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## Protecting hedgerows, trees and woodlands

Hedges and trees are important wildlife habitat in the Welsh countryside. Find out what can and cannot be done to protect hedges and trees from development.

### Key points:

- Only a Tree Preservation Order, the Hedgerow Regulations 1997, or a nature conservation site designation can secure the long-term protection of trees, hedgerows or woodlands. Other temporary protection can be secured by means of planning conditions on development, and designation of an area as a 'Conservation Area'.
- The presence of nesting birds (protected under the Wildlife & Countryside Act 1981) can delay, but not prevent, the felling of trees, hedgerows and woodlands.
- Work to hedgerows, trees and woodlands can take place at any time of year, but the onus is on the person doing the work to avoid committing an offence under the Wildlife & Countryside Act 1981. Hedges, trees and groups of trees are always someone's property. Subject to certain constraints, outlined below, the owner is allowed to do whatever they want with their property.

### Protecting countryside hedges

Hedgerows are an important feature of the countryside, both for their wildlife value and for their landscape and historical importance. Despite the planting of new hedgerows, removal and neglect resulted in the loss of around 18,000 km per year in England and Wales as recently as the early 1990s. The net loss of hedgerow length in Wales was 25% between 1984 and 1990. The Hedgerow Regulations 1997 were introduced to protect important countryside hedges from removal. Wildlife, historical and landscape criteria determine whether a hedge is important or not. The Regulations do not apply to hedges forming the boundaries to dwelling houses.

Thanks to the Hedgerow Regulations, it is against the law to remove most countryside hedges without permission from the Local Planning Authority (LPA) who, on request, must determine if a hedgerow is important. The LPA is unlikely to grant permission to remove an important hedgerow.

'Removal' means uprooting, serious damage to the roots or over-maintenance resulting in the death of the hedge. Proper maintenance, including coppicing, pruning and laying, does not require permission.

If you are concerned about the removal of a countryside hedge, consult your LPA. The LPA will be able to give you full information about the Hedgerow Regulations, and show you the Hedgerow Removal Notices, which are on public record.

The LPA must consult the local community or town council about any applications for removal of hedgerows under the Hedgerows Regulations, but they do not have to consult anyone else.

If you want to get involved in establishing whether a hedgerow is 'important' and should be retained, a good starting point is to investigate the historic Enclosures Maps. These show all the boundaries established under the various Enclosures Acts. Visit The National Archives website ([www.nationalarchives.gov.uk/records/atoz/](http://www.nationalarchives.gov.uk/records/atoz/)) and search: 'Enclosure land'.

Hedgerows need regular cutting to maintain their vigour, but badly-timed maintenance of farm hedges can damage or destroy nests in the hedge. Farmers receiving Single Farm Payments are not allowed to cut hedges between 1 March and 31 July. We advise that where possible, countryside hedges should be cut in January or February to allow birds to eat most of the berry crop in early winter, and to nest safely in spring. There are no other laws or regulations that would limit when a hedgerow can be cut.

The Wildlife & Countryside Act 1981 gives legal protection to the birds nesting in the hedge, so intentional damage or destruction of an active nest in a hedge is a criminal offence. If a Schedule 1 species such as a curlew nests in the hedge, intentionally and recklessly disturbing the bird whilst in, on or near the nest is also an offence. The presence of nesting birds can only delay hedgerow removal until after the breeding season.

### **Protecting garden hedges**

Garden and amenity hedges do not have any specific protection. The only constraint is nesting birds – any action that would damage or destroy an active nest should be delayed until after the breeding season.

Under part 8 of the Anti-Social Behaviour Act 2003, a householder can require a neighbour to lower a high evergreen hedge if it causes significant loss of enjoyment of their property. Local authorities have powers of adjudication in cases where neighbours cannot come to an amicable agreement. The local authority's ruling is binding. This Act does not overrule the Wildlife & Countryside Act 1981, so a high hedge cannot be reduced in height while birds are nesting in it.

### **Protecting individual trees**

The main way to permanently protect a single, or group of, tree(s) is for a local authority to issue a Tree Preservation Order (TPO). A TPO can only be issued on trees that have historical, landscape or amenity value.

Trees (and hedges) can also be protected by planning conditions, for example, a planning permission for mineral extraction may stipulate that particular trees have to be protected for the life of the mineral operations.

Limited protection is also provided in Conservation Areas (relating to areas of towns and villages of historical interest); here trees cannot be removed unless the landowner gives six weeks' prior notice to the LPA, which may allow sufficient time for a TPO to be issued.

A tree with a Tree Preservation Order (TPO) cannot even be trimmed without the permission of the local authority. Unlimited fines can be issued on anyone in breach of a TPO.

TPOs can be overridden by planning permissions, as the LPA is considered to have taken account of the TPO in granting the permission.

The Wildlife & Countryside Act 1981 does not legally protect a tree. The Act protects active nests of all wild birds, and should delay tree work, if this were to result in the damage or destruction of a known active nest. If the tree in question is old and may contain cavities suitable for bats, it is worth establishing whether a bat roost exists. If bats are known or likely to be present, contact the Bat Conservation Trust. Bat roosts are protected at all times, even if bats are not occupying the roost at the time.

### **Protecting woodlands**

Woodlands vary in their character, composition, age and wildlife value. Older woodlands containing native broadleaved species are generally most valuable. Ancient woodlands are those that have been continuously wooded for at least 400 years. They are of highest conservation and historical value.

Ancient woodland is not a statutory designation, and it does not afford the woodland any direct legal protection. However, the presence of ancient woodland is likely to be a material consideration in determining a planning application. It is worth finding out if a woodland you are trying to protect is ancient, as this can add weight to your case.

The Countryside Council for Wales (CCW) and the Woodland Trust ([www.woodlandtrust.org.uk/](http://www.woodlandtrust.org.uk/) search: inventories) keep a list of ancient woodland sites.

Currently, 85% of ancient woodland has no legal protection. If you know of a threat to an ancient woodland, please contact the Woodland Trust for advice on how to protect the site, on: [info@coed-cadw.org.uk](mailto:info@coed-cadw.org.uk), or phone 08452 935860.

Some ancient woodlands are protected as local wildlife sites. Check with the Local Planning Authority and/or local Wildlife Trust to see if this is the case. For further advice see our PDFs *Protecting birds from development* and *How to assess the value of a wildlife site*.

It must be remembered that many woodlands were planted as a crop. The long crop rotation of 50 years or more makes people forget that when the crop is ready to be harvested, the trees will be cut down. Since felling and replanting of woodland is the best time to influence the future wildlife value of the site, it is worth discussing your concerns or suggestions about a woodland with the owner or conservation agencies such as the Woodland Trust or the Wildlife Trusts.

Planting or felling of woodlands (as opposed to individual trees or groups of amenity trees) requires a licence from the Forestry Commission. If you suspect a woodland is due to be felled, it is worth contacting your local Forestry Commission office or your Local Planning Authority to find out if permission has been sought by the landowner.

Applicants for a felling licence must tell the Forestry Commission if the trees that they are proposing to fell are protected by a TPO, or are located in a Conservation Area. The Forestry Commission will consult with the Local Planning Authority about the application. Further information on felling licences can be obtained from the Forestry Commission website (<http://www.forestry.gov.uk/>).

Tree Preservation Orders and felling licences do not offer a foolproof system for protecting woodlands. A planning permission for a development overrides forestry controls. This also applies to any use of land that is 'permitted development'. Markets and motorsports can operate up to 28 days per year, with little or no control over the impact these uses have on trees or wildlife.

Planning approvals often have conditions attached. If it is not possible to prevent a development from going ahead, you might be able to persuade the Local Planning Authority to only grant permission on condition that certain trees or an area of woodland is retained. These proposals need to be realistic.

Planning permission granted on an area of woodland does not give permission to clear the vegetation on the site while birds are nesting. The Wildlife & Countryside Act 1981 overrides planning regulations. Sometimes it is helpful to include planning conditions to make doubly sure that developers plan around the bird nesting season. Our advice is that tree felling should be avoided between mid-March and August (earlier after a mild winter), but since birds may nest at any time of the year, care is needed at all times to avoid committing an offence.

### **Woodland management**

Woodlands can be wonderful for wildlife, but depending on what trees are growing and their management they can also be fairly barren.

A new woodland in the wrong place can ruin other valuable wildlife habitats. Conversely, removal of conifer plantations or young birch scrub (which are of low conservation value) to restore an area to heathland is a positive conservation measure, which will have long-term benefits for threatened habitat and its rare wildlife.

Many woodland management techniques look dramatic, but you should bear in mind that sometimes felling and other tree work is carried out for beneficial reasons. Coppicing is an old management technique in which trees are cut to ground level, allowing them to re-grow from the base. This opens up woodland areas temporarily, allowing flowers and other wildlife to flourish, as well as providing a sustainable supply of wood.

Pollarded trees are cut regularly at about two metres, allowing them to re-grow from this point. The technique is often used on trees such as willows and poplars to extend the life of the tree.

As a young woodland matures, the initial planting density becomes too great and the trees need to be thinned, leaving those that remain more room to grow. Over the years, there has been a lot of inappropriate planting of non-native trees, even within ancient woodlands.

Removing these trees will allow the wood to develop a more native character, which suits our wildlife much better.

### **Trees and public road and rail safety**

Public safety issues can override other management and planning considerations, and even the Wildlife & Countryside Act 1981. Dead, dying or dangerous branches or trees are specifically exempt from Tree Preservation Order control.

A local authority can carry out, or order tree or hedge work, if the tree or hedge poses an immediate safety hazard, eg cutting back a hedge at a blind corner to improve visibility for traffic and road safety. Clearance of trackside vegetation by rail companies is done to maintain the safety of railways.

If a branch or even a whole tree has become a safety hazard, it can be removed at any time to make it safe. However, if there is a reasonable way of removing the safety risk while allowing the birds to finish nesting (eg by a temporary path closure which does not cause any practical problems), the Wildlife & Countryside Act 1981 requires that such alternatives be considered.