

8 March 2019

Tree Management Policy

Joint Report of Lorraine O'Donnell, Director of Transformation and Partnerships and Ian Thompson, Corporate Director Regeneration and Local Services

Electoral division(s) affected:

Countywide

Purpose of the Report

- 1 To provide members of the Environment and Sustainable Communities Overview and Scrutiny Committee with background information relating to a presentation at appendix two on the Tree Management Policy. The presentation will be provided by Steven Craig, Clean & Green Manager with Simon McGinnety, Senior Tree Officer in Regeneration and Local Services.

Executive summary

- 2 At Corporate Overview and Scrutiny Management Board meeting on 12 October 2018, members requested more information on the Council's Tree Policy. As the Tree Management Policy falls within the remit of the Environment and Sustainable Communities Overview and Scrutiny Committee (ESCOSC) members were advised that the Tree Management Policy would be added to the work programme of the ESCOSC and come to a future meeting.
- 3 Arrangements were made with officers from Regeneration & Local Services for a presentation to come to the ESCOSC meeting on 8 March, 2019, that would cover the Tree Management Policy including information on pruning. A copy of the Tree Management Policy can be found at appendix 2 of this report.
- 4 Following a public consultation the tree management policy was adopted in July 2014 which brought together a number of tree management policies and practices from former district councils. In July 2017 the policy was reviewed to consider any changes in legislation. The review made no substantial changes to the policy and has

subsequently been adopted by several Town and Parish Councils and County Durham Housing Group.

- 5 The majority of Durham County Council's tree stock is both safe and healthy. Tree maintenance is mostly reactive to reports received concerning specific trees.

Recommendations

- 6 Members of the Environment and Sustainable Communities Overview and Scrutiny Committee are requested to receive this report and consider and comment on the presentation at appendix two.

Background

- 7 At Corporate Overview and Scrutiny Management Board meeting on 12 October 2018, members requested more information on the Council's Tree Policy. Members specifically asked for information on pruning of trees following a number of complaints from members of the public.
- 8 As the Tree Management Policy falls within the remit of the Environment and Sustainable Communities Overview and Scrutiny Committee (ESCOSC) members were advised that the Tree Policy would be added to the work programme of the ESCOSC and come to a future meeting.
- 9 Trees are a highly valued feature of County Durham; they make an enormous contribution to the character and beauty of our landscape and create /maintain environments rich in biodiversity. Durham County Council values its trees and recognises both the human and environmental benefits of having a healthy and sustainable tree population.
- 10 We also recognise that although trees are a positive feature, they can cause of a range of problems, from being a nuisance or inconvenience to potentially causing serious injury or even death. As a tree owner we have a direct responsibility for ensuring our trees do not pose a danger to the public or property and are managed appropriately.
- 11 We also have a duty under the Highway Act to ensure that those trees in private ownership adjacent to the highway do not pose a danger to its users. We seek to ensure that all roads are inspected at reasonable intervals, defective trees are noted, tree owners are identified and contacted and the appropriate work is undertaken to remove identified hazards.

- 12 The Tree Management Policy came into effect in July 2014. It brought together a number of tree management policies and practices inherited from former district councils and was subject to wide stakeholder consultation in its development. Public consultation revealed an overall endorsement of the policy.
- 13 The Tree Management Policy was reviewed in July 2017 to take into account any subsequent changes to legislation / codes of practice. This review did not substantially alter the policy document or its application.
- 14 A number of Town & Parish Councils and the County Durham Housing Group have subsequently adopted the policy for use on their own areas. This ensures a greater consistency of approach to tree management across the county as a whole.
- 15 The Tree Management Policy is governed by arboriculture best practice and guided by recommendations within British Standards for tree works (BS3998 (2010)).

Tree Maintenance

- 16 It is important to note that the majority of our tree stock is safe and healthy. Trees are naturally growing / evolving organisms that do not need active management / attention. Lots of regular pruning / maintenance work to trees is neither needed nor feasible; even if we had the necessary resources to do this. We generally try to avoid 'active' work and only intervene when we have to.
- 17 Tree maintenance is currently mostly 'reactive' in nature and is conducted in response to reports received by the Council concerning specific trees. Some cyclical inspections / maintenance is carried out with some countryside sites having specific inspection / maintenance plans.
- 18 The Tree Management Policy informs what we will / will not do and helps to prioritise works / resources. For example severe crown reduction / topping will be carried out in only exceptional circumstances as it can severely affect tree health and may lead to the death or decline of the tree or encourage a flush of weak re-growth that can represent a danger and also exacerbate existing problems.

Dealing with Tree Care - Guidance

- 19 We do recognise that removal of trees is sometimes justified for sound arboricultural reasons and that pruning works are sometimes necessary to ensure that trees are in a safe and healthy condition.
- 20 We receive many requests and complaints regarding trees. The Tree Management Policy ensures that service requests are consistently responded to and provide a clear basis for decision making.

- Obstructing / Overhanging Tree Branches – we will prune trees to eliminate hazards caused by obstructive branches. However we will not normally prune trees that overhang neighbouring properties unless the tree is dangerous or causing an actionable nuisance.
- Shading and Loss of Light – we will not normally consider pruning to improve light levels. However this will be looked at on a case by case basis taking into account the proximity and size of the tree to the nearest habitable room or where elderly, infirm or disabled persons who spend a significant amount of time within their home.
- Loss of Views – trees will only be pruned or removed to restore views when necessary to retain important public viewpoints or significant public benefit.
- Trees affecting reception (Television / Satellite / Solar Panels) – removal or pruning of trees to enable clear television reception will only be considered in exceptional circumstances as other technical solutions are generally more effective in such cases. We will not normally prune or fell a tree to improve natural light to a solar panel.
- Overhead Cables / Telephone Wires – we will not normally prune or fell a tree to prevent or reduce interference with telephone wires. We will recommend contacting the telephone service provider in such circumstances.
- General / Minor Nuisances – we will not normally prune or fell trees solely to alleviate problems caused by natural and / or seasonal phenomena e.g. falling leaves, sap, blossoms, fruit, nuts, bird and insect droppings.
- Poisonous fruit / foliage – we will not normally prune or fell a tree that bears poisonous fruit / foliage. However, where it is known that unsupervised young children are likely to be exposed to berries or foliage that will make them ill if eaten, we will investigate and take action, where appropriate.
- Trees considered too big / too tall – we will not prune or fell a tree because it is considered to be ‘too big’ or ‘too tall’ for its surroundings.
- Personal Medical Complaint – we will not normally prune or fell a tree where a request is made in under such circumstances. However, where it can be firmly established that the presence of a tree is causing a detriment to the health of residents further consideration will be given.

21 The Tree Management Policy should be seen as a guide and circumstances on the ground may involve a combination of factors identified therefore some element of discretion is required. The policy document highlights that the Council reserves the right to exercise discretion in the application of the policy when to do so would be in the best interests of the Council and its residents.

Conclusion

22 Members of the Environment and Sustainable Communities Overview and Scrutiny Committee will receive information on the Council's Tree Management Policy and have an opportunity to comment and ask questions.

Background papers

- Durham County Council Tree Management Policy, July 2017.

Contact: Tom Gorman Tel: 03000 268027

Ann Whitton Tel: 03000 268143

Appendix 1: Implications

Legal Implications

Not applicable, this report is for information only

Finance

Not applicable

Consultation

Not applicable

Equality and Diversity / Public Sector Equality Duty

Not applicable

Human Rights

Not applicable

Crime and Disorder

Not applicable

Staffing

Not applicable

Accommodation

Not applicable

Risk

Not applicable

Procurement

Not applicable



Durham County Council

Tree Management Policy

Contents	Page
1. Summary	4
2. Policy Scope	4
3. The Importance of Trees in the Urban and Rural Landscape	5
4. Legislation	5
5. Trees on Durham County Council owned / managed land	6
6. Inspection of Trees	6
7. Tree Maintenance	7
8. Publicising Tree felling / pruning	8
9. Dealing with Tree Care:	8
- Obstructing / overhanging tree branches	
- Shading and loss of light	
- Loss of view	
- Trees affecting reception (television / satellite / solar panels)	
- Overhead cables / telephone wires	
- General / minor nuisances	
- Trees considered too big / too tall	
- Personal medical complaints	
10. Damage and Tree Roots	12
- Root invasion in gardens	
- Damage to walls and fences	
- Damage to paths	
- Damage to drains or water pipes	
- Trip hazards	
- Installation of drop kerbs	
- Subsidence	
- Heave	
11. Trees on private land causing a danger/obstruction to the public highway	14
12. Trees on private land causing a danger (other than to the public highway)	15
13. Anti-social Behaviour	16
- Trees	
- High hedges	

Contents	Page
14. Protected Trees	16
- Tree Preservation Orders	
- Trees in a Conservation Area	
- Forestry Commission Felling Licences	
15. Other factors constraining works to trees	19
- Birds	
- Bats	
- Planning permission	
- Restrictive covenants	
16. Replacement Tree Planting	20
17. Trees & Development	20
18. Vandalism and damage to Council owned / managed trees	20
19. Biosecurity / Pest & Epidemic Management	21
20 Tree Pruning Techniques	22
21. Policy Version and Contact Details	23

1. Summary

- 1.1 Trees are a highly valued feature of County Durham; they make an enormous contribution to the character and beauty of our landscape and create /maintain environments rich in biodiversity. Durham County Council values its trees and recognises both the human and environmental benefits of having a healthy and sustainable tree population.
- 1.2 We also recognise that although trees are a positive feature, they can cause of a range of problems, from being a nuisance or inconvenience to potentially causing serious injury or even death. As a tree owner we have a direct responsibility for ensuring our trees do not pose a danger to the public or property and are managed appropriately. This policy sets out our approach to tree management.
- 1.3 We aim to inspect our tree stock at an appropriate frequency, depending upon number of pedestrians, vehicles and other targets either passing beneath or within falling distance of the tree, to ensure continued public safety.
- 1.4 We also have a duty under the Highway Act to ensure that those trees in private ownership adjacent to the highway do not pose a danger to its users. We seek to ensure that all roads are inspected at reasonable intervals, defective trees are noted, tree owners are identified and contacted and the appropriate work is undertaken to remove identified hazards.
- 1.5 We aim to provide high standards of tree management based on the latest arboricultural research and promote such standards with other parties, (e.g. private tree owners).

2. Policy Scope

- 2.1 This policy applies to all trees under our ownership / management, regardless of their location, and to those trees in private ownership which pose a safety risk to the public.
- 2.2 Although, we believe this policy to be as comprehensive as possible, we acknowledge it does not cover every situation. We reserve the right to exercise discretion in application of this policy when to do so would be in the best interests of the Council and its residents.

3. The Importance of Trees in The Urban And Rural Landscape

3.1 Trees are important features in the landscape. They help to create an attractive environment, making the County a better place to live, work, study and visit. They bring colour and contrast, screen unsightly structures, give privacy, soften the hard lines of and contribute to the setting of the County's magnificent buildings, streets and landscapes. Not only do trees have a visual quality, but they also enhance the environment in less obvious ways:

- they improve air quality by filtering airborne dust, smoke and fumes;
- they absorb traffic noise in built-up areas and can help limit noise pollution;
- they reduce temperature extremes by providing shelter in hot weather and insulation in cold weather; trees adjacent to buildings can reduce air conditioning and heating costs;
- they act as a screen, increasing privacy in residential roads and gardens;
- they convert carbon dioxide to oxygen, increasing the quality of the air locally and helping to reduce the 'greenhouse effect';
- they provide food and habitat for birds and other wildlife, thus supporting nature conservation value and biodiversity;
- research has shown that trees provide many psychological and health benefits and have been shown to reduce stress significantly.

4. Legislation

There is a range of legislation which has been considered during the development of this policy, for example:

- 4.1 The Forestry Act (1967) requires certain permissions and licences to be granted where felling of trees is proposed within a woodland setting. Durham County Council will ensure that any proposed felling is fully compliant with the requirements of the Forestry Act.
- 4.2 We, as the Local Planning Authority are able to create Tree Preservation Orders (TPOs), in respect of trees or woodland, which is considered to have a significant impact on the amenity of a local area.
- 4.3 In addition to those trees protected by a Tree Preservation Order, the Town & Country Planning Act (1990) also makes special provision for trees in conservation areas.
- 4.4 The Wildlife & Countryside Act (1981, as amended CROW Act 2000) states that it is illegal to intentionally or recklessly damage or destroy the nest of a wild bird while that nest is in use or being built. For Schedule 1 (Wildlife and Countryside

Act) bird species it is also an offence to disturb birds whilst they are building or using a nest.

- 4.5 Many bat species use holes, cracks and crevices in trees as roosts. Bats are a European Protected Species and are protected by the Conservation of Habitats and Species (Amendment) Regulations 2012 and the Wildlife & Countryside Act 1981 (as amended). Causing damage to or destroying a roost site, preventing access to a roost site and killing bats are all criminal offences which can lead to imprisonment or a fine. A roost cavity is considered to be a roost even if bats are not currently using it. Felling trees with bat roosts for health & safety reasons without first consulting Natural England may still be an offence under the Regulations.
- 4.6 The Hedgerow Regulations (1997) introduced powers allowing important rural hedgerows to be protected.
- 4.7 We have no authority to intervene in a dispute between neighbours regarding trees; Part 8 of the Anti-social Behaviour Order Act (2003) gives Local Authorities the powers to deal with complaints or disputes about high hedges affecting residential properties.

5. Trees On Durham County Council Owned / Managed Land

- 5.1 We have a responsibility to maintain trees within our ownership / management to ensure they are in a safe condition and not causing an unreasonable danger or actionable nuisance. All enquiries regarding trees on County Council land be directed to our **Customer Services** on 03000 26 1000.
- 5.2 Where development or maintenance works on council land have the potential to conflict with adjacent trees, the relevant department responsible for the work will liaise with arboricultural professionals in advance of any work commencing and will adhere to sound arboricultural practice and guidelines within the NJUG volume 4 and British Standards (BS5837 (2012)) where practicable.

6. Inspection Of Trees

- 6.1 We work to a risk-based approach to tree management: a programme of inspection identifying and prioritising potential hazards. The cycle of inspection for trees will be set according to their location and area of risk.
- 6.2 Highways trees are considered to be a high priority. They include both trees on land owned by the Council and trees on land owned by other parties. Roads are inspected on a regular basis. The inspection cycle is determined by a number of factors including road category, traffic use, incident history, local knowledge and the presence and frequency of trees. Tree defects likely to cause a hazard are identified. In the case of trees on land owned or adopted by the Council the

appropriate work is undertaken to remove the hazard. In the case of trees on land owned by other parties, the land owner is contacted and requested to remedy the situation (see 11.0 below).

7. Tree Maintenance

7.1 Tree maintenance is currently mostly 'reactive' in nature and conducted in response to reports received by the council concerning specific trees. In future, a greater level of tree maintenance work will be conducted as a result of information gathered during proactive inspections.

Some cyclical maintenance is already carried out with some countryside sites having site specific inspection / maintenance plans. However, reactionary tree maintenance will always form a key element of overall tree maintenance operations and normally originates from the following:

- programmed and routine inspections by the Tree Officer;
- ad-hoc inspections by the Tree Officer following enquiries, reports and service requests;
- reports from Customers;
- enquires from County and Parish Councillors;
- reports from utility companies;
- cyclic maintenance;
- emergency works (e.g. resulting from high winds).

7.2 The following categories will be used when prioritising tree works:

Priority	Response
Priority 1: Urgent Public Safety	From within 24 hours to one week depending upon the risk
Priority 2: Non-urgent but essential work	Between 1 to 6 months depending upon risk and time of year
Priority 3: Desirable	12 months where possible
Non-priority	No action proposed

7.3 Priority 1 - A tree could warrant immediate attention if, for example

- it has snapped or blown over;
- it is rocking (roots are damaged);

- it is uprooted but held up by another tree or building;
- a large branch has broken off or is hanging off the tree;
- it or its branch is blocking the road or footway / public right of way;
- it or its branch is blocking access to property;
- it has fallen on to a structure, such as a building or car.

7.4 Priority 2 - A tree may be a risk to people or property but does not require immediate attention if: for example

- it is dead;
- it is dying (few leaves in summer or dieback in the crown);
- its bark is loose and falling off;
- mushrooms or fungi are growing on or near the tree;
- old splits and cracks are in the trunk or large branches;
- smaller branches are falling from the tree.

7.5 Trees will be made safe via pruning or felling and we would use the most cost effective approach. However, for certain high value trees such as ancient and veteran trees, we would consider other options to reduce the risk to an acceptable level. This would include options to reduce the likelihood of the tree failing or the likelihood of persons being close to the tree if it did fail.

8. Publicising Tree Felling / Pruning

- 8.1 Minor works involving pruning or removing smaller trees will not be publicised.
- 8.2 Where works are more impacting, for example, felling larger trees, carrying out works to a veteran tree or a tree with a Tree Preservation Order (TPO), we will inform adjacent properties, the relevant Town or Parish Council and relevant County councillors.
- 8.3 If a tree scheme (felling, pruning or planting) is judged to be more impacting on the local area we will consider more publicity as appropriate.
- 8.4 Where a competent officer has determined that the tree should be felled on public safety grounds there will be no public consultation and no right of objection

9. Dealing With Tree Care

- 9.1 While we recognise the need to conserve the present tree cover, we also recognise that removal of trees is sometimes justified for sound arboricultural

reasons and that pruning works are sometimes necessary to ensure that trees are in a safe and healthy condition.

- 9.2 We receive many requests and complaints regarding trees. It is important that individual issues are dealt with consistently and that decisions are balanced against the positive contribution that trees make to the environment and enjoyment of the County by local residents and visitors. Many of the complaints received involve minor or seasonal issues that are generally considered to be foreseeable or social problems associated with living near trees, which can often

be minimised through careful pruning and careful species selection when planting.

- 9.3 In all cases, consideration will be given as to whether the tree in question is worthy of retention and protection. Particular care will be given to proposals affecting ancient or veteran trees.

- 9.4 To ensure that requests for works to trees are dealt with efficiently, consistently and fairly, our policy in relation to the more common types of request is outlined below.

9.5 Obstructing / Overhanging Tree Branches

9.5.1 Tree branches can cause obstructions to roads, footways, public rights of ways, signs, streetlights and open spaces. Appropriate pruning to eliminate hazards caused by obstructive branches will normally be acceptable, providing efforts are made to retain the shape of the tree.

9.5.2 We will undertake work to trees in council ownership / management to maintain a minimum 5 metres clearance over roads, 2.4 metres over footpaths / public rights of way and 3 metres over railway paths.

9.5.3 We will not prune trees that overhang neighbouring properties unless the trees are dangerous or causing an actionable nuisance by creating a risk of damage to the neighbour's property or his enjoyment of the property (e.g. touching the walls, roofs, windows, gutters, garage etc.)

9.5.4 Adjacent Landowners do have a common law right to prune back tree branches to their boundary, providing that the tree in question is not protected by a Tree Preservation Order (TPO) or situated within a Conservation Area. The works should be carried out in accordance with good arboricultural practice.

9.6 Shading and Loss of Light

9.6.1 Trees are often perceived to block light to nearby properties. However, pruning or removal of trees will often have a negligible impact on the amount of light reaching a house or garden. Therefore, tree works to

improve light levels will not normally be considered. However we will consider taking action (pruning or felling) in the following circumstances:

- if the height of the tree is more than 12metres and the distance between the base of the tree and the window of the nearest habitable room is less than 5metres;
- if the height of the tree if less than 12 metres and the distance between the base of the tree and the window of the nearest habitable room is less than half the height of the tree (where the separation between the edge of the tree canopy and a vertical line through that window is less than 2metres).

9.6.2 A 'habitable room' is a dining room, lounge, kitchen, study or bedroom but not a WC, bathrooms, utility room, landing or and hallway.

9.6.3 Where elderly, infirm or disabled persons who spend a significant amount of time within their home are affected there will be flexibility to look at some intervention. Where it can be established that the presence of trees is detrimental to the health of such residents, further consideration will be given to the management approach to trees. This consideration will also take into account the quality and importance of the tree in question, as well as the benefits to the wider community.

9.6.4 If natural light is being blocked by the growth of a high hedge then action may be taken under the Anti-social Behaviour Act 2003 (see Anti-social Behaviour – High Hedges).

9.7 Loss of View

9.7.1 Trees will only be pruned or removed to restore views when necessary to retain important public viewpoints or there is potential to bring about significant public benefit and/or enhance the local landscape or townscape. Historical records may be used to determine the level of management required. Pruning of trees for highway sight-line requirements will be dealt with on a case by case basis.

9.8 Trees affecting reception (Television / Satellite / Solar Panels)

9.8.1 Pruning in the short term may help improve television reception. However in the long term the flush of quick, extra growth associated with pruning can exacerbate the problem. In most cases the problem can be resolved by relocating the aerial or satellite dish, or alternatively using a Booster. Residents are advised to contact their satellite or TV

provider for specialist advice. Removal or pruning of trees to enable a clear television reception would only be considered in exceptional circumstances.

- 9.8.2 Similarly we will not prune or fell a tree in our ownership / management to improve natural light to a solar panel. Whilst we recognise the need for renewable energy sources, trees are also important in tackling climate change.

9.9 Overhead Cables / Telephone Wires

- 9.9.1 Utility companies have certain legal rights to carry out works to public or privately owned trees to address health and safety problems and to maintain a clearance between trees and their apparatus to ensure continuity of supply. This may sometimes involve the loss of trees. Where works to trees are necessary as a result of proximity or conflict, we will encourage utility operators to adopt the most appropriate long term solution, giving consideration to tree health, local tree cover and visual amenity.
- 9.9.2 We will not normally prune or fell a tree in our ownership / management to prevent or reduce interference with telephone wires. We would recommend contacting the telecom service provider in such circumstances for them to arrange appropriate pruning works.
- 9.9.3 Problems caused by branches interfering with privately owned telephone wires can usually be eliminated through appropriate pruning and tree removal would not usually be considered.

9.10 General / Minor Nuisances

- 9.10.1 We will not fell or prune trees solely to alleviate problems caused by natural and/or seasonal phenomena, which are largely outside of our control. There are a variety of potential nuisances associated with trees, most of which are minor or seasonal and considered to be normal and acceptable consequences of living near trees. Examples of such problems are:
- falling leaves, twigs, sap, blossom, fruit, nuts, bird and insect droppings;
 - insects associated with trees (spiders, wasps, flies etc);
 - reduction or increase of moisture to gardens;
 - suckers or germinating seedlings in gardens;
 - leaves falling into gutters, drains or onto flat roofs;
 - the build-up of algae on fences, paths or other structures.

- 9.10.2 Clearing of leaves from gutters and pathways and weeding of set seeds are considered to be normal routine seasonal maintenance which property owners are expected to carry out.
- 9.10.3 Falling leaves, sap, blossom, fruit, nuts, bird and insect droppings are not readily controllable by pruning and cleaning of affected surfaces can be considered to be routine maintenance. Pruning will not normally be considered solely as a way of alleviating problems with these issues alone.
- 9.10.4 We would not normally prune or fell a tree under our ownership / management that bears poisonous fruit / foliage (such as laburnum or yew). However, where it is known that unsupervised young children are likely to be exposed to berries or foliage that will make them ill if eaten, we will investigate on a case by case basis and take action, where appropriate.

9.11 Trees considered too big / too tall

- 9.11.1 We will not prune or fell a tree under council ownership / management because it is considered to be 'too big' or 'too tall' for its surroundings.

9.12 Personal Medical Complaint

- 9.12.1 We will normally not prune or fell a tree under our ownership / management where a request has been made to do so because of a personal medical complaint. However, where it can be established that the presence of a tree is causing a detriment to the health of residents further consideration will be given to the management approach of trees.

10. Damage And Tree Roots

- 10.1 Many tree conflicts arise on account of the presence of tree roots and the perception that they are causing damage. Where damage is alleged, each complaint will be investigated on an individual basis. The following guidance will be used in assessing levels of nuisance and identifying appropriate action.

10.2 Root invasion in gardens

- 10.2.1 Tree roots in gardens are a natural occurrence and root presence is unlikely to be affected by tree pruning or removal. Landowners do

have a common law right to prune back tree roots to their boundary, providing that the tree in question is not protected by a Tree Preservation Order (TPO) or situated within a Conservation Area.

10.2.2 Most species of deciduous tree will re-sprout from the stump when cut down. Many species will produce a new growth shoot from a root if it becomes exposed to sunlight through ground erosion. Some species readily produce shoots from their buried roots as a way to regenerate and this is often stimulated by stresses, such as heavy pruning or felling. Numerous tree species (including Cherry and Poplar) are therefore likely to produce vigorous root suckers as a response to being felled. Poisoning a stump to prevent such suckering is not always successful since application of herbicide onto a stump face often only affects the stump and the upper roots.

10.2.3 Tree felling or branch pruning in response to root invasion in gardens would not normally be appropriate, as such works are likely to worsen existing problems. The pure encroachment of roots into adjoining land is not considered to amount to actionable nuisance.

10.3 Damage to walls and fences

If a tree on County Council owned land is found to be causing damage to a neighbouring property we will investigate and take action as appropriate. It is often possible to rebuild or repair garden walls and fences to take account of adjacent trees. This can be achieved in a number of ways (for example installing a section of railing or bridging foundations around the base of a tree).

Therefore where trees are considered to be causing damage to walls or fences, we will normally only consider tree removal if the walls or fence is irreplaceable and of exceptional importance e.g. a retaining wall or of historical interest, or if there is a risk to public health in leaving the tree which cannot otherwise be mitigated.

10.4 Damage to paths

It is often possible to repair paths to take account of adjacent trees and tree roots. Where roots protrude they can be root pruned, or the path re-laid around the tree with flexible materials such as asphalt to provide a smooth surface. Where trees are considered to be causing damage to paths or footpaths, we will not normally consider tree removal except where there is a risk to public health which cannot otherwise be mitigated.

10.5 Damage to drains or water pipes

If a tree on County Council owned land is found to be causing damage to an existing pipe or drain on a neighbouring property we will investigate and take any reasonable action as appropriate.

10.6 Trip Hazards

We will make safe an unacceptable trip hazard in a street, road or highway which is caused by a tree in our ownership / management.

10.7 Installation of drop kerbs

We will consider felling or pruning the roots of a tree under our ownership / management to allow the installation of a drop kerb. Each case will be considered on an individual basis.

10.8 Subsidence

10.8.1 Where an allegation is made that a tree in our ownership / management has caused, or is likely to cause damage to a third party structure through subsidence or other mechanisms, council officers will initially visit the site and make a general assessment of any damage or the foreseeability of damage occurring and take any reasonable action.

10.8.2 Where there is insufficient evidence of damage, or no clear and unambiguous correlation between the alleged damage and the effects of the tree(s), we would expect evidence in support of a request to remove a tree(s) or any claim for damages/repairs. This evidence will normally include:

- Root analysis (presence, condition and identification)
- Crack/level monitoring (showing greater than expected seasonal movement)
- Details of the nature, extent and type of damage
- Two trial pits (one remote one at point of damage)
- Soil analysis (soil type, moisture level)

- Depth of foundations

10.8.3 We will not normally subject our trees to regular heavy pruning to deal with suspected damage. Instead we will where feasible opt for removal and replacement planting with an alternative species that is less likely to cause future problems.

10.9 Heave

10.9.1 When a tree is removed in a clay sub-soil, the soil will rehydrate and swell in volume. The expansion may lift the foundations and cause cracking to the property. This is known as 'heave'. This is more likely to occur if the removed tree was mature and had a high water demand such as an oak tree.

11. Trees On Private Land Causing A Danger / Obstruction To The Public Highway

If a privately owned tree is causing

- i) a danger to the highway including public rights of way
- ii) an obstruction to a highway including a Public Right of Way
- iii) impairing visibility at a road junction, to a traffic signal, street light or street sign, or
- iv) damage to a pavement

we will use powers which exist under the Highways Act to request the owner makes safe / removes the obstruction. If they do not, we will undertake the work and recharge the owner.

12. Trees On Private Land Causing A Danger (Other Than To The Public Highway)

12.1 We have discretionary powers under the Local Government (Miscellaneous Provisions) Act 1976, Section 23, to deal with trees in private ownership that are dangerous. This legislation only allows the County Council to become involved when trees pose an imminent threat to people or property.

12.2 We can serve notice on a tree owner to carry out specified safety works within a period of not less than 21 days. Where the specified safety works are not carried out, we do have powers to enter the land, carry out the works and reclaim from the land owner any reasonable costs incurred.

12.3 Where trees on privately owned land represent an immediate threat to people or property we will undertake one of the following actions, dependant on the severity of the risk and the site location and conditions:

- secure the affected area to prevent public access and notify the tree owner of the risk posed and action to be taken;
- undertake work from a position within council owned / managed land (only if safe to do so);
- as a last resort, enter the property and carry out remedial works to remove the risk.

12.4 In such cases, we will seek to recover the cost of these works from the owner of the tree.

12.5 The Local Government (Miscellaneous Provisions) Act 1976 does not enable us to become involved with private trees causing a nuisance to a neighbouring property by causing shade, blocking views or dropping leaves, flowers or fruit etc. unless the trees are imminently dangerous.

13. Anti-Social Behaviour

13.1 Trees

If a county council owned tree is the focus of a nuisance leading to anti-social behaviour we will take measures to reduce the problem. These measures will be determined on a site by site basis.

13.2 High Hedges

13.2.1 Once all avenues for resolving a hedge dispute have been tried and exhausted, a complaint about a neighbour's evergreen hedge can be made to the Council's Planning Enforcement Team. A fee is payable for this service.

13.2.2 Our role is not to mediate or negotiate between the complainant and the hedge owner but to adjudicate on whether, in the words of the The Anti-social Behaviour Act 2003 (High Hedges), the hedge is

adversely affecting the complainant's reasonable enjoyment of their property.

- 13.2.3 In doing so, we must take account of all relevant factors and must strike a balance between the competing interests of the complainant and hedge owner, as well as the interests of the wider community.
- 13.2.4 If we consider that the circumstances justify it, a formal notice will be issued to the hedge owner, which will set out what they must do to the hedge to remedy the problem, and when by. Failure to carry out the works required is an offence which could lead to a fine.
- 13.2.5 More details can be found on Durham County Council's website.

14. Protected Trees

14.1 Tree Preservation Orders (TPO's)

- 14.1.1 A TPO is a legal document made, administered and enforced by the local planning authority, to protect specified trees and woodlands with public amenity value.
- 14.1.2 A TPO prevents cutting down, uprooting, topping, lopping, wilful damage or destruction of trees (including cutting roots) without our permission.

[Works on Protected Trees](#)

- 14.1.3 If you intend to carry out any works to protected trees, you must apply for consent from the council first.
- 14.1.4 If you do not own the tree you must obtain the owner's permission before carrying out the works.
- 14.1.5 You may also need to submit supporting technical information if the reason for your application relates to the condition of the tree - for example due to the presence of pests, diseases, fungi, or structural defects affecting the safety of the tree. Written evidence from an appropriate arboricultural professional may be required to support your application. For a list of arboriculturalists who are members of the Arboricultural Association, visit their website for details.
- 14.1.6 If the reason for your application relates to suspected structural damage caused by the tree, please submit a report from a structural engineer/surveyor together with technical advice to support your application.

14.1.7 Once an application has been submitted, we may either grant or withhold consent for works on a tree with a TPO or we may give a conditional consent. In determining whether to grant consent the Council will have regard to the amenity value of the tree and the considerations set out in sections 9 and 10 above. Permission to fell a preserved tree usually carries a condition to plant a replacement, which will automatically become the subject of the TPO.

14.1.8 If there are trees which you think should be protected or if you have seen work being carried out on a protected tree and want to know if the owner has permission, please contact one of our tree officers (see Further Information section below)

Penalties

14.1.9 Section 210(2) of the Town and Country Planning Act 1990 provides that anyone found guilty of offences relating to protected trees is liable, if convicted in the magistrates' court, to a fine of up to £20,000. In serious cases a person may be committed for trial in the Crown Court and, if convicted, is liable to an unlimited fine.

Rights to appeal

14.1.9 You have a right to object to the making of a TPO or any refusal of consent to do works to the tree.

Which trees are covered by a TPO?

14.1.10 Any tree, group of trees or woodland may be protected. There are currently around 700 TPOs in County Durham and whilst many are on individual trees there are some groups of trees. You can find out if your tree is covered by a Tree Preservation Order by contacting one of our tree officers (see 'Further Information' section below).

14.1.11 When you are buying a property, the presence of a TPO should be revealed by the search of the local land charges register.

14.1.12 The Council will make new TPOs where appropriate. In deciding whether or not to make an order we will take into account the amenity value of trees, their potential life expectancy, and the level of threat posed to them.

14.1.13 The Council may at any time review an existing TPO to assess whether it is still appropriate to provide protection in circumstances which may be different to those when the Order was made. When it is considered necessary to make changes we will either revoke the order, revoke the order and make a new order, or vary the order in some detail.

14.1.14 Further information

More details can be found on our web-site:

www.durham.gov.uk

or contact **Customer Services** on 03000 26 1000

or Email: treeofficers@durham.gov.uk

14.2 Trees in Conservation Areas

14.2.1 It is an offence to cut down, prune, lop, top, uproot or wilfully damage or destroy a tree in a conservation area without giving us prior written notice.

Work on trees with in a Conservation Area

14.2.2 If a tree has a stem diameter greater than 75mm (3") measured 1.5m from the ground level, you are required to give us six weeks notice of any tree works that you are proposing. This enables us to assess the proposed works and if necessary serve a Tree Preservation Order. If no decision is received within six weeks then consent is gained by default.

14.2.3 Please notify us by using the standard application form, available upon request.

Contact **Customer Services** on 03000 26 1000

or Email: treeofficers@durham.gov.uk

Penalties

14.2.4 The penalties for failing to notify us are similar to an offence affecting a tree under a TPO.

14.2.5 Is my Tree in a Conservation Area?

More details can be found on our web-site:

www.durham.gov.uk

or contact **Customer Services** on 03000 26 1000

or Email: treeofficers@durham.gov.uk

14.3 Forestry Commission (FC) Felling Licences

14.3.1 A felling licence from the Forestry Commission may be required in some circumstances i.e. for example if you wish to fell more than five cubic metres of timber per calendar quarter. More details can be found on the Forestry Commission web-site:

www.forestry.gov.uk

or contact the North England office on 01434 220242

or email: enquiries.northengland@forestry.gsi.gov.uk

15. Other Factors Constraining Work To Trees

15.1 Birds

Under the Wildlife & Countryside Act 1981 (as amended CROW Act 2000) it is an offence to kill, injure or take wild birds, their young, their eggs or nests. For Schedule 1 birds (Wildlife & Countryside Act) it is an offence to disturb them whilst building or using a nest (see www.legislation.gov.uk for list of species). Tree work involving tree removal / reduction and hedge cutting operations should not normally be undertaken during the bird nesting season without a nest survey carried out by a competent person.

15.2 Bats

Bats are a European Protected Species and are protected by the Conservation of Habitats and Species (Amendment) Regulations 2012 (also known as the Habitat Regulations) and the Wildlife & Countryside Act 1981 (as amended). Causing damage to or destroying a roost site is a criminal offence which can lead to imprisonment or fine. Trees with suitable features such as holes, cracks, crevices and dense ivy should be

risk assessed for their ability to support bats, prior to any works commencing on the tree. Trees, in DCC ownership, displaying signs of roosting bats will be referred to our Ecology team before any work commences. Any trees supporting roosting bats will not be worked on until due process has been followed and a license acquired if necessary.

For further information and advice regarding trees and wildlife contact should be made with the Council's Ecology Team on 03000 267 134 or email: ecology@durham.gov.uk.

15.3 Planning Permission

Where planning permission has been granted, trees may be protected as a condition of that permission. Any works to such trees will require consent from the council and an application for a variation of the planning condition may be required.

15.4 Restrictive Covenants

Occasionally, restrictive covenants attached to the deeds for a property may restrict what work can be undertaken to trees.

16. Replacement Tree Planting

16.1 Appropriate replacement tree planting will be encouraged whenever trees are removed from private land. Where a tree is protected by a Tree Preservation Order and it is dead or unsafe, a tree replacement will normally be required.

16.2 Where trees are removed from land owned / managed by us, replacement planting will be carried out if appropriate.

- 16.3 To help maintain a continuity of tree cover across the county we will undertake the planting of new trees on our land when suitable opportunities arise. Having too many of the same type of tree in a locality is a concern because of the increased risk of a devastating loss of one or more species of tree due to pests / diseases or other environmental factors. We will increase the resilience of our trees by planting species mixes rather than monocultures and avenues.

17. Trees and Development

- 17.1 We are committed to continuously improving the way that trees are considered in relation to planning applications for new development. We will ensure that full consideration is given to both the retention of existing trees and the planting of new ones. We will take into account the ultimate mature size of the tree, available space and the relationship to buildings when designing layouts to avoid causing future relationship issues.
- 17.2 Once the trees to be retained have been identified, their removal can be prohibited by a Tree Preservation Order, planning conditions or a planning agreement. The aim of this policy is to ensure that trees are not unnecessarily lost and that the most suitable ones are retained.

18. Vandalism And Damage To Council Owned / Managed Trees

- 18.1 Vandalism is an increasing pressure on trees. Usually it is young newly planted trees that are damaged; however, mature trees are often damaged too. There are various ways in which vandalism can be counteracted, but none of these is 100% effective against determined attack.
- 18.2 There are cases where trees we own / manage have been irrevocably damaged or removed without permission. This is criminal damage. We will investigate any reports of vandalism / damage to trees in our ownership / management, and try to repair any damage where we can. Where possible, we will take legal action against the person(s) causing the damage.
- 18.3 We will remove rope swings from trees in our ownership / management where we are aware of them.

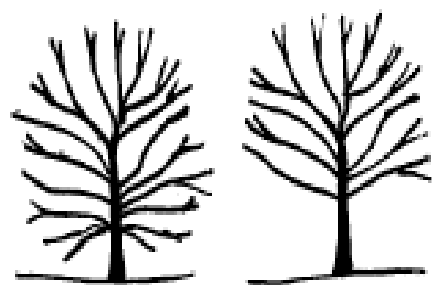
19. Biosecurity / Pest and Epidemic Management

- 19.1 Biosecurity is a set of precautions that aim to prevent the spread of pests, pathogens or invasive species. The threat to trees from these has never been greater and as a large landowner we undertake to follow best practice and specific advice which is regularly published by the Forestry Commission. Attendances to high risk sites are subject to risk assessment and we employ measures to minimise pest or disease spread.

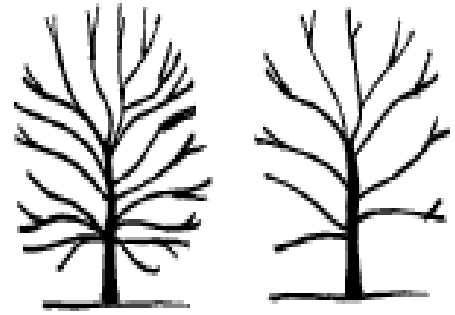
20. Tree Pruning Techniques

- 20.1 We will seek to ensure that all works to council owned trees, or those that the council is responsible for (including work carried out by third parties), are in accordance with arboricultural best practice and guided by recommendations within British Standards for tree works (BS3998 (2010) or subsequent updates.
- 20.2 Particular pruning specifications may or may not be appropriate for trees of different ages, species, health and condition, or even between trees of the same species depending on their condition, age and environment.
- 20.3 Clear and acceptable pruning objectives are necessary in advance of approval of a pruning specification. The pruning objectives may require implementation of one or more of the following operations:

- **Crown lifting** –The removal of the lowest branches of a tree so that the remaining lowest branches are at a specified height, usually 2.4m over a footpath and 5m over a road. This operation is undertaken for a number of reasons, such as to allow access under a tree; to clear branches from low structures; or to allow light under the canopy.

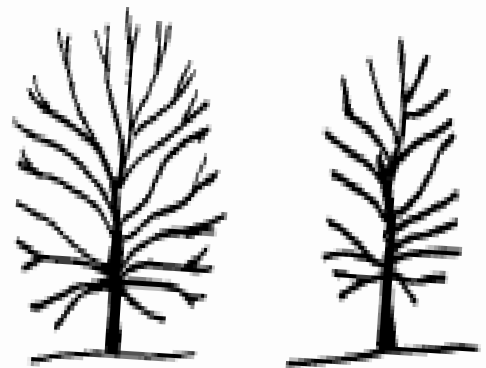


- **Crown thinning** – The removal of a specified proportion of branch material from the interior of the crown without affecting the shape of the tree. This operation is usually undertaken to reduce crown density; form a healthy branch structure by removing dead; diseased, damaged, crossing and rubbing branches, and allow more light through the canopy. Many tree species evolve a canopy density for adaptive reasons and crown-thinning can increase turbulence and cause drought stress and branch failures.



For this reason, crown thinning is usually only acceptable when carried out as part of crown cleaning or balancing works.

- **Crown Reduction** – Reducing the overall size of the crown area by a specified percentage by pruning back the leaders and branch terminals to lateral branches that are large enough to assume the terminal roles (at least one third the diameter of the cut stem).

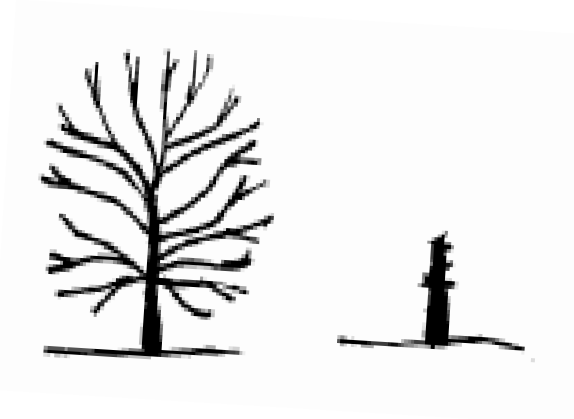


Crown reduction up to a maximum of 15-20% may be acceptable to semi-mature trees providing cuts do not exceed 5-7cm and where shaping and restricting size and spread is essential. Crown reduction of mature or older trees is not normally acceptable as it can severely affect tree health and may lead to the death or decline of the tree and is generally only acceptable as management of last resort.

- **Topping** – This entails cutting at a certain height to reduce the height of the tree. Topping is not acceptable as it severely affects the public amenity and health of the tree, sometimes leading to death. Topping can also lead to future problems due to a flush of weak re-growth that can represent a danger and also exacerbate existing problems. If height reduction is

considered essential and unavoidable, crown reduction (see above) is preferred.

- **Pollarding** – This severe operation entails the removal of the entire tree's branch structure back to the trunk. Pollarding is an ancient way of maintaining trees that is sometimes necessary, particularly on trees that have been pollarded previously. Only certain species will tolerate this degree of pruning, and new growth may be weak and prone to tearing



off. This method of management is not therefore normally acceptable.

- **Dead Wooding or Crown Clean** – This operation is similar to a crown thin except that only dead, diseased, crossing and rubbing branches are removed to tidy up the appearance of the tree. No healthy, sound wood is removed. This operation is recommended to help maintain a healthy, safe tree.
- **Formative Pruning** – The removal of problematic or potentially problematic branches, ensuring good tree development.
- **Stump Grinding** – Stump grinding is the practice of removing a tree stump to below ground level by mechanical means. We will carry out stump grinding where necessary to enable new trees to be planted or to remove a significant hazard. Where stump removal is not necessary tree stumps will be removed close to ground level so as not to leave a trip hazard.