

# Tree and Woodland Policy



South Tyneside Council



## Document Control

The Green Space Manager is the owner of this document and is responsible for ensuring it is reviewed.

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## 1.0 What is the tree and woodland policy?

The Tree & Woodland Policy clarifies and informs South Tyneside Council's approach to managing and maintaining the trees under our ownership. It also provides detail of the guidance given to members of the public on these issues.

The policy underpins two of the Council's key objectives, to deliver sustainable communities and to improve the natural environment.

Our approach to the management of our trees and woodland is based on two key aims:

- Managing the trees and woodland in the Borough in an environmentally sensitive and sustainable manner.
- Providing sound guidance on tree related issues to the public and other stakeholders and ensuring compliance with our General Duty of Care<sup>1</sup>.

## 2.0 Why do we need a tree and woodland policy?

Trees and woodlands are an invaluable resource and play an important role in people's lives. Not just because of the intrinsic environmental benefits they bring but also from a wider economic and social perspective.


Trees and woodland contribute to our quality of life by:

- Providing a place for recreation and improving the quality of our surroundings
- Contributing to our own and our children's education and allowing us to live a healthier life
- Absorbing harmful CO<sub>2</sub>, which contributes to global warming
- Forming a vital part of much-loved landscapes
- Conserving our world's biodiversity by providing habitats for numerous animal and plant species
- Contributing to our economy, both directly and indirectly through tourism for example
- Woods and trees also have an intrinsic value and beauty in and of themselves
- Trees and woods provide health benefits - through providing a great place to exercise, as well as helping to reduce stress and anxiety

It is important that trees and woodland are planned for and managed in a way to ensure that they can bring the widest benefits to our communities. We have limited resources to manage our trees and woodlands so we need to ensure we can manage them efficiently to achieve the greatest benefit and minimise the problems we need to deal with.

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<sup>1</sup> Our general Duty of Care is a legal obligation to people in our Borough to ensure their health, safety and wellbeing, where reasonably practicable.



There is existing legal protection for trees, through Tree Preservation Orders and trees within designated Conservation Areas. No felling, topping or lopping of protected trees is permitted and all proposed works require permission from our Planning Department. Permission will only be granted to those applications that meet the requirements of the legislation.

The Planning Enforcement Team has powers to investigate any allegations of breaches of the tree protection legislation and take action where appropriate. Similarly, when planning applications are received for land where trees are established, the Planning Team are legally obliged to include the trees when considering the application.

However legislation and enforcement does not deal with all tree related problems. This policy will help us to resolve disputes, provide information and to keep residents and elected members informed of our standards and practices.

### 3.0 Our trees and woodlands

We have approximately one million trees within Council ownership, most of which (700,000) are in woodlands such as Boldon Colliery Woods that were planted from the late 1950s' to improve and regenerate areas of post industrial land. The average age of the trees is around 50 years although there are some as old as 100 years within our parks and cemeteries.

As well as the woodland areas there are approximately 18,000 trees within our Highways; 11,000 in the 16 parks; 3,200 in cemeteries; around 35,000 in housing and public open space; 22,000 in schools and an estimated 20,000 in the hedgerows that we maintain. The number of trees we have is above average in comparison to our neighbouring Councils.

To pro-actively manage our trees it is important we know what type of trees we have, where they are and what condition they are in. We hold records for the original woodland planting and parks trees and most of the cemeteries have been surveyed over the past five years, as have the trees within the schools. The trees within the highways are all regularly inspected as part of our Highway Tree Policy<sup>2</sup> maintenance programme.

The climate, topography and soils of South Tyneside make it difficult for many kinds of trees to grow and establish themselves and therefore the tree population is dominated by a small number of very hardy species, such as Ash, Sycamore, Whitebeam, Hawthorn, Poplar, Willow and Blackthorn. These make up the majority of mature species in the parks, cemeteries and highways, although a great many woodland species such as Field Maple, Common Oak, Alder and Beech have been planted in the woodland areas throughout the Borough. Also many exotic specimen trees have been planted within the parks and cemeteries.

The largest single woodland area is Boldon Colliery Woods and there are many smaller woodlands. Whilst the majority of our trees are within the woodlands, this still leaves a great many trees within close proximity to properties and habitable areas.

South Tyneside is environmentally diverse with areas such as Cleadon Hills and Boldon Flats designated Sites of Special Scientific Interests. The green space areas in the Borough are formed by the woodlands, parks, open spaces, cemeteries, crematorium, gateways and green corridors.

Given the changes in climate that are occurring, it is important that we have a wide range of tree types that can cope with such changes for the foreseeable future.

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<sup>2</sup> The trees within Highway land are managed under the terms of the South Tyneside Highway Tree Policy (1998). It provides for pro-active maintenance of the highway trees and deals with any legal issues arising from highways trees.

## 4.0 Managing our trees and woodlands

We need to pro-actively manage our trees and woodland areas and there are a number of important considerations to take into account to ensure we can do this in the most appropriate way.

There have been a number of directives and guidance documents provided by government:

- The Department for Communities and Local Government launched its Manual for Streets in 2007, it highlights the value of the strategic planting of trees within the Highway context.
- In 2007 the Governments Strategy for England's Trees, Woods and Forests was launched, with a delivery plan in 2008 to translate the Strategy into actions and results on the ground.
- *Trees in Towns II* was published in 2008 which provided recommendations to Local Government regarding tree management.

Most recently the government stated in 2010 that they will:

- introduce measures to protect wildlife and promote green spaces and wildlife corridors in order to halt the loss of habitats and restore biodiversity.
- and in December 2010 they launched a national tree planting campaign. The Big Tree Plant aims to plant one million trees in urban areas over the next four years.

### 4.1 Green Space Team

A small team of three professional arborists are responsible for the day to day management of the Council owned trees within the Borough via a dedicated Tree Works Contract (the current contractor is Glendale Countryside Ltd., Commercial Rd, South Shields). Working alongside the tree specialists are qualified and experienced horticultural officers who specifically manage the grounds maintenance contract.

The team manage and monitor all public enquiries regarding trees, undertake tree inspection and surveys and provide objective technical advice to the public and other departments on tree related matters, including Planning, Development Control and tree protection issues regarding privately owned trees with Tree Preservation Orders and both Council owned and privately owned trees within Conservation Areas.

The team liaise with the public via estate walkabouts, events such as Envirofair and Can You Dig It, dedicated walks and talks on a number of tree related subjects.

The team is also responsible for ensuring that all work on Council owned or protected trees is undertaken to a high standard of excellence based upon industry best practice, British Standards and specific legislation. Any work carried out is guided by our operations reference manual (Appendix 2).



## 4.2 Green spaces

The trees found in our green spaces are commonly:

- Of a similar age (and therefore will decline and die at a similar time)
- From a narrow range of species (therefore susceptible to total loss through pests or disease)
- Have predominantly re-active pruning work carried out upon them if at all
- Difficult areas to establish new planting because of a high incident of vandalism or mower/strimmer damage
- Likely to suffer from storm damage due to their density of planting and form
- Often contain the most mature trees in the Borough, particularly in the parks and cemeteries

To overcome these problems we need to concentrate our efforts in our green spaces to increase the species and age diversity of our trees and reduce their density where they have been planted close together. We also aim to maintain and manage them in such a manner as to:

- Reduce their negative impacts upon local residents
- Monitor their condition and thereby manage their future safety
- Defend against future impacts of climate change
- Improve their amenity value to local residents
- Develop their biological and habitat diversity
- Improve public awareness of their positive benefits

## 4.3 Woodlands

In our woodlands large numbers of trees were planted very close together meaning that the woodlands are becoming very dense and dark as they age, with weaker trees dying towards the centre of the wood.

To create the desired urban woodland spacing (average 8-10m between trees) large scale thinning will be required. Thinning is the selective removal of individual trees to create greater spacing between the retained trees.

The percentage of thinning required will be determined by the initial density of the trees, the proposed management plans and the desired end-use, e.g. amenity, recreational, nature conservancy or a mixture, etc. In any event at least 50% of the total number will require removal over the next twenty years to allow for the healthy and safe development of the woodland infrastructure.

#### **4.4 Wildlife and biodiversity**

Managing our trees with wildlife and biodiversity in mind currently takes place and the following methods are utilised:

- Retaining dead but stable, standing tree stems in selected areas to provide feeding posts for woodpeckers and other insectivores
- Allowing for the retention of felled trees in selected areas to provide a food source or habitat for fungi, insects, lichens, etc
- Creation of open areas within woodland to increase plant species diversity
- Varying management techniques such as coppicing, layering, stacking etc., all to create greater variety of habitats and promote diversity
- Experimenting with the planting of 'exotic' tree species, e.g. Sequoia, Acacia, Cedar, etc., to improve the biological and genetic diversity of our tree stock and establish the specimen trees of the future

Improving biodiversity or the variety of life forms in our woodlands is an important factor in determining how healthy the environment is. Positive management of the environment can create or encourage habitat development that increases biodiversity and although this currently takes place it is dependent upon the actions of a small group of officers.

This policy provides an opportunity to standardise this practice and develop areas specific to biodiversity, in partnership with external organisations such as the Durham Biodiversity Partnership and we will be looking to strengthen ties with this group.

Schools and other organisations plant a great number of trees each year and volunteer and interest groups such as walkers are heavily involved in our countryside and woodland areas.

## **5.0 Dealing with tree and woodland management issues**

We want to maximise the benefits trees can bring but also deal with the problems they can cause. It is important that we understand what people think and feel about the trees and woodlands in the Borough and we focus our efforts on positive interaction with residents to try to improve their understanding of the benefits of trees and why we need to manage trees in a particular way.

Our tree talks and walkabouts are well attended and show the great interest and pleasure that many of our residents take in our landscape and their genuine wish to understand their green surroundings better. We also attend estate walkabouts and keep close links with the Community Area Forums and the Elected Members to help us keep informed of the views of the public regarding their tree related issues.

Tree issues are sometimes contentious and emotive so it is important that the Council is able to deal with issues fairly and effectively. The Council is often contacted by people who ask our advice or request work to be done to trees or sometimes request the removal of trees where problems arise. We need to protect our existing trees from unnecessary pruning and the removal of a healthy tree should always be viewed as a last resort with all other practical courses of action thoroughly exhausted first.

By ensuring that we approach all requests from residents for tree works in an objective and professional manner, residents will understand that they are being treated fairly and equally.

## **5.1 Part A – Problem management**

### **1: Problem - the above ground parts of a tree; overhanging paths and roads, blocking views, TV/satellite reception, light, or simply the very existence of the tree being a source of irritation.**

How we will resolve the issue – our regular programme of pro-active pruning should reduce the impact of the crown and branches of the tree causing obstructions and shading. All pruning will be in accordance with current British Standards and Best Practice with an average pruning cycle of 5-7 years, although stem growth (epicormic shoots) may require annual pruning.

Where TV reception is a problem we will ask the resident to move their equipment, we will not specifically prune trees for satellite/TV reception as this is impractical and could potentially involve great expense. Also no-one has a right to a view in law and unless it would be reasonable to do so, the Council would not under normal circumstances remove trees to improve an individuals' view.

Should the request for removal or pruning be in an area where the tree or trees in question affect other residents, we will always endeavour to seek the majority view and where necessary include the residents' elected representatives, prior to undertaking any course of action.

### **2: Problem – the below ground parts of the tree; damage by roots or base of the tree to paths, walls and buildings.**

How we will resolve the issue – we will involve our structural or highway engineers in an investigation of the actual causes and take their advice regarding remedial action. Sometimes it will be reasonable to remove a particular root, however where this could lead to instability of the tree this would create an increased risk and therefore alternative actions would be required.

Where a tree is a particularly valuable asset, it may be that the Council will pay for repairs to the damaged structure and retain the tree. In circumstances where such a repair is impossible without the removal of the tree in the view of the engineers, then the tree may be removed. Where a tree is removed under such circumstances, a replacement tree will be planted in a nearby location during the following planting season.

Regarding claims involving alleged moisture depletion induced subsidence, evidence in the form of soil analysis, level and crack width monitoring and engineers' reports will be required as a standard and we will investigate each individual claim thoroughly to determine the validity of the claim and will report its findings to our insurers.

**3: Problem – the tree is in the way of a proposed development, driveway or new access.**

How we will resolve the issue – we will take advice from our colleagues within other departments such as Planning and Highways and consider alternatives to the removal of the tree or trees. Where such refusal would be unreasonable and infringe the residents' reasonable enjoyment of their land, we would seek approval of the owning department to remove the tree.

Where a tree is removed under such circumstances, a replacement tree will be planted in a nearby location during the following planting season.

**4: Problem – tree is diseased, infested or severely damaged.**

How we will resolve the issue – we will inspect the tree and if we determine that the tree is an imminent risk to the public, the tree will either be pruned or removed whichever is appropriate to the risk.

Where a pest, disease or disorder may affect other, nearby trees, an affected tree or trees may be removed even though there is a low public safety risk in order to safeguard the environment.

Where a tree is removed under such circumstances, a replacement tree will be planted in a nearby location during the following planting season.

**5: Problem – tree shedding parts; fruit such as berries and seeds, leaves, bark, twigs, honeydew from greenfly on cars, paths, etc.**

How we will resolve the issue – all trees shed small parts, flowers and fruit and twigs and leaves at various times of the year. Residents should expect this if they live near trees.

Certain species of trees are hosts to pests such as greenfly and during the summer their presence can be a nuisance. Under exceptional circumstances where a problem is so severe as to be unreasonable, the tree may be pruned in order to reduce the problem, but only where there is a major infestation or acute problem causing a risk to the residents' health will the removal of the tree be considered.

Where a tree is removed under such circumstances, a replacement tree will be planted in a nearby location during the following planting season.

**6: Problem – Other than the above**

How we will resolve the issue – where there is a particular problem expressed by a resident regarding a particular tree or group of trees, we will inspect the tree and assess the situation in association with the relevant Council officers together with the residents' representatives where appropriate, in order for a reasoned and objective determination of the correct course of action to be followed.

Where a tree is removed under such circumstances, a replacement tree will be planted in a nearby location during the following planting season.

## **5.2 Part B – Pro-active management**

We are currently doing and will continue to:

- Pro-actively inspect trees within housing estates, highways, cemeteries and open spaces and produce management plans and work programmes, in order to reduce future problems occurring.
- Provide a public list of acceptable tree works contractors within an Approved Tree Works Contractors Scheme and update following regular assessment of the standard of work provided by the contractors.
- Provide impartial expert advice to members of the public and our colleagues in the Council on all tree related matters.
- Attend Estate Walkabouts, to determine patterns of problems experienced by residents.
- Record electronically all Tree Preservation Orders created throughout the year.
- Replace all individual trees felled in each year on a one-for one basis and record the exact location, species and subsequent condition of the replacement planting. Each tree will be deemed to be successfully established if in good condition five years after planting.
- Record electronically the removal of all trees throughout the year to determine patterns of particular problem areas or issues.
- Record electronically all moisture depletion induced subsidence claims involving Council owned trees.

## Appendix 1 - Frequently Asked Questions

### **FAQ 1: A tree or hedge is shading my garden: do I have a right to light?**

A 'Right of light' could be shown only after proof of 20 years of uninterrupted light access prior to the offending tree blocking that light. A right of light right can only be enjoyed in relation to a specific opening (such as a window); it must therefore be associated with a building, even if only a greenhouse; and there can be thus no right to light in connection with open land, such as a garden. The right of light cannot be transferred with the property, therefore only the current householder can claim a right of light.

### **FAQ 2: I am a Council tenant and I would like some trees pruned in my garden. Who do I contact?**

You must contact your local Housing Office where you need to complete a Tree Works Request form. The housing staff will complete one for you over the phone if required.

The Green Space Team processes the form and inspects the tree. The work required is categorised into High, Medium and Low priorities depending upon a range of issues such as whether the tree(s) are healthy, obstructing pathways or access to the house or the tree is diseased or is dead.

High work may be completed the same day or within five days depending upon the urgency. Medium and Low priorities will take considerably longer with Low priorities perhaps taking up to two years to complete.

The reasons for this are that there is a limited budget and obviously dead, diseased or imminently dangerous tree must be worked upon before those of a lower priority.

### **FAQ 3: Is there a law to stop people growing their trees to enormous size?**

Yes, the Anti-Social Behaviour Act (2003) Part 8 High Hedges, was enabled in June 2005 and is now law. Part 8 defines high hedges as 'formed wholly or predominantly by a line of two or more evergreens, and rises to a height of more than two metres above ground level.'

The Act does not include single trees and is specifically designed for hedgerows of evergreen trees or large shrubs. Where a neighbour's hedge falls within the above designation you can apply to the Council to intervene on your behalf provided that you have made all reasonable efforts to resolve the situation with your neighbours first.

An information pack is available upon request, from the Green Space Team.

If the tree that you are concerned about is not within a hedgerow, or if it is not evergreen (loses its leaves each Autumn) then there is no law currently that determines its potential size and therefore there is no legal requirement on a tree owner to reduce the height of their tree.

**FAQ 4: My property is covered in leaves from a tree that doesn't belong to me. What can I do?**

The legal view is that once a leaf falls from a tree it belongs to no one as you cannot determine its flight path, due mainly to the vagaries of the wind and weather. The law also has determined that it is not unreasonable to expect you to clear up leaves, if you live in an area where there are trees.

**FAQ 5: There is a tree in my garden that I do not like. Can I simply cut it down?**

If the tree is in your garden then as a general rule you may do with it as you wish, however, there are certain exceptions. If your tree is protected by a "Tree Preservation Order", or is located within a designated "Conservation Area" or has other forms of restriction placed upon it you must seek written permission from the Council PRIOR to undertaking any work on the tree. The law is quite strict on this and ignorance of a protection order is not seen as a defence. Therefore you should always check with the Council's Green Space Team before you do anything. Telephone 424 7540.

You should ensure that whoever is undertaking the work; is suitably experienced, qualified and fully insured. A list of suitable firms can be provided upon request. Again you should contact the Green Space Team. Felling trees is a highly specialised and potentially very dangerous business and should always be carried out by competent professionals.

**FAQ 6: Why does the Council not prune their trees more often?**

Most trees do not take kindly to heavy pruning and the Council's Tree Policy follows the current British Standards for tree works and Best Practice.

Highway trees for instance are pruned on an average of five to seven years frequency. To prune more often can stress the trees and leave them susceptible to disease or can trigger off the growth of bushy shoots all over the stem and branches which will increase the trees density, shade area and possibly reduce visibility on roads.



## Appendix 2 - Operations Reference Manual

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## 1: General protection

With regard to trees belonging to the Council or privately owned but for which the Council has a responsibility via legislative or statutory controls, the following will apply;

1.1: No healthy tree will be felled unless arboriculturally necessary or approved by the Green Space Team, whose decisions will be based upon this Policy. (See 1.2)

1.2: All Council owned trees shall be subject to the terms of this Policy and therefore all works undertaken upon such trees will be subject to the conditions outlined within this document. All trees, including groups, hedges and woodlands, which fall within the remit of the Councils' responsibility will be managed using the same standards and procedures as the trees within Council owned land where practicable.

1.3: All trees will be maintained to the highest standard economically achievable adhering to relevant international and national guidelines. All tree work carried out by South Tyneside Council or its' appointed contractor will be carried out to the relevant British Standards and following recognised good practice in arboriculture.

1.4: Tree inspections will be undertaken by qualified and experienced personnel following the procedures outlined within this document, in line with current industry guidance, for example; the HSE's SIM 01/2007/XX 'Management and checking of trees'; the Forestry Commission's 'Hazards from trees, A general guide'; and M.J.Ellison's 'Quantified tree risk assessment used in the management of amenity trees'.

1.5: Tree work will be undertaken by suitably qualified and experienced personnel to current British Standards in accordance with the procedures outlined within the relevant legislation and guidance, South Tyneside Tree Works Specification and this Policy.

1.6: South Tyneside MBC will encourage the protection of mature trees/hedgerows and areas of natural beauty through the Town and Country Planning Act (1990) and Hedgerow Regulations (1997), wherever they are within the Borough and as such this document will not deal with these specific issues but refer to the relevant acts of legislation. The Green Space Team is responsible for the management of the High Hedge Complaint system in accordance with Part 8 of the Anti-Social Behaviour Act (2003).

1.7: All day-to-day decisions and emergency action regarding tree management will be determined by the Green Space Team as arboricultural managers, in accordance with this Policy.

## 2: Protection and maintenance of individual trees

**This section of the policy is to cover all individual trees in the Borough with the exception of the designated woodland areas specifically defined in Sections 2.6 vii) & 4 of this policy.**

2.1: A detailed Audit of Tree Preservation Orders will be made in association with the relevant Departments of the Council and regularly updated on an electronic register.

2.2: An audit of Hedgerows of importance (as defined by the Hedgerow Regulations 1997) will be made in association with relevant Departments of the Council and regularly updated on an electronic register.

2.3: Replanting: Every individual tree felled in the Borough will be replaced with a suitable species, preferably within a similar geographical location.

2.4: Tree planting in new locations will require the approval of the relevant land owning Department.

2.5: Routine inspection cycles. These will be dependent upon the individual risk assessment for the trees within a given location. (See 1.4 above) For example, Highway trees will require an inspection frequency of 1-3 years, whilst woodland trees may require an inspection frequency, en masse, in the order of 10-15 years or more. Certain areas such as schools will require targeted inspections in line with access availability such as school holidays.

2.6: Tree removal (Healthy trees): Healthy trees will only be felled when the following justifications apply and in accordance with the general principles enshrined within this Policy. Any proposal to fell a healthy tree and its justification shall be placed before the Green Space Team for approval prior to felling, with the singular exception of emergency felling. Where emergency felling of a healthy tree is required, a report justifying the action will be provided by the Green Space Team within 48 hours of the felling.

Justifications for removal of healthy trees are listed below;

i) Third party damage (including subsidence). Where third party damage is suspected, supporting evidence shall be provided by the claimant to validate their claim. This evidence would normally include;

- Two trial pits, one close to the area of damage and one remote from the tree as a control,
- Soil analysis showing clay content and proving desiccation,
- Root analysis identifying the specific tree or trees concerned,
- Crack monitoring records over at least 12 months showing greater than normal seasonal movement,
- Details of the nature, extent and type of damage claimed and preferably,
- Level monitoring records

ii) Where alleged structural damage is caused to a Council owned property a structural engineer will be required to assess the correlation between the tree and the damage in association with the Green Space Team. Where the evidence

available indicates that the tree is the causal agent and removing it will benefit the situation, the case will be brought to the owning department for determination in consultation with the Green Space Team.

iii) Where a tree or trees are required to be felled for the installation of utilities the Green Space Team will discuss the issue with the owning Department and determine whether the plan receives their approval. Although the Council may not be able to prevent the work as the utilities have certain statutory rights, it will work with the utilities to ensure compliance with the relevant legislation.

iv) Where evidence shows that a trees' position or damage caused by its root system, is detrimental to the safety of Pedestrian/Highway users.

v) Where a specified development is planned and approved by the Council, trees may be removed.

vi) Where a tree is continuously being used in such a manner as to create a serious hazard or risk to health and in contravention of our General Duty of Care, such as use for rope swings, climbing or other possibly dangerous activity, it may be considered by the Green Space Team as a candidate for removal. A tree in this situation will only be felled if there is no viable alternative to reduce the safety risk to a manageable level.

vii) Tree felling carried out as part of a routine tree or woodland management principle for example the creation of a coppice area or woodland thinning, (see woodland variation) or other nationally recognised management systems will be permitted following receipt of approval for the scheme by the owning Department.

viii) A healthy tree may be felled in order to alleviate an Actionable Nuisance or comply with other Statutory Duties or requirements.

ix) Circumstances which do not fit into any of the above justification clauses may be brought before the Green Space Manager for discussion with the owning Department, under exceptional circumstances. The final decision rests with the Green Space Team Corporate Director jointly with the owning Department Corporate Director.

#### 2.7: Tree removal (Other than healthy trees)

i) Where a member of the Green Space Team determines that a tree is dead, or imminently dangerous, its removal is justified as the Green Space Team are the experts employed by the Council to determine such issues. The Green Space Team would normally photograph the dead/dangerous tree for evidential purposes.

ii) Where a trees' health is in decline through disease or damage there may be a justification to fell it. After determining the risk factors, the Green Space Team will

consider all options for its safe management up to and including the possibility of removal.

iii) Occasionally, where the situation allows, dead standing timber may be used for conservation/habitat purposes, with its crown removed for safety purposes.

### **3: Pruning of trees:**

3.1: All tree pruning will be in accordance with this Policy, current British Standard BS3998 1989 (or any future update or equivalent) and arboricultural best practice.

3.2: There is no specific cycle of pruning. Each tree will be assessed individually and pruned only when legislatively or arboriculturally justified.

3.3: No more than 15% by volume of a tree's crown will be removed by pruning in any individual pruning cycle and no more than 30% by volume in any 7 year period.

3.4: All tree pruning works will be organised by the Green Space Team in accordance with this Policy.

3.5: Exceptions to the above will be determined in accordance with Industry guidance by the Green Space Manager and if required, in consultation with the owning Department Corporate Director.

### **4: Management of tree groups (woodland, copses, hedges)**

4.1: Individual trees within groups will be considered in the same way as individual trees described above, however, they can also be managed as a group entity.

4.2: Each group of trees will be considered individually in relation to its local environment and specific circumstances of species make-up, density, environmental value and position within the landscape.

4.3: Due to the close proximity of trees planted to form woodlands, from time to time, phased removals are required to ensure the development of a healthy, well spaced and properly functioning, safe woodland. Management plans need to be produced by the Green Space Team for each individual woodland, in order to ensure future continuity of management whether for the purposes of recreation, habitat, silviculture, biodiversity or a combination of these purposes.

The format for woodland management will be in accordance with the Governments' UK Forestry Standard (2004), and such guidance as; the Arboricultural Associations Publication No. 3 'Planting & Managing Amenity Woodlands'; and the various Forestry Commission publications such as 'Sustainable Forestry' (2004) incorporating 'Social and environmental benefits of forestry' and 'Woodland and our changing environment'.

### **5: Miscellaneous**

5.1: Statutory undertakers carrying out utilities work in the Borough will be reminded of their Statutory Duties under the relevant legislation and encouraged to comply with the NJUG Guidelines Chapter 10 and any subsequent update.

5.2: Private tree works contractors will be encouraged to join an Approved Tree Works Contractor Scheme. This will require proof of their insurance, qualifications and standards of workmanship to be submitted to the Green Space Team to qualify for membership. A list of Approved contractors will be made available to the public upon request and posted on the South Tyneside Web page.

5.3: Where large-scale tree works are intended to be undertaken, the Green Space Team will consult with as wide a range of community representatives as practicable and where necessary undertake a public consultation/information exercise to ensure widespread understanding and awareness of the actions to be taken.

5.4: The Green Space Team aim to undertake the recycling of 95% of all tree works arisings by 2015 via their Tree Works Service Provider.

## **6: Process of application for tree works**

6.1: Anyone has a right to request works to trees with which they have a direct involvement. All applications shall be treated in the same manner, regardless of their origins (letter, telephone call, electronic mail, etc.) and will be recorded electronically on to the enquiries database.

6.2: Tree works requests from South Tyneside Homes Ltd. tenants should first be recorded and vetted by the relevant local Housing Office and passed to the Green Space Team using the application forms provided, in accordance with the STHL/STC Tree Works Service Level Agreement.

6.3: From the information provided by the applicant, requests for tree works will be immediately categorised into three general priority levels; **emergency, high** and **routine**. Emergency situations will be inspected by a member of the Green Space Team within 1 hour of the information being received. High priority will be inspected within 2 working days of receipt of the request, and routine will be inspected within 10 working days of the request.

6.4: Applications for tree works to private trees protected by legislation (TPO/Conservation Areas) and applications under the High Hedges Legislation and Hedgerow Regulations, will be dealt with under separate procedures determined in a procedural note currently being formulated by Planning and attached as an Appendix to this Policy.

6.5:

i) Applications for tree works of a nature that the Green Space Team consider would be detrimental to the trees, or that conflict with the principles of this Policy will be refused, either at initial contact or following inspections. The applicant will be advised of the reasons for the decision not to proceed with the application and advised of their rights regarding appeal procedures.

ii) Initial appeal will be to the Green Space Manager who will determine if the right decision has been made in accordance with this Policy.

iii) Should the applicant fail to be satisfied following initial appeal procedures, the decision can be referred to the Corporate Director of the owning Department for final appeal.

iv) Complaints regarding the administration or management of the application will be referred to the Council Complaints Procedure.

## **7: Process of inspection**

7.1: When a tree inspection has been requested, one of the Green Space Team or one of the Tree Works Providers' qualified tree inspectors will inspect the tree.

7.2: Under normal circumstances tree inspections will be undertaken from the ground, however, where the inspectors considers it necessary, a climbing inspection may take place. These off-ground inspections will require a minimum of two fully qualified climbing arborists.

The Green Space Team will utilise the full range of diagnostic equipment and tools available as required by the individual situation.

7.3: When the tree has been inspected, a report will be made determining what, if any, tree works are required and such works categorized into a priority, (see 9 below). All such inspection results will be recorded on the original database record.

7.4: Given the large number of request for tree inspections, the inspector will be unable to inform the applicant of a precise time and date when the tree will be inspected, unless access is required from the applicant or a formal site meeting has been arranged. Due to the unpredictable nature of the influences upon the service, such as weather and seasonal demand, set times for inspection cannot always be determined.

7.5: Following an inspection, any tree works identified will be recorded and an order raised to undertake the required works utilising the priority system described in Section 9.

7.6: In the case of claims of damage to a building or structure a member of the Green Space Team will inspect the tree, make a report and refer the case to a structural engineer, (See Section 2.6.i) above.

7.7: Not all tree inspections are initiated by external sources, pro-active inspections of trees will be regularly undertaken by the Green Space Team and staff of the tree works service provider as part of the on-going tree management process.

7.8: Tree inspections may be undertaken on privately owned land where our General Duty of Care applies, and in conformity with such legislation as the Highways Act 1990, the Local Government (Miscellaneous Provisions) Act 1976 and the Town & Country Planning Act 1990 and their provisions.

## **8: Process of tree maintenance within South Tyneside**

8.1: All tree work carried out by the South Tyneside Tree Works Contractor will be in accordance with this Policy and the Specification and Conditions of the Tree Works Contract 2010 and any subsequent up-date.



8.2: Private tree owners will be encouraged to demand that their trees are maintained to the same standard as those within the ownership of the Council by the use of Approved Contractors lists and educational resources.

## 9: Priority system

9.1: Following inspection, a priority system will be utilised to ensure the correct use of resources and to target works where required most urgently. In some circumstances, the inspection will determine that no work is required and therefore the applicant will be advised of the decision and their options regarding appealing the decision.

NB: Emergency inspections/tree works are normally only classified as such outside of standard core working hours, e.g. 8.00am – 4.30pm. All emergency inspections will be undertaken by the on-call member of the Green Space Team or the on-call employee of the Tree Works Contractor. Any required tree works identified at this time will be undertaken immediately provided that the situation is stable and the risk assessment allows it.

9.2: Urgent. To be attended to within 2 hours of receipt of request or notification. Urgent work would include:

- Fallen trees
- Broken but still partly attached, branches
- Moving tree root-plates
- Dangerous rope swings
- Trees that are identified as dead, diseased or imminently dangerous
- Obstructive branches – sight lines, footpaths, etc.
- Conflict with the Councils' General Duty of Care

9.3: High Priority: High priority situations exist where there is a distinct potential to cause harm to the public although not imminently. This type of priority work would normally be undertaken within one week of inspection. This includes:

- Fallen trees (where they do not cause an immediate hazard)
- Broken branches, (which have fallen and are not dangerous)
- Statutory Nuisances
- Inappropriate rope swings
- Trees that are identified as dead, diseased or damaged, but not imminently dangerous
- Trees causing an obstruction, although not imminently dangerous
- Where pruning is required to assist in the alleviation of serious anti-social behaviour issues

9.4: Medium Priority. Where some remedial work is required and necessary but has a low risk factor. This would include trees requiring reduction or thinning for purely



aesthetic reasons and routine non-urgent pruning. This type of priority work would normally be scheduled for the month following inspection. For example:

- Serious light issues
- Management plan implementation
- Certain low level anti-social behaviour issues
- Built development
- Routine pro-active pruning

9.5: Low Priority. Tree works solely for reasons other than listed above. Low priority works may not be completed within a specific financial year, depending upon the level of higher priority work being undertaken and finance available, but will be logged and reserved for the following financial year where its priority grading may be reviewed.

Low priority work may include:

- Complaints regarding minor irritations, e.g. leaf fall, shading, insect problems, poor TV/Satellite reception
- Requests for pruning and thinning work where it is not arboriculturally necessary or desirable
- Removal of objects from trees, e.g. plastic bags, shoes, etc.

If you know someone who would like this information in a different format contact the communications team on 0191 424 7385

## Appendix 3 – Tree Protection Procedural Notes

### **Council requests for works to trees – Section 211 notices and works to TPO trees.**

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#### **Procedure for dealing with Council requests for works to trees within conservation areas (Section 211 Notices).**

- 1.1 The Council undertakes a scheduled programme of works alongside reactive measures that are emergency or complaint led to ensure good management of Council trees, some of which are located within conservation areas. Council owned trees within Conservation areas are subject to the same period of notification under Section 211 of the Town & Country Planning Act. This procedure outlines the process that should be undertaken by council officers to ensure compliancy with legislation and transparency to members of the public.
- 1.2 Following receipt of an instruction from the relevant authorised Officer responsible for the tree(s), the Tree Team submitting officer (acting as agent) will complete the standard application form and provide a copy of the tree report which will identify the tree(s) and detail the extent of the work(s) required and a justification / reasoning for the proposed work(s).
- 1.3 The application will be dealt with by an evaluating officer (different Tree Team Officer to the submitting officer) within the Tree Team. The evaluating Tree Team Officer assessing the application will acknowledge receipt. The evaluating Tree Team Officer will make arrangements to visit the site.
- 1.4 Following the site visit the evaluating Tree Team officer will complete a technical report. The report should clearly state:
  - The application receipt date
  - The expiry date for the tree team to receive comments (maximum 14 days).
  - The date the application expires.
  - Details of who/how to gain access to the property if required.
  - Recommendations with regards to arboricultural health of the tree(s).
- 1.5 The technical report and original application are sent to Landscape Design and the relevant Area Planning Team Leader within a maximum of 14 days from receipt. This should be sent by e-mail (a hard copy should be sent on request). Comments should then be sent back from Landscape Design on the standard form and from Planning by e-mail within a maximum period of 14 days.
- 1.6 Whenever an application to fell a tree in a conservation area is received a Landscape Design and a Planning Officer (contact relevant Area Planning Team Leader who will identify Officer) will be invited to attend the site visit to offer a view on the amenity value of the tree and its contribution to the character and appearance of the conservation area. Where a recommendation to fell is likely to be made consideration should be made for the planting of an appropriate replacement tree, wherever there is space within the site to do so.

1.7 If the proposed works are acceptable the Tree Team Officer completes a delegated authority form and confirms that no TPO is to be made and the works proposed can go ahead. Placing a TPO on council owned trees would be considered only as last resort and where it is felt in the first instance that proposed works to trees are unacceptable, the Tree Team will advise that the submitting department withdraw their application and reconsider proposed works. This delegated powers form is sent, with a site location plan, to the Area Planning Team Leader. Where the works proposed are for the felling of a tree in a conservation area the delegated authority form will include details of the Planning Officer and Landscape Officer who have been involved in the decision in the consultee box. If a recommendation to fell is made, and where a replacement tree is required the delegated authority form shall include any condition(s) detailing the requirements and timescale (the following planting season or other as agreed) for planting a replacement tree, and its maintenance.

1.8 The Area Planning Team Leader will then sign the delegated authority form and return it to the Tree Team evaluating Officer who will then write to the Tree Team submitting Officer informing them that the works can go ahead and no TPO is to be made at this time. Where a replacement tree is required the letter will detail any conditions by which a replacement tree is required to be planted.

1.9 The Council is required to keep available for public inspection a register of all section 211 notices. The Tree Team who deals with the administration of Section 211 Notices will update the register.

**Procedure for dealing with Council applications to carry out works to trees which are the subject of a Tree Preservation Order.**

2.1 The Tree Team will make an application on the standard application form published by the Secretary of State. The application must include;

- i) the information required on the form.
- ii) Be accompanied by a plan which identifies the tree(s) on which work is proposed.
- iii) Clearly specify the work for which consent is sought;
- iv) State the reasons for making the application; and
- v) Provide appropriate evidence describing the damage or defect where the work is proposed to address any structural damage to property in relation to tree health or safety.

2.2 Following receipt of an instruction from the relevant authorised Officer responsible for the tree(s), the Tree Teams submitting officer (acting as agent) will forward the application to an evaluating Officer (different Tree Team Officer to the agent) within the Tree Team. The evaluating Officer will validate the application (identify that all the components of the application as listed above have been submitted) and will send out a written acknowledgement before organising a site visit and assess the extent of the works requested and it's effect on the health and visual quality of the tree.

2.3 Following the site visit the evaluating Tree Team officer will complete a technical report. The report should clearly state:

- The application receipt date
- The expiry date for the tree team to receive comments (maximum 14 days).
- The date the application expires.

- Details of who/how to gain access to the property if required.
  - Recommendations with regards to arboricultural health of the tree(s).
- 2.4 The technical report and original application are sent to Landscape Design and the relevant Area Planning Team Leader within a maximum of 14 days from receipt. This should be sent by e-mail (a hard copy should be sent on request). Comments should then be sent back from Landscape Design on the standard form and from Planning by e-mail within a maximum period of 14 days.
- 2.5 The LPA keeps a register of all applications for consent. The public can request to see the register with prior arrangement and within a reasonable time scale at Streetscape, Middlefields Depot, Hudson Street, South Shields, NE34 0NT. Other than placing the application on the register, the LPA does not as a rule publicise applications more widely, unless it considers that local people may be affected by the application or where there is likely to be a significant level of public interest.
- 2.6 Where this is the case, the Tree Team evaluating Officer will send letters to the occupiers/owners of those properties adjacent to the site on which the tree(s) stand giving them a period of 21 days, in which to provide any written comments. Additionally a site notice shall be erected by the Tree Team evaluating Officer adjacent to the site, commencing a 21 day consultation process. The Council will take into account all duly made representations in their assessment.
- 2.7 In dealing with the application the LPA may:
- Refuse consent
  - Grant consent unconditionally, or
  - Grant consent subject to such conditions as they think fit.
- Where an application relates to a number of different operations on one or more trees the LPA may refuse consent for some of the operations and grant consent for others. The decision notice must make absolutely clear what is being authorised.
- 2.8 Having undertaken an assessment, the Tree Team evaluating Officer completes a delegated authority form, and sends it with a copy of the Tree Preservation Plan showing the location of the tree(s) in question to the Area Planning Group Manager / Area Team Leader.
- 2.9 The Area Planning Group Manager / Team Leader will then sign the delegated authority form and return it to the Tree Team evaluating Officer who will then write to the Tree Team submitting Officer (acting as agent) notifying them of the decision. Additionally, where a consultation process was undertaken and representations were received, a letter advising those interested third parties of the decision shall be sent.
- 2.10 If the tree in question is to be (or has been felled in an emergency due to it being in a dangerous condition) felled then a replacement tree is required. The applicant will be notified in writing that PRIOR to the tree being removed the location, species and size of the replacement tree must be agreed.
- 2.11 If the request for tree works is refused then the Tree Team Officer will write the refusal notice BUT Area Planning Manager / Area Team Leader will sign and send out the notice. The

refusal reason should clearly state the reason(s) for the decision. These should relate to each of the applicant's reasons for making the application.

- 2.12. The exception to the procedure outlined in section 2.10 is if the tree is in an imminently dangerous condition in which case the tree must be removed immediately in the interests of public safety and verbal permission can be given on site and the delegation written to note the removal of the tree. Photographic evidence will need to be taken on site and a written record of the site visit and verbal discussions held made by the Tree Team evaluating Officer. The location and species of the replacement tree must be agreed in writing with the Tree Team evaluating Officer dealing with the application.

## **Procedure for dealing with requests for tree works – Section 211 notices, works to TPO trees, replacement tree planting and appeals.**

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### **Content:**

- Section 1.0 Trees within Conservation Areas and Section 211 Notices, including Section 211 notice received through a planning application.
- Section 2.0 Applications to carry out works to trees, which are the subject of a Tree preservation Order (TPO).
- Section 3.0 Replacement Tree Planting.
- Section 4.0 Availability of Information / Register.
- Section 5.0 Appeals against Local Planning Authority decisions.
- Section 6.0 Appeals against tree replacement notices.
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## **1.0 Trees within Conservation Areas and Section 211 Notices.**

### **All note – This procedure is time critical.**

- 1.1 The Town and Country Planning Act 1990 makes special provision for trees in conservation areas, which are not the subject of a Tree Preservation Order (TPO). Under Section 211 anyone proposing to cut down or carry out work on a tree(s) in a conservation area is required to give the Local Planning Authority six weeks prior notice (a Section 211 notice). The purpose of this requirement is to give the Local Planning Authority an opportunity to consider whether a TPO should be made in respect of the tree(s).
- 1.2 A section 211 notice only allows the Council **six-weeks** in which to make a TPO in respect of any tree. The Council can then either:
- i) make a TPO if justified in the interests of amenity resulting in the proposed work requiring a formal application under the TPO
  - ii) decide not to make a TPO and inform the applicant that the works must be undertaken within 2 years from the date of the notice.
  - iii) even if the six week period has expired provided the tree is still standing, has not been damaged beyond recognition, is in good health and of good visual amenity, a Tree Preservation Order can still be made.

- 1.3 A Section 211 notice does not have to be in any particular form, although the use of the Council's standard form should be encouraged. The Section 211 notice must describe the work proposed, and include sufficient particulars to identify the trees. A reason for the works only needs to be supplied if consent is being sought for works to trees under a Tree Preservation Order. When a section 211 notice is received in writing (via letter, standard application form, e-mail, planning application (see section 1.11 onwards) the tree team dealing with the section 211 notice will validate the notification. The notification will either be validated or be considered in-valid.
- 1) If invalid, a letter is sent to the applicant within 14 days of receipt of the Section 211 by the tree team advising that the notification is invalid. The letter will detail the reason(s) why the notification is invalid and advise on the additional details required.
  - 2) If / when valid the tree team will send out an acknowledgement receipt. The acknowledgement receipt should specify timescales; the date of receipt of the section 211 notice (the start date) and the date marking the end of the six week period. The acknowledgement letter should also explain that the proposal can proceed at the end of the six week period unless a TPO is made. The letter should identify whether the Local Planning Authority will publicise the notice giving local residents, authorities and groups an opportunity to comment on the proposal.

The six week timeframe does not start until the notification is valid. The Tree Team will visit the site in the company of the owner and/or tree surgeon and assess the extent of the works requested and it's effect on the health and visual quality of the tree. The primary purpose of the assessment is to determine whether the tree(s) are worthy of TPO.

- 1.4 The Tree Team, following a site visit, produce a technical report. The technical report needs to be sent out with expediency to allow time for a TPO to be served, which can take up to 28 days. The report should clearly state:
- The notification receipt date.
  - The expiry dates for tree team to received comments (maximum 14 days).
  - The date the application expires (6 weeks from receipt).
  - Details of who/how to gain access to the property if required as this can delay comment and making TPOs.
  - Recommendations with regards to the arboricultural health of the tree(s).
- 1.5 The technical report and copy of the original application is sent to Landscape Design and the relevant Area Planning Team Leader within a maximum of 14 days from receipt. This should be sent by e-mail (a hard copy should be sent on request). Comments should then be sent back from Landscape Design on the standard form and from Planning by e-mail within a maximum period of 14 days from receipt. Should a site visit need to be carried out by the Landscape Design or Planning Officer it should be undertaken within the 14 day period prior to comments being sent to the Tree Team.
- 1.6 Where a recommendation to fell is likely to be made consideration should be made for the planting of an appropriate replacement tree, wherever there is space within the site to do

so. This should be agreed as part of the notification with the landowner which is included in the decision letter issued by the Tree Team. A timescale for planting, the species of the tree, size and the location should be agreed. Replacement trees do not have to be like for like but it must be an appropriate size and species for the location to ensure good establishment and an increased chance of reaching maturity. This verbal agreement will subsequently be documented by condition in the decision letter.

If the tree in question has been felled in an emergency due to it being in a dangerous condition, a subsequent retrospective written acknowledgement will be sent by the Tree Team advising if a replacement tree is required, its location, species and size and the period in which it must be planted.

- 1.7 If the decision taken is for a TPO to be placed on the tree(s), the case is handed to the Landscape Design Team by the Tree Team and the 'Making of TPO procedure' should be followed.
- 1.8 If the proposed works are acceptable the Tree Team completes a delegated authority form and confirms that no TPO is to be made and the works proposed can go ahead. This delegated powers form is sent, with a site location plan, to the Area Planning Group Manager / Area Team Leader. Where the works proposed are for the felling of a tree in a conservation area the delegated authority form will include details of the Planning and Landscape Design Officers who have been involved in the decision in the consultee box.
- 1.9 If a recommendation to fell is made, and where a replacement tree is required the delegated authority form shall include any condition(s) to the landowner detailing the requirements (species, size and location) and timescale (the following planting season or other as agreed) for planting a replacement tree.
- 1.10 The Area Planning Group Manager / Area Team Leader will then sign the delegated authority form and return it to the Tree Team who will then write to the applicant informing them that the works can go ahead and no TPO is to be made at this time. Where a replacement tree is required the letter will detail any conditions by which a replacement tree is required to be planted. A guidance note will be appended to the letter providing advice on planting and maintenance of the replacement tree.
- 1.11 The Council is required to keep available for public inspection a register of all section 211 notices. The Tree Team will update the register.

### **Section 211 Notice received through a Planning Application**

- 1.12 A Section 211 notice can be received through the submission of a planning application, which indicates proposed felling or works on a tree(s) in a conservation area. The following procedure should be followed where a Section 211 notice is received through the submission of a planning application.

- 1.13 For the avoidance of doubt, the date of receipt of the planning application is the start date for the statutory (six–week) period in which to make a TPO. During validation of the planning application, where the application is located within a conservation area and tree works are proposed, the Area Planning Support Team (Validation Officer) will discuss the application with the Planning Case Officer to check if the application constitutes a notice under Section 211. It should be noted that cases could arise where a Section 211 notice is valid but the planning application is itself invalid. In such cases Area Planning Support (Validation Officer) should discuss this with the Case Officer. It will also be the Planning Case Officers responsibility to check validated applications to identify whether the application constitutes a notice under Section 211. If there is any uncertainty as to whether the application constitutes a notice under Section 211, the Case Officer should refer back to the applicant / agent. A letter should be sent seeking clarification and setting out what additional or amended details are required. The letter should advise that the six week start date for the period in which to make a TPO will not commence until confirmation / all necessary information is received. Clarification should be confirmed from the agent / applicant in writing, submitting additional or amended details as necessary.
- 1.14 Where a planning application constitutes a notice under Section 211 the Planning Officer will send a formal consultation request to the Tree Team. A separate consultation request to Landscape Design should also be sent. This consultation request must make it clear that a section 211 notice has been received, and that a consultation request has been sent to the Tree Team.
- 1.15 The Planning Case Officer will need to write promptly acknowledging receipt to the applicant that the application constitutes a Section 211 notice. A copy of this letter should be appended to the formal consultation request (as set out above) to the Tree Team. The acknowledgement receipt should specify timescales; the date of receipt of the section 211 notice (the start date) and the date marking the end of the six week period. The acknowledgement letter should also explain that the proposal can proceed at the end of the six week period unless a TPO is made. The letter should identify whether the Local Planning Authority will publicise the notice giving local residents, authorities and groups an opportunity to comment on the proposal.
- 1.16 A joint site inspection between the Tree Team and Landscape Design will take place in the company of the owner and/or tree surgeon and assess the extent of the works requested and it's effect on the health and visual quality of the tree. The primary purpose of the assessment is to determine whether the tree(s) are worthy of TPO.



- 1.17 Following the site inspection the Tree Team will produce a technical report. The technical report needs to be sent out with expediency to allow time for a TPO to be served, which can take up to 28 days. The report should clearly state:
- The application receipt date.
  - The expiry date for tree team to receive comments (maximum 14 days).
  - The date the application expires (6 weeks from receipt).
  - Recommendations with regards to the arboricultural health of the tree(s).
- 1.18 The Tree Teams technical report shall be sent to Landscape Design and the relevant Area Planning Team Leader, who will discuss the report with the Planning Case Officer dealing with the planning application within a maximum of 14 days from receipt. This should be sent by e-mail (a hard copy should be sent on request). Comments should then be sent back from Landscape Design and from Planning by e-mail within a maximum period of 14 days. Landscape Design will also return comments in regard to the visual amenity in the normal method (planning application consultation response) within 14 days. The comments will highlight the specific response to the Section 211 notice made to the Tree Team and whether a TPO is to be made.
- 1.19 Where a recommendation to fell is likely to be made consideration should be made for the planting of an appropriate replacement tree, wherever there is space within the site to do so. This should be agreed as part of the application with the landowner. A timescale for planting, the species of the tree, size and the location should be agreed. This verbal agreement will subsequently be documented by condition in the decision letter.
- 1.20 If the decision taken is for a TPO to be placed on the tree(s), the case is handed to the Landscape Design Team by the Tree Team and the 'Making of TPO procedure' should be followed.
- 1.21 If the proposed works are acceptable the Tree Team completes a delegated authority form and confirms that no TPO is to be made and the works proposed can go ahead. This delegated powers form is sent, with a site location plan, to the Area Planning Group Manager / Area Team Leader. Where the works proposed are for the felling of a tree in a conservation area the delegated authority form will include details of the Planning and Landscape Design Officers who have been involved in the decision in the consultee box.
- 1.22 If a recommendation to fell is made, and where a replacement tree is required the delegated authority form shall include any condition(s) to the landowner detailing the requirements (species, size and location) and timescale (the following planting season or other as agreed) for planting a replacement tree.
- 1.23 The Area Planning Group Manager / Area Team Leader will then sign the delegated authority form, advise the Planning Case Officer of the decision and return the signed delegated authority form to the Tree Team who will then write to the applicant informing them that the works can go ahead and no TPO is to be made at this time. A copy of this letter should also be sent the Planning Case Officer, to append to the planning application

file. Where a replacement tree is required the letter will detail any conditions by which a replacement tree is required to be planted. A guidance note will be appended to the letter providing advice on planting and maintenance of the replacement tree.

- 1.24 The Council is required to keep available for public inspection a register of all section 211 notices. The Tree Team will update the register.

## **2.0 Applications to carry out works to trees which are the subject of a Tree Preservation Order**

- 2.1 An application must be made on the standard application form published by the Secretary of State. The use of the form is mandatory. They may be submitted by post, delivered by hand or by electronic means – e-mail, fax or through the planning portal. The application must include;

- vi) the information required on the form.
- vii) Be accompanied by a plan, which identifies the tree(s) on which work is proposed.
- viii) Clearly specify the work for which consent is sought;
- ix) State the reasons for making the application; and
- x) Provide appropriate evidence describing the damage or defect where the work is proposed to address any structural damage to property in relation to tree health or safety.

Any application made, which is not submitted on the standard form, is incomplete, or fails to include any of the required documents will be invalid.

- 2.2 When an application is received the Tree Team will validate the application (identify that all the components of the application as listed above have been submitted) and will send out a written acknowledgement. If an application is invalid the application is refused and the applicant notified by letter; there is no invalid procedure.
- 2.3 Following the acknowledgement of a valid application the tree team will organise a site visit in either the company of the owner and/or tree surgeon and assess the extent of the works requested and it's effect on the health and visual quality of the tree.
- 2.4 Following the site visit the Tree Team will complete a technical report. The report should clearly state:
- The application receipt date.
  - The expiry date for tree team to receive comments (maximum 14 days).
  - The date the application expires.
  - Details of who/how to gain access to the property if required as this can delay comment and making TPOs.
  - Recommendations with regards to arboricultural health of the tree(s).
- 2.5 The technical report and original application is sent to Landscape Design and the relevant Area Planning Team Leader within a maximum of 14 days from receipt. This should be sent by e-mail (a hard copy should be sent on request). Comments should then be sent back from Landscape Design on the standard form and from Planning by e-mail within a maximum period of 14 days. Should a site visit need to be carried out by the Landscape

Design or Planning Officer it should be undertaken within the 14 day period prior to comments being sent to the Tree Team.

- 2.6 Where an application is submitted by anyone other than the land owner / occupier i.e. neighbour, agent/tree surgeon, the owner and/or occupier of the land on which the tree stands is informed in writing, by the Tree Team, of the application and given the opportunity to make comment.

2.7 In dealing with the application the LPA may:

1. refuse consent
2. grant consent unconditionally, or
3. grant consent subject to such conditions as they think fit.

Where an application relates to a number of different operations on one or more trees the LPA may refuse consent for some of the operations and grant consent for others. The decision notice must make absolutely clear what is being authorised.

Conditions: Where there is concern that the applicant or the applicants agent are unlikely to carry out permitted works to the appropriate BS standards then it would be advised that a condition is placed upon the permission that the work is undertaken by an Arboricultural Association approved contractor. This decision will need to be carefully considered however as the council will be liable to compensation claims for any cost difference incurred.

- 2.8 Having undertaken an assessment, the Tree Team completes a delegated authority form, and sends it with a copy of the Tree Preservation Plan showing the location of the tree(s) in question to the Area Planning Group Manager / Area Team Leader.
- 2.9 The Area Planning Group Manager / Team Leader will then sign the delegated authority form and return it to the Tree Team who will then write to the applicant and/or owner of the land on which the tree(s) stand notifying them of the decision. Additionally, where a consultation process was undertaken and representations were received, a letter advising those interested third parties of the decision shall be sent by the Tree Team.
- 2.10 If the tree in question is to be felled then a replacement tree is required. The applicant will be notified in writing that PRIOR to the tree being removed the location, species and size of the replacement tree and the period in which it must be planted must be agreed.
- 2.11 If the tree in question has been felled in an emergency due to it being in a dangerous condition, subsequent written notification will be sent by the Tree Team advising that the location, species and size of the replacement tree and the period in which it must be planted must be agreed
- 2.12 If the request for tree works is refused then the Tree Team will write the refusal notice BUT Area Planning Manager / Area Team Leader will sign the notice. The refusal reason should clearly state the reason(s) for the decision. These should relate to each of the applicant's reasons for making the application. The Area Planning Manager / Area Team Leader will sign the notice and return it to the Tree Team, who will send out the notice to the applicant, enclosing a copy of the leaflet Tree Preservation Order Appeals, How the Process Works, with the refusal notice.
- 2.13 The exception to the procedure is if the tree is in an imminently dangerous condition in which case the tree must be removed immediately in the interests of public safety and verbal

permission can be given on site and the delegation written to note the removal of the tree. Photographic evidence will need to be taken on site and a written record of the site visit and discussions held made by the Tree Team. The location and species of the replacement tree must be agreed in writing with the Tree Team.

### **3.0 Replacement Tree Planting**

- 3.1 The owner of the tree is notified in writing of their obligation to plant a replacement tree in the letter confirming that permission has been granted to remove a tree that is the subject of a TPO. The owner is given until the end of the first planting season (or other as agreed) following the trees removal to plant the replacement tree and formerly notify the Team who administers the Tree Replacement Register. The tree team who dealt with the request to remove the tree sends out the letter to the tree owner.
- 3.2 The requirement to plant a replacement tree is put onto the tree replacement register (Excel document) and the date that the tree should be planted by noted in the correct column.
- 3.3 When the tree has been planted the owner notifies the Team who administers the Tree Replacement Register and an officer will go out to the site and plot the position of the new tree(s) and note it's species.
- 3.4 The tree replacement register is then updated with the above information by the Tree Team to indicate that the obligation has been complied with. The Tree Team must also inform Landscape Design of the above information so that updates can be made to the Order and the GIS record.
- 3.5 A reminder letter to replant and inform the Tree Team of replacement details is sent at the beginning of the planting season to all outstanding replacement TPO's.
- 3.6 If towards the end of the first planting season following tree removal (or other time scale as agreed) the owner has not planted their replacement tree and/or not contacted the tree team, then a letter is sent to them by end February reminding them of their obligation.
- 3.7 The Tree team will send out a letter again at the beginning of the next planting season (October/November) if the owner has not planted their replacement tree and/or not contacted the team.
- 3.8 If by the end of the second planting season the requirement has not been met then the Tree team complete a delegated authority form requesting permission to serve a replacement tree notice on the owners. This form is sent to the Area Planning Group Manager who signs it and returns it to the Tree Team.
- 3.9 The delegation along with a memorandum is sent to Legal Services requesting that, under section 207 of the Town and Country Planning Act for a replacement tree notice to be served on the owners of the tree.

A person served with a tree replacement notice may appeal to the Secretary of State against it. Please refer to Appeals procedure note for further details.

- 3.10 If the process enters into an unsuccessful appeal and/or the owner continues to fail to comply with the terms set out in the replacement tree notice within the compliance period then the Council may enter onto the land to plant the replacement(s) and the cost is recovered from the owners of the trees.
- 3.11 Replacement planting will be carried out on behalf of the Council by the contracting firm responsible for the boroughs arboricultural maintenance. If the site is vacant representatives of the contracting firm will be accompanied on site by a member of the Tree Team who will accurately record the location of the new tree(s) and note its species and size at the time of planting.
- 3.12 If the site is inhabited and/or there is likely to be hostility from property owners then both the contracting firm and Tree Team must be accompanied on site by the Planning Enforcement Officer and if necessary a Police Officer.
- 3.13 The Tree Team must inform Landscape Design of the new planting locations, species type and date of planting in order for the GIS record and Order to be updated and amended as necessary. Landscape Design will liaise with Legal Services to ensure the TPO is amended.

#### **4.0 Availability of Information / Register.**

- 4.1 The LPA are required to make copies of TPO's available at their offices for public inspection during office hours, a fee is payable for copy orders. Payment is required before the issuing of copies. This is a function of Legal Services.
- 4.2 The LPA are required to keep a register of all applications for consent to carry out works to protected trees, which must be made available to the public at all reasonable hours. The register should include details of every application under the TPO and the LPA's decision. The register is kept electronically by the Tree Team and requests for information from the register will need to be directed to them. A period of 48 hours is required to turn around information requests.
- 4.3 The LPA are required to keep available for public inspection a register of all section 211 notices. The Secretary of State has determined that the register should include the following particulars:
- 1) The address of the land on which the tree stands and sufficient information to identify the tree and the work proposed;
  - 2) The date of the section 211 notice and who served it;
  - 3) The decision of the LPA (if they make one) and the date of the decision; and
  - 4) An index for tracing entries.

#### **5.0 Appeals against Local Planning Authority decisions**

- 5.1 The legislation provides no right of appeal to the Secretary of State against the making of a TPO, either when provisionally made or confirmed. The validity of a TPO cannot be challenged in any legal proceeding except by way of application to the High Court within six weeks of when the order is confirmed.

- 5.2 If permission has been refused for the works applied for then the applicant/owner/occupier of the land will be notified and the applicant informed of their right to appeal. The leaflet 'Tree Preservation Order Appeals, How the Process Works' should be sent to the applicant with their refusal notification.
- 5.3 An appeal to the Secretary of State can be made following an application for consent to cut down or carry out work on a protected tree. The appeal must be made within 28 days of receiving the Local Planning Authorities (LPA's) decision, certificate or direction. An appeal may be brought against the following;
- 1) The LPA's refusal of consent;
  - 2) Any condition attached to the LPA's consent;
  - 3) *In relation to TPO's made before 2 August 1999:*  
Any article 5 certificate issued by the LPA on refusing consent or granting consent subject to conditions;
  - 4) Any replanting direction issued by the LPA on granting consent to fell any part of a woodland;
  - 5) The LPA's failure to notify the applicant of their decision (non-determination) within 2 months or 8 weeks from the date they received the application (or such period as may be agreed by the applicant and LPA in writing). Once an appeal has been made the LPA cannot decide the application, which is treated as though it had been refused by the LPA.
  - 6) *For TPO's made on or after 2 August 1999:*  
The LPA's refusal to agree a matter that required their agreement under the terms of a condition of consent (i.e. location of replacement tree to be agreed).
- 5.4 Where the LPA rejects an application as invalid, there can be no right of appeal. However, where there is a dispute between the applicant and the LPA about whether the application fulfilled the legal requirements, the applicant can seek to appeal on the basis of non-determination.
- 5.5 Appeals are handled by the Planning Inspectorate (PINS). From 1 October 2008 a fast-track appeal procedure replaced the previous handling of appeals through the submission of written representations. In practice most cases will therefore be dealt with on the basis of the original application and its supporting information, the decision of the LPA and the reasons they gave when making the decision. The Inspector may, however, ask for further information. Either party can request the appeal be dealt with at a hearing or public local inquiry. An application for an award of costs may be made to the inspector at the hearing or inquiry, by one party on the grounds of other party's 'unreasonable behaviour' which causes unnecessary expense.

## 5.6 Fast-track procedure.

1. When giving notice of appeal to PINS, the appellant must at the same time send a copy of the notice to the LPA.
2. On receipt of a notice of appeal the Area Planning Support set up an appeal file, which is subsequently passed to the Planning Case Officer. The Planning Case Officer will need to send, as soon as practicable, copies of the following to PINS:
  - i) the application for consent,
  - ii) their decision, if made, and any condition, certificate or direction they have made in relation to their decision.Copies will need to be requested from the Tree Team by the Planning Case Officer. The Tree team will need to provide the information as soon as possible.
3. On receipt of this information PINS will write to the LPA enclosing an appeal questionnaire. The Planning Case Officer (liaising with Landscape Design where required) will complete and submit the completed questionnaire (including requested information), with a copy to the appellant, within the target time set by PINS, which will be at least 21 days from the date it was sent. The questionnaire must record the date on which the LPA returned it to PINS.
4. If a request is received for further information from PINS this must be provided in writing and submitted within the stated timescale.
5. After receiving the appeal, the completed questionnaire from the LPA and any further information that may have been requested, PINS will arrange for an inspector to visit the appeal site. Representatives of both parties usually accompany the inspecting Officer. Council representatives will be those deemed most appropriate by the Area Planning Manager. No discussion about the merits of the appeal is allowed during the site visit. Unaccompanied site visits may be arranged with the consent of both parties, providing the inspecting officer can gain access to the site and has sufficient information to assess all aspects of the case.

## The Secretary of State's (SoS) Decision.

- 5.7 The Secretary of State may allow or dismiss the appeal. The Secretary of State may reverse or vary any part of the LPA's decision, cancel any article 5 certificate or cancel or vary any replanting direction. The appeal may also be allowed in part.
- 5.8 The decision notice is sent to the appellant and copied to the LPA.

- 5.9 Area Planning Support, upon receipt of the appeal decision update records and send a copy of the decision to the Team responsible for the administration of tree work applications, who will record the outcome on the tree register.
- 5.10 It should be noted that all parties must meet their own expenses if an appeal is dealt with under the fast-track appeal procedure. In those cases dealt with by a hearing or inquiry, an application for an award of costs may be made by one party on the grounds of the other party's unreasonable behaviour which causes unnecessary expense.

## **6.0 Appeals against tree replacement notices.**

- 6.1 A person served with a tree replacement notice may appeal to the Secretary of State against it on the following grounds:
1. that the duty to replace trees or, as the case may be, the condition of consent requiring the replacement of trees, does not apply or has been complied with;
  2. that in all the circumstances of the case the duty to replace trees should be dispensed with;
  3. that the requirements of the notice (in relation to the size of the trees or their species, or the period given to comply with the notice) are unreasonable;
  4. that the planting of trees in accordance with the notice is not required in the interests of amenity or would be contrary to good forestry practice;
  5. that the place on which the trees are required to be planted is unsuitable for that purpose.
- 6.2 Where an appeal is made, the tree replacement notice is of no effect pending the final determination or withdrawal of the appeal.
- 6.3 An appeal must;
- be made before the replacement notice takes effect (should be specified on the notice)
  - be made in writing to PINS, and
  - indicate the grounds of appeal and state the facts on which it is based.
- There is no fee.
- 6.4 Both parties have the right to a hearing or local inquiry, but are usually content to have the appeal dealt with under the normal appeal procedure.
- 6.5 When giving notice of appeal to PINS, the appellant must at the same time send a copy of the notice to the LPA.
- 6.6 On receipt of a notice of appeal the Area Planning Support set up an appeal file, which is subsequently passed to the Planning Case Officer. The Planning Case Officer will need to send, as soon as practicable, copies of the following to PINS:
- i) the notice issued under section 207(1);



- ii) where the notice has been issued following a failure to plant replacement trees under the condition of consent, the original application and consent;
- iii) where the notice has been issued as a result of the breach of the order, the date of that breach, if not included in the notice;
- iv) where the notice has been issued as a result of a failure to replace a protected tree removed under the exemption of being dead or dangerous, the date of the alleged failure, if not included in the notice.

Copies will need to be requested from the Tree team by the Planning Case Officer. The Tree team will need to provide the information within 7 working days.

- 6.7 On receipt of this information PINS will write to the LPA enclosing an appeal questionnaire. The Planning Case Officer (liaising with the tree team where required) will complete and submit the completed questionnaire (including requested information), with a copy to the appellant, within the target time set by PINS, which will be at least 21 days from the date it was sent. The questionnaire must record the date on which the LPA returned it to PINS.
- 6.8 If a request is received for further information from PINS this must be provided in writing and submitted within the stated timescale.
- 6.9 After receiving the appeal, the completed questionnaire from the LPA and any further information that may have been requested, PINS will arrange for an inspector to visit the appeal site. The Inspector will consider the appeal before issuing the decision on the SoS's behalf.
- 16.10 In dealing with an enforcement appeal, the SoS may correct and defect, error or mis-description in the tree replacement notice. He may vary any of its requirements. The SoS may decide a notice is so fundamentally defective that it must be quashed.
- 6.11 On receipt of the SoS decision Area Planning Support, upon receipt of the appeal decision update records and send a copy of the decision to Tree Team.
- 6.12 Unlike TPO appeals costs may be awarded in tree replacement notice cases, which are dealt with under the written representations procedure. One party may apply for costs on the grounds of the other party's unreasonable behaviour which causes unnecessary expense. In written representation cases, the application for costs should be made to the appropriate Government Office for the Region. In the case of a hearing or inquiry, the application should be made to the Inspector appointed to deal with the appeal.

Further Information:

For further details on how to appeal, procedures and costs please refer to 'Tree Preservation Orders: A Guide to the Law and Good Practice' (March 2000) and 'Tree Preservation Orders: A Guide to the Law and Good Practice' – Addendum (September 2008).

## TREE PRESERVATION ORDERS – A PROCEDURAL NOTE

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### Grounds For Requesting the Making Of Tree Preservation Orders:

- 1.0 The Local Planning Authority (LPA) is required under the Town and Country Planning Act 1990 (as amended) (the Act) to ensure that when granting planning permission it makes adequate provision for the preservation and protection of trees by imposing conditions, but also by a special power to make tree preservation orders (TPO's).
- 1.1 Under section 198 of the Act the LPA may make a TPO for the preservation of specific trees, groups of trees or woodland in its area 'if it is expedient in the interests of amenity'.
- 1.2 The TPO must be made in the form set out in the Town and Country Planning (Trees) Regulations 1999 and further advice on TPO's in general is contained within DOE Circular 36/78 *Trees and Forestry*, and the booklet *Tree Preservation Orders: A Guide to the Law and Good Practice (march 2000)* and *Tree Preservation Orders: A Guide to the Law and Good Practice – Addendum (September 2008)*.

#### **Amenity**

- 1.3 The Act does not define "amenity", nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the secretary of State's view, TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and it's enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath, although, **exceptionally**, the inclusion of other trees may be justified. The benefit may be present or future; trees may be worthy of preservation for their intrinsic beauty or for their contribution to the landscape or because they serve to screen an eyesore or future development; the value of trees may be enhanced by their scarcity; and the value of a group of trees or woodland may be collective only. Other factors, such as importance as a wildlife habitat, may be taken into account, which alone would not be significant to warrant a TPO. In the Secretary of States view, it would be inappropriate to make a TPO in respect of a tree, which is dead, dying or dangerous.
- 1.4 LPAs should be able to explain to landowners why their trees or woodlands have been protected by a TPO. They are advised to develop ways of assessing the "amenity value" of trees in a structured and consistent way, taking into account the following key criteria:

- 1) **visibility:** the extent to which trees and woodlands can be seen by the general public will inform the LPAs assessment of whether it's impact on the local environment is significant. If they cannot be seen or are just barely visible from a public place, a TPO might only be justified in exceptional circumstances.
- 2) **Individual impact:** the mere fact that a tree is publicly visible will not in itself be sufficient to warrant a TPO. The LPA should also assess the trees particular importance by reference to its size and form, it's future potential as an amenity, taking into account any special features such as it's rarity, value as a screen or contribution to the character or appearance of a Conservation Area. In relation to a group of trees or woodland, an assessment should be made of it's collective impact;
- 3) **Wider impact:** the significance of the trees in their local surroundings should also be assessed taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.

### ***Expediency***

- 1.5 Although a tree may merit protection on amenity grounds it may not be expedient to make it the subject of a TPO. For example, it is unlikely to be expedient to make a TPO in respect of trees, which are under good arboricultural or silvicultural management.
- 1.6 It may be expedient to make a TPO if the LPA believe there is a risk of the tree being cut down or pruned in ways, which would have significant impact on the amenity value of the area. It is not necessary for the risk to be immediate. In some cases the LPA may believe that certain trees are at risk from general development pressures. The LPA may have some other reason to believe that trees are at risk; changes in property ownership and intentions to fell trees are not always known in advance, and so the protection of selected trees by a precautionary TPO might sometimes be considered expedient.

### **The Procedure For Making a Tree Preservation Order under section 201 of the Town and Country Planning Act 1990.**

- 1.7 As a matter of process all TPO's initiated in South Tyneside are requested to come into force on a provisional basis for 6 months under a Section 201 directive. This then provides immediate protection of the Tree.

Notwithstanding section 199(1), an order which contains such a direction

- a) shall take effect provisionally on such date as may be specified in it, and
- b) shall continue in force by virtue of this section until;
  - i) the expiration of a period of six months beginning with the date on which the order was made; or
  - ii) the date on which the order is confirmed, whichever first occurs.

- 1.8 The request for the making of a TPO is made in writing to Landscape Design. The request could be received from various sources including, the Area Planning Group, Landscape, Tree Team and also from the tree works procedure, if works to trees in conservation areas are declined. Upon receipt of the request the Landscape Officer will advise the Area Planning Team Leader. Requests for TPO's should only be considered in consultation with Area Planning.

- 1.9 The Landscape Officer conducts a site visit. This may be undertaken with a Planning Officer and Arboricultural Officer, where required. Where the Area Planning Group has requested a TPO, the Planning Officer will attend the site meeting.
- 1.10 At this time a full assessment is made of the amenity value of the tree(s) using the TEMPO system taking into account the criteria as previously detailed in section 1.4. Photographs should be taken. The results of this assessment should be kept and filed with the TPO statements (it is vital to include this assessment in case of any objections to the TPO or future violations).
- 1.11 An arboricultural report, where needed, should be requested from the Tree Team to assess the health of the tree.
- 1.12 Every case will be considered on its individual merits, if a Tree Preservation Order is made and the owner of the tree appeals against the order the Local Planning Authority **MUST** have a very good case for the introduction of the TPO or they will lose the appeal.
- 1.13 If the criteria to the making of a TPO are met, the Landscape Officer adds the details to the TPO Status Database (Excel Document) to obtain a TPO number. The TPO Status Database is held electronically within the Landscape Team File: Trees & Hedgerows, DS-Consultancy. The new TPO should be logged as 'Awaiting provisional' in the status column with the initiation date recorded also.
- 1.14 The Landscape Officer draws up a CAD location plan and schedule as per the guidance contained in Section 3.10 of 'Tree Preservation Orders: A Guide to the Law and Good Practice,' March 2000.
- 1.15 The Landscape Officer completes a delegated decision form. A covering letter to the Area Planning Team Leader should be completed requesting that the Area Planning Team Leader signs the delegated decision. The Landscape Officer will produce a letter to Legal Services requesting that they create the legal order. The letter will need to indicate the level of urgency, the reason(s) for making the order, a list of trees affected and a list of properties, that are adjacent to the property on which the tree(s) stand.
- 1.16 The draft TPO plan, schedule, 3 no. copies of a completed delegated authority form should be sent to the Area Planning Team Leader with the covering letter and a copy of the letter to be sent to Legal Services. The letter to Legal Services should be sent.
- 1.17 The Area Planning Team Leader will then sign the 3 copies of the delegated authority form. The Area Planning Team Leader will then forward the following documents to;
  - Legal Services: 1 copy of the delegated decision, the TPO plan and schedule.
  - Landscape Design – 2 copies of the delegated decision form.
- 1.18 The Landscape Officer, upon receipt of the signed delegated decision from Area Planning, will update the TPO status on the TPO Status Database (Excel) inserting the date on which the delegated decision was signed and add the details of the TPO to GIS MapInfo. A TPO is a charge on the land on which the trees are situated and need to be recorded as soon as practicable by Landscape Design. The Landscape Officer should ask officers with administration rights to confirm the delegated decision on the system.

- 1.19 The Landscape Officer shall file the plan and delegated decision in the TPO systems file.
- 1.20 Legal Services will advise Landscape Design in writing when the delegated decision has been received from Area Planning and when the TPO is likely to be made. All correspondence will be copied to the Tree Team.
- 1.21 Legal Services will undertake land searches to establish land ownership and any consultees after which the TPO is sealed by Head of Legal Services.
- 1.22 The TPO now becomes effective for a 6-month temporary period. Legal Services will produce the Regulation 3 Notice to be served (by hand delivery) on the owners, and anyone with an interest in the land on which the tree(s) stand and on the owners/occupiers of properties adjacent to the property on which the tree(s) stand or who may be effected in any way by the order. The Regulation 3 notice is also erected on site. Legal Services will contact the Tree Team once the notices and a list of land/property owners to be served notice have been produced. The Tree Team will be responsible for hand delivering the notice(s) and the erection of the site notice. Photographs should also be taken on site on the day that the order is made. The 28 day consultation process begins. A copy of the notice is held for public inspection by Legal Services. Legal Services will also ensure that the TPO is recorded as a land charge.
- 1.23 The Tree Team will notify Landscape Design, Legal and the Area Planning Officer on the day of serving the notice and advise when the 28 day objection period is liable to expire. The Tree Team will need to file the photographs within the electronic record (TPO) folder and forward a copy of the photographs to Legal Services for their TPO file record.
- 1.24 Legal Services shall send a copy of the Legal Order to Landscape Design. Upon receipt the Landscape Officer will file a hard copy of the TPO legal document in the TPO statements file and online. The TPO Status Database (Excel) shall be updated with the date of the legal order and update GIS MapInfo with the date of the provisional order.
- 1.25 The guidance makes clear that objections or representations should be made in writing to the Council and that the Council is required to take into account all duly made objections and representations before deciding whether to confirm the TPO.
- 1.26 Any written objection should be sent to Landscape Design. Landscape Design will acknowledge and where necessary respond to any letters of objection that are received in respect of the Regulation 3 Notice and within the 28 day objection period. A copy of this correspondence is sent to the Area Planning Team Leader. Where necessary, the Landscape Officer (with Planning Officer and Tree Team if necessary) will arrange to meet with the Objector on site. Where the Planning Officer made the original request for the TPO, the Planning Officer will attend the site meeting. Any comments required from Legal / Planning / Tree Team to respond to any objection received will be co-ordinated by Landscape Design.
- 1.27 On the expiration of the 28-day consultation period, Legal Services will notify Landscape Design that the 28 day consultation period has expired and that the TPO can now be

confirmed. Landscape Design then completes a draft delegated authority form requesting either that the Tree Preservation Order is confirmed, amended or withdrawn, in light of any third party representations received. 3 copies of the delegated authority form, alongside any amendment and/or plans as necessary, are sent to the Area Planning Team Leader.

- 1.28 The Area Planning Team Leader will sign 3 copies of the delegated authority form. One copy of the signed form and any accompanying documents should be returned to Landscape Design and one copy sent to Legal Services.
- 1.29 Once the Tree Preservation Order is confirmed Legal Services will notify Landscape Design in writing who will notify the relevant planning officer that the order is now confirmed.
- 1.30 TPO must be confirmed within 6 months and Landscape Design will respond to any interested third parties confirming the decision.
- 1.31 A TPO is a charge on the land on which the trees are situated. The TPO Status Database (Excel) and GIS MapInfo should be updated with the date of the confirmed legal order and any amendments made to the position of the TPO's. If not confirmed the record shall be removed from the system.
- 1.32 A copy of the TPO will be available for public inspection at the Legal Services, Town Hall, South Shields, NE33 2RL upon appointment. Legal Services will also arrange for the Local Land Charges Register to be updated.
- 1.33 Information on file can be the subject of a Freedom of Information Request and therefore the file needs to be kept up to date.