



Appendix 1

Denbighshire County Council

Dealing with trees – procedural approach, responsibilities, sources of information

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Introduction

Trees deliver a number of environmental, economic and social benefits. Maintaining a healthy population of trees is essential for ensuring these benefits continue to be delivered for the future of the County and its residents. Denbighshire's trees provide an enormous asset, shaping the landscape character of our rural areas and within our towns. Trees form local landmarks and landscape features, add to the setting of buildings, village greens and open spaces and can have special cultural, historical, wildlife or rarity value.

Trees and woodlands make a significant contribution to the County's landscape by;

- providing a valuable habitat for wildlife;
- filtering air and noise;
- providing shelter from the sun, wind and rain;
- recycling the air that we breath;
- removing harmful particulates from the air
- helping lock up carbon
- providing pleasant green settings in which to live and work;
- softening the impact of development; and
- maintaining a link with the natural environment.

The Council has a dual role regarding tree issues. Firstly, as a landowner it has a legal obligation to manage its tree stock to ensure the safety of the public. Secondly, the council has a regulatory role under the Planning Acts for the preservation of trees and woodlands and making sure that trees are fully considered when planning for new development.

Aims of the Tree Procedure Document

The overall aims of this Tree Procedure document are to ensure the safety of trees; maintain and encourage biodiversity; maintain and improve landscape quality; and through these elements, improve the quality of life for residents and visitors now and in the future. We will achieve this by:

- maintaining and improving the tree cover for the future;
- encouraging the conservation, positive management and the appropriate planting of trees and woodlands in the countryside, villages and towns;
- promoting the importance of trees and woodlands in shaping the distinctive local character and appearance of the County's urban and rural landscapes;
- recognising the significant aesthetic, landmark, ecological, cultural and historic value that trees provide;
- effectively communicating, educating and engaging with the local community over tree issues;
- proactively manage the Council tree stock;
- providing clarity over why decisions and actions are taken;
- balancing the risk and nuisance to persons and property against the other aims; and
- recognise the value of trees as a tangible asset.

This document gives guidance on how the Council manages its trees and the way in which we will respond to the most common enquiries and how they will usually be dealt with. We recognise the long term benefits trees provide for the environment so our decisions will always be in the long term public interest.

Complaints or enquiries about trees on private property are not the responsibility of the Council. Disputes relating to private trees are a case for civil action and enquirers will be advised of this. You may wish to refer to the [Common Law Right section](#) .

Tree Preservation Orders.

Tree Preservation Orders (TPOs) aim at protecting individual trees or a group of trees that contribute towards the characteristics of the landscape, provide amenity for the enjoyment of the public, provide habitat for local wildlife, or because of their intrinsic beauty. In legal terms they make it an offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy a tree without the local planning authority's permission.

There are a number of trees on Council premises that benefit from a Tree Preservation Order. Regardless of ownership, planning permission must be sought for any works affecting them. The same principal applies to any tree in a Conservation Area. Further information and application forms can be found on the Denbighshire County Council (DCC) Planning webpage.

<https://www.denbighshire.gov.uk/en/resident/planning-and-building-regulations/planning/tree-preservation-orders.aspx>

Local planning guidance is also provided in DCC Supplementary Planning Guidance (SPG) note 'Trees and Landscaping'.

<http://www.denbighdp.co.uk/Webfiles/SPG/trees%20ENG.pdf>

If you wish to establish whether a tree is afforded protection, please use the Council's main webpage mapping tool (see 'My property / My Maps'), the Council's internal GIS system (i.e. iShare GIS) or MapInfo. All information has been plotted by the Planning department.

The Council is unlikely to make new TPOs on trees that it has control over unless there are plans for disposal of land which could be developed by third parties in the future. Details on procedure, including public involvement, can be found in Planning Technical Advice Note 10: Tree Preservation Orders (1997).

<http://gov.wales/topics/planning/policy/tans/tan10/?lang=en>

Contacts. You will find a list of general and specific council department contacts in the [Further Information section](#).

1. Tree Enquiries

TP1: *When the Council is contacted and asked to inspect a tree the most important aspect of assessment will always be safety.*

1.1 Each time we are contacted and asked to inspect a tree we will always consider safety as the most important aspect of the assessment. The assessment entails a range of visual checks primarily aimed at identifying hazards that require some form of action before the next inspection takes place.

1.2 The main visual checks are for:

- Weaknesses within the tree
- Disease
- Obstructive branches or tree parts

1.3 It is useful to check whether a tree is subject to a Tree Preservation Order (TPO) or is within a Conservation Area. If the tree is protected, you will need to gain consent by making an application / give notice to the Council. Please see [Further Information](#) section.

2. Tree Risk Assessment

The Council's Responsibilities as Land Owner

TP2: *As landowner, the Council has a duty of care to ensure, as far as is reasonably practicable, all of the trees on its land are kept in an acceptable condition and do not put persons and property at unreasonable risk.*

2.1 Government guidance requires local authorities to regularly inspect trees adjacent to highways. Denbighshire County Council owns trees growing within the highway and adjacent to highways. Highway trees will be inspected as part of the overall routine highway inspection regime.

2.2 Trees on other council owned land have no formal inspection procedure. The relevant Council Department will respond to individual complaints or concerns regarding trees in these areas. Trees in these areas will be assessed on a reactive basis. Inspections may be undertaken if patterns of public usage change, extreme weather has occurred or there are temporary changes such as events held in specific locations.

2.3 It is not reasonably practicable within the Council's resources to inspect and record every tree. Complete elimination of tree related hazards is only possible through complete tree removal. This approach is clearly unacceptable as it ignores the considerable benefits and amenity that trees provide to society. When elimination is not possible, or desirable, it is accepted practice to reduce the risk to an acceptable level. In this way the Council can conform to the principles of risk assessment and meet the duty of care for tree management.

3. Light

TP3: *The Council will not prune or fell Council owned trees to improve natural light for a property.*

3.1 In law there is no general right to light. Any right to light would need to be established via a specific grant (rare) or by prescription, which can only occur where the right has been enjoyed uninterruptedly for a minimum of 20 years. Following this, a legal right to light can only be enjoyed in relation to a specific opening (such as a window) in a building; there is no right to light in connection with open land, such as a garden. Further, if these conditions are met then an owner of the building is 'entitled to such access of light as will leave his premises adequately lit for all purposes for which they may reasonably expect to be used'.

3.2 If natural light is being blocked by the growth of an evergreen hedge then action may be taken to reduce the problem under the High Hedges Act, Part 8 of the Anti-social Behaviour Act, 2003. For further information on High Hedges refer to the ['Links' section](#).

3.3 If you wish to exercise your Common Law right to remove (abate) the nuisance associated with encroaching trees - see [Common Law Right](#).

4. Shading of Solar Panels

TP4: *The Council will not fell or prune Council owned trees to allow for the effective installation of solar panels.*

4.1 Prior to the installation of the panel the provider's survey will have noted anything that may obstruct direct sunlight from reaching the panel's surface, such as neighbouring buildings, chimneys or trees. The provider will need to carefully consider the decisions over whether and where to site the panels. It is therefore an implicit assumption for the Council that the positioning and installation of the panel, often on roofs, will have ensured that the panel will be able to operate at a high level of

efficiency over a long period: the panel will be optimally positioned so that it can receive as much sunlight as possible throughout the day and its operational life.

4.2 When considering new planting, the Council will take into consideration position, distance and eventual size of trees in relation to property with existing solar panels.

4.3 We will not fell or prune Council owned trees solely to allow for the effective installation of solar panels.

4.4 Where solar panels have been installed prior to Council owned trees causing a shading issue we will consider what action is appropriate according to the amenity value and condition of the tree/s.

5. Seasonal Nuisance

TP5: *The Council will not fell or prune Council owned trees solely to alleviate problems caused by natural and / or seasonal phenomena.*

5.1 There are a variety of potential seasonal nuisances associated with trees, most of which are minor and considered to be problems associated with living near trees. Examples of such problems are:

- Falling leaves, sap, fruit, nuts, bird droppings or blossom.
- Leaves falling into gutters, drains or onto flat roofs.

5.2 Some information and advice is provided:

- Tree blossom usually heralds the start of spring. Blossom is a natural occurrence, which cannot be avoided by pruning.
- The maintenance of gutters is the responsibility of the landowner and the Council is not obliged to remove leaves that may have fallen from Council owned trees. Where gutters are regularly blocked by fallen leaves, gutter guards may be fitted to provide a low maintenance solution.
- Sap - Honeydew is caused by greenfly (aphids) feeding on the tree, and then excreting a sugary sap. Often the honeydew is colonised by a mould, which causes it to go black. There is little that can be done to remove the aphid which causes the problem and pruning the tree may only offer temporary relief and any re-growth is often more likely to be colonised by greenfly thereby potentially increasing the problem. Some trees, such as limes, are more prone to attack by greenfly and in some years greenfly are more common, especially following a mild winter. Honeydew is a natural and seasonal problem. Where new trees are planted we try to choose trees that are less likely to cause this problem. Where honeydew affects cars, warm soapy water will remove the substance, particularly if you wash the car as soon as possible.
- Bird droppings may be a nuisance, but the problem is not considered a sufficient reason to prune or remove a tree. Nesting birds are protected under the Wildlife and Countryside Act (and other related wildlife law). Warm soapy water will usually be sufficient to remove the bird droppings.
- Many fruit trees have the double benefit of spring blossom and autumn fruit. This makes fruit trees good for wildlife and a source of free food. But, there are some locations where fruit trees are less desirable, for example where soft fruit would make the pavement slippery or where anti-social behaviour could encourage fruit being thrown at houses or cars. When considering what tree to plant we take account of the likelihood of such problems. Equally, where fruit trees are established but there is a significant anti-social behaviour problem we may consider phased removal and replacement.

6. TV / Satellite Reception

TP6: *The Council will not prune or fell Council owned trees to prevent interference with TV / satellite installation / reception.*

6.1 It maybe that your satellite or TV provider will be able to suggest an alternative solution to the problem, for example relocating the aerial/dish or utilising means to boost the signal. If you wish to exercise your Common Law right to remove (abate) the nuisance associated with encroaching trees - see [Common Law Right](#) .

7. View

TP7: *The Council will not prune or fell Council owned trees to improve the view from a private property.*

7.1 There is no legal right to a 'view'. If you wish to exercise your Common Law right to remove (abate) the nuisance associated with encroaching trees – see [Common Law Right](#) .

8. Roads - Sight Lines Obstruction

TP8: *The Council will undertake work to Council owned trees to maintain clear sight lines (where reasonably feasible) at junctions and other points associated with a street, road or highway.*

8.1 Standards for visibility vary according to the class of road and speed limit in force. If a privately owned tree is causing an obstruction to the visibility at a road junction (sight line), powers exist under the Highways Act (Dangerous Trees, 1980) to make the owner of the tree remove the obstruction. If they do not, the Council will carry out the work and recharge the owner. The shoots that grow from the base of some trees in Council ownership such as lime trees are removed as part of our tree maintenance programme. This is usually done once a year for trees growing in a street, but in some streets this may need to be done twice a year. There is no active programme to remove basal shoots from trees in parks and green spaces, unless these interfere with footpaths or the visibility at road junctions (sight lines). Otherwise, the removal of basal shoots for aesthetic reasons is done when it is necessary to inspect the base of a tree.

8.2 Reduced security by virtue of concealment. The Council will work in partnership with CCTV and the Police and prune trees where exposure will assist in the control of high-risk anti-social behaviour on streets, roads and other locations.

9. Height

TP9: *All Council owned trees will be left to reach their natural height and shape unless they pose a significant health and safety risk.*

9.1 Residents may feel apprehensive about the size of a tree and consider it dangerous. However, trees are not dangerous just because they are large, tall or move in the wind. Tree movement in high winds is natural and one of the ways they are able to withstand strong winds.

9.2 The Council will inspect a tree and take appropriate action if the following signs are identified by residents.

- Fungal fruiting bodies (mushrooms) on the tree
- Cavities or decay in the main trunk or branches
- Splits in stems or branches
- Large dead limbs

- Loose bark
- Lifted ground at the base of the tree

More information can be found in [TP12 'Dangerous Trees'](#).

10. Damage to Property

TP10A: *The Council will not fell or prune trees that are suspected of causing damage to dwellings or services without sufficient conclusive evidence.*

TP10B: *The Council will not fell or prune trees causing disruption to pavements, kerbs, garden paths or walls. In these cases engineering solutions will be sought.*

10.1 Examples of conclusive evidence are Structural Engineer's or Chartered Surveyors reports. In some cases it may be necessary for the Council to get the views of its own Structural Engineer or specialist before we take action.

10.2 Tree related subsidence - In order for a tree to contribute towards subsidence the soil needs to be shrinkable clay. Loams are the commonest soil to found in the County and there are no records of Council owned trees ever being implicated in subsidence claims. Therefore, subsidence caused by trees growing in shrinkable clay soils is very unlikely to occur. If you think a council owned tree is causing subsidence, a full subsidence report, including details of the soil plasticity would be required.

10.3 Footpath or general property damage - Where property or trees are poorly positioned, damage to roots and damage to property from roots can occur. This is usually seen by cracking or lifting of surfaces or structures. When planning to construct near to existing trees careful consideration should be made to avoid future problems. In most instances the damage can be repaired and alternative measures taken without pruning or felling of the tree.

11. Drains

TP11: *The Council will not prune, fell or cut the roots of Council owned trees to prevent roots entering a drain that is already broken or damaged.*

11.1 Tree roots typically invade drains that are already broken or damaged. Trees themselves very rarely break or damage the drain in the first place. Tree roots found in a drain are usually symptomatic of an underlying problem requiring repair of the broken pipe. If you are concerned about the condition of your drains then you are advised to contact your water and sewerage company.

11.2 If you wish to exercise your Common Law right to remove (abate) the nuisance associated with encroaching trees - see [Common Law Right](#).

12. Dangerous Trees

TP12A: *If a Council owned tree is in such a condition that it poses an immediate high risk to people or property, instruction will be given to a tree contractor to make the tree safe as soon as possible. The Council may seek to recover costs from owners of private land where tree works have had to be carried out in the interests of public safety.*

Policy TP12B: *If a Council owned tree is identified as dangerous, but the risk to the public is not high, then the tree will be made safe depending on the degree of risk identified at the time of inspection. If privately owned, the owners will be notified and requested to make the tree safe*

within an appropriate timescale. The Council have powers under the Highways Act 1980 to ensure that trees on private property do not cause a hazard on the adjacent road and these will be used as and when appropriate. The Council may take enforcement action or carry out the work and seek to recover costs if necessary.

12.1. If a tree poses an immediate and present danger it will be made safe as soon as possible. Where necessary we will close roads or exclude public from the vicinity of the area of risk. If the level of risk is lower but works are still required, the tree will be made safe within 4 weeks.

12.2 Trees can be made safe via pruning or felling. Typically we would employ the most cost effective approach. But, for certain high value trees we would consider other options to reduce risk to an acceptable level including options to reduce the likelihood of the tree failing or the likelihood of persons being close to the tree if it did fall.

12.3 Wide scale storm damage Council Officers will work to prioritise tree works according to urgency. The emphasis will be on clearance of roads (to facilitate movement of emergency services), then clearance of the Council's own trees in priority order.

13. Diseased Trees and Pests

TP13: *The health of trees with diseases will be monitored. Each tree will be assessed on an individual basis and the felling of a diseased tree is considered a last resort.*

13.1 Trees, like all living things, are prone to attacks from pests and diseases. Different diseases affect different types of trees. Examples include:

- Dutch Elm Disease
- Phytophthora root diseases
- Phytophthora bleeding canker
- Pseudomonas
- Fire blight
- Ash Dieback Disease

13.2 Where serious outbreaks occur which threaten the County's tree population, action will be taken as necessary to halt the spread of pests and diseases where practicable. The Council will continue to notify the relevant authorities of outbreaks of notifiable diseases or pests and take such action as is recommended or instructed by these authorities, including biosecurity measures. Pruning or preventative spraying will be carried out in preference to felling.

13.3 When necessary the Council will inform members of the public of the symptoms or characteristics of a pest or disease in order to help tree owners safeguard the health of trees within the County.

14. Standards of Pruning

TP14: *All tree work undertaken by, or on behalf of, the Council will be in accordance with accepted practice set out in Arboricultural British and European Standards and Guidelines.*

Trees will only be pruned if they are considered to be dangerous, obstructive to vehicles or pedestrians, are directly touching property or require intervention for arboricultural purposes.

14.1 We will not carry out 'lopping', 'topping' or pollarding of healthy trees unless they are to be managed as part of a hedge, managed for wildlife habitat or it is considered to be in the interests of the long term management of the tree.

14.2 We will not remove one side of a tree or any amount of a tree that will drastically alter its visual appearance unless it is part of our statutory requirements or for arboricultural reasons.

15. Trees and Footpath/Pavement Obstruction

TP15A: *The Council will undertake work to Council owned or managed trees to maintain a minimum 2.5 metres height clearance over a footpath associated with a street, highway or road and 3 metres where there are cycling rights. Any works necessary to prevent the obstruction in the width of a footpath associated with the highway due to the presence of a Council owned tree will be considered on a case by case basis.*

TP15B: *The Council will not remove or cut the roots of a tree that is causing the uplift of a pavement. In these cases engineering solutions will be sought.*

15.1 If a privately owned tree is causing an obstruction to a footpath associated with the highway, powers exist under the Highways Act to make the owner of the tree remove the obstruction. If they do not, the Council will do this work and re-charge the owner. The majority of trees alongside public rights of way (PROW) will be on private land. Where there is a bridleway the clearance required is 4m.

15.2 Whilst we will undertake measures to make safe an unacceptable trip hazard, this will normally be through engineering solutions such as 'building up' the pavement surface. Cutting and pruning roots may have an adverse affect on the health and stability of the tree.

16. Wildlife Protection /Biodiversity

TP16: *The Council has a number of responsibilities under British and European Law to protect wildlife and enhance biodiversity. Before carrying out work to trees or hedges the Council will ensure that it does not cause any disturbance or any other negative impact.*

16.1 Where safety allows, we will ensure work to trees is carried out at the best time of year in order to reduce or eliminate the effect it has on wildlife or to comply with relevant legislation. Trees have many species of wildlife associated with them, but bats and birds in particular, are two significant protected wild animals that use trees as a place of shelter, a place to aid navigation and a feeding platform from which to hunt and eat.

Common Law Right

You have a Common Law right to remove (abate) the nuisance associated with trees encroaching onto your property. The following advice is given if you wish to exercise your Common Law right with respect to encroaching trees:

- a) You can only consider removing those parts of the tree from the point where they cross the boundary of your property. You have no legal right to cut or remove any part of a tree that does not overhang your property;
- b) You are strongly advised to consult a professional tree surgeon for guidance on how best to prune back encroaching trees. You may be liable if the tree is heavily pruned in such a way as render it unstable or results in its death. If the works are trivial, meaning you could do the works with hand secateurs or similar, then such advice may not be necessary.
- c) You should find out if the trees are owned by the Council and if they are protected by a Tree Preservation Order or are within a Conservation Area. If the trees are protected, you will need to gain consent by making an application / give notice to the Council.

d) You are strongly advised to discuss with your neighbour your intention to prune encroaching branches. Legally you do not own the encroaching branches and you should offer these to your neighbour. They are not obliged to accept them and you should consider disposing of the arisings yourself. If the encroachment relates to a Council owned tree, any cuttings must be disposed of appropriately and not returned to Council land.

Further Information

Contacts. If you have a query about a Council owned tree, in the first instance contact;

Denbighshire County Council Customer Contact Centre on 01824 706000 (Monday –Friday, 8.30am to 5.00pm)

Depending on the tree or woodland location, a specific department might be involved; **departments please provide a generic number and mail-in email –thanks. This will help services communicate between each other and customer services direct to correct department.**

Department	Telephone	Email
Planning and Public Protection <ul style="list-style-type: none"> Planning Traffic, Parking and Road Safety 		
Highways and Environmental Services <ul style="list-style-type: none"> Highways Street scene Countryside and Heritage 		
Facilities, Assets and Housing <ul style="list-style-type: none"> Housing Corporate property and Facilities Leisure 		
Education		

For information on **tree preservation orders, high hedges and conservation areas**, explore the links below on the DCC website;

<https://www.denbighshire.gov.uk/en/resident/planning-and-building-regulations/planning/tree-preservation-orders.aspx>

<https://www.denbighshire.gov.uk/en/resident/planning-and-building-regulations/conservation-areas/conservations-areas-landing-page.aspx>

<https://www.denbighshire.gov.uk/en/resident/planning-and-building-regulations/planning/tpo-pdfs/High-hedges.pdf>

<http://www.denbighldp.co.uk/Webfiles/SPG/trees%20ENG.pdf>

<http://gov.wales/topics/planning/policy/tans/tan10/?lang=en>

For help with **biodiversity advice**:

<https://www.denbighshire.gov.uk/en/resident/planning-and-building-regulations/planning/biodiversity.aspx>



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