

# Trees and Development

*Supplementary Guidance - February 2020*



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## 1. Introduction

1.1 This Supplementary Guidance supports Local Development Plan 2 Policy NE8: Trees and Development. It applies to all forms and scales of development from large-scale development such as wind farms which may affect extensive areas of forestry and woodland cover, to a household extension affecting a single tree. The level of analysis and information required as part of the planning process depends on the scale of development and is detailed in the following chapters. It also includes information on tree protection and felling or planting where not part of a planning application or development.

### The Value of Trees



Trees Bring Multiple Benefits to People, Places and the Environment

1.2 Trees are a valuable asset. They provide a wide range of social, environmental and economic benefits to our towns and villages, as well as to the wider environment. They are an important part of our cultural and natural heritage and can act as links to

the past or reminders of historic land-use patterns and features.

1.3 Trees and woodlands affect the natural processes that control our air, land and water. They store carbon and release oxygen; they can help keep rivers and water supplies clean; and

can help to reduce flooding and soil erosion.

1.4 The presence of trees and greenery are linked to healthy communities and individual wellbeing. They are consistently associated with the most attractive and popular neighbourhoods and studies have shown that the presence of trees can raise property and land values (see below).



1.5 Dumfries and Galloway has a fantastic range of forestry, wood pastures, shelter belts, policy woodlands, hedgerow trees, veteran trees and formal tree avenues. All of these features contribute to and enhance local character and distinctiveness. However many of our best trees were planted in the 19<sup>th</sup> and

early 20<sup>th</sup> century and are now showing signs of decline. There is also a lack of trees within many of the region's settlements. As a result, Dumfries and Galloway Council actively encourages both the planting of new trees and the retention and management of existing trees, particularly in urban areas.

### **Ancient Woodland and Veteran Trees**

1.6 Ancient Woodland and Veteran Trees are especially valuable. Ancient woodland is defined as land that is shown as wooded on either the c1750 Roy maps or the 1st edition Ordnance Survey maps of c1860. It does not necessarily contain veteran trees. Scottish Planning Policy states that the planning system should; *'protect and enhance ancient semi-natural woodland as an important and irreplaceable resource, together with other native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value'* (SPP para. 194).

1.7 Trees are considered to be veteran due to great age or its biological, aesthetic or cultural interest. They are not necessarily restricted to ancient woodlands. The council will ensure that the protection of ancient woodlands and veteran trees are given a high priority.

***'Trees have been shown to have the potential to raise property values by 5-18%'***

**A recent European study noted that in comparison to neighbourhoods with no trees; *'Higher numbers of street trees resulted in a 17% increase in land values'***

(*'The Benefits of Large Species Trees in Urban Landscapes'* p10/11, CIRIA, C712, 2012).

## **Purpose of this Guidance**

The purpose of producing guidance on trees and development is to:

- Encourage developers to retain, safeguard and protect existing trees and woodlands through the development process
- Encourage the planting and aftercare of appropriate new trees

1.8 The retention and planting of trees and woodlands are supported through European, UK and Scottish legislation. This legislation is referred to throughout the text with details found in the Appendices.

1.9 The Town and Country Planning Act (see Appendix A2) requires planning authorities to make adequate provision for the preservation of existing trees and planting of new trees. Developments should be designed to fit around existing trees of landscape or amenity value and developers are expected to prioritise the retention of trees and hedgerows. If this is not possible then appropriate replacement planting may be required (subject to agreement from the planning authority). Developers also need to take all reasonable steps to ensure that trees earmarked for retention are protected throughout the planning, design and construction process.

1.10 Development proposals that involve the removal of any trees must include details of the trees or area to be felled and of any compensatory planting (which would be covered by planning conditions). Future maintenance of trees within the development site and in the wider public realm will also be a consideration.

1.11 These aspects would be determined by the Council as planning authority based on policies and guidance within Local Development Plan 2 (LDP2). A number of LDP2 policies relate to trees, although this Supplementary Guidance supports policy NE7 (see below).

## **NE8: Trees and Development**

In assessing development proposals, the Council will support proposals that:

- promote additional tree planting;
- protect and enhance ancient woodland sites
- maintain trees, woodlands (in particular ancient and semi-natural woodlands), and hedgerows (thereafter referred to as the 'woodland resource') and require developers to incorporate, wherever feasible, the existing woodland resource into their schemes;
- encourage planting of a type, scale, design, composition and species mix that is appropriate to its locality and appropriately incorporates the woodland resource into the overall design of the scheme; and
- show how existing trees will be appropriately protected during the construction period.

In submitting development proposals, details should be provided of the arrangements to be made for the long term maintenance of both the existing woodland resource and any proposed new planting, including providing adequate room for further growth.

If it is demonstrated to the satisfaction of the local Council that it is not possible to retain the woodland resource then an appropriate replacement planting scheme will be required to be agreed by the Council. Any such replacement planting scheme should normally be located within the site.

The processes and recommendations contained in BS 5837:2012, and any subsequent revised or amended document, should be taken into account in designing and implementing development proposals.

Where the works to a protected tree or trees forms part of a development proposal, the applicant should also demonstrate that:

- the benefits of the development, including any replacement planting, will outweigh the loss of or potential harm caused by the works to the tree or trees; and
- the development has been designed and located in order to minimise potential adverse impacts on the protected tree or trees.

Supplementary guidance provides further advice and guidance in respect of survey work, designing around trees, new planting, protection during construction, maintenance and removing existing trees.



## 2. Protected Trees: TPOs and Conservation Areas



'Veteran' trees can have high habitat and amenity value, often with strong cultural and historic associations.

2.1 Trees can be protected by;

- A planning condition,
- A Tree Preservation Order, or
- Being within a Conservation Area.

Work to trees that are not protected may require a 'Felling Licence' (see Section 3 below), so tree owners should always check the legal status before doing any work to a tree.

### Tree Preservation Orders (TPOs)

2.2 TPOs are used to protect trees and woodlands of high amenity value and/or are of cultural or historic interest. It is an offence to work on or wilfully damage protected trees without permission and substantial fines may be imposed. **Being unaware of the presence of a TPO is no legal defence.**

### Conservation Areas

2.3 Trees within a Conservation Area (with a stem diameter >75mm at 1.5 m above ground level) are also protected. The council should be notified at least 6 weeks prior to working on a tree in a Conservation area; this enables the council to decide if a TPO would be appropriate and/or whether the works can proceed.

2.4 The suitability of trees and woodlands for protection will be assessed by the council, usually with reference to the Tree Evaluation Method for Preservation Orders (TEMPO). This system considers and records all of the relevant factors in the TPO decision-making chain.

2.5 The council should be notified before working on a protected tree. If a tree is considered to represent an imminent danger, then measures may be taken to make it safe. Evidence of the need for such works should be kept for future reference to avoid the possibility of legal action. This should include a written assessment by a qualified Arboriculturalist, plus photos and location plans/maps.

2.6 Where a protected tree is removed, in most cases there is a legal requirement that it is replaced. The replacement would also be protected.

2.7 Issues such as bird droppings, bird noise, fallen leaves, fallen fruit or honey dew on cars do not justify the pruning or felling of a protected tree and are highly unlikely to be supported.

### 3. Felling Licences, Forest and Woodland Planting

3.1 The potential removal of trees or new planting which does not form part of a planning application is determined by Forestry Commission Scotland (FCS) (except for trees in Conservation Areas or protected by a TPO – see above). FCS issues 'Felling Licences' under the Forestry Act 1967 (as amended) to determine felling operations. Forest expansion, design and management plans are determined by FCS under the Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999. Dumfries and Galloway Council is a statutory consultee for Felling Licences and Forest Plans.

The Council's approach is set out in LDP Policy NE7: 'Forestry and Woodland' and the Dumfries and Galloway Forestry and Woodland Strategy (DGFWS).

#### **Policy NE7: Forestry and Woodland**

The following policy will apply to those woodland/forestry felling, planting and replanting proposals which do not require planning permission but where the Council acts as a consultee to Forestry Commission Scotland.

The Council will support the creation and protection of sensitively designed and managed forests and woodlands.

Proposals should seek to ensure that ancient and semi-natural woodlands and other woodlands with high nature conservation value are protected and enhanced.

In determining its response to individual forestry felling, planting and replanting consultations where Forestry Commission Scotland are the determining authority, the Council will:

- take into account environmental and other interests identified in the Forestry and Woodland Strategy including biodiversity, water (including flood risk management), soil and air, landscape setting, historic environment and land restoration;
- consider the scheme's location as set out in the Forestry and Woodland Strategy;
- seek to ensure an appropriate balance between both afforested and un-afforested areas in the locality;
- encourage planting of a type, scale, design, age, composition and species mix that is appropriate to the locality;
- actively encourage proposals to have a positive effect on nature conservation and/or natural and historic environment interest;
- encourage proposals to take account of possible recreational use in the design of any planting schemes and indicate how such recreational uses have been investigated; and
- ensure that proposals do not have an adverse impact on the road network.



## **Dumfries and Galloway Forestry and Woodland Strategy**

3.2 The DGFWS looks at wider forestry operations and woodland management which do not form part of a planning application.

3.3 The DGFWS provides guidance on new woodland creation plus the restructuring and management of existing forests and woodlands to maximise the benefits for the local economy, communities and environment. It supports the Scottish Government's aspirations to increase forest and woodland cover whilst also considering local issues and constraints. Potential broad areas for new planting are mapped, based on suitability for different types of forestry and woodland.

3.4 Specimen trees, avenues and policy plantings can form a key element of designed landscapes and gardens. Council policy HE6 will also be considered in relation to felling and planting proposals within the areas designated on the Inventory or Non-Inventory list.

## **Removal of Woodlands not Requiring Planning Permission**

3.5 The removal or new planting of commercial forestry and woodland can have a significant impact on the environment but may not require planning permission (if in doubt, check with the planning authority). FCS uses the Environmental Impact Assessment Regulations to determine whether consent should be given and in most cases, replacement or compensatory planting proposals would be required (for further information consult FCS).

## **Felling Licences**

3.6 A felling licence may be required if more than 5 cubic metres of timber is to be extracted within any 3 month period (with certain exceptions such as within private gardens, churchyards, etc) (a single large tree can produce this quantity of timber). Replacement planting is normally a requirement of the licence; consult FCS for further information.

## **Felling Licences and Planning Permission**

3.7 A felling licence is not required to remove trees covered by planning permission. Conversely, planning permission is not required for carrying out work as part of a plan or operation approved by the FCS.

## **Felling Licences and TPO's**

3.8 Where an application for a felling licence is made for the removal of trees that are the subject of a TPO or within a Conservation Area, the FCS will pass the application to the Council to determine.

## 4 Trees and the Development Process

4.1 The following sections explain how to plan for trees through each stage of the development process. The potential requirements for each stage are summarised in the following diagram:



## 4 A) Site Planning and Survey Information

4.2 Where sites include existing trees or woodlands, the start point should be to look at how these woodland resources might be incorporated into any potential development, rather than considering the site as a 'blank canvas'.



Retaining trees can enhance the character, setting and potential value of new developments (Left; mature oak trees retained at Marchfield, Dumfries. Right; site clearance can destroy any 'sense of place' and should be a last resort).

4.3 Developers should check if the proposals are likely to affect any protected trees, ancient or long-established woodland (contact the Council for details of TPOs and Conservation Areas).

4.4 Potential requirements for additional surveys, etc are outlined below and depending on the nature and scale of proposed development.

#### **British Standard 5837:2012 'Trees in Relation to Design, Demolition and Construction'**

4.5 BS5837 sets out the principles and procedures covering trees and development. The Council will expect all planning applications involving trees to comply with this standard.

#### **Topographical Survey**

4.6 Topographical surveys are useful in the design process and can also form the basis for a Tree Survey. They should record existing features such as drainage, buildings, structures, boundary features, the location of underground services and trees, hedges or planting areas. Include trees within 12m of the site boundary.

#### **Tree Surveys**

4.7 If there are any trees on site or within 12m of the boundary, with a stem diameter of greater than 150mm at 1.5m from the ground, then a Tree Survey should be carried out by a suitably qualified Arboriculturalist.

4.8 Tree Surveys can help in deciding which trees should be retained, which can be felled and what will need to be replaced. Undertaking a survey early in the design process can

prevent potentially unnecessary work and expense later.

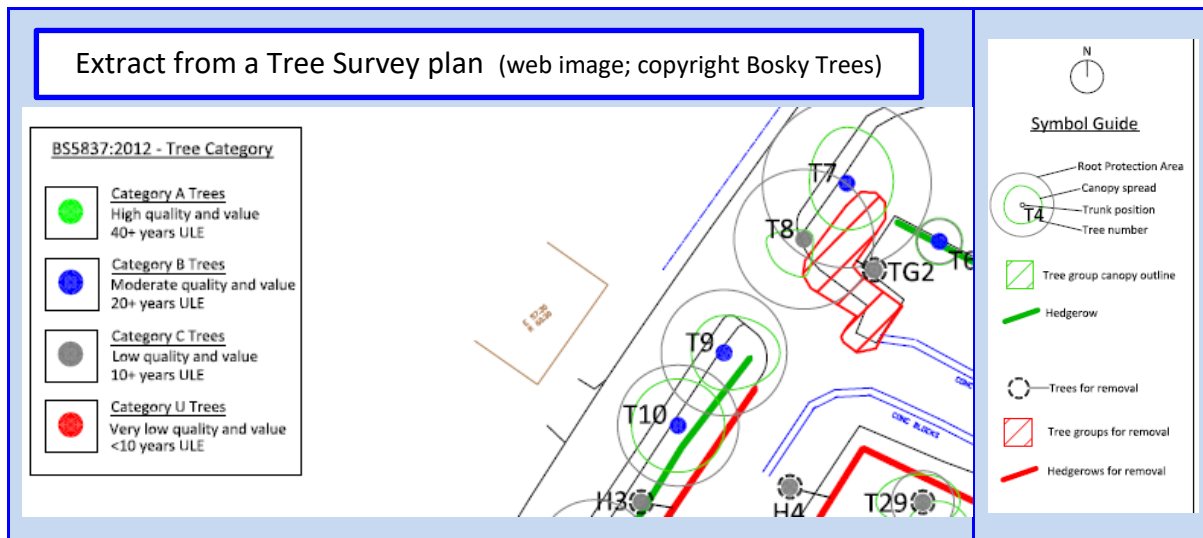
4.9 Tree Surveys have two parts; a plan and a schedule. They should:

- Assess tree condition and health
- Categorise quality and value in a transparent, systematic way
- Show location and base height of individually numbered trees or groups where growing together, plus hedges/shrubs greater than 1.8m in height or 3m width
- Identify any trees protected by a TPO, with TPO reference
- Include recommendations for tree management
- Identify potential impacts for bats, bat roosts or nesting birds
- Include an estimate of the safe useful life expectancy of each tree
- Identify areas of ancient woodland and veteran trees to allow for improvements to these areas to be included in the application.

4.10 The schedule should include:

- Tree species (common and latin names)
- overall height and stem diameter
- branch spread in all directions
- height of crown clearance
- age class
- physiological and structural condition
- the retention category grade

Refer to BS5837: 2012 for details.



**Example of Tree Survey Table showing detailed analysis of trees on site:**

Tree Ref. No.	Tree Species	Height (m)	Single/ Multi-Stemmed (S or M)	Stem Diameter (mm)	Branch Spread (m)	Height of Crown AGL (m)	Age Class	Physiological Condition	Structural Condition	Preliminary Recommendations	Estimated Useful Life (Yrs)	BS Cat Sub-cat
1	London plane <i>Platanus x acerifolia</i>	24	M	990	N11 E14 S12 W10	N4 E3 S3 W4	Mature	Large buttress roots, trifurcated at 3.5m above ground level, old pruning wounds on trunk occluded, good shape and form.	Good	None at time of survey	>40	A 1+2+3
2	London plane <i>Platanus x acerifolia</i>	21	M	910	N10 E11 S10 W9	N3 E4 S3 W4	Mature	Large buttress roots, trifurcated at 3.5m above ground level, good shape and form.	Good	None at time of survey	>40	A 1+2+3

### Assessing Benefits from Trees

4.11 The benefits associated with existing trees and woodland should be assessed at this stage; including nearby off-site trees, where appropriate. See Section 4C below for the potential benefits of trees.

For larger or more complex sites this may need to be undertaken by a suitably qualified Landscape Architect.

**Agree Which Trees to Retain;**

Once initial survey information has been gathered, assess the health, condition and relative value of any trees, hedges and shrubs on site, then decide which, if any should be replaced or removed.

This assessment should be as objective as possible and should inform preliminary site layout options.

## 4 B) Detailed Design Development – Planning Around Trees

4.12 Trees can be affected by development in two different ways;

- Firstly, as a direct result of the development itself (buildings, walls, pavements, roads, services, etc). This can be addressed during the design stage – see below.
- Secondly, as a result of inadequate protection during construction operations – see 4D later.

The purpose of planning for retained trees is to ensure their long-term survival whilst planning for an effective build and a successful, attractive development.



Left: Excavations are too close to this tree and as a result, it has probably already suffered 'terminal' damage.

In any case, trees set this close to a building rarely survive long-term.

### Tree Constraints Plans

4.13 Trees need space to grow, light, water, drainage and protection from damage. Having decided to retain trees on site, the next step is to consider how these requirements can be accommodated within the site design and if they present any potential constraints on construction activities.

4.14 For smaller developments, this can be recorded on Site/Layout Plans and Method Statements but for more complex sites, a Tree Constraints Plan will be necessary to ensure that trees are not lost or damaged unnecessarily.

The Tree Survey is used to inform either approach.





Although this tree is within a Root Protection Area, a service run has been dug through it, eventually leading to loss of the tree. This could have been predicted and avoided at the design stage.

- ensure sufficient space for construction work, access, erection of scaffolding and storage of materials without affecting trees
- consider the effect of the proximity of trees to buildings in terms of shading, risks from falling branches, etc
- plan for infrastructure and services requirements
- consider impacts of changes in ground levels
- consider mitigation measures for any trees lost

4.18 Arboricultural Implication assessments are usually written statements but additional plans, sections or diagrams could be useful for dealing with specific issues such as clearance distances.

4.15 Plans should identify below ground constraints (called a 'Root Protection Area' or 'RPA') and above ground constraints (size of crown, position, aspect and future growth). A 'Construction Exclusion Zone' should be defined to protect the RPA and canopy spread during construction.

4.16 The Tree Constraints Plan will also indicate where new trees are to be planted. These areas should also be protected during construction.

### Arboricultural Implication Assessments

4.17 Depending on the nature and scale of proposed development and the quantity and amenity value of trees on site, further analysis may be needed. This can help:

- ensure new buildings are sited well clear of ultimate crown spread and root protection areas

## Construction Site Facilities and Storage

4.19 Requirements for a site compound, facilities, access and/or storage should be planned for in advance, taking account of the Tree Constraints Plan and associated assessments. Such facilities should not be located close to or under mature trees or within areas earmarked for new tree planting.



Site management needs careful planning: Storing materials, locating site facilities or any other construction activity within Root Protection Areas can lead to tree damage and eventual loss.



Above: Drainage channel severs tree roots. Materials stored under tree canopy cause compaction of soils (no defined 'RPA')

## 4 C) Detailed Design Development – New Planting

4.20 Tree planting should be an integral part of the design, based on a clear design rationale. Trees can perform a variety of both aesthetic and functional roles, either as individuals or in a woodland block; this includes:

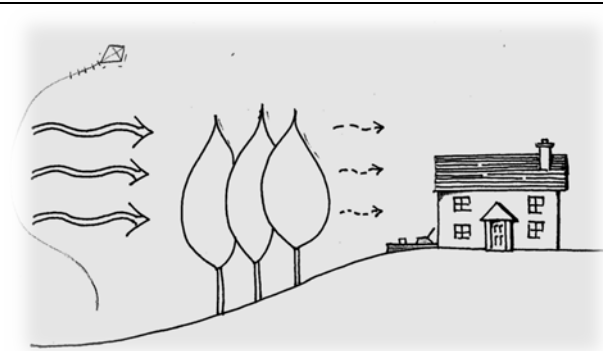
- Enhancing the setting of buildings
- Stabilising slopes and embankments or controlling erosion
- Absorbing rainwater, reducing the risk of surface water flooding
- Filtering noise, pollutants and dust
- Forming a visual barrier to screen an unwanted view or to provide privacy
- Providing natural beauty and contact with nature in built-up areas
- Contributing to nature conservation, biodiversity and carbon sequestration.

Specific examples are illustrated in the following photos and sketches:

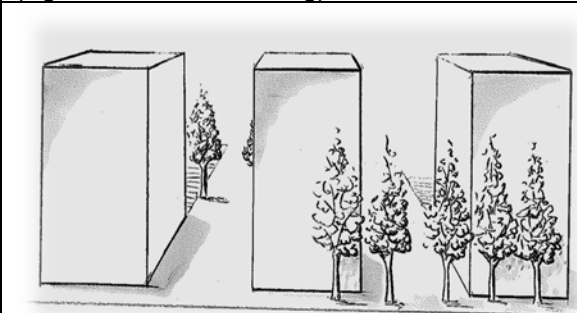




Screening between different land-uses (eg school and housing).



Shelter from prevailing winds or shade on sunny days.



Softening built forms.



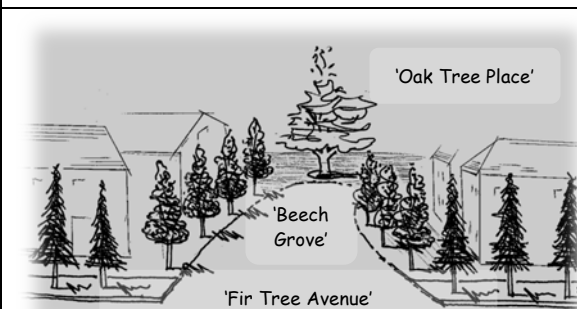
Creating a 'focal point' (a prominent and distinctive feature eg within a housing area)



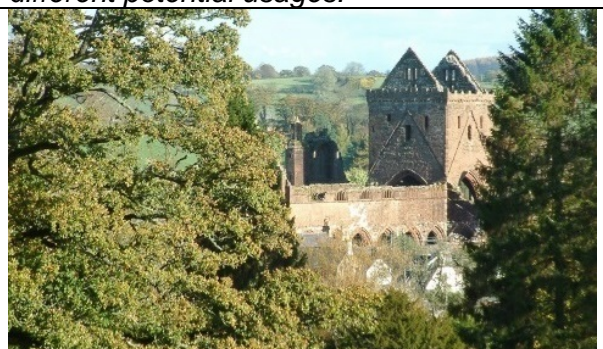
Increasing privacy by screening gardens from public areas.



Defining spaces or helping to separate different potential usages.



Creating or contributing to a 'sense of place' and local distinctiveness.



Framing views of attractive or distinctive features.

## Landscape Plans

4.21 Landscape Plans may be required for larger development sites. The plan should detail existing and proposed levels and surface treatments (hard/soft landscaped areas) around existing trees, as well as proposals for new planting.

4.22 Trees are major structural elements in any landscape and clearly grow and change over time. Their ultimate height, canopy and root spread, form, habit, density of foliage and maintenance requirements have to be considered.

4.23 Species selection depends on the reason for planting: Native, locally-occurring species are particularly useful in rural areas or in woodlands because of their additional benefits for wildlife. Non-native or 'exotic' species can introduce more variety in appearance,

attractive bark, flowers, leaf colour, etc. The predicted effects of climate change are also a consideration and specialist advice should be sought.

4.24 Where possible, new planting should link to existing woods around the edge of the site to form valuable wildlife corridors and visual links.

4.25 Hedge planting is a good alternative to fencing, particularly where this reflects the character of the local area. Hedges can vary from more formal clipped beech hedging to a more natural thorn hedge using hawthorn and other native species.

4.26 'Green corridors' containing hedges or trees should not be considered as potential service runs; excavations can cause direct physical damage to roots or indirect damage, eg through altering water tables.

## 4 D) The Construction Phase and Tree Protection

4.27 Trees can take decades to reach maturity but can be irreversibly damaged in just a few minutes. Damage such as soil compaction caused during construction operations may not be immediately evident but can still lead to tree loss. Such damage is often unnecessary and can be avoided.

4.28 Trees are frequently damaged during the first few days of site works, therefore tree protection measures should be set up before construction operations begin (including locating site huts/ compounds and storing materials).

4.29 Protective fencing must be erected around the RPA or 'Construction Exclusion Zone' for all trees and maintained during all construction works. Any incursion into this area can quickly destroy all of the time, effort and expense which have gone into retaining trees.

### Tree Protection Plans

4.30 Measures to protect all trees should be included in a Tree Protection Plan; showing the following:

- trees/hedges to be retained and/or removed
- trees requiring surgery

- precise location of protective barriers to form a construction exclusion zone
- design details of barriers
- any pruning works to facilitate the development
- areas of future planting to be protected from construction operations
- measures to protect trees on site boundaries/adjoining land

- excavations, foundations, etc causing changes in the water table, and
- spillages of diesel, etc causing contamination.

These effects can be serious, long-lasting and expensive to remedy. Damage to soil structure and composition can have significant impacts on tree health and on the potential to sustain new planting.

### Arboricultural Method Statements

4.31 These may be required to support a Tree Protection Plan where specific mitigation measures are required (eg where works encroach into the RPA).

### Soils

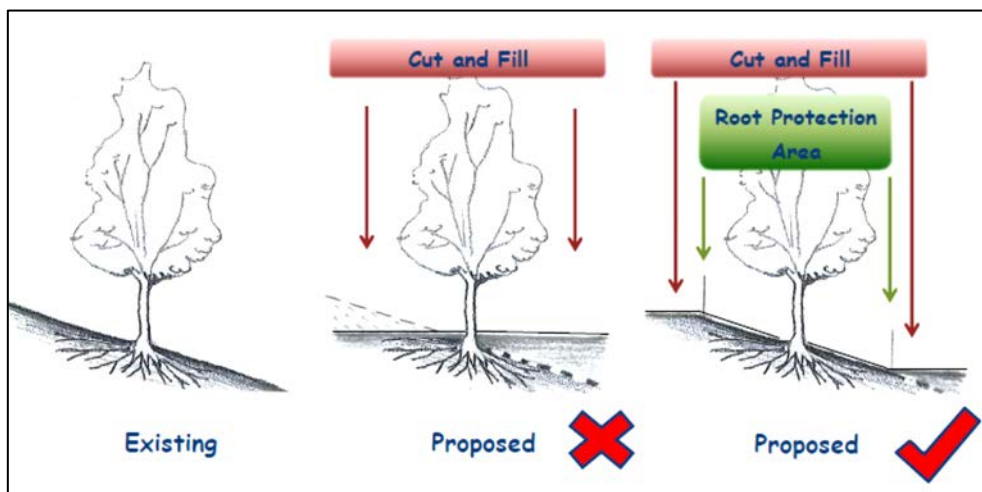
4.32 Soils are often damaged on development sites through:

- storing soil in bunds leading to compaction,
- storing bricks/blocks, etc on top, compacting air voids in the soil,

### Levels

4.33 Altering ground levels can offer advantages in construction and in the design of spaces. However, cutting into or mounding over root systems or altering the water table around a tree can be serious for tree health. Level changes should take account of these aspects (see diagram below).

4.34 Scaled sections are particularly useful in understanding and communicating potential impacts from alterations to levels and should form part of the planning application.



### Avoiding Potential Damage from Trees

4.35 Tree management and any damage or injuries they may cause are the responsibility of the tree owner. Diseased, dead or dying trees or those with poisonous seeds or berries can be dangerous. It is therefore worth arranging for a suitably qualified person to inspect trees every 2-3 years.



## Underground Services, pavements and Structures

4.36 Ground water can collect in service trenches, due to the granular nature of the backfill and this may encourage roots to grow into the trench and around pipes. It is generally accepted that roots do not break or force their way into sealed

pipes but root growth may displace or crush them or exert sufficient pressure to cause a break.

4.37 Trees flex in the wind and this movement can be transferred to the roots. This could affect pipes in contact with larger roots very close to the tree.

### Protecting Underground Services and Surfacing



Modern tree-care products, materials and construction methods promote tree health and longevity, whilst protecting services, hard surfacing and foundations. These have been used successfully within the region and across the UK (eg Burns Statue Square, Dumfries).



4.38 Potential damage to pipes, pavements and structures can usually be avoided by careful design:

- Locate service trenches outside the Root Protection Area for established trees
- Allow sufficient space between new planting and trenches for future growth.
- If pipes have to go through an RPA then use trenchless installation or excavate by hand.



- Keep trenches as far away from the main stem as possible.
- Ensure pipes are laid properly and joints are completely watertight.
- Use root barriers to deflect root growth if planting trees within 3m of pavements, kerbs or other structures.
- Plant in existing greenspace/ verges away from services.
- Plant trees in a continuous prepared trench or use proprietary soil support systems where planting into paved areas. Keep tree pits/trenches as big/long as possible.

4.39 The rooting characteristics of different species should be considered. For example, cherry, ash, poplar and willow have extensive, shallow root systems, whereas rowans, birch and beech appear to cause fewer problems to structures. However, root systems will adapt to local circumstances so their extent will depend on the specific ground conditions.

### **Overhead Services**

4.40 Potential problems associated with overhead services can be prevented by ensuring that any new services do not cut through the crown of an established tree, or over/through an area where new or younger trees will eventually expand into.



Tree form can be badly affected by the need to prune around a power line. As a result, this tree is very unbalanced.

### **Buildings**

4.41 Tree roots can damage buildings - although this is rare. Direct damage can result from radial growth of the main trunk and larger roots exerting pressure. Clearly these risks diminish rapidly with distance from the tree.

4.42 Water absorption by trees varies over the day and year. These cyclical changes can lead to shrinkage/swelling of subsoils as the water table changes. This can cause indirect damage to structures but is generally restricted to expansive clay soils which are relatively uncommon in Scotland, although it can happen in any soil with a high clay content. A structural engineer will be able to advise on soil suitability for building.

## Tree and Branch Fall

4.43 If trees are close to buildings or if people regularly pass underneath, then potential risks from trees blowing over or from limbs falling are increased. However, such events are very rare. Healthy trees should not be removed simply because they are taller than a building or because the branches overhang a footpath. The decision should be based on a systematic risk assessment process undertaken by a suitably qualified and experienced Arboriculturalist.

4.44 The key to having tall, mature trees near to buildings is regular assessment of the trees' health. An Arboriculturalist can advise on the presence of disease, insect attack or decay organisms, the extent of work needed and the remaining useful life of the tree. This information enables the management of trees as a positive asset.

4.45 Planting trees further away from buildings than the height of the tree clearly reduces potential risks. However, it is not always practicable or desirable to do so, given the wide range of benefits attributed to larger trees within urban areas (see CIRIA C712 report – details in Appendix 1). Even in low density developments,

the application of such a standard could result in no trees being planted, or existing ones not being retained, which the Council would not find acceptable in urban design terms.

4.46 There are many examples within the region where tall trees grow close to buildings without causing significant problems.



4.47 Issues such as leaves blocking gutters/drains or branches casting shade on windows or gardens can be a source of concern. But they should be viewed in the context of all the benefits trees bring to an area.

## 5. Maintenance Considerations

5.1 A Maintenance Plan will be required, indicating how newly planted and existing trees will be cared for, to ensure that they continue to contribute to the landscaping scheme in the long term. Provision of an appropriate

and acceptable Maintenance Plan is likely to be a condition of any planning permission.

5.2 The amount of information required will depend on the number of

trees involved and the size of site/development. However, it should include proposals for weed clearance, replacement of dead/ damaged stock, arrangements for watering, formative and remedial pruning, firming in, etc. BS3998: 1989 '*Recommendations for tree works*' provides useful guidance.

5.3 Where a site includes mature trees, Maintenance Plans should include details of a regular monitoring

regime using the services of a professional arboriculturalist.

5.4 Regular monitoring ensures that tree owners/managers are aware of any remedial action necessary in the interests of long-term tree health and/or of potentially unacceptable health and safety risks.

## 6. Removal of Existing Trees

6.1 As stated in the Introduction, the council has a statutory duty to ensure wherever possible that existing trees are retained. However, this section explains how the council will consider the potential removal of trees (as part of a planning application).

6.2 The removal of existing trees should be considered as a last resort. However, the Council tries to take a pragmatic view in considering the retention of existing trees and hedgerows and will not insist on trees being retained if it would lead to an inappropriate design or if a qualified and experienced arboriculturalist recommends felling on grounds of safety or expediency. It is also accepted that felling mature trees and replacing with young stock can be a valid and necessary part of long term tree management, particularly if continuous tree cover is to be maintained.

6.3 Where the council accepts that felling is necessary, replacement planting is likely to be required. The extent, maturity and nature of replacement planting will be considered on a case by case basis.

6.4 Replacement planting should be within the site in the first instance, and will normally be in the same general location (eg on the site frontage, rear boundary or adjacent to off-site woodland). Some large-scale developments, such as wind farms can lead to the removal of large areas of woodland. Compensatory planting of a similar scale will still be required, although in exceptional circumstances, this may be considered on appropriate sites elsewhere within the region. This is highly unlikely to apply where individual or small groups of trees are involved.

6.5 It cannot, however, be presumed that permission to fell trees will be given, even if the developer or homeowner is willing to plant replacements. The Council needs to be satisfied that the trees are being removed for the right reasons and will require evidence in the form of tree surveys as set out above.

6.6 A key consideration in considering the removal of trees and hedgerows will be whether the

development proposals can reasonably be met without resorting to felling/clearance. This might be achieved by amending/modifying the layout and scale of development proposals to integrate the trees into a scheme.

6.7 The financial circumstances of the developer or homeowner alone will not be considered as sufficient reason to allow the removal of trees and woodlands without replacement planting.

6.8 Potential works on a tree that is known, or is likely, to support a bat roost (or other European Protected Species),

cannot legally be permitted by the Council until all issues relating to the species have been fully resolved. The Council may require the applicant to have a survey carried out by an appropriately qualified expert.

6.9 Notwithstanding the council's view on potential felling of particular trees, there may be a duty to undergo an Environmental Impact Assessment under the EIA Regulations where felling could lead to a significant loss of habitat. If landowners/ developers think that an EIA may be required, they are advised to contact the council for clarification.

## **7. Enforcement**

The Council will treat seriously any damage to or felling of trees in the following categories:

### **Trees protected by a TPO or Conservation Area status**

7.1 Unauthorised felling or other damage to protected trees is a criminal offence and could result in those responsible being reported to the Procurator Fiscal. Substantial fines can and have been imposed by the courts for serious or persistent offenders. Under planning legislation, the planning authority can also require that replacement trees are planted.

### **Trees on Development Sites**

7.2 Where trees are not already covered by statutory protection, conditions may be included within a planning permission requiring their protection. Failure to comply could result in the planning authority taking enforcement action to remedy the breach, and could involve stopping all work on site until the situation is remedied.

## Appendix A: References and Useful Contacts

*'Air temperature regulation by urban trees and green infrastructure'*; Research Note FCR012, Forest Research Feb2013

BS 5837:2012; *'Trees in Relation to Design, Demolition and Construction – Recommendations'*. BSI

BS 3998:2010; *'Tree Work – Recommendations' (3<sup>rd</sup> Edition)* BSI

*'No trees, no future; trees in the urban realm'*; Trees and Design Group Nov2008  
[www.forestry.gov.uk/forestry](http://www.forestry.gov.uk/forestry)

*'Public Health and landscape; creating healthy places'*; Landscape Institute Position Statement Nov 2013 [www.landscapeinstitute.org](http://www.landscapeinstitute.org)

*'Scottish planning policy'*; Scottish Government 2014 [www.Scotland.gov.uk/planning](http://www.Scotland.gov.uk/planning)

*'The benefits of large trees in urban landscapes: a costing, design and management guide'* Armour, Job & Canavan CIRIA London 2012

*'Tree Surveys: A Guide to Good Practice'*; Arboricultural Association Practice Note No.7, 2005. [www.trees.org.uk](http://www.trees.org.uk)

*'Trees in hard landscapes; a guide to delivery'* Trees and Design Group 2014  
[www.tdag.org.uk](http://www.tdag.org.uk)

*'Trees in the townscape; a guide to decision-makers'*; Trees and Design Group 2014  
[www.tdag.org.uk](http://www.tdag.org.uk)

## Appendix B: Legislation and National Policies

***Town and Country Planning (Scotland) Act 1997, as amended by Planning etc (Scotland) Act 2006;*** Under Section 159 of the Act Local Authorities are instructed: *'to ensure, wherever it is appropriate, that when granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees.'*

Section 160 of the same Act, as amended and the Town and Country Planning (Tree Preservation Orders and Trees in Conservation Areas)(Scotland) Regulations 2010 (SSSI 2010/434) set out the requirements for Tree Preservation Orders (TPOs) and Sections 172-175 consider trees in conservation areas. The use of conditions of planning permission to cover tree preservation and planting are also established under this Act.



**Nature Conservation (Scotland) Act 2004;** Section 1(1) of the Act states; *'it is the duty of every public body and officer-holder, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions'*.

**Wildlife and Countryside Act 1981, Nature Conservation (Scotland) Act 2004;** Trees provide important habitat for a wide range of species with older trees providing potential nesting for birds and habitat for other species. It is an offence under these Acts to deliberately disturb nesting birds.

Sites of Scientific Interest (SSSI's) are designated under these acts. Scottish Natural Heritage should be consulted if proposing to undertake works to trees within a SSSI (consult SNH for further information).

**The Conservation (Natural Habitats etc) Regulations 1994;** provide protection for certain animal and plant species, known as European Protected Species, which includes all species of bat. (See 6.8) The Council will only approve proposals that meet the requirements of the Regulations.

**Ancient Monuments and Archaeological Areas Act 1979;** Scheduled Monuments are protected under the Act and Historic Scotland should be consulted before planting/felling trees or removing scrub on a designated site. For non-scheduled archaeological remains consult the council's archaeology service.

**High Hedges (Scotland) Act 2013;** The High Hedges Act aims to provide a solution to the problem of high hedges, where neighbours have not been able to resolve the issue amicably, by providing an effective means of resolving disputes over the effects of high hedges which interfere with the reasonable enjoyment of domestic property. A high hedge is defined by the Act as a hedge that is formed wholly or mainly by a row of two or more trees or shrubs, is over two metres in height and forms a barrier to light.

The act gives homeowners and occupiers the right to apply to their local council for a high hedge notice and empowers the authority to enforce decisions made in relation to high hedges in their local area. The process can be time-consuming and costly and the council would encourage the parties involved to explore all avenues to try and reach agreement through discussion and negotiation before resorting to legal action (see the council's website for further information).

**Scottish Planning Policy (SPP) (2014);** Paragraph 194 of the SPP indicates that the planning system should; *'protect and enhance ancient semi-natural woodland..., together with other native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value'*. Paragraphs 201 and 216-218 encourage woodland creation and planting where appropriate, whilst discouraging the loss of woodland.

**National Planning Framework for Scotland 3 (NPF3) (2014);** Section 4 of NPF3 emphasises the importance of green infrastructure to maintaining quality of life, increasing climate resilience and promoting sustainable growth. It refers to the expansion and improvement of the quality of woodlands around settlements and to



providing an improved landscape setting, noting the contribution forests and woodlands make to urban regeneration, bringing vacant and derelict land into beneficial use and improving biodiversity. It also reinforces the Scottish Government's commitment to encouraging new forest and woodland creation.

***The Control of Woodland Removal (2009) (Scottish Government Policy);***

there is a strong presumption against the loss of forests and woodlands at a global, UK and Scottish level and the removal of ancient woodlands in particular is highly unlikely to be supported. This policy sets out the legislative framework and guiding principles controlling woodland removal in Scotland.