

# **STAFFORDSHIRE COUNTY COUNCIL**

## **HIGHWAYS AND BUILT COUNTY MANAGEMENT OF HIGHWAY TREES**

**June 2022**

# MANAGEMENT OF HIGHWAY TREES

## CONTENTS

	<u>Page No:</u>
<b>Foreword</b>	4
<b>1. Introduction</b>	
1.1 Background	5
1.2 Aims	5
1.3 Responsibility	6
1.4 Legislation	6
<b>2. Risk Management</b>	
2.1 Managing risk at an acceptable level	7
2.2 Quantifying Risk	7
2.3 Zoning	8
2.4 Perception of risk	9
<b>3. Inspection Regime</b>	
3.1 Safety inspection	9
3.2 Detailed inspection	10
3.3 Asset data collection	11
<b>4. Defect Response</b>	
4.1 Emergency tree work	11
4.2 Routine tree work	11
4.3 Approved contractors	11
<b>5. Defective Trees</b>	
5.1 General/minor nuisance	12
5.2 Highway obstruction	12
5.3 Problem trees near the highway	13
5.4 Ash Dieback	13
<b>6. Council Trees Affecting Private Property</b>	
6.1 Overhanging branches	14
6.2 Tree roots	14
6.3 Tree Root Damage and subsidence	14
6.4 Enforcement	15
<b>7. Felling of Trees</b>	
7.1 When will trees be felled	15
7.2 Consultation relating to tree felling work	16



	<b><u>Page No:</u></b>
<b>8. Planting and Replacement of trees</b>	
8.1 Planting of new trees	16
8.2 Replacement of felled trees	17
<b>9. Trees and new developments</b>	
9.1 Trees in relation to new developments	17
9.2 Asset protection	19
9.3 Mitigation planting	19
<b>10. Licensing and Consents</b>	
10.1 Vehicle crossing applications involving trees	20
10.2 Pay for service	20
<b>11. Tree habitats, ecology &amp; preservation</b>	
11.1 Habitat and ecology	21
11.2 Tree Preservation orders (TPO's)	21
11.3 Trees in conservation areas	22
<b>12. Competence</b>	
12.1 Competence	22
<b>Appendix 01</b> Approved Tree Species List	23



## FOREWORD

The UK Government has committed to achieving net zero carbon emissions by 2050, and on 25<sup>th</sup> July 2019, Staffordshire County Council (SCC) followed suit by declaring a climate emergency and committing to work with partners to agree Staffordshire's collective response.

Climate change presents the County Council and the Staffordshire public with both challenges and opportunities. By acting now and working together as a county, we can tackle the impacts that could arise, and at the same time benefit from initiatives that save money and protect the environment.

To this end, SCC have worked to develop an ambitious and forward-thinking Climate Change Action Plan for the county, which identifies actions across several key areas that will ultimately contribute to achieving a net zero carbon target for the county by 2050, in line with the national target.

Within that strategy, the role of land and specifically, green infrastructure, is identified as having significant potential to capture and store carbon emissions, as well as helping the county to adapt to a changing climate.

The Strategy introduces a policy of encouraging tree planting, especially along main roads, outside schools and areas of poor air quality.

Highway trees have the potential to contribute greatly to tackling the climate crisis. They help in adapting our communities to the effects of climate change and to reducing the risks of flooding. They enhance the biodiversity of the county, have a positive impact on our health and wellbeing, and help filter air pollution and noise. These benefits link trees to the vision set out in the Council Strategic Plan for greener living.



## 1. INTRODUCTION

### 1.1. Background

- 1.1.1. There are over 3,800 miles of road which are the responsibility of Staffordshire Council, and many of these roads have trees or woodlands close to the carriageway. There are estimated<sup>1</sup> to be 475,000 trees on the highway with a further 128,000 on adjoining land but which could affect the highway for example either due to the canopy overhanging or, the tree being within falling distance of the highway.
- 1.1.2. Trees in Staffordshire are an important asset that provides amenity value; carbon storage and sequestration; natural flood risk management and removal of pollution.
- 1.1.3. We also recognise that although trees are a positive feature, they can cause 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.
- 1.1.4. This policy sets out a tree management strategy for controlling risk, responding to tree related incidents and service requests and for preserving and enhancing the Council's highway tree stock.
- 1.1.5. Implementation of this policy is supported by the Council's Highway Infrastructure Asset Management Plan, Highway Safety Inspection Code of Practice, Residential Design Guide and the Highway Training and Competency Framework.
- 1.1.6. This policy considers published guidance such as the Health & Safety Executive (HSE) Sector Information Minutes and, other national guidance such as those published by the National Tree Safety Group (NTSG) entitled Common Sense Risk Management of Trees (CSRMT)<sup>2</sup>.

### 1.2. Aims

- 1.2.1. This guidance is intended to set out the approach of the highway authority to the management of trees within the highway including:
- Ensure public safety so far as is reasonably practicable and minimise damage to property due to highway trees.
  - Establish an inspection regime using a risk-based approach for all highway trees.
  - Deliver the Council's environmental, carbon and planting targets
  - Conserve, protect, maintain, and enhance the County's highway tree resources; and

<sup>1</sup> Based on BlueSky National Tree Map data October 2020

<sup>2</sup> NTSG Common Sense Risk Management of Trees - [FCMS024.pdf \(ntsgroup.org.uk\)](#)



- Meet our statutory and legal obligations.

### 1.3. Responsibility

- 1.3.1. Trees situated within the boundaries of the Highway Maintainable at Public Expense (HMPE) are generally the responsibility of the highway authority unless they were planted under licence or by another authority such as a District or Parish Council.
- 1.3.2. Trees on private roads and other private rights of way are the responsibility of the landowner/occupier.
- 1.3.3. Trees on private property adjoining the public highway are the responsibility of the owner/occupier BUT the Highway Authority has a duty, and powers of enforcement, to ensure that such trees do not endanger the Highway or its users under Section 154 of the Highways Act<sup>3</sup>.
- 1.3.4. Highway boundary trees and hedges will normally have been planted by, or on behalf of, the adjoining landowner, to define the boundary of his land with the public highway, and to contain his property. It is accepted by SCC that, unless there are specific agreements to the contrary, the maintenance of highway boundary hedges is the responsibility of the adjoining landowner. In the absence of evidence to the contrary, if a tree lies within the hedge line, then it is a non-highway tree that is considered to be an integral part of the hedge line and is therefore the responsibility of the adjoining landowner. For a tree to be deemed to be a highway tree, the tree trunk must lie, in its entirety, within the highway boundary (which is taken as the centre line of the hedge), or, in cases where part of the trunk has grown onto the adjacent landowner's side of the highway boundary, it must clearly be seen that the tree had originally grown/been planted inside the highway boundary.

### 1.4. Legislation

- 1.4.1. As the Highways Authority the County Council is responsible for the trees growing along the public highways which it has a duty to maintain. This duty arises from Section 41 of the Highways Act 1980<sup>4</sup> but is mitigated by Section 58<sup>5</sup> which allows the defence that the Highways Authority has taken such care as is required to ensure that the highway remains safe.
- 1.4.2. This policy has been created with due consideration to current national, regional, and corporate guidance and legislation. Through adopting a strategic approach, and aligning the approach of the Council, this policy will ensure the Council fulfils its legal and policy requirements.

---

<sup>3</sup> Highways Act 1980 – Section 154 - [Highways Act 1980 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1980/154)

<sup>4</sup> Highways Act 1980 – Section 41 - [Highways Act 1980 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1980/41)

<sup>5</sup> Highways Act 1980 – Section 58 - [Highways Act 1980 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1980/58)



## 2. RISK MANAGEMENT

### 2.1. Managing Risk at an Acceptable Level

- 2.1.1. Tree risk management involves the process of inspecting and assessing trees for their potential to cause personal injury or damage to property.
- 2.1.2. With an extensive highway network and countless trees, it is not feasible to carry out frequent detailed inspections and assessments of every tree. The Council therefore carries out a programme of routine highway safety inspections and targeted detailed tree inspections, taking a risk-based approach.
- 2.1.3. According to the Health and Safety Executive (HSE, 2007)<sup>6</sup>, each year between 5 and 6 people in the UK are killed when trees or branches fall off them. Around half of all fatalities due to falling trees or branches occur in public spaces, such as a park or beside roads. Whilst the risk of being struck whilst in a public place is extremely low, (in the order for one in 10 million for those trees in or adjacent to areas of high public use), the law requires that where reasonably practicable measures are available, in individual cases, they should be taken.
- 2.1.4. HSE guidance on the management of risk from falling trees and branches refers to guidance produced by the National Tree Safety Group (NTSG) entitled Common Sense Risk Management of Trees (CSRMT).<sup>7</sup> HSE was consulted in the production of these publications and endorses the sensible, reasonable and balanced advice to owners on managing the risk from trees set out in the guidance. The advice in this guidance has been used in the development of the approach to the management of highway trees in Staffordshire.
- 2.1.5. The guidance in CSRMT advises a reasonable and balanced approach forms the basis for sensible tree safety management and should cover three essential aspects:
- Zoning: appreciating trees in relation to people or property.
  - Tree inspection; assessing obvious tree defects.
  - Managing risk at an acceptable level: identifying, prioritising and undertaking safety work according to level of risk.

### 2.2. Quantifying Risk

- 2.2.1. A purely reactive approach to risk management is vulnerable as being difficult to defend in the event of an incident. In order to address this Staffordshire County Council has adopted a position for managing tree failure risk by which the condition of individual trees is not seen to be the primary consideration. The Council's approach is to firstly consider the extent of

<sup>6</sup> HSE Management of the risk from falling trees or branches [SIM 01/2007/05](#)

<sup>7</sup> National Tree Safety Group – [Common sense risk management of trees](#)





usage of the land on which the trees stand, and then to use that information to inform the process of tree assessment.

- 2.2.2. This policy adopts an approach to assess and mitigate the risk of harm from trees primarily through a process of cyclical routine safety inspections and planned detailed inspections. This approach will provide a basis by which the Council can demonstrate that it has done what is 'reasonably practicable' to reduce the risk of harm resulting from its trees.
- 2.2.3. The methodology evaluates risk in terms of the potential likelihood for both people and property, situated underneath or within falling distance of trees. This assessment places individual, or groups, of trees into 'zones' which are characterised by usage.
- 2.2.4. CSRMT notes that annually, among the relatively few accidents from falling trees, the greatest risk to public safety has proved to be from trees within falling distance of where people move at speed in vehicles. It is both the high usage of roads and the speed at which people travel along them that makes this the most likely way that people will be killed by trees.
- 2.2.5. CSRMT further advises that not all roads are busy roads and not all roadside trees are large enough to kill or injure if they fall. It is nonetheless reasonable that certain roadside trees, particularly those alongside busy public roads, should be inspected. This approach is known as zoning.

### **2.3. Zoning**

- 2.3.1. This methodology prioritises the most used areas, and by doing so contributes to a cost-effective approach to tree inspection, focussing resources where most effective. It is about appreciating tree stock in relation to proximity of people or property. Zoning contributes to sensible risk management.
- 2.3.2. HSE Management of the risk from falling trees advises that there are several approaches to managing the risks from trees that involve 'zoning' trees according to the risk of them falling and causing injury or death. As a minimum, trees should be divided into two zones.
  - Zone 1 – where there is frequent public access to trees (e.g., parks/ recreation grounds, in and around picnic areas, schools, children's playgrounds, popular foot paths, car parks, or at the side of busy roads). As a rough guide trees in Zone 1 are those that are closely approached by many people every day.
  - Zone 2 – where trees are not subject to frequent public access.
- 2.3.3. Detailed inspections will be undertaken by an arboriculturist appointed or acting on behalf of SCC. The initial sequence of detailed inspection work has been established on a risk management basis so that locations with the greatest concentrations of people and trees are tackled first. The busiest



routes and those carrying high speed traffic will be prioritised in the programme.

- 2.3.4. Staffordshire County Council will focus initially on Class 'A' and 'B' roads and town centre footways as Zone 1 with a view to transitioning to an approach based on network hierarchy.

## **2.4. Perception of Risk**

- 2.4.1. Unlike man-made structures, it is entirely normal and natural for parts to break and fall from trees. Leaves and twigs are regularly shed. Branches die and live branches may become wind damaged or overextended, occasionally falling to the ground. On rare occasions, roots can snap under wind load causing the entire tree to collapse.
- 2.4.2. These types of structural tree failures are natural and, in rare instances, can cause damage to property, injury or death. While the actual likelihood of these rare instances occurring is very low, the perception of many members of the public is that they are much more common than they really are.
- 2.4.3. However, the individual risk of death attributable to trees is 10 times less than the threshold of one death in one million per year that the Health and Safety Executive says people regard as insignificant or trivial in their daily lives.
- 2.4.4. The Health and Safety Executive refers to the role of perception in its guidance as follows: 'The risk, per tree, of causing fatality is of the order of one in 150 million for all trees in Britain or one in 10 million for those trees in, or adjacent to areas of public use. However, the low level of overall risk may not be perceived in this way by the public, particularly following an incident.'
- 2.4.5. By carefully considering how trees fit into a particular local context, the Council can better identify those areas and situations requiring action. It will also help ensure that any management is proportionate and strikes an appropriate balance between the real risks and benefits.

## **3. INSPECTION REGIME**

### **3.1. Safety Inspection**

- 3.1.1. Trees are important for amenity and nature conservation reasons and should be preserved but they can present risks if they are allowed to become unstable, cause obstruction or create visibility issues.
- 3.1.2. Well Managed Highway Infrastructure (WMHI) Code of Practice<sup>8</sup> provides guidance to Highway Authorities relating to all aspects of highway maintenance and management, including trees. Although it is not a statutory requirement to comply with this code, it is recommended that it is adopted to

---

<sup>8</sup> Well Managed Highway Infrastructure Code of Practice [Code of Practice | CIHT](#)



demonstrate best practice and to provide a more efficient and effective service.

- 3.1.3. Staffordshire County Council have developed a risk-based approach to tree inspection in accordance with the principles set out in WMHI. Routine inspections will be undertaken by SCC Highway Inspectors as part of the highway safety inspection process, with the frequency of these inspections' dependent upon the hierarchical standing of the respective carriageways, as detailed in the SCC 'Highway Safety Inspection Code of Practice'<sup>9</sup>.
- 3.1.4. All trees on or within falling distance of the Highway will be inspected by a Highway Safety Inspector in in line with the SCC 'Highway Safety Inspection Code of Practice'. These inspections will comprise the Visual Tree Assessment (VTA) process..
- 3.1.5. Tree defects likely to cause a hazard are identified. In the case of trees on land owned or adopted by the Council the authority is responsible for organising and undertaking any remedial works. In the case of trees on land owned by other parties, the landowner is contacted. Regardless of with whom the responsibility lies, identified hazards will be endeavoured to be rectified or made safe within specified time scales dependent on the severity and location of the defect.

## **3.2. Detailed Inspection**

- 3.2.1. The focus of detailed inspections will be in dealing with trees in zone 1. The rationale for this order of assessments is therefore primarily around dealing with the most frequented areas where the potential for harm is greatest. Such 'zoning' of people and property is the first step recommended in CSRMT.
- 3.2.2. Detailed inspections will be undertaken by an arboriculturist appointed or acting on behalf of SCC on the roads described in paragraph 2.3.4. These detailed inspections will be carried out at least once every 5 years, or whenever triggered by the findings of a routine inspection or information from an additional source. Some trees will require a detailed inspection at intervals of less than 5 years dependent upon species, age, condition & location.
- 3.2.3. The detailed inspections will consider the overall condition of the tree and not just defects in relation to the likelihood of failure.
- 3.2.4. Carrying out this activity on the 'A' and 'B' road network and the town centres over a five-year period requires asset collection/condition inspection of around 36,000 trees per year.
- 3.2.5. After the initial inspection cycle is complete, it will be possible to review the approach and schedule re-inspections, and allocate resources, according to objectively assessed risks. Inspections may also be rescheduled during the

---

<sup>9</sup> SCC Highway Safety Inspection Code of Practice [SCC Highway Safety Inspections Code of Practice 2019](#)



inspection cycle for those trees where a further assessment needs to be undertaken before the completion of the inspection cycle.

### **3.3. Asset Data Collection**

- 3.3.1. The intention is to inspect and catalogue all zone 1 highway trees on a rolling 5-year programme. The survey data will be stored in an electronic map-based system that registers inventory data, and timescales for future cyclic tree maintenance and inspection.
- 3.3.2. As the programme gains momentum, a detailed inventory of the highway-tree stock will be collected. Standard inventory data will comprise of the data captured in industry recognised risk management software.

## **4. DEFECT RESPONSE**

### **4.1. Emergency Tree Work**

- 4.1.1. If the highway is obstructed by fallen trees or other debris, the Council will normally clear the obstruction. If there is an immediate threat, work will be carried out as quickly as practicable. If necessary, the road may be temporarily closed in the interests of public safety until the danger is averted or problem resolved, which in the case of a tree on private land may mean requesting that the tree is removed by the third party. Less urgent matters will be prioritised according to the assessed level of risk.
- 4.1.2. Less urgent matters will be prioritised according to the assessed level of risk. Council response times are those that apply to highway defects generally, as set out in current Highway Safety Inspection Code of Practice.

### **4.2. Routine Tree Work**

- 4.2.1. With the exception of fallen and damaged trees that obstruct the highway and/or endanger highway users, non-specialist officers shall always obtain advice from an arboriculturalist, or approved consultants or contractors, regarding any work on trees which need specialist attention, or which have advanced signs of disease, damage or injury.
- 4.2.2. Where trees are in Conservation Areas or are subject to Tree Preservation Order (TPO) or are apparently in need of removal, advice must always be sought from an arboriculturalist. Specialist, approved contractors will be used for all non-routine tree works on the public highway. Formal application for any works to the Borough Council for trees subject to a TPO that are dead or dying is exempt with a 5-day notice required.

### **4.3. Approved Contractors**

- 4.3.1. Contractors/sub-contractors must be appropriately trained and qualified for the type of tree work to be undertaken. For example, they must be Arboricultural Association approved, certified in the use of mechanical



cutting, sawing and lifting equipment and also in the implementation of traffic management measures if a specialist company is not being employed.

- 4.3.2. Contractors must have adequate public liability insurance (currently £5 million).
- 4.3.3. Contractors undertaking planned specialist tree surgery work must provide evidence of their competence to carry out such work, supported by generic and site-specific risk assessments.

## **5. DEFECTIVE TREES**

### **5.1. General/Minor Nuisance**

- 5.1.1. 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.
- 5.1.2. There are a variety of potential natural 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.
  - Germinating seedlings in gardens.
  - Leaves falling into gutters, drains or onto flat roofs.
  - The build-up of algae on fences, paths or other structures.
  - Trees affecting tv or radio signal reception
- 5.1.3. Clearing of leaves from guttering and pathways and weeding of set seeds are considered to be normal routine seasonal maintenance which property owners are expected to carry out.
- 5.1.4. There is no legal right to good tv or radio equipment reception, and in many cases, it is possible to resolve issues of poor reception involving trees by finding a technical solution.
- 5.1.5. There is no duty imposed on a local authority to remove moss or algae from the footway unless the presence of vegetation has damaged the fabric of the highway itself. To remove moss or algae from every road, footway and footpath would not be practical or sensible let alone affordable.

### **5.2. Highway Obstruction**

- 5.2.1. We will undertake work, based on an assessment of risk, to trees situated on the HMPE to maintain a minimum (where reasonably feasible) 2.5 metres height clearance over a footpath associated with a public street, road, or highway.
- 5.2.2. We will undertake work, based on an assessment of risk, to a tree situated on the HMPE to maintain a minimum (where reasonably feasible) 5.5 metres



height clearance over the carriageway (associated with a public street, road, or highway).

- 5.2.3. We will undertake work, based on an assessment of risk, to a tree situated on the HMPE to maintain clear sight lines at junctions and access points and to ensure road signs, traffic signals and streetlights can perform to their design specification.
- 5.2.4. In exceptional circumstances we may decide to undertake pro-active management where for instance trees have outgrown their current location/situation.

### **5.3. Problem Trees near the Highway**

- 5.3.1. Wherever possible, the Council will advise adjoining landowners/occupiers of any problems relating to their trees and will seek to negotiate a remedy. Where this is not possible, formal notice to rectify the problem may be served on the owner or occupier of the land on which the tree is growing. If necessary, the Council may undertake the necessary work and reclaim costs back.
- 5.3.2. If the highway is obstructed by fallen trees or other debris from private land causing an immediate threat, the Council will usually clear the obstruction as soon as reasonably practicable without contacting the tree owner. If necessary, the road may be temporarily closed in the interests of public safety until the danger is averted or problem resolved.
- 5.3.3. Less urgent matters will be prioritised according to the assessed level of risk. This may mean that the Council may choose to leave the obstruction for the private landowner to remove.

### **5.4. Ash Dieback**

- 5.4.1. Ash Dieback was first reported in Southeast England in 2012. It has rapidly spread across the UK with only a small fraction of Ash trees proving resistant.
- 5.4.2. The disease is caused by the fungi which attacks vessels carrying water and nutrients around the tree. The disease initially causes wilting foliage, bark lesions, sparse crown and dead branches and results in the death of the whole tree.
- 5.4.3. There is an estimated 80% fatality rate, with only 20% showing some resistance<sup>10</sup>.
- 5.4.4. From highway tree asset collection and condition surveys on the A class road network in Staffordshire it is estimated that around ten per cent are ash trees. Using the figures from the National Tree Map, this suggests around 43,000

<sup>10</sup> [Ash Dieback \(Hymenoscyphus fraxineus\) - Woodland Trust](#)  
the knot unites





ash trees on the highway network which are likely to require removal should they be subject to Ash Dieback.

- 5.4.5. This dataset will continue to be refined throughout the first cycle of detailed inspection.

## **6. COUNCIL TREES AFFECTING PRIVATE PROPERTY**

### **6.1. Overhanging Branches**

- 6.1.1. 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.
- 6.1.2. Private landowners have a legal right under Common Law to deal with the nuisance associated with trees overhanging their property. This would be the case whether the trees are Council owned or in private ownership.
- 6.1.3. If branches from a Council tree are overhanging private property, the landowner can cut them back, unless the tree is protected by a Tree Preservation Order (TPO) or is situated in a conservation area. Where works are likely to impact upon trees in a conservation area or protected by a TPO, permission must be sought from the district or borough council conservation officer.
- 6.1.4. Branches can be cut back to the boundary of the private property but no further. The work must be carried out from the grounds of the private property. Any cuttings must be disposed of, do not leave them on Council land. To protect the trees structural integrity works should be limited to a third of the height of the tree.
- 6.1.5. Any work undertaken by private individuals must not affect the structural integrity of the tree.

### **6.2. Tree Roots**

- 6.2.1. The same principles around the maintenance of overhanging branches are applied to tree roots. However, greater care needs to be applied as severing structural roots may cause the tree to become unstable and potentially fall. If a root is damaged and a tree dies or falls as a result of the work undertaken by the landowner, they could be held responsible in court for any damage or personal injury caused as a result. Private landowners are strongly advised to consult with the Council and appoint a professional tree surgeon.

### **6.3. Tree Root Damage and Subsidence**

- 6.3.1. 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. Damage incurred to the public highway by tree roots will be assessed during highway safety inspections and remedial work planned accordingly.



- 6.3.2. Trees situated close to property do not normally cause subsidence problems. However, each site is different, and the reasons for subsidence damage may be complex. The Council will carefully consider any relevant claims for subsidence damage but does not accept as a matter of course that nearby highway trees are likely to cause or contribute to a subsidence problem. Early investigation is recommended since early action can limit the potential for damage.
- 6.3.3. Subsidence claims relating to highway trees are administered by the Council's highway claims team. The claimant must provide positive evidence to demonstrate that highway trees have caused the subsidence. The onus is on the landowner to prove any perceived damage has been caused by the highway tree.
- 6.3.4. Where appropriate, the Council will obtain an independent third-party opinion.

## **6.4. Enforcement**

- 6.4.1. SCC will enforce and prosecute where appropriate, in accordance with the Highways Act 1980, tree related contraventions and where appropriate the maximum penalty will be sought. SCC will also seek compensation from any external organisation responsible for significant damage to or removal of any SCC owned tree(s).

## **7. FELLING OF TREES**

### **7.1. When Will Trees be Felled**

- 7.1.1. The Council will avoid felling trees unless it is necessary for the following reasons:
- A dead or diseased tree that is a danger to the public.
  - A tree which is lifting at the roots and failure is imminent.
  - A tree obstructing or endangering a public highway, right of way, where the obstruction can't be overcome by pruning or other reasonable measures.
  - A tree on Council owned land causing an actionable nuisance to an adjoining property, where actual damage to property has been proved to have been caused by the tree, or clearly if no action is taken, damage will imminently be caused. This does not include general encroachment of branches and roots onto adjoining land where physical contact with buildings or structures is unlikely.
  - A tree that is proven to be a contributor to soil shrinkage and serious structural damage, where pruning alone would not provide a solution. Damage to light structures such as garden walls, paving, etc. is relatively minor and removal of the tree would not normally be acceptable.
  - Trees which, in the judgment of the Council's appointed arboriculturist, are clearly of a size and species inappropriate for their location.





- Thinning of trees to prevent overcrowding or removal for habitat improvement and landscape restoration in accordance with a management plan.
- Removal to allow authorised development. It may sometimes be necessary to remove trees to permit a development to take place.

- 7.1.2. Staffordshire County Council will avoid felling trees unless it is considered necessary. Each case will be carefully judged on its own merits following an inspection. If a tree must be felled three replacement trees will be planted, though not necessarily in the same place as the felled tree or the same species. Trees with high amenity value will be replaced as close to the location as possible.
- 7.1.3. Where trees are in Conservation Areas or are subject to Tree Preservation Order designation (TPO) and are considered in need of removal, advice must always be sought from the relevant Planning authority.

## **7.2. Consultation Relating to Tree Felling Work**

- 7.2.1. If a tree is causing a serious safety risk the authority will fell the tree as an emergency measure without prior consultation. All other instances of tree felling will be judged on individual merit.

## **8. PLANTING AND REPLACEMENT OF TREES**

### **8.1. Planting of New Highway Trees**

- 8.1.1. To enhance tree cover across the county we encourage the planting of new trees on HMPE when suitable opportunities arise.
- 8.1.2. Section 96 of the Highways Act 1980<sup>11</sup> empowers a District or Parish Council to plant and maintain trees in a highway maintainable at public expense, subject to the consent of the County Council. The District or Parish Council will be required to indemnify the highway authority against third party claims arising as a result of the tree being planted in the highway. The highway authority will not maintain such trees.
- 8.1.3. When immature, certain species may seem appealing in urban or rural locations, however, inappropriate planting of the wrong species in the wrong environment or planting too many trees close together can cause a number of unnecessary issues such as invasive root infrastructure damage, high prevalence to wind damage, reduced visibility on the highway, restricted access on pavements. All these result in increased maintenance costs.
- 8.1.4. 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. The resilience of our trees will increase by planting species mixes rather than monocultures and single species avenues.

<sup>11</sup> Highways Act 1980 – Section 96 - [Highways Act 1980 \(legislation.gov.uk\)](https://www.legislation.gov.uk)



- 8.1.5. A provisional list of trees which will be considered by the County Council to plant on the highway will be developed as an appendix to this strategy. The list will help improve sustainable planting, prevent ongoing costly maintenance burden to the taxpayer and minimise potential damage to highway land or private property.

## **8.2. Replacement of Felled Trees**

- 8.2.1. Provided the site is suitable, three replacement trees will usually be planted in place of any tree that has been removed. The replacements will normally be young trees of appropriate species. Replacements will normally be planted as close to the original(s) as possible but other locations, including other Council amenities such as parks and open spaces may be considered. If space is restricted the Council may accept replacement of one semi mature tree. In rural locations replacements should comprise native, ecologically appropriate species that enhance local landscape character.
- 8.2.2. Staffordshire County Council will approve the choice of species, location and planting specification and this may differ from that of the felled tree.
- 8.2.3. Examples of sites that may be unsuited to re-planting include those with ongoing safety, visibility or clearance issues, or a history of nuisance-related complaints. Decisions not to re-plant, or to provide alternative species or locations, rest with the Council.

## **9. TREES AND NEW DEVELOPMENTS**

### **9.1. Trees in Relation to New Development Sites**

- 9.1.1. Trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly planted trees, and that existing trees are retained wherever possible. However, site layout must allow sufficient space for trees to mature, including space for tree rooting zones and canopy spread. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.
- 9.1.2. The National Planning Policy Framework states that planning policies and decisions should ensure that new streets are tree-lined unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate.



- 9.1.3. Long term, many trees introduced or retained for their attributes within new development projects are adopted by the Highway Authority and thus become the responsibility of the County Council. However, adequate resources are required from the developer to ensure the long-term maintenance of adopted trees through a commuted sum.
- 9.1.4. The definition for the term 'commuted sum' in relation to the adoption of new infrastructure is 'A payment of a capital sum by an individual, authority or company to the highway authority, local authority or other body, as a contribution towards the future maintenance and replacement of the asset to be provided, adopted or transferred'.
- 9.1.5. For highway infrastructure, commuted sums are secured by way of agreements made under the Highways Act 1980, using Section 38<sup>12</sup> for new roads constructed on private land and Section 278<sup>13</sup> for alterations made to existing publicly maintained highways and are paid to the highway authority.
- 9.1.6. In considering the acceptability of tree planting on new developments, or existing adopted highways, the County Council will have regard to the following criteria:
- Tree planting should be an integral component of the overall site layout and design. Highway trees should be given adequate space to mature and thereby contribute to the sense of place, green infrastructure and climate change mitigation. In general planting larger trees will deliver more effective climate change mitigation than small trees, due to the combination of providing shade, reducing storm water runoff, carbon storage and sequestration etc., therefore proposals should create space for ultimately larger trees.
  - There should be no compromise on achieving desirable visibility standards.
  - There should be no compromise regarding the positioning of trees to minimise risk of vehicle impact.
  - There should be no compromise on achieving acceptable systems of street lighting.
  - Trees should not be positioned such that tree canopies and/or root systems will obstruct users of the highway or future maintenance operations including maintenance of highway drainage systems and statutory undertakers' plant.
  - Consideration will be given to historic road accident collision information. The siting of trees may be refused at sites considered to be unsuitable on road safety grounds.
  - Horizontal clearances and / or provision of protective measures shall be sufficient to avoid direct damage to drains, underground services, flexible surfaces, and adjacent private structures.
- 9.1.7. Conflicts arise between trees and utility services, both overhead cables and underground pipes and infrastructure. When planning to install or maintain

<sup>12</sup> Highways Act 1980 – Section 38 - [Highways Act 1980 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

<sup>13</sup> Highways Act 1980 – Section 278 - [Highways Act 1980 \(legislation.gov.uk\)](https://www.legislation.gov.uk)



utility services in close proximity to trees precautionary measures must be taken to prevent root damage. When considering these issues, guidance should be sought from National Joint Utilities Group (NJUG) Publication 10 'Guidelines for the planning, installation and maintenance of utility services in proximity to trees'<sup>14</sup> and BS5837 Trees in Relation to Design, Demolition and Construction<sup>15</sup>.

- 9.1.8. It is the responsibility of developers to minimise the impact of new developments on all highway tree assets, especially those of high amenity value. Staffordshire County Council as the Highway Authority in Staffordshire will require compensation for the loss of highway tree assets under the road agreements process.
- 9.1.9. Full detail on the opportunities and restraints for the establishment of trees on new developments can be found in the Staffordshire Residential Design Guide<sup>16</sup>.
- 9.1.10. Appendix 01 contains a provisional list of trees which will be considered by the County Council to plant on the highway.

## 9.2. Asset Protection

- 9.2.1. Whenever possible trees should be located in an area of soft dig such as a verge or SUDS swale alongside the highway. Planting trees on the footway or other paved surface, requires a tree pit to be installed to prevent the footway collapsing into the tree hole and to protect private properties and utility apparatus from consequential damage. Guidance for Trees, Planning and Development can be sought from the Tree and Design Action Group<sup>17</sup>.
- 9.2.2. Tree pits will be suitable for the species of tree identified. An SCC landscape architect can provide advice if requested. When considering installing a tree pit, it is important that the footway width is not reduced to below 1.6m to allow full access along the footway.
- 9.2.3. Paved surfaces and utility pipe and cables are vulnerable to root damage. It is important to not plant trees too close to existing known utilities. In proximity to underground services protection measures such as root directors will be required. Tree roots should also be guided downwards, for a minimum of 300mm to remove the possibility of either the road or footway suffering from root heave.

## 9.3. Mitigation Planting

---

<sup>14</sup> NJUG Publication 10 - [National Joint Utilities Group \(streetworks.org.uk\)](http://streetworks.org.uk)

<sup>15</sup> BSI5837 - [Trees in relation to design, demolition and construction](#)

<sup>16</sup> SCC Residential design guide - [Residential Design Guide - Staffordshire County Council](#)

<sup>17</sup> TDAG Guidance - [Trees in Hard Landscapes: A Guide for Delivery - Trees and Design Action Group](#)

- 9.3.1. Where possible existing site features such as trees and hedgerows should be incorporated into the design of the layout. However, on occasions there will be justification to remove trees for new development or schemes. In this situation mitigation planting is expected. Replacement planting of three trees for every one lost is required, unless the applicant wishes to carry out planting with larger tree stock (semi-mature trees) and has limited space, in which case two trees would be expected.
- 9.3.2. This should be a consideration at design stage as the planning boundary must include enough room to carry out these landscaping proposals.
- 9.3.3. Detail on the planting of replacement trees can be found in the Staffordshire Residential Design Guide.

## 10. LICENSING AND CONSENTS

### 10.1. Vehicle Access Crossing Applications Involving Trees

- 10.1.1. Where Staffordshire County Council receives an application for a vehicular access crossing or an extension to an existing crossing and there is a tree in the footway or verge, considerations will be made as follows.
- Does the property already have the right of access satisfied by another access for example at the rear? If yes, the application will be turned down and the tree will remain. If not, the tree may be removed to allow construction of the footway crossing providing all other criteria set out in the vehicular access crossing specification are satisfied.
  - Does the excavation needed to construct the proposed crossing, impinge on the Root Protection Area as defined in British Standard 5837: 2012 Trees in relation to design, demolition and construction recommendations?<sup>18</sup> If yes, then the individual situation is to be considered by the Council to establish the extent of potential damage to roots. If no, the footway crossing application can proceed.
- 10.1.2. All costs associated with the removal of the tree, including its natural value, and the planting of a replacement tree in a suitable location must be met by the applicant.
- 10.1.3. Where trees are subject to a Tree Preservation Order (TPO) they will not be considered for removal.
- ### 10.2. Pay for Service
- 10.2.1. Where tree work is not justifiable as the result of a request for service from a resident, some residents may wish to pay for the work themselves. This will often be in relation to minor seasonal nuisance issues.

<sup>18</sup> British Standard 5837:2012 - [BS 5837:2012 Trees in relation to design, demolition and construction.](#)





- 10.2.2. The Council will not currently enter into any arrangements where members of the public pay for or contribute towards the cost of tree works.
- 10.2.3. We will not allow tree surgeons engaged by members of the public, access to climb trees under our stewardship.
- 10.2.4. Except in the case of branches overhanging private property any unauthorised works to Council owned trees carried out by any person would be treated as criminal damage.
- 10.2.5. However, the Council will be undertaking a review of processes for a community led provision as part of a cross-service review.

## **11. TREE HABITATS, ECOLOGY & PRESERVATION**

### **11.1. Habitat and Ecology**

- 11.1.1. Ancient woodland and Ancient and Veteran trees should be regarded as irreplaceable habitat (NPPF 180) so any removal of these trees should be resisted unless absolutely essential. Alternative advice on how to deal with very old trees should be taken from an arboriculturalist with a Vet Tree certificate. Where removal does occur, felled timber should be left in situ if possible, and habitat mitigation should be required.
- 11.1.2. Areas of Staffordshire with parkland and wood pasture may have veteran trees and their dependant species and nearby highway trees may provide habitat for these species even if not veteran themselves.
- 11.1.3. Non-emergency/non-urgent tree works will be deferred until the end of the nesting season (April to September inclusive).
- 11.1.4. In hazardous circumstances where work cannot be deferred, it may be possible to survey the trees to identify whether or not there are birds nesting in that tree or to reduce the impact on the nesting birds by undertaking the minimum work necessary to mitigate the hazard. Public safety is only a reason that an offence is avoided for birds not on schedule 1 of the Wildlife and Countryside Act 1981.
- 11.1.5. Trees displaying evidence of roosting bats or evidence of badger sets within the proximity will be referred to an ecologist before work commences. Any trees confirmed to be supporting roosting bats or live badger sets will not be worked on until Natural England is consulted.
- 11.1.6. Ivy on trees should not be removed or severed. It generally does not present a threat to the tree and can be supporting bats or nesting birds. However, if deemed necessary by the senior tree inspector and considered ecologically safe to do so, ivy may be removed from trees in Zone 1.



## **11.2. Tree Preservation Orders (TPO's)**

- 11.2.1. A tree preservation order (TPO) is an order made by a Local Planning Authority (LPA) in respect of trees. A TPO is used to protect trees (including areas of woodland) where they provide significant local amenity benefits. The order makes it an offence to cut down, uproot, prune, damage or destroy the tree or trees without permission from the LPA who made the order. The Council endorses the use of TPO's to protect trees of high amenity, cultural or environmental value.
- 11.2.2. To find out if a tree has a TPO it is necessary to contact the LPAs within the County. Each District and Borough Council hold their own complete datasets of trees with a TPO.

## **11.3. Trees in Conservation Areas**

- 11.3.1. Where works are likely to impact upon trees in a conservation area that are not protected by a TPO permission must be sought from the district or borough council conservation officer.
- 11.3.2. Where works are likely to impact upon trees in a conservation area the district or borough council will require a minimum of 6 weeks notification. Notice must be provided in writing (by letter or email) giving detail of the proposed work. This allows opportunity to consider whether an order should be made to protect the trees.
- 11.3.3. To find out if a tree has a TPO it is necessary to contact the Local Planning Authority. Each District and Borough Council hold their own complete datasets of trees with a TPO.

## **12. COMPETENCE**

### **12.1. Competence**

- 12.1.1. The competence of tree inspectors appointed arboriculturists and contractors undertaking planned specialist tree surgery work is of key importance to maintain the HMPE. The level of skill, and hence training, required to identify and remedy signs of mechanical weakness in trees should be appropriate for the role of the person concerned.





**APPENDIX 01 – APPROVED TREE SPECIES**

An approved tree species list for planting on highway maintainable at public expense is under development.

