

Appendix 3: Statutory Controls

Tree Preservation Orders & Conservation Area

Written consent must be obtained from the local planning (LPA) authority prior to any works upon a tree subject of a Tree Preservation Order unless the tree is;

- Dead or dangerous
- Works are in line with an obligation under an Act of Parliament
- Permission has been granted through a Planning application

A six week notice to the LPA is required under Section 211 of the Town and Country Planning Act (1990) for any tree works within a Conservation area.

It is a criminal offence to cut down, uproot, wilfully destroy or deliberately damage a tree subject of a Tree Preservation Order. Under Section 210(2) of the Town and Country Planning Act (1990) anyone found guilty of the actions above are liable of a fine of up to £20,000 if convicted by a magistrates' court. In serious cases a person may be committed for trial in the Crown Court which will also consider any financial benefits which has or is likely to result from such an offence. In addition there is also a duty requiring landowners to replace a tree removed, uprooted or destroyed in contravention of a Tree Preservation Order.

Forestry Act 1987

A felling licence is required wherever an excess of 5 cubic metres of timber is felled per calendar quarter. Exceptions to the Forestry Act (1967) include felling trees which when measured at 1.3m above ground that have a stem diameter of 8cm or below. Other exceptions include thinning of woodland trees with a stem diameter of 10cm or below and coppicing of trees with a diameter of 15cm or below.

Exceptions are also afforded to work carried out by statutory undertakers; removal of dangerous and dead trees, prevention of abatement of a nuisance and to prevent the spread of quarantined pests or disease in response to a notice served by a Forestry Commission Plant Health Officer.

Where full planning permission is authorised, both statutory obligations above are no longer applicable, transcended by the Town and Countryside Planning act (1990), which permits tree removal for the purpose of development.

The Occupiers Liability Act 1957/1984

Land owners have a duty of care to ensure they have taken practice steps to ensure those trees within the curtilage of their property are reasonably safe for permitted visitors.

Highway Act 1980

The highway authority have the ability to issue a land owner a 14 days notice to carry out works upon tree or hedgerow that overhang a highway road or footpath which the public has access to as to endanger or obstruct the passage/sight lines of vehicles or pedestrians.

Protected species

All species of British bat are listed as a European Protected Species (EPS) on Schedule 2 of The Conservation of Habitats and Species Regulation (Amended) (EU Exit) (2019) which transpose the Habitats Directive making it an offence to:

- *Deliberately capture, injure or kill a wild animal of a EPS;*
- *Deliberately disturb wild animals of a EPS wherever they are occurring, particularly any disturbance which is likely to impair their ability to survive, to breed or reproduce, or in the case of hibernating or migratory species, to hibernate or migrate; or to affect significantly the local distribution or abundance of the species to which they belong;*
- *Deliberately take or destroy the eggs of a wild animal of a EPS; or*
- *Damage or destroy a breeding site or resting place of a wild animal of a EPS.*

Additional protection for bats is also afforded under the Wildlife and Countryside Act 1981 (as amended), making it an offence to intentionally or recklessly disturb bats whilst they are occupying a structure or place which is used for shelter or protection, or to obstruct access to this structure or place.

All wild birds, their nests and eggs are protected under Section 1 of the Wildlife and Countryside Act 1981 (as amended), this makes it an offence to:

- *Intentionally kill, injure or take any wild bird;*
- *Take, damage or destroy the nest of any wild bird while it is in use or being built;*
- *Take, damage or destroy the egg of any wild bird; or*
- *To have in one's possession, or control, any wild bird (dead or alive) or egg or any part of a wild bird or egg.*

Appendix 4: General Layout Plan

