

North Ayrshire Council Tree and Woodland Management Policy

1. Introduction

- 1.1 Trees are an essential asset and yet at the same time can be seen as being highly emotive, both in terms of perceived nuisance and of the benefit they provide. They can form important local landmarks and landscape features whilst making a tremendous impact on visitors and residents alike, providing significant aesthetic, amenity, economic and ecological benefits and help contribute to a healthier environment.
- 1.2 The Council is responsible for many thousands of trees and over 275 hectares of woodland within the area. A programme of assessment and inspection has commenced although given the number and extent of trees within the area it is anticipated that this will take many years to complete.
- 1.3 There are a number of legal obligations in both Common Law and in Statute upon the Council in the management of trees and woodlands for which it is responsible.
- 1.4 The aim of this policy to set out how the Council will effectively manage trees and woodlands for which it is responsible ensuring that they positively contribute to the area and achievement of the corporate priorities of the Council whilst meeting legal obligations. The policy does not consider trees within private ownership unless the Council has a legislative responsibility or power in respect of their management.

2. Effective Tree and Woodland Management

- 2.1 The Council seeks to manage its trees and woodland in an effective manner in the following ways:-
 - Providing and maintaining healthy and safe trees.
 - Maintaining and encouraging bio-diversity.
 - Maintaining and improving landscape quality via the care of existing trees and the inclusion of future plantings.
 - Compliance with legal responsibilities in both Common Law and through Statute.
 - Effectively communicating, educating and engaging with the public and local communities.
 - Providing clear channels of advice and information to the public and other Council services regarding arboriculture.
 - Managing its woodlands in accordance with the Ayrshire and Arran Woodland Strategy.

3. The Importance of Trees

3.1 Trees are of vital importance to the landscape. They are living and dynamic structures that, dependent up on species and location, can live for generations. They are widely appreciated for enhancing rural and urban environments and make a positive contribution to the scenic character and diversity of the landscape. However the benefits they attach to the environment greatly extend beyond perceived visual amenity and include:-

- Social, educational and, communal benefits through connecting people with nature.
- Embellish and reduce the impact of building development and hard landscaping.
- Environmental benefits such as carbon sequestration, improved air quality, screening from sun, wind and rain, filtering noise and attracting wildlife.
- Provide and indirect economical benefits, e.g. adding value to property and reduced energy costs (windbreaks).
- Reduce surface water run-off and the effects of soil erosion
- Green and leafy industrial sites, retail and/or shopping areas attract more inward investment than similar areas and sites devoid of trees.
- Crime levels have been shown to be lower in leafy areas than those in areas devoid of trees.
- Contribute to human physical and mental health and relaxation
- Provide a sustainable resource

3. Tree Related Issues

3.1 People often live in close proximity to trees, particularly in urban areas, which can create varying degrees of inconvenience. These trees are either their own, their neighbours' or quite commonly belong to the Council. Conflict or disputes can arise where a tree or group of trees make an important contribution to the local environment, yet create inconvenience to residents. There are a number of common sources of complaint including:-

- Size and spread of tree canopy
- Branches overhanging into gardens and the highway
- Low branches over footpaths
- Trees blocking natural light, street lights and road signs
- Leaf and fruit fall
- Sticky deposits
- Physical damage to structures
- Interference with utilities
- Affecting TV and satellite reception
- Affecting CCTV and security systems

- Obscuring a view
- Highway safety issues
- Fear of tree safety
- Birds and wildlife

3.2 Complaints often arise as a result of inappropriate species selection in the past where trees increase in size until they reach maturity. In these cases it may be difficult or impossible to resolve in all parties' favour.

4. Trees on Council Land

4.1 Parks, Open Spaces and Cemeteries

Trees are fundamental aspects of parks and open spaces as they can provide high levels of visual amenity and are valuable in encouraging use of these sites by residents and visitors alike. Parks are ideal for tree planting as there are relative few conflicts and species that would be unsuitable elsewhere can be grown here.

Cemeteries and churchyards often contain large specimen trees that were planted out when these sites were first developed and can offer a sense of calm for visitors.

These areas are sanctuaries for wildlife and the existing trees are often of historic or of great personal value to local communities. The many decorative mature trees are characteristics of many sites providing excellent flora and fauna values.

4.2 Council Housing Areas

A large proportion of the Council's Housing stock was built in line with the new town concept, particularly within the Irvine area. Extensive planting of both trees and shrubs was undertaken both in garden areas and in the surrounding open space using a wide range of species. These were often quick growing to provide rapid greening including shrub beds and group planting. Many trees were planted close to houses without full consideration of future growth potential. The maturing of these trees has given rise to a number of complaints from residents who live in close proximity.

Complaints or enquiries from tenants regarding trees within their gardens will be dealt with by the Housing Service with appropriate reference to the Arboriculture Officer.

4.3 Highways

Highway trees are those growing in pavements and verges along the Council's highway network and are the responsibility of the Council. The Council is not responsible for trees alongside major trunk roads or private roads and footpaths.

Highway trees are extremely important as they help to filter traffic pollution and help to provide shade to car-parking and pedestrian passage. A tree-lined street will improve the aesthetic and amenity appearance of a street itself. The Council values highway planting as it presents a real opportunity to improve environmental quality and image. However consideration should be given to the location of trees in relation to roads, windows to the front of properties, overhead telephone wires, underground services, sight lines, lighting, traffic controls and signs. The roots of trees can also potentially cause problems with footpaths surfaces. Where a tree (or trees) on Council owned or adopted land is deemed to be a danger to road users or pedestrians, or is causing an obstruction, the Council will take steps to make the tree(s) safe or remove the obstruction.

Where a tree on privately owned land is considered to be a danger to road users or pedestrians the Council's Roads Service will attempt to contact the owner in order to remove the risk or obstruction. If there is no immediate danger the Roads Service can serve notice on the owner requiring them to undertake the necessary works within 28 days. Where the owner fails to comply with the notice the Council are empowered to carry out the necessary works and recover expenses reasonably incurred from the owner. Where in the Council's opinion the danger from the tree is imminent then there is no requirement to serve a notice and the Council can carry out the necessary works and recover expenses reasonably incurred from the owner.

4.4 Woodlands

The Council is responsible for over 275 hectares of woodland. They provide significant biodiversity and wildlife value, as the ground flora, lower plant, fungi and invertebrate populations within them have developed over many years and are specialised to that environment. The long established nature of these woodlands is reflected by the large amount self-seeded trees that are often densely located leading to poor quality or weak specimens.

The Ayrshire and Arran Woodland Strategy seeks to develop the woodland of Ayrshire and Arran as a model of integrated and sustainable use of land that supports the local economy and contributes to the community wellbeing and that also promotes environmental excellence.

Whilst being mindful of this Strategy the Council's primary objective is to ensure that all its woodlands are enhanced and sustained on a long term basis with the involvement and support of local communities and

schools co-ordinated through the Countryside Ranger Service. Amongst other improvement works and where resources allow the Council will seek to undertake appropriate thinning works to encourage improved tree growth and the quality of specimens. Effective maintenance works will support the development of a range of woodlands that can be used for public recreational use, wildlife habitat and for educational purposes and the Council's local Bio-diversity Action Plan.

The creation of woodland paths has been utilised to encourage the public to visit woodlands improving access to nature and the outdoors.

5. Trees on Private Land

- 5.1 The greatest proportion of trees are located upon privately owned land. Other than where Council has a specific legislative responsibility such as the administration of Tree Preservation Orders and within Conservation Areas maintenance and management rests entirely with the landowner who has a duty of care under Common Law.
- 5.2 The Council will not undertake any works to privately owned trees unless it has a legislative responsibility or power or in emergency situations where the owner cannot be identified and located. In these situations the Council will seek to recover any costs incurred from the owner.

6. The Council's Planning Responsibilities

- 6.1 The responsibilities of the Council as the Local Planning Authority are set out in the Town and Country (Scotland) Planning Act 1997, the Planning etc. (Scotland Act) 2006 and the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas (Scotland) Regulations 2010 (SSI 2010/434).
- 6.2 In granting planning permission for any development the Council must ensure that appropriate provision is made, by the impositions of conditions, for the preservation or planting of trees. Such conditions can be the subject of appeal or an application to vary the condition. Non-compliance with any condition imposed can be the subject of enforcement action.
- 6.3 There are 54 Tree Preservation Orders in force at present within the area of the Council. The Council has a duty to review from time to time existing tree preservation orders. A Tree Preservation Order (TPO) may be made if it appears to the Council to be:
 - expedient in the interest of amenity and/or,
 - that the trees, groups of trees or woodlands are of cultural or historical significance.

Owners, lessees and occupiers of land affected by a proposed TPO have the right to make objections prior to confirmation.

- 6.4 Prior to the commencement of any works to trees protected by a Tree Preservation Order application must be made to the Council. Where a tree is not protected by TPO but is within a Conservation Area notice must be given to the Council at least 6 weeks prior to the commencement of any work. Where protected trees have been removed the Council will normally require the planting of replacements.

7. Inspection of Trees

- 7.1 Inspection of trees is currently undertaken in response to service requests or complaints as they are received. It is not practicable to formally inspect all trees where service requests or complaints are received. As a general rule site inspections will not be undertaken in response to enquiries relating to nuisance value. In these instances advice will be provided to enquirers in line with this policy.

- 7.2 A pro-active programme of inspection is being developed utilising a risk based approach to identify priority. The criteria utilised to establish priority includes tree location in relation to highways, footpaths, built structures, high or frequently used areas etc. The programme of inspection is primarily concerned with health and safety, identifying foreseeable risks and hazards commonly associated with trees, rather than aesthetic or amenity value. Inspection will consider the presence of the following:-

- Tree canopy die-back
- Deadwood
- Fungal and/or fruiting body associations
- Root-plate heave
- Stem cavities or decay
- Included bark unions
- Previous branch failure points
- Tree canopy touching adjoining buildings, obscuring signage/street lights/CCTV.
- Low branches or tree canopy obstruction over roads and footpaths

8. Felling and Pruning of Trees

- 8.1 Where inspection either re-active or planned identifies that a tree constitutes a hazard or is unsafe action will be taken as soon as practicably possible to undertake appropriate works. Examples of circumstances that require immediate action include:-

- The tree is unstable, uprooted and is leaning in the direction of property or areas of public access. The level of risk and the degree of urgency required to address the problem will be dependent on the target type (the public, vehicles, buildings, footpaths and roads, as examples) and frequency of use, size of the tree, extent of root-lift and current and forecasted weather conditions.
- The tree has hung up limbs that if were to become detached would cause harm or damage to public or property.
- The tree is blocking a part of the Council's highway network.
- The tree has fallen and is preventing the natural flow of a watercourse.
- The tree has fallen and is blocking access to property.
- The tree has fallen onto property or vehicles.

8.2 Other than where a tree presents a hazard or forms part of a woodland management plan there is a general presumption against the removal or pruning of trees which are healthy but subject to complaint unless the basis of the complaint is an overriding justification and no alternative management practice can be implemented.

8.3 Where it has been decided that works are required to trees consideration will be given to maintain the value and health of the tree.

8.4 In the first instance consideration will be given to pruning. However, excessive pruning or reducing a tree's size can adversely affect the health, appearance and amenity value of the tree, as well as resulting in weakly attached re-growth. Examples of where pruning is appropriate include:-

- Minor works.
- To improve the growth and establishment of adjacent trees.
- To prevent or rectify direct or indirect physical damage to buildings, structures and public utilities where practical and accessible
- Formative pruning of any newly planted trees
- To improve the health and condition of existing trees, e.g. crown cleaning.
- As part of woodland or screen thinning operations

8.5 In those instances where pruning is not considered appropriate the tree will be felled, once any appropriate permissions/consents have been secured. Felling/Removal will be considered, generally, in the following instances:

- The tree is dead, dying or diseased and presents an unacceptable degree of risk to persons or property.
- The tree is uprooted or wind-thrown and presents an unacceptable degree of risk to persons or property.
- The tree is causing damage to buildings, structures or public amenities.

- Regeneration of woodland (clear felling) and landscaped areas.
- To improve the growth and establishment of adjacent trees, e.g. woodland thinning.
- To facilitate works by statutory undertakers.
- Where pruning is not practical.

9. Subsidence and Drains

- 9.1 Where trees are believed to be causing subsidence to a property, including damage to drains, the claimant will be required to provide supporting expert evidence, usually through their property insurers. All enquiries and any subsequent claims will be passed to the Council's Finance and Risk Management Service.

10. Large Trees, Overhanging Branches and Root Encroachments

- 10.1 Under **Common Law** in Scotland there is no legal duty on the owner of a tree to cut or prune trees within their land or property.

- 10.2 Large trees especially where growing near to property can cause concern to people who live near or in close proximity to them. The size of a tree is not reason enough to prune or fell a tree. Such measures could adversely affect the amenity value of the site, over-expose adjacent trees to prevailing wind or cause irreversible damage to the tree where pruning has occurred. Accordingly large trees will not be pruned or felled unless they present a safety issue or a hazard to the public or property.

- 10.3 The Council will not undertake works to trees that overhang adjacent land unless the tree or overhanging branches present a safety issue or part of the tree is in contact with any building within that land. Under Common Law affected land owners can prune any overhanging growth providing the cuts are made on their side of the boundary. The arisings legally belong to the owner of the tree and must be returned to them unless they have given permission to keep or dispose of them.

11. Light, TV and Satellite Reception, Views and General Nuisance.

- 11.1 Issues of lack of light or absence of, or poor, TV/Satellite reception, medical ailments and loss of views can be highly emotive. These issues generally occur over time as a tree matures but in some instances can be immediate if new developments or newly installed aerial/satellite equipment is situated in an inappropriate location. As a general rule the Council will not carry out tree pruning or removal works directly attributable to:

- Loss or interference with TV or satellite signal reception

- Restriction of sunlight or artificial lighting, unless adjudges to excessive.
- Blocking or obstructing a view from a residence
- Medical ailments unless supported by expert medical opinion. The Council reserves the right to challenge such opinion.

11.2 As a general rule the Council will not carry out tree pruning or removal works in direct response to natural or seasonal events, for example:

- Falling leaves
- Sap exudation (honeydew)
- Falling fruits/nuts
- Bird droppings
- Blossom
- Reduction or increase moisture within gardens
- Basal stem sucker growth
- Germinating seeds from trees
- Blockages or obstructions from tree deposits and leaves
- Presence of algae and/or build up of moss.

11.3 Incidents of this nature are considered minor inconveniences as opposed to legally defined nuisance issues. Only in exceptional circumstances, and when all other potential solutions have been exhausted, will tree pruning or removal be considered. Examples of potential alternative solutions include:-

- Slippery road and path surfaces arising from leaf or fruit fall should be reported to the Streetscene Service who will arrange for those areas that are formally adopted by the Council to be swept.
- Anti-social behaviour arising from fruit fall should be reported to the Police or the Council's Anti-Social Behaviour team.
- Leaf and/or fruit fall within private gardens can be deposited within the 'brown' garden waste bin collected by the Waste Management service.
- Re-location or use of extension poles for aerials and satellite receivers.

11.4 Land owners are able to exercise their rights under common law in respect of any over hanging branches or encroachments and will be advised of these.

12. Poisonous Trees

12.1 Any works undertaken in respect of poisonous trees will be based on the level of risk relating to each individual case. Factors for

consideration will include the level, nature and frequency of site usage, level of toxicity, position of berries and seeds, etc on the tree and any alternative means of addressing/managing the problem, such as regular uplift of fruit fall.

13. Trees with Thorns

13.1 Where trees bear thorns or spines that pose a hazard to the public, action will be taken to remove the part of the tree most likely to cause harm. Influencing factors on the action taken will include the level, nature and frequency of site usage, the setting of the site, the effect of pruning on the tree and, alternative means of managing the problem, e.g. replanting the tree in a more suitable location.

14. Wildlife/Insects

14.1 Trees will not be pruned or felled to remove any animal protected under the Wildlife and Countryside Act, 1981, other appropriate Protected Species legislation, or to remove insects such as wasps bees or midges. In the case of pests advice should be sought from the Environmental Health service.

14.2 Where birds are found to be nesting, tree work will be postponed until the end of the nesting season, other than where there is an immediate risk to safety.

14.3 Where trees have been identified as a roosting site for bats, work will not be carried out until an assessment has been undertaken by an appropriately qualified practitioner or Scottish Natural Heritage, other than where there is an immediate risk to safety.

14.4 Where possible, safe to do so and in appropriate areas arboriculture practices will be used to create wildlife habitats. This may include practices such as:-

- Retaining dead standing trees as nature habitats, preferring to prune rather than fell.
- Leave in situ ant dead or felled trees in order to create wildlife habitats

15. Public Utilities and Close Circuit Television (CCTV)

15.1 CCTV systems should be erected clear of any trees to enable a clear view of the areas covered. Where subsequent tree growth obscures all or part of public CCTV systems appropriate works will be undertaken to maintain the original level of coverage.

15.2 Where trees are in contact with or threaten public utilities appropriate pruning, or where necessary felling, works will be undertaken. In all cases works will seek to retain the value of the tree.

16. Vandalism and Anti-Social Behaviour

16.1 Where it is claimed that trees are contributing to anti-social behaviour or crime the enquirer will be passed to the Police or the Council's Anti-Social Behaviour Team. Only in exceptional cases and where the written support of either the Police or Anti-Social Behaviour team is provided will appropriate works be undertaken.

16.2 Any work undertaken to a Council owned tree, unless it is overhanging or encroaching upon a private property, will be considered as vandalism and will be reported to the Police accordingly.

17. Tree Planting

17.1 The Council aims to create a wide, varied and sustainable tree stock. New tree planting can open up opportunities to increase age and species diversity and improve the local landscape. To achieve this it will plant new and replacement trees, where appropriate opportunity arises, to ensure continuous tree cover, with priority being given to native species.

17.2 Before reaching a decision as to whether a new or replacement tree/s are to be planted the Council will take into account the following considerations:

- Will the new or replacement tree/s be of public benefit?
- Is there sufficient room for a new tree/s to grow and develop without causing future problems?
- Is there a deficit of trees in the area?
- Was the removed tree part of a local feature or of historical significance?
- What species is appropriate for the site?

17.3 All new planting will be carried out as part of the winter works programme, more specifically during the period November to February.

17.4 When planning a planting programme for open spaces within community areas local community groups will be consulted wherever possible.

18 Review of Decisions

- 18.1 If where customers are aggrieved with decisions taken in implementing this policy, a review will be carried out in accordance with the 2 stage process outlined below:

Stage 1 – Frontline

The customer can speak to the Streetscene Manager either in Person or by telephone who will attempt to resolve the matter quickly. The customer can also contact the Council through the Contact Centre on 0845 603 0594 or write or send comments electronically using the “Contact Us” facility on our website.

Stage 2 – Investigation

If the complainant is unhappy with the response from the Streetscene Manager, the Head of Environment & Related Services (EARS) will either investigate the complaint or appoint an officer to investigate the matter on his behalf.

The complainant will receive a written response from the Head of Environment & Related Services confirming the outcome of the review, together with reasons for the decision within 20 working days of the review request being received.

19. **Monitoring & Reporting**

- 19.1 An annual report will be provided on an annual basis commencing September 2013 detailing the number of complaints received, any emergency works carried out, complaints received concerning health and safety with regards to trees, storm damage to trees, number of satellite dishes that were moved because of obstruction of the signal by trees, how many trees were felled and planted together with any other appropriate information.