Town and Country Planning Act preserves trees in Conservation Areas. A Conservation Area is designated by a local planning authority as “*an area which has been designated because of its special architectural or historic interest, the character or appearance of which is desirable to preserve or enhance*”. Trees within a Conservation Area and not already covered by a TPO are protected from cutting down, topping, lopping, uprooting, wilful damage and wilful destruction except insofar as the act in question is authorised by the local planning authority or by an order granting development consent.
- 1.1.4 To carry out work to a tree in a Conservation Area, a six-week notification must be provided to the local planning authority prior to works being

carried out unless an exception applies. The notification must identify the tree in question and describe the intended works to the tree. Once the six-week notification period has passed or the local planning authority issues a 'no objection' response to the proposed tree work, the tree work may then take place. Similarly to a TPO, works to trees in a Conservation Area can also take place (without the need for a six-week notification) to facilitate a development provided full planning permission is in place.

- 1.1.5 Exemptions exist to the requirement to make an application/submit a notification to undertake works to trees protected a TPO or Conservation Area respectively. An application or notification is not required for:
- The removal of dead trees or dead wood (five days written notice to the local authority must be given to remove a dead tree covered by a TPO or Conservation Area designation);
 - The making safe of dangerous trees where there is an immediate risk of serious harm;
 - The minimum of work that is necessary to prevent or abate an actionable nuisance; and
 - Tree works necessary to implement a full and valid planning permission.
- 1.1.6 Full government guidance on TPOs and Conversation Areas can be found in the guidance section below.

Guidance

Natural England and Forestry Commission, Ancient woodland, ancient trees and veteran trees: advice for making planning decisions (Ref 10-2)

- 1.1.7 This guidance is a material consideration for local planning authorities and advises the following for ancient and veteran trees and ancient woodland:
- Recorded ancient woodland should be identified using Natural England's Ancient Woodland database (Ref 10-3) and veteran/ancient tree records should be checked via the Woodland Trust's Ancient Tree Inventory (Ref 10-4);
 - For ancient woodlands, a buffer zone of at least 15 metres from the boundary of the woodland is needed to avoid root damage. Where assessment shows that other impacts are likely to extend beyond this distance, a larger buffer zone will likely be required;

- For ancient and veteran trees, the Veteran Tree Buffer Zone should be at least 15 times larger than the diameter of the tree or five metres from the edge of the tree's canopy, whichever is greater; and
- Buffer zones should contribute to wider ecological networks and be part of the green infrastructure of the area. Buffer zones should comprise semi-natural habitats. Development, including drainage infrastructure, should not be located within buffer zones.

Planning Policy Guidance for Tree Preservation Orders and Conservation Areas (Ref 10-5)

- 1.1.8 This guidance details how trees are protected by TPO and Conservation Area designations and the exemptions to the need to apply for permission or notify the local planning authority of works to such trees. Much of the content has been summarised above in paragraphs relating to UK Legislation.

British Standard 5837:2012 'Trees in Relation to Design, Demolition and Construction (BS5837:2012) (Ref 10-6)

- 1.1.9 This guidance provides a framework for surveying trees and providing tree constraints information to inform the design of developments. It then provides guidance on the assessment, mitigation and compensation of arboricultural impacts and the arboricultural input needed at each stage of the Town and Country Act 1990 planning process. Whilst BS5837:2012 does not provide explicit guidance on Development Consent Order (DCO) applications, its approach and recommendations can be adapted and followed for the DCO process.
- 1.1.10 BS5837:2012 states that when undertaking a tree survey for development, the Arboriculturist must assess the quality of the trees and categorise each arboricultural feature as either Category A (a high quality tree), Category B (a moderate quality tree), Category C (a low quality tree/young tree) or Category U (a very low quality tree). Subcategories 1 (mainly arboricultural qualities), 2 (mainly landscape qualities) and 3 (mainly cultural values, including conservation) are then added to the categorisation to reflect the predominantly arboricultural, landscape and/or cultural/conservation value of the tree. BS5837:2012 states that veteran trees will *"almost always be included in the A3 category"*, i.e. a high quality tree with mainly conservation value.
- 1.1.11 BS5837:2012 requires the following information to be recorded for each individual tree, groups of trees or woodland:

- Reference number (T = individual tree, G = group of trees, W = woodland);
- Species (common name and scientific name);
- Tree height;
- Stem diameter measured at 1.5m height;
- Branch spread at four cardinal points (north, east, south and west);
- Existing height above ground level of a) first significant branch and direction of growth and b) canopy;
- Life stage (young, semi-mature, early-mature, mature);
- General Observations;
- Estimated remaining contribution in years; and
- Quality Category A-C and U.

1.1.12 BS5837:2012 then provides guidance on avoiding and minimising impacts to identified arboricultural features such as siting all development outside of Root Protection Areas and canopy spreads in the first instance. Should development need to occur within Root Protection Areas or canopy spreads, guidance is provided on how to minimise impacts to the above and below ground parts of the tree during construction through sensitive working methods, tree protection measures and arboricultural monitoring and supervision.

1.2 References

- Ref 10-1 Town and Country Planning Act 1990. Available at:
<https://www.legislation.gov.uk/ukpga/1990/8/contents>
- Ref 10-2 Natural England and Forestry Commission. (Published 14 January 2022). Guidance – Ancient woodland, ancient trees and veteran trees: advice for making planning decisions. Available at:
<https://www.gov.uk/guidance/ancient-woodland-ancient-trees-and-veteran-trees-advice-for-making-planning-decisions>
- Ref 10-3 Natural England. Ancient Woodland. Available at: [REDACTED]
[REDACTED]
[REDACTED]
- Ref 10-4 The Woodland Trust. Ancient Tree Inventory. Available at:
[REDACTED]
- Ref 10-5 Ministry of Housing, Communities and Local Government, Ministry of Housing, Communities & Local Government (2018 to 2021) and Department for Levelling Up, Housing and Communities (6th March 2014). Guidance – Tree Preservation Orders and Trees in Conservation Areas. Available at: <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>
- Ref 10-6 BSI Standards Publication (April 2012). BS5837:2012 Trees in relation to design, demolition and construction – Recommendations