

**DEVELOPMENT CONTROL AND REGULATORY BOARD****11 SEPTEMBER 2025****VARYING OF LEICESTERSHIRE COUNTY COUNCIL TREE  
PRESERVATION ORDERS WITHIN THE DISTRICT OF NORTH WEST  
LEICESTERSHIRE****REPORT OF THE DIRECTOR OF ENVIRONMENT AND TRANSPORT****Purpose of the Report**

1. To make the Development Control and Regulatory Board (the Board) aware of the results of the desktop review and site visit exercise carried out on Leicestershire County Council Tree Preservation Orders (TPOs) in the district of North West Leicestershire (NWL), as approved at the Board meeting on 11 July 2024, and to ask the Board to approve the variation and revocation of orders as set out in Appendix A.

**Background**

2. Between 1947, when local planning authorities were empowered to make TPOs, and 1974, when changes to planning legislation transferred that responsibility largely to Local Planning Authorities (LPAs), Leicestershire County Council made 273 TPOs. Leicestershire County Council retains the power to make TPOs on land in which it has an interest, in connection to the granting of planning permission by the county, and on land that is not wholly in the area of a single district. Since 1974, two orders have been made on the Council's own land, in 1981 (Snibstone Grange) and in 2025 (Roman Way).
3. Planning practice guidance from the Ministry of Housing Communities and Local Government published on 7 March 2014 replaced earlier guidance on the law and good practice around TPOs. As in earlier guidance, this advises that authorities keep their TPOs under review, to ensure that protection is still merited, and that Orders contain appropriate classifications.
4. As part of such a review process, a project was undertaken and completed in 2022-23 to revoke ten Leicestershire County Council TPOs in the Borough of Oadby and Wigston. Oadby and Wigston Borough Council then made seven new orders to replace the County Orders. There are currently 264 Leicestershire County Council TPOs that remain in effect.
5. Prior to 12 March 2020, the Board received applications for works to the Council's TPOs for approval. Since that date the powers to deal with applications for works to protected trees have been delegated to officers, unless an elected Local Member

has indicated that the application should be referred to the Board for determination. The Board receives a full list of the delegated decisions made on applications for works to the Council's TPOs every six months.

### **Tree Preservation Orders - General Information**

6. TPOs are used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public. Trees can be specified in a TPO either individually, by reference to area, in groups, or as woodlands. If a tree has merit in its own right, it will be specified as an individual. Area classification is used as an alternative way of specifying scattered individual trees. The group specification is used for trees whose overall impact and quality merit protection. A woodland classification is used for woodlands which have a defined boundary.
7. Of the County TPOs made prior to 1974, the youngest is now over 50 years old, and some of the oldest are over 70 years old.
8. In the case of a tree protected by a TPO, the County Council's consent is normally required prior to undertaking any works to the tree and this will require the submission of a formal application. Any consent may be subject to conditions, and there is a right of appeal to the Secretary of State against the refusal of consent or the granting of consent subject to conditions.
9. If the County Council wishes to do works on protected trees within their own estate, there is no statutory requirement to complete an application for TPO works as it is considered that the Council would use best practice to maintain trees. The County Council's Forestry Team informs the County Council's Tree Officer of planned TPO works which are then agreed by both parties before any such works are undertaken (as specified in Chapter 6 section 6.76 of the Tree Preservation Orders: A Guide to the Law and Good Practice, published by the Department of the Environment, Transport and the Region).

### **Issues**

10. Some TPOs were made as early as 1949. Since that time, the use of the land might have changed; the land might have been developed; trees standing at the time the TPO was confirmed might have been removed (with or without the consent of the LPA); some of the trees still standing, perhaps, no longer merit the protection of the TPO; new trees might have been planted which do merit protection; or the map attached to the original TPO might bear little comparison with a modern map of the area.
11. Such difficulties are likely to be compounded when dealing with an old 'area order' which protects only those trees standing at the time the TPO was made but does not identify each one. In time, this is likely to lead to uncertainty about whether particular trees were present at the time of the making of the TPO. According to the Government's guidance (Tree Preservation Orders a Guide to Law and Good Practice), if it is no longer possible to ascertain with certainty which trees on the site

are protected, by reference to the TPO and map, it may be time to review and vary the TPO.

12. As part of the continuing process of reviewing and improving the Council's TPOs, the Council has trialled a review process to assess the Council's TPOs and vary those orders, schedules and plans that no longer reflect the real situation. This document relates to the findings of the first such assessment undertaken in the NWL district (see Appendix A and B).

### **Legal Considerations**

13. Planning controls relating to trees are set out in Part VIII of the Town and Country Planning Act 1990 (as amended by the Planning Act 2008) and the procedure for making, varying and revoking TPOs is set out in the Town and Country Planning (Tree Preservation) (England) Regulations 2012. County Planning Authorities have only limited powers, pursuant to the Town and Country Planning Act 1990 to make TPOs. The LPAs are now the principal bodies for making new TPOs.
14. Trees in a conservation area that are not protected by a TPO are protected by the provisions of section 211 of the Town and Country Planning Act 1990. That provision makes it an offence to damage trees within a conservation area.
15. As the TPOs are administered and managed by the County Council, there is no statutory requirement to consult with the district councils on this matter, but the Council will need to inform the district councils of any changes to TPO schedules and plans, so that they can update their records.

### **Review Process**

16. The following steps are taken to review the Leicestershire County Council TPOs:
  - a) A desktop assessment of the County Council's TPOs is undertaken for each district council area using Ezytreev (software used for managing and mapping the Council's tree assets) and Google Streetview in order of priority for review and a list of categorised orders for review / variation is produced as follows:
    - i. Category 1: High priority – those Orders that have seen significant development and/or other changes.
    - ii. Category 2: Medium priority – those Orders that have seen some development and/or other changes.
    - iii. Category 3: Low priority - those Orders that have seen little or no development and/or other changes.
  - b) After the desktop review, sites are visited in person and visually assessed using the Ezytreev onsite mapping system and TEMPO (Tree Evaluation Methodology for the Making of Preservation Orders) and re-categorised if needed.

- c) A report from the above site visits is produced, including a list of sites that warrant the TPO being varied or revoked, with the report submitted to the Board for approval (see Appendix A).
- d) Subject to approval, the formal process of varying or revoking TPOs as per the list contained in the report will be undertaken.

### **Equality and Human Rights Implications**

- 17. There are no discernible equality and human rights implications.

### **Resource and Financial Implications**

- 18. There are no discernible resource or financial implications.

### **Summary of NWL District TPOs Review Report**

- 19. A full summary of the results of the review carried out on Leicestershire County Council TPOs in the NWL district is available at Appendix A.
- 20. Out of the 44 orders that were re-surveyed, 30 require no change and 14 require changes, such as new trees to be added, trees to be removed or borders of the TPO redefined (see Appendix B for details).

### **Conclusion**

- 21. Leicestershire County Council has a duty of care as set out in the Town and Country Planning (Tree Preservation) (England) Regulations 2012 to make sure that its records accurately reflect the order.
- 22. A total of 14 of the 44 TPOs in the NWL district were found to be inaccurate. As such the Orders will either need to be varied or revoked.

### **Recommendation**

- 23. The Board is being asked to note the content of the report and in particular to give consent to vary eight TPOs in the NWL district to bring them up to date.
- 24. The Board is asked to give consent to revoke the six TPOs in the NWL district that are no longer viable.

### **Background Papers**

National planning practice guidance

<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

### **Officers to Contact**

Ann Carruthers  
Director, Environment and Transport

Tel: 0116 305 7000

Email: [Ann.Carruthers@leics.gov.uk](mailto:Ann.Carruthers@leics.gov.uk)

Joanna Gyll

Assistant Director, Environment & Waste Management

Tel: 0116 305 8101

Email: [Joanna.Gyll@leics.gov.uk](mailto:Joanna.Gyll@leics.gov.uk)

## **Appendices**

Appendix A – Summary of changes to Tree Preservation Orders

Appendix B – Plans marked with proposed changes to the Orders

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