

Sunderland City Council

DRAFT Tree Policy 2022

1.0 Introduction

Sunderland City Council (the Council) is responsible for the management of approximately 14,000 street trees and 185 hectares of plantations across the City. The Council are also responsible for the management of trees within parks, cemeteries and woodlands.

Sunderland's tree population is a natural resource which affords shade, wildlife value, visual screening, noise and pollution reduction, shelter from prevailing winds and encourages local interest within the urban landscape.

Not only do trees have a visual quality, but they also enhance the environment in less obvious ways:

- they provide food and habitat for birds and other wildlife, thus supporting nature conservation value and biodiversity.
- research has shown that trees provide many psychological and health benefits and have been shown to reduce stress significantly.
- they act as a screen, increasing privacy in residential roads and gardens.
- they reduce temperature extremes by providing shelter in hot weather and insulation in cold weather; trees adjacent to buildings can reduce air conditioning and heating costs.
- they absorb traffic noise in built-up areas and can help limit noise pollution.
- they improve air quality by filtering airborne dust, smoke and fumes.
- they convert carbon dioxide to oxygen, increasing the quality of the air locally and helping to reduce the 'greenhouse effect'.

Whilst it is recognised that trees provide a wide range of benefits to society, they are living organisms that naturally lose branches and fall, although the risk to human safety is extremely low the Council as a tree owner still has a legal duty of care. The purpose of this policy is to lay out a balanced and proportionate approach to the management of its tree population ensuring effective risk management in relation to trees.

2.0 Scope of the Policy

This Policy sets out the approach taken by the Council to the management of those trees which are maintained or owned by it. The Policy refers exclusively to trees and does not include shrubs or other vegetation.

Furthermore, the Policy does not cover trees which grow on land owned or occupied by schools, academies and other local authority trading companies; Sunderland Care and Support (SCAS) and Together for Children (TfC).

Trees that are covered by Tree Preservation Orders (TPO) or which grow within Conservation Areas are dealt with by the relevant legislation and administered by Development Control Service of the Council within the City Development Directorate. Privately owned trees are not within the scope of this policy.

The Council has no authority to intervene in disputes between neighbours regarding trees although Part 8 of the Anti-social Behaviour Order Act (2003) gives Local Authorities the powers to deal with complaints or disputes about evergreen high hedges affecting residential properties.

3.0 Management Responsibility and Legislation

The Council has a statutory duty of care under the Health and Safety at Work etc. Act 1974 and the Occupiers Liability Acts of 1957 and 1984 to ensure that members of the public and its staff are not put at risk because of a failure by the Council to take all reasonable precautions to ensure their safety. As such the Council, either as owner or manager, is responsible for trees located on land of which it manages.

The Town and Country Planning Act 1990 and the Town and Country Planning (Trees) Regulations 1999 contain provisions for protecting trees that provide public amenity and there is an implied duty that the Council should take steps to maintain trees that fall under the scope of this. As Highway Authority for the City of Sunderland, the Council is also responsible under the Highways Act 1980 for requiring any trees adjacent to the highway to be managed to prevent them becoming a hazard to the safe use of the highway.

An adequate management system to assess risk is required under the Management of Health and Safety Regulations 1999.

The Highways Act 1980 and the Local Government (Miscellaneous Provisions) Act 1976 give the Council powers to deal with trees in private ownership that endanger the highway, persons or property. Some of these powers are discretionary and may result in the private owner paying the Council's reasonable costs for carrying out remedial works.

Other legislation has also been considered as part of this policy, including:

- The Forestry Act (1967) which requires certain permissions and licences to be granted where felling of trees is proposed within a woodland setting
- The Wildlife & Countryside Act (1981, as amended CROW Act 2000) which places requirements in relation to nesting birds and bats
- The Hedgerow Regulations (1997) which introduced powers allowing important rural hedgerows to be protected.

4.0 Tree Surveying

In order to achieve a balanced and proportionate approach the Council has considered the risk posed by its trees.

Risk = the combination of the likelihood of a hazardous event occurring and the consequence of the event.

A Hazard = is anything that has the potential to cause harm.

In order for the approach to remain proportionate the Council acknowledge that the level of risk posed by trees differs from tree to tree based on a number of factors such as: species, age, condition and location. Considering the varying level of risk, the level of intervention must be proportionate to ensure that risk is managed across the City effectively in-line with available resources.

The Council as part of this policy has determined its tree stock sits within three zone classifications:

Zone Class 1 (High): Trees growing in areas used by many people each day, such as busy roads, shopping centres, urban open spaces and car parks: Surveyed every 2 Years and reactively as and when required.

Zone Class 2 (Medium): Trees growing in areas used by some people each day such as parks and cemeteries: Surveyed every 5-6 Years and reactively as and when required.

Zone Class 3 (Low): Trees growing in areas used by few people such as plantations and semi-rural areas: Surveyed reactively as and when required.

5.0 Prioritising Tree Work to Manage Risk

Remedial works identified as part of the surveying regime or as a result of a customer or councillor request / complaint are afforded a priority rating. The purpose of the priority rating is to enable the effective management of risk posed by trees. Using the prioritisation scale below ensures that time carrying out remedial works is spent in the most efficient way; by targeting hazards that present the greatest risk.

The following levels of prioritisation are to be used when categorising tree works:

Priority 1: IMMEDIATE RISK TO PUBLIC SAFETY. Genuine emergencies will receive a rapid response usually within 24 hours following an inspection.

Priority 2: NON-IMMEDIATE RISKS POSED BY TREES TO PUBLIC SAFETY. Works are to be classified as ESSENTIAL works, associated with mitigation of a danger. The Council will endeavour to ensure that works categorised as Priority 2 will be undertaken within 6 months of the date of the inspection identifying this work.

Priority 3: NO CURRENT RISK POSED. Works are to be classified as DESIRABLE or “Good Neighbour”. The Council will endeavour to ensure that works categorised as Priority 3 will be undertaken within 12 months of the date of the inspection identifying this work. These will be works associated with the mitigation of nuisance such as branches brushing against buildings in normal winds.

Priority 4: NON ESSENTIAL. If work is classified as Priority 4 works will only occur if and when resources are available.

Within the priority ratings, considerations are made in relation to; the urgency of the situation, the degree of inconvenience being caused and the best time of year for the work to be undertaken, having regard to the legislative context described in Section 3. In this respect, any exceptional events such as adverse weather or additional requirements such as traffic management, may impact upon these timescales as would the bird nesting season.

6.0 Remedial Work Framework

Remedial tree work is planned and undertaken when an increased risk is identified either as part of the tree survey programme or via a third-party contact such as a customer enquiry or complaint. Works are planned in-line with the priority categorisation laid out in paragraph 4.0. Prioritising work in this way enables the effective use of resources by ensuring that focus is placed on hazards that present the highest risk.

7.0 Types of Tree Work

Obstructing / Overhanging Tree Branches

Tree branches can cause obstructions to roads, footways, public rights of ways, signs, streetlights and open spaces. Appropriate pruning to eliminate hazards caused by obstructive branches will normally be acceptable, providing efforts are made to retain the shape of the tree.

We will not prune trees that overhang neighbouring properties unless the trees are dangerous or causing an actionable nuisance by creating a risk of damage to the neighbour's property or his enjoyment of the property (e.g. touching the walls, roofs, windows, gutters, garage etc.)

Adjacent Landowners do have a common law right to prune back tree branches to their boundary, providing that the tree in question is not protected by a Tree Preservation Order (TPO) or situated within a Conservation Area. Any works should be carried out in accordance with good arboricultural practice.

Shading and Loss of Light

Trees are often perceived to block light to nearby properties. However, pruning or removal of trees will often have a negligible impact on the amount of light reaching a house or garden. Therefore, and as part of our commitment to maintaining the tree canopy, tree works to improve light levels will not normally be considered. However, we will consider taking action (pruning or felling) in the following circumstances:

- if the height of the tree is more than 12metres and the distance between the base of the tree and the window of the nearest habitable room* is less than 5metres.
- if the height of the tree is less than 12 metres and the distance between the base of the tree and the window of the nearest habitable room is less than half the height of the tree (where the separation between the edge of the tree canopy and a vertical line through that window is less than 2metres).

*A 'habitable room' is a dining room, lounge, kitchen, study or bedroom but not a WC, bathroom, utility room, landing or hallway

Where elderly, infirm or disabled persons who spend a significant amount of time within their home are affected, there will be flexibility to look at some intervention. Where it can be established that the presence of trees is detrimental to the health of such residents, further consideration will be given to the management approach to trees. This consideration will also take into account the quality and importance of the tree in question, as well as the benefits to the wider community.

Loss of View

Trees will only be pruned or removed to restore views when necessary to retain important public viewpoints or there is potential to bring about significant public benefit and/or enhance the local landscape or townscape. Historical records may be used to determine the level of management required. Pruning of trees for highway sight-line requirements will be dealt with on a case by case basis.

Trees affecting reception (Television / Satellite / Solar Panels)

Pruning in the short term may help improve the position however, in the long term the flush of quick, extra growth associated with pruning can exacerbate the problem. Removal or pruning of trees to improve reception would only be considered in exceptional circumstances.

Similarly, we will not prune or fell a tree in our ownership / management to improve natural light to a solar panel. Whilst we recognise the need for renewable energy sources, trees are also important in tackling climate change.

Overhead Cables / Power lines/Telephone Wires

Utility companies have certain legal rights to carry out works to public or privately owned trees to address health and safety problems and to maintain a clearance between trees and their apparatus to ensure continuity of supply. This may sometimes involve the loss of trees. Where works to trees are necessary as a result of proximity or conflict, we will encourage utility operators to adopt the most appropriate long-term solution, giving consideration to tree health, local tree cover and visual amenity

We will not normally prune or fell a tree in our ownership / management to prevent or reduce interference with power lines. We would recommend contacting the Utility companies in such circumstances for them to arrange appropriate pruning works.

Problems caused by branches interfering with privately owned telephone wires can usually be eliminated through appropriate pruning and tree removal would not usually be considered.

General / Minor Nuisances

We will not fell or prune trees solely to alleviate problems caused by natural and/or seasonal phenomena, which are largely outside of our control. There are a variety of potential nuisances associated with trees, most of which are minor or seasonal and considered to be normal and acceptable consequences of living near trees. Examples of such problems are:

- falling leaves, twigs, sap, blossom, fruit, nuts, bird and insect droppings.
- insects associated with trees (spiders, wasps, flies etc).
- reduction or increase of moisture to gardens.

- suckers or germinating seedlings in gardens.
- leaves falling into gutters, drains or onto flat roofs.
- the build-up of algae on fences, paths or other structures.

Clearing of leaves from gutters and pathways and weeding of set seeds are considered to be normal routine seasonal maintenance which property owners are expected to carry out.

Falling leaves, sap, blossom, fruit, nuts, bird and insect droppings are not readily controllable by pruning and cleaning of affected surfaces can be considered to be routine maintenance. Pruning will not normally be considered solely as a way of alleviating problems with these issues alone.

We would not normally prune or fell a tree under our ownership / management that bears poisonous fruit / foliage (such as laburnum or yew). However, where it is known that unsupervised young children are likely to be exposed to berries or foliage that will make them ill if eaten, we will investigate on a case by case basis and take action, where appropriate

Trees Considered too big / too tall

We will not prune or fell a tree under council ownership / management because it is considered to be 'too big' or 'too tall' for its surroundings.

Personal Medical Complaint

We will normally not prune or fell a tree under our ownership / management where a request has been made to do so because of a personal medical complaint. However, where it can be established that the presence of a tree is causing a detriment to the health of residents further consideration will be given to the management approach of trees.

Damage and Tree Roots

Many tree conflicts arise on account of the presence of tree roots and the perception that they are causing damage. Where damage is alleged, each complaint will be investigated on an individual basis. The following guidance will be used in assessing levels of nuisance and identifying appropriate action.

Root Invasion in Gardens

Tree roots in gardens are a natural occurrence and root presence is unlikely to be affected by tree pruning or removal. Landowners do have a common law right to prune back tree roots to their boundary, providing that the tree in question is not protected by a Tree Preservation Order (TPO) or situated within a Conservation Area.

Most species of deciduous tree will re-sprout from the stump when cut down. Many species will produce a new growth shoot from a root if it becomes exposed to sunlight through ground erosion. Some species readily produce shoots from their buried roots as a way to regenerate and this is often stimulated by stresses, such as heavy pruning or felling. Numerous tree species (including Cherry and Poplar) are therefore likely to produce vigorous root suckers as a response to being felled. Poisoning a stump to prevent such suckering is not always successful since application of herbicide onto a stump face often only affects the stump and the upper roots.

Tree felling or branch pruning in response to root invasion in gardens would not normally be appropriate, as such works are likely to worsen existing problems. The pure encroachment of roots into adjoining land is not considered to amount to actionable nuisance.

Subsidence

Where an allegation is made that a tree in our ownership / management has caused, or is likely to cause, damage to a third party structure through subsidence or other mechanisms, council officers will initially visit the site and make a general assessment of any damage or the foreseeability of damage occurring and take any reasonable action.

Where there is insufficient evidence of damage, or no clear and unambiguous correlation between the alleged damage and the effects of the tree(s), we would expect evidence in support of a request to remove a tree(s) or any claim for damages/repairs. This evidence will normally include:

- Root analysis (presence, condition and identification)
- Crack/level monitoring (showing greater than expected seasonal movement)
- Details of the nature, extent and type of damage
- Two trial pits (one remote one at point of damage)
- Soil analysis (soil type, moisture level)
- Depth of foundations

Whenever these issues arise, they will be referred to the Council's Insurance Claims Handling team for consideration in accordance with statutory and common law. Claims can be logged by following the link below.

Insurance claims - Sunderland City Council

Appendix A provides examples of the most commonly received requests and their priority categorisation, however this does not provide an exhaustive list and is not intended to be used as a definitive guide to how requests are prioritised. All enquires and complaints received are assessed on a case by case basis and are afforded a priority accordingly.

8.0 Tree Planting

Climate change represents a significant challenge for our generation. Over the past 50 years, the average global temperature has increased at the fastest rate in recorded history and the trend is accelerating.

As a city Sunderland emit 1,436,600 tons of CO₂ annually (based on 2017 Department for Business, Energy and Industrial Strategy data). However, Sunderland is committed to playing its part in tackling the global climate change emergency. In March 2019 Sunderland City Council acknowledged the scale of this challenge by declaring a Climate Emergency at Full Council.

Sunderland has responded to the climate change crisis in a number of ways as set out within the Low Carbon Action Plan and aligned strategic priorities within the Core Strategy & Development Plan 2015 – 2033 and its associated policies.

Tree planting plays an important part in tackling climate change, tree planting to help sequester carbon emissions through photosynthesis trees absorb carbon dioxide to produce oxygen and wood.

To help achieve the City's climate priorities, for every mature street tree removed we will plant at least 1 standard tree to increase canopy cover. Tree species will be selected considering; location, trees that are native and a tree's carbon sequestration capabilities.

9.0 Maintenance and Service Standards

This policy describes above how reactive work will be prioritised and the timescales for response. This includes as a result of customer request/complaints and also as a result of our own prioritised, routine survey regime.

As tree surveys are undertaken any required remedial work is identified and our programme of works is scheduled in line with priorities.

In addition to this there is a programme of plantation management in place which, subject to resources, delivers a rolling programme of plantation management ensuring maintenance takes place every 5 years.

Over time significant new issues occur which impact on the health of tree population eg historically Dutch Elm disease and currently Ash Dieback. Where the response to such events cannot be accommodated internally the Council will commission additional external support to ensure an appropriate and timely response is achieved.

Appendix A

Typical Request for Service	Normal Course of Action	Priority Afforded
Dangerous trees	The Council will endeavour to ensure all hazardous trees that pose a significant threat will either be felled, or where appropriate instigate remedial works so that the risk is reduced to an acceptable level	1 or 2
Trees which are proven to be causing structural damage to property	The Council will only remove or prune Council owned trees that are proven to be causing damage to property if it is the most appropriate solution. The Council will require positive evidence which will be provided by the claimant to support a subsidence claim.	2
Trees which overhang properties	The Council may cut back trees from properties where they touch windows, walls, roofs or gutters. This will ensure that damage to property such as aerials, tiles or gutters is avoided.	2 or 3
Trees which obstruct adopted footpaths and highways	The Council may maintain its trees to provide the statutory clearance for pedestrians and vehicles over footways and roads respectively in accordance with the requirements of the Highway Authority, so as to maintain a free and unobstructed passage.	2 or 3
Trees which are blocking light	The Council does not fell or prune Council owned trees solely for the reason that they are allegedly reducing light levels into properties or are casting shade over gardens unless it is demonstrated that a severe restriction has resulted.	3 or 4
Television and Satellite reception issues	The Council does not fell Council owned trees solely for the reason that they are causing interference with television and satellite reception. Pruning will only be considered if the required works is consistent with good arboricultural practice and will not unduly affect the amenity or the health of the tree.	4
Seasonal issues such as; Falling leaves, sap, fruit, nuts, bird droppings or blossom Reduction or increase of moisture to gardens Suckers or germinating seedlings in gardens Leaves falling into gutters, drains or onto flat roofs The build up of algae on fences, paths or other structures	The Council do not fell or prune Council owned trees solely to alleviate problems caused by natural and/or seasonal phenomena as listed above.	4

