

**NEWPORT CITY COUNCIL TREE POLICY
FOR NCC OWNED AND MANAGED TREES
AND WOODLANDS
2015**

Introduction

This policy has been produced to inform the public, Councillors, Newport City Council (NCC) staff and other parties that may encounter trees as part of the daily lives or through their work activities. It is intended to be used as both practical guide and definitive reference for all matters related to trees and woodland on land within the ownership of Newport City Council.

The benefits of trees in both the urban and rural environments have been well documented and publicised in recent years and are becoming increasingly material considerations in the management and planning of the NCC area.

In 1994 the British government published “Sustainable Development: The UK Strategy” as its response to the 1992 UN Conference on Environment and Development; the Earth Summit in Rio de Janeiro. An important recommendation of the “Earth Summit” was that individual countries should prepare strategies and action plans to implement the agreements. The Following Initiatives relate to trees and woodlands.

- Agenda 21 - comprehensive programme of action to achieve a more sustainable pattern of development for the 21st century.
- The Biodiversity Convention - protecting the diversity of species and habitats
- The Climate Change Convention – a framework for action to reduce global warming
- A Statement of Principles – for managing , conserving and sustainable development of the world’s forests

The British and Welsh government has recognised that trees are a vital consideration when plans are made to achieve the above programmes. With this point in mind governments in the UK have committed themselves to encourage more planting, better management and continued protection of the UK’s tree cover and important amenity trees and woodland.

Whole of Government Accounts (WGA)

WGA seeks to consolidate the audited accounts of organisations across the public sector in order to produce a comprehensive, accounts-based picture of the financial position of the UK public sector. It seeks to provide transparency and accountability in relation to making more public data available and provides a means by which trend data can be used to inform future analysis and decision making.

From an arboricultural perspective it is important that Newport City Council (NCC) maintain clear and concise financial records with regard to the cost of cyclical tree assessments, additional tree assessments in relation to decay analysis, EPS species presence, etc, and the cost of reactive and proactive tree management carried out by contractors on behalf of NCC. Such data will seek to provide justification for the retention of the current budget and if necessary an allocation of additional budget in order to allow the NCC to fulfil its duty of

care in relation to trees and to ensure that the health and safety of members of the public is given high priority whilst maintaining or increasing current tree stock levels providing a multitude of benefits in and around the city.

The Tree Coverage Asset

Trees are amongst the most versatile natural assets that planners, policy makers, businesses and communities can employ to cost-effectively raise the quality of the built environment. The recent launch by Natural Resources Wales of *Tree Cover in Wales' Towns and Cities* (TCWTC) provides for the first time an in depth study of tree coverage in our towns and cities. It seeks to promote the benefits of trees and encourage the expansion of the urban forestry resource, providing local planning authorities with the evidence that they need to take a strategic approach to the planning and management of local tree resource, allowing them to set future goals, define priorities and inform the development of their own urban forestry programmes.

The TCWTC study has revealed that Wales' mean urban canopy cover was estimated at 16.8% for 2009. Of note is the fact that Newport is shown to have above average tree cover with an estimated 18.9% in that year.

The study reveals that urban woodlands represent 44% of Wales' urban canopy cover, the rest being made up of so-called 'amenity' non-woodland trees, those individual or groups of trees growing along streets and in gardens, car parks and other urban public and private open space. Local authorities roles in managing public open space is particularly important as on average the study shows that such areas host 46% of all tree cover in Welsh communities despite making up only 20% of urban land. The TCWTC study also shows the following;

- 27% of graveyards and cemeteries are covered by tree canopy
- Only 15% of all tree cover is found in high-density housing
- Private residential gardens account for 34% of urban areas and provide 21% of all urban tree coverage
- Transport routes, including verges and pavements, make up 23% of urban land but they feature tree cover of only 8%
- Canopy cover levels observed in schools and hospital grounds suggest opportunities to increase tree cover with associated obvious health, well-being and learning benefits.

Of concern is the fact that the study also reveals that an estimated 11,000 large trees appear to have been lost in urban environments across Wales between 2006 and 2009 suggesting a rapid erosion of Wales' Victorian tree legacy. On a more positive note the study also identifies the potential for tree cover on 'green land' sites (soil, grass and shrub areas). If all 'green land' sites were planted, with the right trees in the right places, cover in urban areas across Wales could potentially increase by 35-52%.

There is growing pressure on urban tree populations and the reasons for their removal or lack of replacement are varied;

- There is an ageing population, leading to growing numbers of dying or dangerous trees
- Increased threats from pests and diseases, often relating to specific tree species
- Lack of understanding of solutions to aid better integration of trees into the urban infrastructure in relation to issues such as loss of light, deposition of leaves and fruits, blocked drains, footway surface heave, and subsidence
- Increasing demand for new building development
- Installation and maintenance of utilities infrastructure
- 'Right tree in right place' approach to tree planting not being adhered to, compromising the trees' ability to reach their full potential
- Lack of understanding of the benefits that trees bring to society

Statement of Principles

To reflect wider governmental policy, NCC has developed the following three Key Principles in relation to The Authority's trees and woodland in the NCC area these are to:

- **Manage our tree stock -**
NCC has a comprehensive inspection programme that covers all trees within our ownership. Trees that are inspected and require work are identified to the NCC tree management team. The Tree Team carry out the majority of NCC proactive and reactive arboricultural work to abate, where necessary, problems caused by trees in dense urban areas, and also to manage tree and woodland cover in responsible way that ensures the long term retention of these valuable features.
- **Replant where tree stock has been lost or removed**
NCC will lead by example at sites within its control by replanting where practicably possible and will seek to encourage the planting of trees and woodland on sites not owned by NCC.
- **Protect and Conserve -**
All trees owned by Newport City Council are protected by The Authority. We will not allow any work to be undertaken to our trees without the permission of the Authority. In addition a significant number of council and private trees and woodland within Newport are protected by national legislation. These include Tree Preservation Orders (TPOs), planning controls and special land designation such as Conservations Areas and Scheduled Ancient Monuments. The protection of trees is covered in more detail within the separate Supplementary Planning Guidance (SPG), *Trees and Development: A guide to Tree Protection on Private Land 2015*. This SPG relates to trees subject to statutory protection and those affected by planning proposals.

The Benefits of Trees

The benefits of trees and woodland are many and varied with some more obvious than others. Notwithstanding the significant contribution that trees, woodland and hedgerows make to the aesthetics and biodiversity within the NCC area, a list of benefits that may not be obvious are provided below:

- Carbon capture and absorption / filtration of particulates
- Trees provide shade, cooling dense urban areas and making outdoor environments more pleasant.
- Trees intercept and store rainfall, reducing the burden on drainage systems and reducing runoff and localises flooding.
- Trees are financial assets to local authorities, their value, often significant, can be calculated using a system called CAVAT (Capital Asset Value for Amenity Trees) that has been developed by the London Tree Officers Association.
- Areas with a mature healthy tree population have been found to have lower levels of crime.
- Retail areas have found that they can generate 15% more revenue if the area has more trees.
- Trees can reduce heating bills by shielding the property from extremes of foul weather.
- Recovery rates of patients in hospitals are improved when the patient has a view of trees or woodland.
- House prices in tree lined streets are often higher than similar streets with no trees.
- Trees are often the last remnants of previous land use.
- Trees have significant cultural and social value.

The Significance of trees and their benefit is recognised and communicated at national and local policy level including:

- Planning Policy Wales (PPW)
- Technical Advice Note (TAN) 12 Design. July 2014
- Technical Advice Note (TAN) 10 TPOs October 1997
- Newport City Council Unitary Development Plan 2006 -
- Newport City Council Local Development Plan 2014 – 2026 Deposit Draft

THE MANAGEMENT OF TREES OWNED BY NEWPORT CITY COUNCIL

In General

Newport City Council is responsible for managing its tree stock to ensure the health of the trees and to minimise the risk to public health and safety. The Council owes a duty of care owners, occupiers and users of adjacent land and also to users of its own land. We fulfil this duty of care by undertaking both *proactive* management and *reactive* emergency tree work.

Understanding of the liability

Under both civil and criminal law, an owner of land on which a tree stands has responsibilities in relation to the health and safety of persons on that land or on adjacent land, and also has potential liabilities with regard to the falling of trees or branches.

Civil law gives rise to duties and potential liabilities to pay damages in the event of a breach of such duties. The duty of care is to take reasonable care to avoid acts or omissions that cause a reasonable foreseeable risk of injury to persons or property. The courts consider that it is the duty holder's fundamental responsibility, in taking reasonable care as a "reasonable and prudent landowner", to consider the risks posed by their trees. However the balance of risks posed by trees in general terms, their amenity or other values and the cost of different types of inspection and remedial measures are all relevant in relation to ensuring that reasonable care is taken. Whilst the courts have not defined the standard of inspection required, the level of knowledge and the standard of inspection that must be applied to the assessment of trees are of particular importance. In addition the HSE have noted that "for trees in a frequently visited zone, a system for periodic, proactive checks is appropriate".

Criminal law gives rise to the risk of prosecution in the event of an infringement of relevant acts. The Health and Safety at Work Act 1974 places a duty on employers to ensure, so far as is reasonably practicable, that in the course of conducting their undertaking, employees and members of the public are not put at risk. Whilst the acts of felling or pruning a tree obviously relates to this act, it is likely that the growing and management of trees on land also falls within the scope of this duty if such operations fall within the employer's undertaking. The Management of Health and Safety at Work Regulation 1999 may also be applicable under regulation 3 in relation to carrying out risk assessments of tree stock.

Whilst trees obviously have risks associated with them and no tree can be guaranteed to be safe, it is important to realise that such risk is generally accepted to be low. However considerable concern and uncertainty about managing trees for safety has arisen over the last few years. This has largely been stimulated by a number of court cases and other responses to rare incidents where falling trees or branches have killed or injured persons. It is therefore important for land owners such as NCC to have a reasonable, balanced tree risk management strategy in place. Defensible practice that is consistent with a duty of care, based on reasonable care, reasonable likelihood and reasonable practicability provides a cost effective method of managing tree stock. Whilst such cost may be questioned it should be appreciated that it is in fact a sound investment, not only in relation to ensuring the safety of the general public whilst maintaining the many benefits that trees provide, but also

in relation to providing a means by which the authority can robustly defend itself in the event of an accident occurring. Such management regimes are costly and therefore works to trees have to be carried out in order of priority. The highest priority is works to trees that pose the highest risk to the safety of people and property. This is why lower risk work may sometimes have to be delayed. And we will endeavour to make people aware of such delays. In addition we will try to contact neighbours and interested parties regarding tree work and removal, when this is to be carried out. However this may not always be possible. On occasion the Council may have to remove a dangerous tree from a neighbouring property, where this may be affecting the highway for example and where we cannot notify a landowner in a timely manner. We are legally able to do this under the Local Government (Miscellaneous Provisions) Act 1976 .

Proactive Tree work

Proactive management involves cyclical assessment of the health and structural integrity of the trees with appropriate works being carried out where needs are identified, in accordance with *BS 3998:2010 – Tree Work Recommendations* and other relevant and current industry good practice. Relevant wildlife legislation is also taken into account, primarily in relation to nesting birds and the potential for the presence of bats. Legislation relating to the management of trees within areas covered by protective designations, for example SSSIs, must also be adhered to and assent sought from the relevant authorities where this is required.

Reactive Tree Work

Reactive management work is undertaken in response to an emergency situation such as damage to council trees following a storm event or on verification of a reported dangerous tree. In extreme cases we may use external contractors to assist with specialist work or storm clearance. If there is a query relating to tree contractors or their work, member of the public should call the City Contact Centre to enable NCC to verify that contractors are working to our instruction.

Works not undertaken by Newport City Council

The Council will not allow or carry out non-essential management work to the local authority tree stock. The reasons listed below outline the nature of most frequent requests, all of which are considered to be non-essential. These are:

Cosmetic reasons or appearance - This is unnecessary, costly and may adversely affect the long-term health and structural integrity of trees. Any pruning work has the potential to provide the opportunity for pathogens to enter via wounds and in addition usually promotes vigorous re-growth leading to the need for future cyclical management at significant and ongoing cost.

Loss of light / shading – There is no statutory or common law right to light in the UK therefore NCC will not carry out tree works to allow natural light or reduce shading in relation to domestic property. However where two or more evergreen or semi-evergreen

trees are planted in a line with the potential to be considered as a hedge then Part 8 of the Anti-Social Behaviour Act 2003 may be relevant.

Installation of Solar Panels – The fact that there is no statutory or common law right to light in the UK also impacts upon the use of solar panels. The presence of existing trees and the impact that they may have, both at present and in the future, should be taken into account when considering the installation of solar panels.

Loss or disruption in relation to TV or Satellite signal – The purchase of a TV licence or subscription to a service provider such as Sky, provides the purchaser with the right to operate the equipment that receives any available signal. However there is no legal right to TV / satellite signal in the UK. NCC will not carry out tree works in relation to loss or disruption of signal. Guidance should be sought from the service provider with regard to negating issues relating to reception.

Loss of views - As there is no right to a scenic view un-obscured by trees in the UK. NCC will not carry out tree works solely to improve views to and from domestic or commercial premises. This includes areas where views may have previously have existed. NCC do reserve the right to remove our own trees if we believe, and can evidence that this will be for the benefit of public landscape and visual amenity. .

Shedding of leaves, fruits and debris - Reasonable debris such as leaves, fruits, nuts, flowers, residues, minor deadwood, and naturally occurring by-products of the trees life processes, must be expected where trees occur. NCC will therefore not carry out tree works in relation to negating such matters. The excretions of birds and insects, primarily honeydew associated with aphids, are beyond the control of NCC and therefore no tree works will be undertaken to prevent this potential problem.

Branches overhanging adjoining land - NCC has no duty to prune overhanging branches except where they are in direct, or potential conflict with an adjacent built structure. The owner or occupier of adjacent land does have a common law right to cut back overhanging branches to the boundary line. However it should also be noted that owners and occupiers of adjacent land also owe a duty of care to the owners of trees and therefore they should take reasonable precaution when enacting their common law right in order to ensure that the long term health and structural integrity of trees is not compromised. Anyone wishing to enact their common law right in relation to council owned trees is encouraged to liaise with the local authority. This is so we can ensure that works do not compromise the health of the tree or breach protective designations. Any tree management work should adhere to the following;

- All work is carried out in accordance with BS 3998:2010 Tree Work – Recommendations
- Work is carried out at a time that does not conflict with leaf burst or leaf fall
- All work is carried out in accordance with relevant wildlife legislation
- Any contractor employed is suitably qualified and insured
- All arising are disposed of in a safe and environmentally friendly manner

TREES IN RELATION TO HIGHWAYS

Within the urban environment, and indeed the rural environment too, there is potential for conflict between the presence of trees and the safe use of the public highway. The Highways Act 1980 (amended 1986) is relevant to both NCC owned trees and those in private ownership that have the potential to affect the adopted highway.

The Highway Act of 1980 - Is administered by relevant competent authorities such as the Local Highway Authorities and the Welsh Government in Wales. In most cases NCC will administer the act through the use of delegated powers in a similar way to planning controls imposed by the Town and Country Planning Act.

Various sections of the Highway Act impose duties on owners and occupiers of land to ensure that the highway, including footways and associated infrastructure, is maintained in a safe and appropriate manner. Examples of vegetation works imposed by the Highway Act include, but are not limited to, the following:

- Pruning to provide 5.2m vertical clearance above a highway
- Pruning to provide 2.4m vertical clearance above a footway
- Pruning to allow sufficient light spread from a lamp column or fixture
- Pruning to remove dangerous vegetation
- Pruning to allow light to the surface of roads
- Pruning to allow prescribed vision splays at road junctions
- Pruning to allow the safe passage of pedestrians

The Highways Act in relation to NCC owned land - NCC will endeavour to carry out all works required by the act within 14 days of the works being identified. In some cases, this may not be achievable due to availability of staff or access requirements.

The Highways Act in relation to non-NCC owned land - The Highway Act 1980 applies to all landowners or occupiers. NCC will serve notice at all locations it feels are appropriate and commensurate with the use of the highway or footway in question. Sites where notices are required are usually reported through the call centre or are identified by NCC officers such as highway inspectors and Tree and Woodland Officers during the course of their daily duties.

Emergency Highways Tree Work - NCC will carry out emergency works to make safe any tree or trees that have failed in part or wholly that affect the highway network. If no prior notice has been served on the owner occupier of the land where the tree/s originated, the works will be carried out at the cost of NCC.

ADDITIONAL POLICY PRINCIPLES

Provision of Usable Soil Area

Trees require usable soil area in order to allow water percolation and gaseous diffusion, both vital to the development and maintenance of a healthy and viable rooting system. Within the urban environment the provision of such usable soil area is often heavily compromised and this is particularly relevant in relation to Highways trees where hard surfacing more often than not prevails.

The current practice of tarmac being laid up to the main stem of trees should, if at all possible be avoided. The branching structure of trees directs water, particularly during heavy rain along principle branches and down the main stem, therefore the provision of tree grills, the use of permeable resin bound paving, or a small area devoid of tarmac around the base of the tree allows a large quantity of water to enter the soil within the rooting environment of the tree. The use of non-permeable surfacing, such as concrete, around the base of trees should be avoided at all times.

Perceived damage to built structures

Where damage to built structures is considered to be linked to the presence of NCC owned tree, property owners should, in the first instance, contact their buildings insurance company. The Council has a duty to investigate all structural damage claims following the submission of suitable evidence. The findings of an insurance investigation may find the Council liable and lead to recommendations regarding a Council owned tree (pruning, installation of root barriers, etc). The Council would be obliged to act accordingly in this situation.

Each individual claim would need to be considered on its own merit and follow the guidelines of the Joint Mitigation Protocol devised by the London Tree Officers Association. The results of previous compensation claims and/or settlements do not set a legal precedent for other potential claims.

Criminal Damage to NCC Owned Trees

Any illegal or unapproved work to trees owned or managed by NCC will be regarded as criminal damage. This also includes the poisoning of trees that is unfortunately becoming increasingly common. NCC will, as far as is practicably possible, work with the police and seek to prosecute those responsible for illegal tree works.

NCC will endeavour to maintain a zero net loss of trees under their control within any 5 year period.

Trees will inevitably be lost as a result of (amongst others) vandalism, disease, death or if they must be removed to comply with a statutory obligation. To avoid a decline in the total tree population, records will be maintained of tree loss and new tree planting within the NCC area.

Newport has made a commitment to providing new tree planting until 2017, through the Green Lung Policy 2012-2017 (CONT679657) adopted August 2008. The long term aim of this policy in relation to council tree stock was to increase tree cover in the city. This was to be achieved by annual increase in tree planting through the following ways :

- **New Planting:** Of appropriate tree species on existing Public Open Spaces, Strategic Corridors and gateway sites across the city, funded through planting contribution and other external grant sources.
- **Development Mitigation:** tree loss through development will continue to be mitigated not only through like for like replacement, but also in seeking additional planting compensation, where feasible.
- **Direct Management:** to maintain the tree stock balance by actively managing our own tree stock;
- **Community Involvement:** working with established community groups to plant on council sites.

It is a principal of this policy to continue with the aim of the Green Lung policy beyond 2017 by considering the above four objectives as integral to this policy.

Where space allows a tree to be planted and reach its ultimate growth and form, NCC will seek to plant the largest tree possible notwithstanding the need to select trees for reasons of character, design and suitability.

Trees should be planted at any reasonably suitable and available location within the NCC boundary. A trees ultimate growth and form may not always be its natural growth pattern. Many types of management such as formative pruning and pollarding are adopted to ensure the long-term retention of trees in the urban environment and such management may be required in order to retain existing trees previously planted in inappropriate locations, or in locations where the adjacent land use has changed.

NCC recognises that space is at a premium in urban areas and will seek to make use of alternative sites for tree planting.

NCC understands the potential for cemeteries, public open space, formal parks and some of the wider highway verges to become suitable planting sites for woodland copse, arboretum and potentially as a harvestable crop. Through careful selection of appropriate species, NCC will make better use of the land available for tree planting.

NCC will work towards the production of new or revised existing Tree and woodland management plans where appropriate.

NCC will continue its high standard of Arboricultural and Forestry works in compliance with any existing and forthcoming management plans. This will ensure a balanced and reasonable approach to tree management within the NCC area and allow the correct allocation of resources.

NCC will aim to achieve transparency in its actions and all decision making in relation to trees.

When asked, NCC will provide comment to any person that asks for information about action taken or decisions made with regard to tree and woodland management. It should be noted that public safety is of key importance when making decisions about trees and woodland within the NCC area.

NCC will continue with its cyclical management of pruning works.

Several types of continued tree management such as pollarding and pruning to clear bus routes / highways require repeated works at set intervals. Such works will be included within any management plans for the NCC area to ensure the correct allocation of resources at the correct time.

NCC will seek to ensure that where possible CCTV cameras are sited in locations where their line of sight is not, or will not be obstructed by trees.

Repeated harmful pruning of trees can be avoided by the correct and considered placement of CCTV cameras. CCTV operators will be encouraged to work closely with the Police and NCC to ensure the best use of this increasingly important requirement.

NCC will seek to encourage and take advantage of opportunities to create, expand and link established woodland and treed areas.

In order to develop and maintain the green infrastructure and urban forest of the NCC area, NCC will endeavour to plant trees so as to join with existing features to develop biodiversity, ecological features such as wildlife corridors and other such landscape features.

NCC will seek to involve community and local interest groups when practicably possible.

Tree planting and management is often an evocative subject in many urban and rural areas. With this in mind NCC will seek to consult appropriate groups when undertaking significant works within the NCC area.

NCC will seek to manage suitable areas of trees and woodland as a fiscal asset rather than liability.

When a lateral approach is taken to certain areas of tree management, what may have been regarded as a pure liability can be turned into a cost free operation or potentially a source of revenue. Timber, logs and woodchip all have value and may be used by a wide variety of local groups such as forest schools initiatives within junior and infant schools, allotments may use woodchip for mulch or path surfacing. Occasionally trees that have to be removed have timber value that may be used to recover some or all of the cost of felling.

NCC will undertake tree management in response to government guidance notes

On occasion local authorities will be tasked with tree removal to effect disease control or spread. This will follow guidance provided in the DEFRA publication *Protecting Plant Health – A Plant Biosecurity Strategy for Great Britain*. NCC's role may form part of a wider outbreak management strategy involving government agencies, non-government organisations, landowners and the public. Where such management may adversely affect domestic dwellings and public open space we will inform the public as to when and why the works are being carried out. In addition NCC will provide advice in relation to relevant biosecurity measures in order to seek to prevent disease spread.