

## Tree Preservation Orders

There is a recent case involving Tree Preservation Orders that may be the beginning of a change in the way that they are enforced by Local Authorities.

The background is that Tree Preservation Orders are used to protect trees from being pruned, altered or chopped down. They are usually in general or public areas, though there are often such trees within private residential properties and gardens. When you purchase a house, the Local Authority Search will show the existence of Tree Preservation Order and the Order itself will show the exact location of the tree. The Council will have a record of all these Orders, so you can check the position directly with them if the need arises.

If you have a protected tree within the boundaries of your property, you are not permitted to carry out any alterations or actions to it without the written permission from the Local Authority/Council. Prohibited actions include relatively minor things such as pruning branches and possibly reducing the height of the tree, as well as the more major works including to the removal of the tree itself.

If you are unsure whether a tree on your property is subject to a protection order, it is wise to check the position with the Local Authority, and it is absolutely imperative make a proper application to them before commencing any work to the tree.

At the basic level, breaching a Tree Preservation Order is a criminal offence with a fine for such a breach of up to £2,500.00. If the breach to the Tree ends with the Tree being destroyed, the fine becomes unlimited.

The recent case noted above extends the possible repercussions for those found to have breached an order. There was a protected tree in a residential property in Poole Dorset. The owner of the property added a Juliet balcony to the rear of his property. Once this had been completed the owner noted that the balcony was in shade from the branches on the tree and no light was getting to it.

The owner chopped off some twelve foot branches from the tree to allow light to reach this newly constructed balcony. The owner did not secure permission from the Council to this work. When the owner was reported to the Council by a neighbour, they investigated and the owner was found to be guilty of wilful damage of the tree and fined £1,200.00 for the offence.

In addition to the wilful damage, the Council went further and they looked into trying to prosecute the owner for any proceeds that he made from his damage to the tree. They used the Proceeds of Crime Act to achieve this, and had the property valued after the damage. It was found that as a result of the illegal work done to the tree, the value of the property has increased by between £21,000.00 and £30,000.00, due to the extra light that was now able to access the property.

As a result of this information, the Council were able to recover an additional £21,000.00 from the owner as he was not allowed to benefit from the initial crime of cutting the branches of the tree.

It is therefore important to take Tree Preservation Orders seriously and to ensure that the rules concerning them are complied with. If in any doubt, it is important to reiterate the advice to check the position with the Council in order that the rules are complied with and you are not putting yourself at risk of prosecution.

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