Local Development Plan
Supplementary Guidance

Trees and Development

Adopted 9th October 2015
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1. Introduction

This Supplementary Guidance applies to all forms and scales of development from large-scale development such as wind farms which may affect extensive areas of forestry and woodland cover, to a household extension which could affect a small number of trees. The level of analysis and information required as part of the planning process will depend on the scale of potential effects and is detailed in the following chapters.

The Value of Trees

1.1 Trees are a valuable asset. They provide a wide range of social, environmental and economic benefits to our towns and villages, as well as to the wider environment. They can:
- enhance the setting of important buildings,
- soften otherwise hard landscapes,
- provide contact with nature,
- provide habitat for a wide range of species,
- provide shade and shelter from prevailing winds
- reduce noise and airborne pollutants
- stabilise slopes and embankments
- absorb rainwater, reducing the risk of surface water flooding
- help mitigate impacts from climate change

They are an important part of our cultural and natural heritage and can act as links to the past or reminders of historic land-use patterns and features.
1.2 Trees and woodlands affect the natural processes that control our air, land and water. For example, they store carbon that otherwise might change the climate; they can help keep our rivers and water supplies clean; and they can assist in preventing excessive flooding and soil erosion.

1.3 Trees are also linked to health and wellbeing and the presence of trees and greenery are consistently associated with the most attractive and popular neighbourhoods. In terms of development, studies have shown that the presence of trees can raise property and land values.

1.4 Dumfries and Galloway has a fantastic range of forestry, wood pastures, shelter belts, policy woodlands, hedgerow trees, veteran trees and formal tree avenues. All of these features can contribute to and enhance local character and distinctiveness.

However many of our best trees were planted in the 19th and early 20th century and are now showing signs of over-maturity and decline. There is also a lack of trees within many of the region’s settlements. As a result, Dumfries and Galloway Council actively encourages both the planting of new trees and the retention and management of existing trees, particularly in urban areas.

‘Trees have been shown to have the potential to raise property values by 5 to 18%’

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

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

1.6 As planning authority Dumfries and Galloway Council has a statutory duty under the Town and Country Planning Act (see Appendix A2) to ensure that where possible, planning permissions make adequate provision for the preservation of existing or planting of new trees. The Council expects developers to give priority to the retention of trees and hedgerows on development sites. If this is not possible then appropriate replacement planting may be required (subject to agreement from the planning authority based on appropriate analysis and detailed assessment). It is therefore important that developments are designed to fit around existing trees of landscape or amenity value and that developers take all reasonable steps to ensure that trees earmarked for retention are protected throughout the planning, design and construction process.

1.7 Where a proposed development includes the removal of any trees, the planning application must include details of the precise trees or area to be felled and details of any compensatory planting (which would be covered by planning conditions). The future maintenance of trees in relation to developments and in the wider public realm will also be a consideration.

Purpose of this Guidance

The purpose of producing guidance on trees and development is to:
- Encourage developers to retain, safeguard and protect existing trees and woodlands through the development process
- Encourage the planting and aftercare of appropriate new trees

Trees Bring Multiple Benefits to People, Places and the Environment
1.8 These aspects would be determined by the Council as planning authority based on policies and guidance within the Local Development Plan (LDP). A number of LDP policies relate to trees, although this Supplementary Guidance supports policy NE7 (see below).

**LDP Policy NE7: Trees and Development**

In assessing development proposals the Council will support proposals that promote additional tree planting and also:
- maintain trees, woodlands (in particular ancient and semi-natural woodlands), and hedgerows (hereafter referred to as the 'woodland resource') and require developers to incorporate, wherever feasible, the existing woodland resource into their schemes;
- appropriately incorporate the woodland resource into the overall design of the scheme;
- show how existing trees will be appropriately protected during the construction period.

If it is demonstrated to the satisfaction of the local Council that it is not possible to retain the woodland resource then an appropriate replacement planting will be required and agreed by the Council. Any such replacement planting scheme should be located where possible within the region and follow guidance contained within the Forestry and Woodland Strategy. This strategy is a relevant consideration for all proposals likely to impact on the woodland resource.

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

This policy is supported by supplementary guidance

‘The woodland resource’ includes trees, forests, woodlands (including ancient woodlands and ancient woodland pasture) and hedgerows.
1.9 Trees and development are covered by LDP Policy NE7 (above). However, the Dumfries and Galloway Forestry and Woodland Strategy (DGFWS) looks at wider forestry operations and woodland management which do not form part of a planning application.

1.10 The DGFWS provides guidance on new woodland creation plus the restructuring and management of existing forests and woodlands to maximise the benefits for the local economy, communities and environment. It supports the Scottish Government’s aspirations to increase forest and woodland cover whilst also considering local issues and constraints. Potential broad areas for new planting are mapped, based on suitability for different types of forestry and woodland. The DGWFWS identifies five different themes including 'Theme E; Woodlands and Development Management'.

Plantation Forestry at Clerkhill Burn, Eskdalemuir
Planning for Trees and Development

This Supplementary Guidance explains how to plan for trees throughout the development process, using different chapters for each stage of the process, as illustrated by the following diagram:

- **Site Assessment**
  - Topographical Survey
  - Tree Survey
  - Requirements from development
  - Initial site layout

- **Pre-Application Discussion**
  - Agree trees to be retained

- **Plan Around Trees**
  - Tree Constraints Plan
  - Arboricultural Assessment
  - Tree Protection Plan

- **Detailed Design Development**
  - New planting
  - Replacement planting
  - Landscape Plan

- **Submit Planning Application**

- **Construction Phase**
  - Method Statements
  - Site Management

- **Post-Completion**
  - Maintenance Plan
2. **Felling Licences and Forestry Operations**

This section looks at the potential removal of trees or new planting which does not form part of a planning application:

2.1 **Forestry Commission Scotland (FCS)** is responsible for determining forestry operations including felling through the Felling Licence system under the *Forestry Act 1967* (as amended) and forest expansion, design and management plans under the *Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999*.

2.2 **Removal of Woodlands not Requiring Planning Permission;**

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

**Felling Licences;**

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

2.4 **Felling Licences and Planning Permission;**

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

2.5 **Felling Licences and TPO’s;**

Where an application for a felling licence is made for the removal of trees that are subject of a TPO or within a conservation area, the FCS will pass the application to the Council to determine (TPO’s are covered later).
3. Pre-Planning Procedures and Survey Information

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

Retaining trees rather than clear-felling can enhance the character and setting of new developments (Right: Oak trees retained at Marchfields, Dumfries).

3.2 Developers or householders should contact the Council’s planning service early in the development process to determine if the proposals are likely to affect any protected trees and are likely to comply with planning policy.

3.3 Provision of a sketch layout and photographs of the site showing existing features (including trees) and an indication of the proposed development will help in preliminary discussions (refer to the Council website for information on the pre-application process).

3.4 These discussions will also provide information on the likely requirements for additional survey work in order for the Council to fully consider and assess development proposals. Such information is outlined below, however this list is not exhaustive and will depend on the nature and scale of proposed development.

3.5 BS5837 is the industry standard concerning trees and development. It provides recommendations on the principles and procedures to be applied to achieve a satisfactory relationship between trees and new development. The Council will expect all planning applications involving trees to comply with this standard.
**Topographical Survey;**

3.6 A survey which accurately plots existing heights and changes in levels across the site should inform any potential development.

3.7 The topographical survey should record existing features such as drainage, buildings, structures, boundary features the location of underground services and trees/hedges or planting areas. It is important that the exact location and base heights of existing trees are accurately plotted, in order that this can be used to form the basis of a tree survey. Any trees overhanging the site or trees up to 12m from the site boundary should be included.

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**Tree Survey;**

3.8 If there are trees on within 12m of the site boundary, then a tree survey should be carried out by a suitably qualified arboriculturalist before any proposals for development are prepared.

3.9 Tree surveys can help in deciding which trees should be retained, which can be felled and what will need to be replaced. Undertaking a survey early in the design process can prevent potentially unnecessary work and expense later. It can also avoid unnecessary damage to trees which are to be retained and which can be expensive to rectify once a development is underway or complete.

3.10 The requirements and methodology for undertaking a Tree Survey are detailed within BS5837: 2012 (see above). However, the survey should assess the condition and health of trees and categorise their quality and value in a transparent and systematic way.

3.11 The Tree Survey should include a plan showing the location and base height of all existing trees (using information from the Topographical Survey), individually numbered as specimens or as groups where the trees are growing together. Any hedgerows and shrubs of greater than 1.8m in height or 3m in extent should also be plotted.

3.12 The Tree Survey should also identify any trees that are protected by a TPO along with its TPO reference (see section 8 below).
3.13 A schedule indicating the following information for each tree will be required:

- reference number as recorded on the tree survey plan
- tree species (common and latin name)
- overall height
- stem diameter
- branch spread in all directions
- height of crown clearance
- age class
- physiological condition
- structural condition

In addition, the survey should:

- list preliminary management recommendations
- comment on potential impacts on bats, bat roosts and nesting birds
- estimate the safe useful life expectancy of each tree
- indicate the retention category grade
- Note the legal or conservation protection status of each tree

Refer to BS5837: 2012 for details.
Assessing Benefits From Trees;

3.14 The benefits associated with existing trees and woodland should also be assessed at this stage (including where appropriate nearby off-site trees). Trees can typically;

- screen views to/from surrounding properties
- screen undesirable views
- provide physical separation (eg between housing and industrial sites)
- shelter from prevailing winds
- filter noise (eg from an adjacent busy road)
- reduce visual impacts from the development on neighbouring areas
- add value to the development

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

Agree Which Trees to Retain;

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

This assessment should be as objective as possible and should inform preliminary site layout options.
4. Detailed Design Development – Planning Around Trees

Trees on Development Sites;

4.1 Trees on development sites can be affected in two different ways;

- Firstly, as a direct result of the development itself (buildings, walls, pavements, roads, etc). This is addressed by completing a ‘Tree Constraints Plan’ – see below.
- Secondly, as a result of inadequate protection during construction operations – see Section 7 below.

Tree Constraints Plan;

4.2 A Tree Constraints Plan is a design tool that is used to inform the proposed layout of the new development and can help ensure that trees are not lost or damaged unnecessarily. When submitted with a planning application it will be used to show how due consideration has been given to the retention of trees as part of the proposed layout. The Tree Survey (see Section 3 above) is used to inform a Tree Constraints Plan.

4.3 Such a plan identifies the trees suitable for retention and will also show below ground constraints (the Root Protection Area; ‘RPA’) and above ground constraints (size of crown, position, aspect and future growth) posed by the trees. The RPA is used to inform the ‘construction exclusion zone’.

4.4 The Tree Constraints Plan will also indicate where new trees will be planted as part of the landscaping scheme. These areas should also be protected from damage during construction.
4.5 Once an initial layout for the development has been drawn up, an Arboricultural Implication Assessment may need to be carried out to assess the impact on the trees of the detailed design proposals. This is likely to be written by or in consultation with a qualified arboriculturalist. The need for or extent of an assessment will depend on the nature and scale of proposed development but is likely to cover the following:

- ensuring new buildings are sited well clear of ultimate crown spread and root protection zones
- ensuring sufficient space for construction work, access, erection of scaffolding and storage of materials
- considering the effect of the proximity of trees to buildings in terms of daylight, perceived risks to health and safety and dominance of trees over properties
- the requirements of infrastructure and services
- considering the impacts in the changes of ground levels
- considering mitigation measures for any trees lost

Although this tree is within a Root Protection Area, a service run has been dug through the area which will probably result in loss of the tree; this could have been predicted and avoided at the design stage.

4.6 The assessment will be a written statement to accompany the Tree Constraints Plan. Additional plans may need to be produced in order to show how the above issues are intended to be dealt with, e.g. cross sections, alternative proposals and specific construction methods.

4.7 At this stage, it is also useful to consider potential requirements for a site compound, access and/or storage during the construction phase of the development. Such facilities should not be located close to or under mature trees that are to be retained or within areas earmarked for new tree planting (see Tree Constraints Plan above).

5.1 Developers should include tree planting in landscaping schemes wherever it is feasible. Areas for future planting should be plotted on the Tree Constraints Plan and protected from damage by construction activities.

5.2 All new tree planting should be an integral part of the design and the purpose of new planting should be determined from the outset so that appropriate locations and species can be determined. Trees can perform a variety of both aesthetic and functional roles, either as individuals or in a woodland block, such as:

- provide shelter and shade
- filter noise and dust
- reduce air pollution
- form a visual barrier to screen an unwanted view or to provide privacy
- provide character and a sense of place
- provide natural beauty within the built environment
- divide spaces, frame views and define routes
- contribute to nature conservation, biodiversity and carbon sequestration
- control erosion

[see illustrations below]

Identifying Different Uses for Trees

Used for screening between different land-uses (school and housing)

Used to create shelter from prevailing winds or to create shade
<table>
<thead>
<tr>
<th>Used to soften built forms</th>
<th>Used to create a ‘focal point’ (a prominent and distinctive feature eg within a housing area)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Relaxation</td>
<td>Movement</td>
</tr>
<tr>
<td>Trees used to increase privacy by screening gardens or windows from public areas</td>
<td>Used to define spaces, helping to separate different potential usages</td>
</tr>
<tr>
<td>Used to create or contribute to a ‘sense of place’ and local distinctiveness</td>
<td>Used to frame views of attractive or distinctive features from a specific location</td>
</tr>
</tbody>
</table>
Landscape Plan;

5.3 All new and existing planting should be included in a Landscape Plan for the proposed development. The plan should include details of existing and proposed levels and surface treatments (hard/soft landscaped areas), particularly around existing trees.

5.4 Trees are major structural elements in any landscape and clearly grow and change over time. Their ultimate height, canopy and root spread, form, habit, colour, density of foliage and maintenance requirements have to be considered. In particular, potential effects on the structural integrity of buildings, pavements, services (above and below ground) and their effect on neighbouring land must be taken into account at an early stage.

5.5 Native, indigenous species should be planted where possible, particularly in woodland blocks. Non-native species may be acceptable where they have been selected for their form and appearance, e.g. attractive bark, flower or leaf colour, where appropriate. The predicted effects of climate change should also be a consideration (e.g. adaptation to drier periods) and specialist advice on species selection should be sought. Planting with quick growing conifers is generally to be avoided.

5.6 Where possible, new planting should be linked to nearby existing tree groups around the edge of the site to form valuable wildlife corridors and visual links.

5.7 Areas designated for car parking and cycle parking are expected to be landscaped to a high standard and make extensive use of trees and shrubs.

5.8 Hedge planting is often a good alternative to fencing for defining new boundaries, particularly where this reflects the character of the local area. Hedges can vary from more formal beech hedging to a more natural hedge using native species and should reflect local character.

Replacement Planting;

5.9 The removal of existing trees should be considered as a last resort. It is only likely to be considered acceptable by the Council where a thorough analysis and assessment process, as set out in Sections 3, 4 and 5 above, supports felling rather than retention. In these circumstances, replacement planting is likely to be required. The extent, maturity and nature of replacement planting will be considered on a case by case basis.

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

**Tree Protection;**

6.1 Trees can take decades to reach maturity but can be irreversibly damaged in just a few minutes and this often occurs as a result of construction operations. Often the type of damage sustained by a tree will not become immediately evident and the full extent of the damage may not be known for several years. Such damage is often unnecessary and can be avoided if all concerned appreciate the importance of the trees at the outset.

6.2 Trees area frequently damaged during the first few days of site works, therefore tree protection measures should be set up as soon as any necessary tree surgery work has been completed and before any other construction operations start on site (including location of site huts/compounds, storage of materials, earth moving etc).

6.3 Protective fencing must be erected around the root protection area for all trees to be retained to comply with BS5837:2012. Such fencing needs to be maintained at all times whilst the contractor is on site. Any incursion into this area can quickly destroy all of the time, effort and expense which has gone into retaining the trees.

**Tree Protection Plan;**

6.4 Details of appropriate protection measures for all retained trees must be annotated onto a Tree Protection Plan (as per Section 5.5 of BS5837). The Tree Protection Plan will include the following:

- trees/hedgerows to be retained and/or removed
- trees requiring surgery
- precise location of protective barriers to form a construction exclusion zone at least as extensive as the root protection zone
- design details of the physical means of protection
- any pruning works to facilitate the development
- areas of future woodland planting to be protected from construction operations to prevent soil structure being damaged or contaminated
- ensure consideration is also given to trees on the site boundaries and on adjoining land

**Arboricultural Method Statements;**

6.5 An Arboricultural Method Statement may be required in support of the Tree Protection
Plan to identify specific mitigation measures where works encroach within the Root Protection Area.

**Soils:**

6.6 The quality and care of soils is often overlooked on development sites; particularly through inadvertent compaction by storing in bunds or storing bricks/blocks, etc on top, alterations to water tables and contamination through spillages. These effects can be serious, long-lasting and expensive to remedy. Damage to soil structure and composition can have a significant impact on tree health and on the potential to sustain new planting.

**Levels:**

6.7 Alterations to existing ground levels are a common feature on building sites and can offer advantages in construction and in the design of spaces. However, established trees may not be able to withstand changes to levels within the RPA (root protection area) or even nearby where they impact on the water table (see diagram below):

6.8 Drawing scaled sections and elevations is particularly useful in understanding and communicating potential impacts from alterations to levels in relation to trees or buildings (these should form part of the Landscape Plan submitted with a planning application or for discharging a landscape condition).

**Damage to Underground Services:**

6.9 ‘Green corridors’ containing hedgerows and tree avenues should not be considered as potential service runs; excavating trenches can cause direct physical damage to roots or indirect damage, eg through altering water tables. Locating underground services close to established trees frequently leads to problems for the services themselves:

- Tree roots do not ‘search’ out sewers or storm water pipes as a source of water. However they will grow towards wetter soil once moisture has been encountered. Due to the granular nature of the backfill around pipes a service trench can act as
a drainage route for ground water and this can lead to roots growing into the trench and around the pipe.
• It is generally accepted that roots do not break or force their way into pipes but it is possible that in very confined spaces, root growth may displace pipes or exert sufficient pressure to cause these to break. Tree roots can also physically disrupt pipes and cause them to rupture by pulling them up, or by crushing them. As trees flex in the wind, the strain is transferred to the root system and can affect pipes in contact with larger roots. As the tree increases in size, the likelihood of pipe damage also increases.
• Whenever possible, service trenches should be located outside the Root Protection Area (RPA – see section 4 above) for established trees and routed to avoid potential future conflicts with new planting (or protected through the use of root barriers, etc (see diagrams). If placing them under the tree canopy is unavoidable, use trenchless installation or excavate trenches by hand so that disruption to roots is minimised.
• Trenches should be located as far away from the main stem as possible to avoid problems associated with the larger roots. A root barrier should also be installed to prevent roots penetrating pipe joints. (see diagram(s).

Modern tree-care products, materials and construction methods promote tree health and longevity, whilst protecting service runs, hard surfacing and foundations. These have been used successfully on schemes within the region and throughout the UK (eg Burns Statue Square,
**Damage to Overhead Services;**

6.10 Potential problems associated with overhead services can be prevented by ensuring that any new services do not cut through the crown of an established tree, or over/though an area where new or younger trees will eventually expand into (refer to the Tree Constraints Plan for details of the tree’s eventual spread and height).

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

6.12 Indirect damage includes problems associated with the cyclical shrinkage and swelling of subsoils as a result of changes in the water table. Such movement can cause damage to structures but is generally restricted to expansive clay soils which are relatively uncommon in Scotland, although it can happen in any soil that has a high clay content. A structural engineer will be able to advise on soil suitability for building.

**Tall Trees and Buildings;**

6.13 One common area for concern is the damage trees can cause if blown over, or if large branches come off. Council staff regularly receive requests for trees to be removed because they are deemed to be too tall and therefore must be dangerous. Clearly mature trees can dominate a building and in a strong wind, its movement can be a source of concern for occupants.

Other common complaints are leaves blocking gutters and drains and light restriction when branches cast shade on windows or gardens. If trees are kept further away from a structure than the fall height of the tree then such problems can be avoided. However, it is not always practicable or desirable to do so, particularly given the wide range of benefits attributed to larger trees within urban areas (see CIRIA C712, 2012). Even in a relatively low density development, application of such a standard could result in no trees being planted, or existing ones not being retained, which the Council would not find acceptable in urban design terms.

There are many examples within the region’s settlements where tall trees grow very close to buildings without causing significant problems.
6.14 The key to having tall, mature trees within and around a development or building is regular assessment of the trees’ health by a qualified and experienced arboriculturalist. He/she will be able to advise on the presence of disease, insect attack or decay organisms, the extent of work needed and the remaining useful life of the tree.

Larger trees bring multiple benefits to urban areas but have to be selected and sited with care (lime trees at Summerville Ave, Dumfries)

Avoiding Damage Caused by Trees;

6.15 Problems caused by root damage to pipes, pavements and structures can usually be avoided by careful design, allowing for future growth and by:

- Ensuring pipes are laid properly and joints are completely watertight.
- Locating service trenches outside the Root Protection Area.
- Planting trees far enough away from pipes so that roots are unlikely to come in contact with them. Determination of the extent of the likely RPA once a tree is mature will give a guide to planting distances
- Planting trees within up to 3m of pavements, kerbs or other structures may require the use of root barriers to stop further root growth or deflect it away from pipes, pavements and structures.
- Planting in ground that is being used for other amenity purposes.
- Planting trees in a continuous trench filled with improved topsoil or within a tree pit / pavement support system where they are to be planted close to a pavement or structure. This trench should be as long and as wide as practicable.
- Keeping individual planting holes as long and as wide as possible.

6.16 The rooting characteristics of different species should also be considered. For example, cherry, ash, poplar and willow have extensive, shallow root systems, whereas rowans, birch and beech appear to cause fewer problems to structures. However, it must be remembered that root systems will adapt to ground conditions and the extent of tree root systems can vary greatly depending on ground conditions and the presence of obstacles in the soil.
7. Maintenance Considerations

7.1 The layout of the development will need to take into account the canopy of existing and newly planted trees both in the short term and long term – for certain tree species this will be for more than a hundred years. The layout will also need to take into account the root spread of existing and newly planted trees both in the short term and the long term. Building foundations must be designed to accommodate the retention of existing trees and planting of new trees.

7.2 A Maintenance Plan will be required, indicating how any new planting will be cared for to ensure that newly planted trees continue to contribute to the landscaping scheme in the long term.

7.3 Provision of an appropriate and acceptable Maintenance Plan is likely to be a condition of any planning permission.

7.4 The Maintenance Plan should include weed clearance, replacement of dead/damaged stock, arrangements for watering, formative and remedial pruning, firming in, etc in accordance with good horticultural practice and based on BS3998:1989 ‘Recommendations for tree works’.

7.5 The Maintenance Plan should include details of a regular monitoring regime using the services of a professional arboriculturalist for all existing established trees (and newly planted trees as they mature). Regular monitoring should ensure that tree owners/managers are aware of any remedial action necessary in the interests of long-term tree health and/or potentially unacceptable health and safety risks.

8. Tree Preservation Orders and Trees in conservation Areas

8.1 Some trees may have legal protection through a Tree Preservation Order (TPO) under Section 160 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006 and the Town and Country Planning (Tree
Preservation Orders and Trees in Conservation Areas (Scotland) Regulations 2010 (SSSI 2010/434). They are used to protect trees and woodlands where it is considered to be ‘expedient in the interests of amenity’ and/or are of cultural or historic interest.

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

8.3 All trees that have a diameter greater than 75mm at 1.5 m above the ground and located within a Conservation Area are similarly protected under Section 172 of the Town and Country Planning (Scotland) Act (see Appendix A2). Conservation Areas are designated to protect the architecture, historical interest, character or appearance of a particular.

8.4 To carry out works, including felling, to trees covered by TPOs or in Conservation Areas, the Council’s consent will be required. If such protected trees are considered to be immediately dangerous then measures may be taken to render them safe. The Council should be consulted prior to undertaking such work to avoid the possibility of legal action. In such cases, evidence of the need and justification for such works should be kept for future reference.

8.5 Where protected trees are removed it is likely that a replacement tree will be required and the replacement would then become protected by the original order or may become the subject of a new order or by its continued location within the Conservation Area (this should include a written assessment by a qualified arboriculturalist, plus appropriate photos and location plans/maps).

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

9. Removal of Existing Trees

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

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

9.3 Notwithstanding the council’s view on potential felling of particular trees, there may be a duty to undergo an EIA under the Environmental Impact Assessment Regulations where felling could lead to a significant loss of habitat. Where potential works could impact on European protected species such as bats, there may be a need to undergo a Habitat Regulations Appraisal. If landowners/developers think that an EIA or habitat regulations appraisal may be required, they are advised to contact the council for clarification.

9.4 It cannot, however, be presumed that permission to fell trees will be given, even if the developer or homeowner is willing to plant replacements (new planting could take decades to attain the same amenity value as established trees). The Council needs to be satisfied that the trees are being removed for the right reasons and will require evidence in the form of tree surveys as set out above.

9.5 A key consideration in considering the removal of trees and hedgerows will be whether the development proposals can reasonably be met without resorting to felling/clearance. This might be achieved by amending/modifying the layout and scale of development proposals to integrate the trees into a scheme.

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

10. Enforcement

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

**Trees protected by a Tree Preservation Order or Conservation Area status:**

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

**Trees on Development Sites:**

10.2 Where trees are not already covered by statutory protection, conditions may be included within the planning permission requiring their protection. Failure to comply could result in the planning authority taking enforcement action to remedy the breach, and could involve stopping all work on site until the situation is remedied.
Appendix 1; References and Useful Contacts

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

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

*BS 3998:2010; ‘Tree Work – Recommendations’ (3rd Edition) BSI*

‘No trees, no future; trees in the urban realm’; Trees and Design Group Nov2008 www.forestry.gov.uk/forestry

‘Public Health and landscape; creating healthy places’; Landscape Institute Position Statement Nov 2013 www.landscapeinstitute.org

‘Scottish planning policy’; Scottish Government 2014 www.Scotland.gov.uk/planning

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


‘Trees in the townscape; a guide to decision-makers’; Trees and Design Group 2014 www.tdag.org.uk

Appendix A2: Legislation and National Policies

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

Section 160 of the Act sets out the requirements for Tree Preservation Orders (TPOs) and Sections 172-175 consider trees in conservation areas. The use of conditions of planning permission to cover tree preservation and planting are also established under this Act.
Nature Conservation (Scotland) Act 2004; Section 1(1) of the Act states; ‘it is the duty of every public body and officer-holder, in exercising any functions, to further the conservation of biodiversity so far as is consistent with the proper exercise of those functions’.

Wildlife and Countryside Act 1981, Nature Conservation (Scotland) Act 2004; Trees provide important habitat for a wide range of species with older trees providing potential bat roosts and nesting for birds. It is an offence under these Acts to deliberately disturb a bat roost or nesting birds. Bats are a European protected species so any work which may affect bats or their roosts should be assessed by a recognised bat expert prior to works commencing.

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

The Conservation (Natural Habitats etc) Regulations 1994; provide protection for certain animal and plant species. The Council will look at proposals and determine if these might impact on the conservation of biodiversity. Further details are given in the Dumfries and Galloway Biodiversity Action Plan.

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

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

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

Scottish Planning Policy (SPP) (2014); Paragraph 194 of the SPP indicates that the planning system should; ‘protect and enhance ancient semi-natural woodland..., together with other native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value’.

Paragraphs 201 and 216-218 encourage woodland creation and planting where appropriate, whilst discouraging the loss of woodland.

National Planning Framework for Scotland 3 (NPF3) (2014); Section 4 of NPF3 emphasises the importance of green infrastructure to maintaining quality of life, increasing climate resilience and promoting sustainable growth. It refers
to the expansion and improvement of the quality of woodlands around settlements and to providing an improved landscape setting, noting the contribution forests and woodlands make to urban regeneration, bringing vacant and derelict land into beneficial use and improving biodiversity. It also reinforces the Scottish Government’s commitment to encouraging new forest and woodland creation.

The Control of Woodland Removal (2009) (Scottish Government Policy); there is a strong presumption against the loss of forests and woodlands at a global, UK and Scottish level and the removal of ancient woodlands in particular is highly unlikely to be supported. This policy sets out the legislative framework and guiding principles controlling woodland removal in Scotland.