

Can I negotiate for trees with TPOs to be removed?

Can I negotiate for a couple of trees with TPOs (Tree Preservation Orders) to be removed and replacements planted to allow for a new home to be self-built on my large garden? I read the Protected Trees: A Guide to Tree Preservation Procedures (2004), which implies that sensible negotiation can take place as part of the planning application. Is this document still valid?

A revised version of Protected Trees: A Guide to Tree Preservation Procedures was published in March 2010, yet the provisions are generally the same as the 2004 version. In a nutshell, a planning application may be refused if it would result in the loss of a tree or trees that provide significant amenity value to the local environment. However, where such an application is permitted this will override the TPO(s) and so the tree(s) could be lawfully removed.

Therefore, any application to develop your site would need to be supported by a detailed Arboricultural Assessment of the site, which considers the individual merits of each tree in terms of the condition and its importance in the locality and street scene. The results of this survey would indicate which trees would need to be retained and which would be suitable for removal.

Your scheme would need to be developed around the constraints as identified by the survey. Where trees are earmarked for removal, specific justification would be needed as part of any submission. If trees are to be removed, you would need to consider planting direct replacements or consider whether the trees are of a scale that would allow translocation.

Felling protected trees without prior consent would be a criminal offence where by you could be fined up to £20,000 and would receive a criminal record. As the loss of the trees would make residential development of the site far easier, the Courts would be likely to levy a large fine as you would stand to financially benefit from the scheme. Sensible negotiation would therefore be the order of the day with regard to bringing a scheme forward upon the site.