

DAMAGING TREE IN CONSERVATION AREA

Planning (NI) Order 1991

66. - (1) If any person, in contravention of a tree preservation order, cuts down, uproots or wilfully destroys a tree, or wilfully damages, tops or lops a tree in such a manner as to be likely to destroy it ...
- ...
- (2) If any person contravenes a tree preservation order otherwise than as mentioned in paragraph (1) ...
- 66A. - (1) Subject to the provisions of this Article and Article 66B, any person who, in relation to a tree to which this Article applies, does any act which might by virtue of Article 65(1)(a) be prohibited by a tree preservation order shall be guilty of an offence.
- (2) Subject to Article 66B, this Article applies to any tree in a conservation area in respect of which no tree preservation order is for the time being in force.
- ...
- (4) Article 66 shall apply to an offence under this Article as it applies to a contravention of a tree preservation order.

Maximum Sentence:

Planning (NI) Order 1991, Art. 66

(1) An act falling within Article 66(1)

Indictment: 2 years imprisonment and/or Unlimited Fine

Summary: 6 months imprisonment and/or £30,000 Fine (for offences committed before 4 May 2011)

6 months imprisonment and/or £100,000 Fine (for offences committed on or after 4 May 2011)

(2) An act falling within Article 66(2)

Summary: Level 3 Fine (£1,000) (for offences committed before 4 May 2011)

Level 4 Fine (£2,500) (for offences committed on or after 4 May 2011)

Assessment of Offence

(Starting points and ranges based on 1st time offender convicted following contest)

<u>Nature of Offence</u>		<u>Starting Point</u>	<u>Sentencing Range</u>
Act falling within Article 66(1)	Offence committed on non-commercial basis	£5,000 Fine	Fine to Community Order
	Offence committed on commercial basis	£25,000 Fine	Fine to 3 months Custody
Act falling within Article 66(2)		Fine	Fine

Examples of Possible Aggravating Factors of Offence

1. Offence committed for financial gain (whether profit or cost-saving)
2. Nature of offence has necessitated tree being cut down
3. Offence committed on commercial basis (where offence is an act falling within Article 66(2))

Examples of Possible Mitigating Factor of Offence

1. Offender had honest belief that tree was not subject to relevant prohibition.

Relevant Cases:

NI Cases:

N/A

English Cases

R v Palmer [1989] 11 Cr App R(S) 407

Notes: