

'Buying a Tree with a House in the Garden'

A guide designed to make you aware of the possible consequences of living with trees that are protected by a Tree Preservation Order (TPO) or in a Conservation Area

So, you've found the house of your dreams.... But what about the garden? Did you notice the trees? They may be in the garden or growing on land beyond the boundary of your new property.

Trees can affect your future enjoyment of the property and garden. This guide is designed to make you aware of the possible consequences of living with trees that are protected by a Tree Preservation Order (TPO) or in a Conservation Area.

The Legal Bits

Following your local search your solicitor should ask for a copy of any Tree Preservation Order affecting your property. The solicitor will be able to show you the date the Order was made, the plan and the schedule (where the protected trees are identified), and should be able to explain the consequences.

Trees that are protected are shown on the plan either individually (a circle), as a group (a dashed line), as a woodland (a solid line), or enclosed within an area (a line of continuous dots; these dots do not indicate individual trees).

Your house will not necessarily appear on the plan if it was built after the Order was made. Although there may be no trees on your property, protected trees growing on adjoining land may also affect it, and a search will not necessarily show this.

Your property may be situated in a Conservation Area and this will also be revealed on your search. A similar level of protection will apply to the trees on your property.

So if I buy 'Twin Pines' can I fell one of the trees if it has a TPO on it?

Anyone can apply to the Council for consent to fell protected trees and each application is considered on its merits. A Tree Preservation Order is a statement by the Council that the tree is intended to remain unless there is a justifiable reason for its removal, for example if it is dead, diseased, dying or decayed; we will be happy to advise you further on statutory exemptions.

An application for tree work will take approximately 8 weeks for a decision to be issued.

Please Note: A tree is not necessarily considered dangerous due to its height, spread, or its close proximity to the house.

Who pays if works are needed to trees covered by Tree Preservation Orders?

While the application for tree works is currently free, all works must be paid for by the homeowner, but this can also be worth considering as an investment in your property. By investing in your trees you could be directly improving your property and the appearance of the surrounding urban landscape. It has been shown that having mature trees in your property can potentially increase its resale value by providing a pleasant setting in which to live.

So what do I do?

If you do not believe that you can live in your proposed new home without major tree removal, then you may wish to reconsider. You are not just buying the house, you are also buying the trees. They come as part of the package, not as an optional extra!

I'm a keen gardener, how will the trees affect me?

Leaves, twigs, fruit litter, pollen and dead branches are a normal consequence of living with trees and are not sufficient justification for felling or pruning.

Trees cast shade, which will increase as they grow.

Evergreens cast shade all year round and leaf litter decomposes slowly.

Lawns tend to be patchy underneath tree canopies.

Will the roots undermine my new property?

Any prospective purchaser would well be advised to obtain a full structural survey. However, in practice it is most unlikely, as roots do not actively seek out house foundations.

What if the tree is in my neighbour's property?

As before, anyone can apply for consent to prune a tree, but the work may also require the consent of the owner.

There is separate legislation covering the height of hedges, for this information see the 'High Hedges' information

The drive is cracking because of the trees, can I replace it?

Yes possibly, BUT do not assume the tree is responsible and in any event you may not be allowed to:

Sever the roots | Fell the tree | Use the surface of your choice

It is advised that you consult with the Council's Tree Officer to discuss your proposals at an early stage when planning on carrying out works around preserved trees and contact the Planning department on 01252 774419 to find out if you need planning permission.

So why would anyone want a tree in their garden?

Trees offer a calming environment and people who come to Hart because of its lively thriving atmosphere also enjoy a wooded setting in which to live. You could be one of the fortunate people to own an important tree within it.

Important Information

The trees may pre-date us by many years and survive with our care for many years after we have moved elsewhere. They are our legacy to future generations and deserve our care and respect.

If you feel you are not able to offer them the basic care, please do not take on this responsibility.

If you don't like the tree - don't buy the property. Do not assume that you can move in and then prune or fell the trees.

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