**DIDDLEBURY PARISH COUNCIL**

**PROCEDURE TO BE ADOPTED BY THE PARISH COUNCIL WHEN DEALING WITH TREE APPLICATIONS**

**Time limits**

Unlike normal planning applications which have to be responded to within 31 days, but invariably the planners give us an extension to time, applications relating to tree works within the Diddlebury Conservation Area operate on strict time limits and no extensions can be given. With tree applications, responses by parish councils have to be given within 14 days of receipt of the notification.

If due to these time constraints a tree works application cannot be dealt with at a parish council meeting, then it will be dealt with by a Chairman’s Action as set out in Standing Order 30.

**Protection afforded to trees in a Conservation Area**

Trees within a Conservation Area are initially accorded the same levels of protection as trees protected by a Tree Preservation Order (TPO) in that to lop, top or wilfully damage them without consent would be a breach of the Town & Country Planning Act. However, the Conservation Area Regulations offer protection to all trees over 23.5cm girth at 1.5m above ground level. This means that a great many trees of poor form or low amenity value are provisionally protected that do not merit being protected by a TPO.

Anyone who wishes to carry out works to a tree within a Conservation Area has to issue a notice pursuant to S.211 of The Town & Country Planning Act with the local planning authority. The planning authority then has a period of six weeks within which to consider the amenity provided by the tree, trees or woodland and to determine whether it is expedient to raise a TPO to protect that amenity.

With trees in a conservation area the Town & Country Planning Act gives three options to the local authority, who can either:-

* Make a Tree Preservation Order if justified in the interest of amenity. When making a decision on the merits for raising a TPO, a tree’s condition, longevity and public visibility are all taken into consideration, or
* Decide not to make a TPO and allow a six week period to expire and make no formal reply, at which point the applicant has de facto permission to carry out the proposed work, so long as it is carried out within two years of the S.211 notice, or
* Decide not to make a TPO and inform the applicant the work can go ahead.

**The concept of Dead, Dying and Dangerous trees**

The concept of “dead, dying and dangerous” trees relates to exceptions to the need to submit a S. 211 Notice. The concept was revised in 2012 to “Dead and imminently Dangerous”. The “dying” was removed due to frequent wilful miss interpretation. The exception carries the provisions that the applicant should be able to prove if challenged at a later date that the tree was in fact dead or imminently dangerous and it is underpinned by a requirement to plant a replacement tree for any removed under this exception, unless the local authority states otherwise.

**Guidance offered to parish council in determining S.211 tree works application given by the Tree & Woodland Amenity Protection Officer at Shropshire Council**

First, bear the above information in mind.

As a rule of thumb the following points are worth considering:

* Is the tree visible?
* Is the tree really an amenity?
* Will it continue to be an amenity for a significant period of time without becoming a nuisance or impacting on the owner’s reasonable enjoyment of their property?
* Will the loss of this tree or trees really degrade the overall character and amenity of the area?
* Other trees may benefit from its removal, maybe there is ample new planting that in time will compensate for the loss?
* Even where no reason is given for the removal of a tree it may be clear that it is not an unreasonable request: not everyone likes trees and other uses of garden spaces can be appropriate.
* If a tree is not visible from a public open space then unless it is of some particular social, historic or ecological merit the local authority may not be able to make the case for amenity and expedience in order to protect it with a TPO. The local authority will however on occasion make a case for particularly important trees such as genuinely ancient trees, etc. Parish councils are urged to submit their views because local knowledge is of value.
* Whilst the local authority’s designated officers have a right of access to property, that is not extended to parish councils, other than in exceptional circumstances. Therefore viewing a tree not visible from a public space requires the owner’s permission, although sometimes the walk up the drive to knock on the owner’s door to ask for permission will allow a glimpse of the tree/trees in question.
* If in any doubt about an application, contact the Shropshire Council Tree Team for advice: 01743 254616 or by email using **trees@shropshire.gov.uk**