

STOCKTON BOROUGH COUNCIL

TREE MANAGEMENT POLICY

MAY 2024

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Foreword

The quality of our environment is greatly enhanced by trees. Trees are integral to our wellbeing, health and quality of life. They define the landscape in which we live, work, and play, and bring the natural world into our towns and streets, minimising the impact of the built environment by providing colour, shade, and shelter.

Research proves that humans feel better and are healthier when they are living near trees. They act as way-markers, signposts, provide homes for wildlife, bring history into the present moment, and are a legacy for future generations to enjoy.

Stockton Council are responsible for managing many tens of thousands of trees within its towns, parks, cemeteries, alongside its highways and open spaces.

We are fortunate in Stockton to have areas of parks and woodland that are freely accessible to the public, as well as trees lining our residential streets and grassed open spaces. By careful selection of species, it is possible to provide trees that will mitigate climate change, contribute to improved air quality, reduce noise, and control run-off from heavy rain.

Although the importance of trees is widely recognised, they can also become a source of conflict in some situations – for example, as trees mature, they require more space above and below ground, which can occasionally result in causing nuisance to property. The council receives hundreds of enquiries from members of the public and outside agencies each year, requesting advice or for work to be undertaken to trees, hedgerows and woodlands. Stockton Council aims to provide a high standard of professional tree care to ensure our trees are maintained in good health and condition. Due to the perceived problems that trees can cause, it is important to have a clear policy on what action can be taken in various circumstances and the need to balance perceived problems against benefits.

STOCKTON COUNCIL TREE MANAGEMENT POLICY PART ONE

Why Have a Tree Policy?

The benefits of trees, woodlands, and hedges have long been acknowledged. Trees provide one of the most cost effective ways to improve the environmental quality of a town or city, delivering physical, social, and economic well-being as well as mitigating climate change, improving storm water management, air quality, biodiversity, and visual amenity amongst many other benefits.

This tree policy will provide a strategic framework for the management of Stockton Council's tree population and allow us to publicise these aims and objectives. It is also important to have practical and consistent procedures for dealing with the inspection and maintenance of trees, in a written statement.

This policy, therefore, also aims to guide and advise on Stockton Council's approach to dealing with requests for tree maintenance and how decisions are reached.

The guiding principles of this document are to:

- Outline how we will protect and care for Stockton Council's trees.
- Explain how we will continue to enhance the borough's green canopy and environment.
- Ensure compliance with the council's legal obligations regarding tree management and continue to deliver a high standard of tree care.

Planning for the future is key to having resilient towns that are sustainable places to live. Stockton Council works with external partners to ensure that the borough's tree canopy cover is not only maintained but increased to a level that helps us to bring mitigation of the effects of climate change. This tree policy will align with other relevant Council policies and planning documents, such as the Environmental Sustainability and Carbon Reduction Strategy 2022-2032. This presents our aim to be Net Zero (carbon neutral) by 2050, and the Supplementary Planning Document (SPD) that sets out developer's responsibilities regarding existing and new trees within planning applications.

The Importance and Benefits of Trees

Trees are essential in making our towns better places to live, work or visit and they provide environmental benefit in a multitude of ways:

Trees Improve Health

International studies and research have identified that trees provide 'breathing spaces' in urban areas, decrease respiratory problems, encourage walking and cycling, reduce traffic speeds and generally help to reduce stress. The Nature Conservancy report 'Funding Trees for Health' demonstrates these benefits, showing trees also have an economic value by decreasing health budget spend.

Landscape Value

Trees help to create a natural, high quality, green environment, improving its visual composition and structure, which forms a major part of our 'green infrastructure'.

Trees have an architectural and place-making role. On a local level, they can improve the quality of the environment by screening, enhancing the sense of scale, reducing glare from buildings and hard surfaces, directing pedestrians and slowing vehicular traffic. They bring colour and character to both urban and rural areas.

Landscape value and features are important to towns and residential areas. Trees and hedges add to this value by providing living and organic, physical features, such as specimen trees, historical boundaries, and woodlands.

Economic Benefits of Trees

Trees bring affluence and character to an area, and these effects can increase levels of inward investment in these areas.

Research and good practice guidance shows people prefer to live, work, and play in green leafy environments, these environments then also lead to economic benefits including property value increases (ranging from 5-18%), with more mature trees giving higher gains. Industrial areas and employment sites with natural green space can have more productive employees and there is research evidence of increased footfall in shopping areas and tourist attractions with trees.

Mitigating Climate Change

Trees mitigate climate change in many ways, including the removal of carbon dioxide from the atmosphere. In the UK, it is estimated that trees remove four million tonnes of carbon from the atmosphere each year. For this to happen, it is important that trees are allowed to grow to maturity so that they can provide these functional processes. Trees contribute to the cooling and shading of urban areas and to linkages in the Green Infrastructure Network. Trees encourage walking and cycling when there is a creation of more attractive tree-lined routes and thereby encourage green low emission travel.

Reduction of Airborne Pollution

Within the right context (right tree species, right planting layout) trees and hedges can decrease air pollution by trapping dust and absorbing air pollutants such as ozone and providing filtration of harmful airborne pollutants and emissions.

Trees Help Against Flooding

As well as protecting and enhancing the urban environment, trees and green infrastructure provide benefits toward surface water management and the reduction of damaging effects of flooding, through processes such as:

Transpiration: this is when water is evaporated by trees (through their roots) into the air, which also provides a cooling benefit in periods of intense heat.

Interception: dispersing and reducing the amount of water that then reaches the ground.

Increased infiltration and attenuation of water: roots and soil in planting pits can increase the capacity of the ground to hold water, by keeping the soil structure open, retained water can be used by the tree or will infiltrate into the surrounding ground.

Phytoremediation: turning harmful chemicals into less harmful substances.

A variety of engineering techniques are available to manage surface water such as utilisation of a range of tree pits and planters, which can collect and slow down the flow of water in heavy storm events. Trees can also assist in managing erosion along slopes adjacent to rivers or roads.

Biodiversity

Trees also play a vital role in our urban ecosystem, providing many benefits for wildlife.

Birds, mammals and invertebrates use trees, scrub and hedgerows as roosts, breeding sites and feeding areas, while deadwood associated with these habitats is valuable for a variety of organisms such as bacteria, lichens and fungi, which help decompose the deadwood.

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Tree Planting

Tree Planting Initiatives

The Council will identify sites where new tree planting is both possible and most beneficial to improve canopy cover, air quality, flood prevention and habitat quality.

These include, although are not limited to:

- Using opportunities within the design of Council schemes to increase tree planting.
- Working with agencies such as the Woodland Trust and Forestry Commission
- Use of planning conditions and obligations in Development Management
- Working with strategic partners on funding bids
- Giving opportunities for the public to engage with tree planting in the borough.

Planning for the future is key to having resilient towns that are sustainable places to live in. Increasing and enhancing the quality of tree cover in the Borough is essential to developing a sustainable green infrastructure that will provide long term benefits to communities and the environment.

Our cultivation of public and private trees helps delivery of Stockton Council's Green Infrastructure aims. As part of the Stockton Green Infrastructure Strategy, the council has identified potential sites across the borough where tree planting is likely to provide the greatest benefits or is most needed. This includes major routes and gateways within the borough such as green spaces, parks, and areas where tree cover is notably deficient. These areas are prioritised for new (and replacement) tree planting.

Stockton Council will work with partners to ensure that the borough's tree canopy cover is not only maintained but increased to a level that allows us to provide mitigation towards the effects of modern living and the increasing effects of climate change. The council will seek funding for new trees and aim to increase tree cover within the borough through the delivery of its tree planting programme. We have received successive years of grant funding for new trees and are on track to fulfil strategic aspirations of tree planting across the borough and a 10% increase by 2050 is the current national target to mitigate against predicted climate change.

Tree Planting Schemes

Tree planting schemes will be designed in accord with the principles of good landscape design: for example, careful consideration will be given to the selection of species and their growth characteristics; positioning and layout of trees in the landscape; the potential amenity and environmental benefits that will develop and ensuring long term sustainability through species choice. We aim to plant the correct species in the right location to minimise any future maintenance requirements when designing tree planting schemes.

Species Selection

Many factors need to be considered when planting urban trees involving species selection and the actual growing and living conditions for the trees in the future. We aim for trees to become ecosystem assets, to provide environmental benefits. Ornamental factors of trees play a part in the design and selection process. As we face challenges of climate change a wider variety of non native/ornamental cultivars in our choices of species selection can bring resilience to our landscape and future-proof against climate effects. A wider composition of tree species will bring resilience and diversity, including non-native genera from different latitudes in the world, to prepare and account for future climate changes and resilience to pests and disease.

Planting Methodologies

Unless a tree reaches maturity and is healthy, it cannot deliver its full benefits. To ensure the trees Stockton Council plant reach their potential they need to be correctly sourced, planted, and then maintained to become established.

Stockton Council has a rigorous planting methodology for successful tree establishment. This begins with sourcing the best possible trees for our planting schemes with bio secure nursery growing methods and good nursery production practices. Poor planting such as trees planted too deep, in tree pits with inappropriate surfacing or small soil volumes either kills or stunts trees. Poor aftercare maintenance (particularly insufficient watering) also reduces the value of the tree stock.

Trees will be planted using the best available techniques and products where possible, using good quality standard trees to encourage the successful establishment in the landscape (e.g. adopting the British Standard 8545: From Nursery to Independence in the Landscape)

Trees will normally be watered with mulch (recycled chipped tree arisings from our operational work) at the base, and all stakes, cages and other fixings tended within the first 4 - 5 years to aid establishment. Trees that fail for any reason will normally be replanted within the next available tree planting season if resources permit.

Trees will normally be planted during the autumn and winter months, when most trees are dormant, allowing their roots to become integrated into the soil. Correct species choice for the final setting of the mature tree is essential at the initial design stage.

Replacement Trees

Replacement planting is essential to ensure continuity (succession) of the tree stock.

Replacement trees do not have to be in the same spot as a felled tree: a nearby location may be more practical and appropriate. Stockton Council aim to plant at least one tree in the vicinity of a felled specimen tree. Except in the case of woodland or plantation thinning for reasons of good management, which aims for the retained trees to become mature and grow into the thinned areas.

Commemorative / Dedicated trees

Stockton Council oblige requests for dedicated trees to be planted on memorial sites, and in some cases in it's parks or open spaces. We provide the tree and offer this to be planted in one of the available locations. There is a charge and conditions that apply. Applications for dedicated trees can be made online via the Council's web site.

Threats to Trees

Urban areas can be a challenging and hostile environment for trees. Increased susceptibility is created through stress from any of the following situations. Although trees appear very robust, they face challenges from their early establishment through to maturity in urban situations. Roots are particularly vulnerable to damage and significant root damage can change a healthy tree into a potential hazard.

Many of the following factors threaten not only a tree's survival but its ability to reach its mature potential and therefore its capacity to deliver its important ecological benefits. Also, the following factors can often be prevented or minimised through better professional care, protection, education and sustainable work practices.

Extreme Weather

Extreme weather conditions can cause some tree species to become stressed and decrease their tolerance to pests and diseases. Whilst increasing tree cover is important for mitigating climate change, extreme weather such as high winds, heavy rainfall, and drought are factors that could impact trees and woodlands.

Planning for Trees and Development Sites

Trees on streets, open spaces and private land can be at risk from the pressures of development. Where development is proposed, it is essential that both existing and proposed trees are considered from the very early stages of the design process. The effect of proposed development on trees is a material consideration when determining planning applications.

Protection of existing trees is achieved through planning conditions which ensure trees are not damaged and that there is space for them to grow and mature alongside the development. There will be a presumption in favour of the retention, protection and enhancement of woodlands, trees and hedgerows and, where appropriate, additional provisions for new trees and landscapes in new developments.

Retention of trees and hedges can make some developments more acceptable due to their screening effect, factors developers should consider this before proposing

tree and hedge removal. Stockton Council's Supplementary Planning Document (SPD) will give guidance to developers regarding tree retention, and planting.

Construction and demolition of buildings can damage trees in a variety of ways. This may be through direct loss to make way for development, a reduction in space by the development to accommodate retained trees' future growth and spread, or damage within the construction process such as direct damage from compaction of soil, severing roots or branches, or spill of chemicals near trees amongst many other careless factors during building works. Infrastructure and service installation (routing of underground services) with open trenching techniques that impact on tree rooting areas can also be damaging.

In the event of a tree needing to be removed, a replacement tree which enhances the amenity will be required as set out in Stockton Council's Supplementary Planning Document (SPD).

Permitted Development Rights

Where planning permission is sought, there is the opportunity for trees and hedges to be considered and protected, if needed. If development does not require planning permission, it is 'permitted development'.

The most relevant permitted development rights are works of maintenance and improvement of the highway by the highway's authorities, repairs to services by utility companies, extensions or alteration to dwellings or commercial buildings. Local authorities also have permitted development rights for work on their own land. Unfortunately, these can be a threat to existing trees, through installation of permitted development works where unavoidable development is required.

Street Environments

Trees growing in street environments ('street trees') are often vulnerable to damage, particularly of their roots, within the management of utilities and highways, which could cause loss in vigour, branch dieback or even death of a tree.

Highway use and maintenance can cause compaction of rooting areas and sometimes branches can be torn by high vehicles. The installation of driveways

(cutting across verges) or contamination from salt in winter grit are other means of which are not particularly considered but can have harmful effects on tree health.

Negligence of roots during excavation works is usually the cause. Symptoms of careless root damage may take several years to become evident within a tree.

For new trees, the presence of pre-existing or new utility provision must be carefully considered if future conflict is to be avoided.

Stockton Council have a Trees and Utilities guidance document which sets out the procedures around working around trees.

Damage / Vandalism

Damage to trees, either deliberate or through ignorance, can be commonplace. Criminal damage includes cutting down or lopping/topping, snapping young plantings, amongst other attempts of sabotaging trees in public areas. Enforcement action is taken against those who damage Council trees.

Pests and Diseases

Tree pest and diseases not only present ecological problems but also management challenges. Climate change is extending the range of pests and diseases that affect trees and vegetation in the United Kingdom. Historical importation of trees along with their associated soil and packaging materials from across Europe, Asia and elsewhere means that new pests and diseases have become imported and are more likely to be transported across UK borders. In the 1970's, Dutch Elm Disease was introduced into the UK, a new pathogen that dramatically changed the appearance and composition of the urban treescape, resulting in the native elm tree becoming infected and then mostly then eradicated.

Unfortunately, history has repeated as we are now currently faced with significant pests and diseases posing a threat to our native trees. The most threatening and devastating of which is having a large impact on our native populations of ash trees, is Ash Dieback Disease *Hymenoscyphus fraxineus*.

This is a fungal pathogen that was likely, inadvertently, imported on ash saplings, which then spread from areas of new planting, via wind, to mature trees in the environment. Ash Dieback is a fungus thought to have originated in Asia, possibly

Japan. As our native ash trees did not evolve with the fungus, it has no natural defence against it.

The Ash Dieback epidemic is a conservation challenge that has implications not only for ash as a species but also due to the risk that devastated populations can have, for example, many Ash are growing in roadside locations. The hazards that infected trees present are the immediate issues. Further reaching effects include the loss of climate change benefits, (improving air quality and other ecosystem services) the landscape impact, and extinctions among species dependent on ash as their habitat, but also the safety of workers that are tasked with removing dangerous trees. The trees become delignified, their internal timber is compromised and structurally weakened, therefore making the trees unsound and not safe for dismantling through regular tree dismantling (climbing) methods. Expensive, alternative methodologies are then required to dismantle prominent dangerous ash trees.

The infection of Ash species in Stockton Borough is an immediate problem, because Ash is a prolific self seeding tree that naturalises freely, we have many semi mature and mature Ash trees throughout our urban, residential, parks, woodland, roadside and rural areas.

Horse Chestnut Bleeding Canker is another prevalent disease in Stockton Borough, along with Horse Chestnut Leaf Miner, although less immediately concerning than Ash Dieback (horse chestnut bleeding canker progresses at a relatively slower rate than Ash Dieback so allows for monitoring of affected trees). Dutch Elm Disease remains present. Acute Oak Decline and Sweet Chestnut Blight are diseases that are having outbreaks in the south of the UK. Asian Longhorn Beetle (in southern England), Gypsy Moth (in southern England), Plane Wilt, Emerald Ash Borer are other further diseases with the possibility of infecting UK tree populations.

At Stockton Council, we will only purchase new trees for planting from nurseries that follow rigorous biosecurity policies, wherever possible, we will plant trees that are raised entirely in the UK.

The Local Authority Approach to the Regulation of Private Trees

Tree Preservation Orders (TPO)

Trees and hedgerows are important for the attractiveness of our areas and are a key component of ecosystems.

Tree Preservation Orders and Conservation Area designations can protect many of the important tree assets within private ownership.

This means that trees can be protected through legislation: The Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation, England) Regulations 2012 are planning laws that allow the Local Authority to protect trees on private land through a 'Tree Preservation Order' (TPO) the criteria for trees that may be worthy are if they have 'good visual amenity value' (they can be seen by the public in general and/or add to the quality of the local area). TPOs can be used to protect trees if the authority believes there is a risk of trees being felled, pruned, or damaged, in ways that would then have a significant impact on the amenity of the area. Once a TPO is in place, permission is then required before any work takes place to the tree, including work to a tree's roots.

The wording in the legislation is "Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'".

It is not necessary for there to be immediate risk toward a tree for there to be a need to protect it. Examples from Government guidance of when a TPO may be "expedient" are:

- '...the authority may believe that certain trees are at risk as a result of development pressures.'
- '...consider other sources of risks to trees for example, changes in property ownership'.
- 'Intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.'

The legislation recognises the important contribution trees make to the character and appearance of an area. Where the diameter of the tree exceeds 75 millimetres (subject to certain exceptions), if tree work is planned in a designated Conservation Area, six weeks' notice must be given to the LA. The purpose of this notification is to give the LA time to decide whether to make a TPO on the tree(s). In which case TPO procedures will apply to proposed tree works.

The owner of a protected tree can apply to do work at any time. In some cases, exemptions apply from the formal requirement to obtain written consent, for example, removal of 'dead dying or dangerous' trees. The landowner is responsible for the tree's ongoing management and the Local Authority's role is to regulate permissions to undertake works.

The owner of the tree must apply to the Local Authority to obtain consent before undertaking work. Failure to do so is an offence under the Act and the owner or persons undertaking the work may be liable to conviction in a Magistrates Court, leading to imposed fines. Applications forms and relevant guidance notes are available online at www.stockton.gov.uk

The tree owner will, however, require written authorisation from the Council before proceeding with exempt works or retaining evidence (e.g. photographs) of tree condition and works undertaken if they need to be carried out immediately (such as storm damaged or unstable trees).

The council will normally grant consent subject to conditions where the work is deemed to be in line with good arboricultural or forestry practice, there is a sound purpose or benefit and where the proposed work is unlikely to detract from the long-term health and amenity value of the tree/s in question.

Applicants may also be required to provide independent technical reports to substantiate proposals to fell or prune trees that are claimed to be hazardous or to be causing subsidence damage to properties.

The Council can also provide a list of arboricultural contractors and consultants and general guidance on employing a contractor to do tree work.

If a resident believes that significant trees within the landscape are worthy of protection, TPO or possibly under threat of being felled, they may contact our planning team to ask for consideration for it to be covered by TPO.

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Green Infrastructure and the Natural Environment

Green Infrastructure is an encompassing term that describes a high quality and comprehensive framework of interconnected natural features and landscapes.

Green Infrastructure offers an appealing natural environment for people and wildlife, within urban settings, achieved by:

1. Maintaining, protection and enhancing the integrity, connectivity, multi-functionality and accessibility of strategic Green Infrastructure network.
2. Protection, enhancement and management of green infrastructure assets which include:
 - i. Biodiversity and geodiversity assets, including designated sites, wildlife corridors and priority habitats and species,
 - ii. Distinctive landscape character, recognising the particular importance of rivers and topography, and
 - iii. Trees, woodland, and hedgerows.
3. Green Infrastructure development addresses gaps in the network, making improvements in opportunity areas. Improving and extending linkages to and within the Strategic Green Infrastructure Network.
4. Protecting and enhancing open spaces, sport and recreational facilities in accordance with agreed standards and in line with National Policy.
5. Improving access to, along and onto the River Tees and tributaries without adversely impacting on the local ecology or damaging the river banks.

Woodlands

Woodlands are integral to the council's strategic Green Infrastructure network. Stockton Council has approximately 400 hectares of woodlands. These typically range from small woodland copses less than 1ha in size to larger scale forestry plantations up to 75 ha in size. In addition, our ancient semi-natural woodlands, designated as Local Wildlife Sites (giving them protection within the planning system) and other woodland and plantation sites are important in biodiversity terms.

Depending on the nature of individual sites, woodland management is coordinated in partnership by the council, Local Nature Reserves and External partners where applicable (e.g. Tees Valley Wildlife Trust and Forestry Commission).

Local Wildlife Sites (or 'Country Parks')

Stockton Council aims to conserve and enhance our natural environment and protect these natural resources to leave a legacy for future generations.

Due to their value to wildlife, our 'Country Parks' are designated Local Nature Reserves, Local Wildlife Sites, or Sites of Local Conservation Interest.

All Council owned woodlands over 1 hectare in size are registered on a woodland inventory and mapped on the Council's computer based GIS mapping system.

The Council has a generic management plan for all woodlands, which is supported, and grant aided by the Forestry Commission. Additional management plans are in place at some individual sites such as Country Parks and Local Nature Reserves that are complementary to this plan.

Woodland Creation for Wildlife Habitat

The Council seeks opportunities for new woodland planting. We apply for grant aid from organisations such as the Forestry Commission.

Management Of Hedgerows

Hedgerows are an important part of the borough's green infrastructure and have an important role to play in supporting biodiversity, providing habitats, and creating wildlife corridors. Many are in private ownership however the Council maintains hedgerows located on public open space and some 'Adopted Highways'.

Where hedgerows are on an adopted highway, the Council will normally maintain the land or verges, which may include for example, maintaining clearance for vehicle and pedestrian access, sight lines, signage, lighting, etc. but will not include height reductions or removals of sections of hedgerows unless there is a statutory requirement to do so.

In some instances where hedgerows adjoin private residential properties, the Council may consider formal cyclical maintenance of hedgerows – this will be dependent on the species and growth characteristics of the individual hedgerows and undertaken only where it is deemed appropriate in the interests of the wider community and environment. However, guidance is provided that residents should maintain a hedge boundary for one metre of their boundary line, to ensure regular clearances are kept for their fence or wall boundary.

Hedgerow management is only undertaken during the autumn and winter months. At this time some cyclical hedgerow maintenance is programmed and undertaken by operational teams.

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STOCKTON COUNCIL TREE MANAGEMENT POLICY PART TWO

Tree and Woodland Management Services

Qualified Staff

All staff dealing with trees whether in a planning, landscape, design, highway, safety, or operational context hold the relevant skills, experience, and qualifications to undertake their particular roles.

Our qualified staff specify and carry out tree maintenance work. We receive a high volume of requests from the public and other sources relating to trees each year, which range from requests to remove trees completely, to minor pruning.

Stockton Council has an in-house tree team to provide a specialist arboricultural service across the council to ensure that work on its trees and hedges carried out in accordance with this policy and that our work is in line with best arboricultural practice.

The main tree and woodland management services provided by the council's tree team can be summarised as follows:

Tree Inspections

which include:

- Risk management of trees, health and condition surveys.
- Investigations (Detailed inspections such as decay testing and disease monitoring).
- Examining and checking a tree's health and structure, to specify and then schedule appropriate maintenance operations.

Tree Consultation Services

These include:

- Providing advice and guidance on trees to inform arboricultural best practices and correct methodologies when working near trees.
- Assessment of planning applications that involve building near trees - ensuring adequate tree retention, protection, or replacement.
- Consultation on Tree Preservation Order (TPO) applications.

- Designing tree planting schemes.
- Promoting the importance and benefits of trees.
- Assessing insurance claims e.g. claims for tree-related building subsidence, other structural damage or tree-related incidents.

Tree Work Operations

Operational work includes:

- Tree pruning.
- Tree felling and dismantling.
- Stump grinding / chemical treatment of stumps.
- Tree planting and aftercare, e.g. watering, mulching, tending trees, new woodland planting.
- Woodland management operations, e.g. thinning, timber extraction.

Trees will be maintained in such a way as to ensure they do not pose an unacceptable risk to persons or property; our maintenance is in line with relevant British Standards and would ensure that trees do not cause unreasonable interference with the use and enjoyment of land or property. We prioritise undertaking maintenance where it is considered that there is a potentially hazardous issue, or if a tree's growth is causing an actionable (legal) nuisance.

Timing of Operations

Tree maintenance work will be undertaken all year round, except where specific restrictions apply such as in respect of bird nesting or other habitat regulations. Tree work can be done during the summertime, as we are able to inspect for nests prior to undertaking work within trees. Hedges are excluded for summer work, in accord with the Wildlife and Countryside Act 1981 regulations.

Therefore, certain operations will be undertaken in autumn or winter months only, for example:

- Tree thinning/felling operations within a plantation area or woodland.
- Tree Planting.
- Hedgerow maintenance.

Tree Inspection (Survey) Schedule

The basis of tree risk management will be inspection of all trees on council land by competent arboriculturists at defined intervals according to a consistent methodology incorporating a systematic and reliable risk assessment. Trees that do not meet a defined standard of safety will be identified and remedial measures will be specified to mitigate unacceptable risks within a defined timeframe. In broad terms the management of tree related risk on council land will be:

- To Identify reasonably foreseeable risks
- To take reasonable care to keep people safe.
- Proportionate to any requests received in line with appropriate policy and procedures.

Trees are surveyed to ascertain their health and condition using the standard Visual Tree Assessment method (VTA). Findings of tree inspections are recorded digitally. All attributes of a tree, its species, age, and health along with any significant signs or symptoms of ill health and structural defects are recorded. Where necessary such issues will be recommended for essential maintenance or further investigation.

The frequency of tree inspections varies in proportion to the prevailing risk, as a minimum, all trees within the council's responsibility will be inspected on a minimum three-year cycle, including individual trees and groups of trees on council-owned or adopted land (adopted highway verges and adopted spaces).

Survey zones are therefore surveyed on a three-yearly cycle and are pre-defined areas (for example, a residential estate may form one survey zone).

Some areas receive surveys on an annual basis. Annual surveys take place in areas of higher public frequency.

Areas that are itemised to be within an annual survey zone include:

- Parks, education centres and schools.
- Main thoroughfares (main roads /highways).
- Cemeteries.

Aside from the above, areas are also more frequently inspected, for example, following storm events (to ensure that there are no issues of damage or storm damaged,

hanging branches) or prior to a public event taking place (such as Stockton International Riverside Festival). We also inspect in response to general customer enquiries, in interim periods between survey cycles. During a survey, the council also take note of any potentially hazardous trees located on privately owned land that are adjacent to or within 'falling distance' of public land (however we do not enter private land as a matter of course, to inspect private trees). Where appropriate, landowners will be notified of any such trees that in the council's opinion, may incur a significant risk to public safety. At the time of each survey, the council subsequently identify 'essential' tree maintenance work, which will be prepared into an operational maintenance schedule, undertaken within a 3 – 5 year tree work programme.

'Essential tree maintenance' includes undertaking maintenance to trees where it is considered there is a potentially hazardous issue or if a tree's growth is causing an actionable (legal) nuisance. Our inspection would also review a tree form and development, and using pruning work to pre-empt future issues, arranging operational tasks that are deemed to be in line with the Council's statutory duties and arboricultural best practices.

The tree team also provides a reactive service when dealing with incoming issues of urgent priority, such as storm damage or hazardous tree issues, potentially affecting public safety. These issues are often informed by public reporting.

Reports from Members of the Public

We have a responsibility to manage trees within our ownership / management to ensure they are in a safe condition and not causing an unreasonable danger or actionable nuisance.

All enquiries regarding trees on Stockton Council land be directed to our Customer Services team on 01642 523959 or careforyourarea@stockton.gov.uk

A tree could warrant immediate attention if, for example:

- it has snapped or blown over.
- it is rocking (roots are damaged).
- it is uprooted but held up by another tree or building.

- a large branch has broken off or is hanging off the tree.
- it or its branch is blocking the road or footway / public right of way.
- it or its branch is blocking access to property.
- it has fallen on to a structure, such as a building or car.

When we have a report of a hazardous tree, the significance of existing risks and the potential development of new risks would be evaluated by competent inspectors, and measures put in place to prevent unacceptable risks from materialising as harm.

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Requests for Work

A significant proportion of council land is accessible to the public, and most, if not all, council trees provide public benefits. It is therefore important to have a clear policy on what action can be taken in various circumstances, and to demonstrate the need to balance problems against benefits. Although trees have many benefits, they do in some cases, conflict with our way of life. Issues such as branches, sap, and leaf drop, pollen, and shade can range from being perceived problems and minor inconveniences to issues that could have more serious consequences and require pruning mitigation such as damage to structures.

In addition to the works identified or planned by our qualified staff, the council receives tree and hedge service requests, normally from adjacent landowners, members of the public, developers, and other bodies. Many issues can be resolved or mitigated through appropriate management and maintenance or by providing advice on an issue. Stockton Council has resources, including expertise, beyond what would be expected of a private individual. Therefore, it should be expected that the overall standard of care, and the custodianship of trees by the council would be robust and that all the enquiries (or service requests) received are considered within a professional context and framework of when or if, work is appropriate.

Public Service Requests

Service requests are a valuable resource in terms of receiving local observation from people that have local knowledge and they form an important component in tree management. Insights of the public with familiarity of an area or location can be a useful 'early warning system' for hazards or recent tree damage and can inform future maintenance requirements.

The service requests will be recorded and prioritised. An enquiry that relates to urgent health and safety will be treated with urgency and will be investigated on the same day of receipt.

Other requests for works can relate to risk or nuisance but are also sometimes concerned with a personal preference or a perceived problem that does not

constitute an actionable nuisance or a genuine risk. The most common subjects of such requests are:

- Shade casting/reduced light to properties
- Effects on TV or satellite reception
- Obstruction of views
- Obstruction of or contact with telephone lines
- Interference with other vegetation
- Minor or seasonal nuisances
- Perceived risk and 'worry'
- Aphid excretion (honeydew or sap)
- Bird droppings
- Algae, lichen or moss growth (typically associated with shade)
- Leaf, fruit, twig or flower shedding
- Germinating seedlings in gardens
- Aesthetic preference or opinion ('untidiness')

Whilst Stockton Council appreciates that these issues may cause real concern to some individuals, they are not generally considered to be unacceptable, or legally actionable.

The council cannot manage its trees and hedges according to the sensitivities or preferences of individuals where these are beyond the scope of normal attitudes or opinions, particularly where this would incur disproportionate cost.

The above issues are relatively minor when judged against the many wider benefits of having trees and hedges within an urban environment and public space, which are fundamental to the aims and purposes of the council and the delivery of its strategic objectives, including those relating to the climate emergency, and its legal obligations. Stockton Council is unlikely to prune trees or hedges in response to the above issues.

The Council receives several hundred service requests from members of the public and outside agencies each year, requesting advice or for work to be undertaken to trees, hedgerows and woodlands. To ensure that requests for works to trees are dealt with efficiently, consistently, and fairly, the council adopt a priority system for dealing with enquiries.

Emergency Work

Emergency issues (recently damaged trees) will be reviewed and actioned on the same day as receipt. These are considered as 'emergency call outs'.

We respond to incident reports within the same working day, and this would include reports of

- Fallen trees or branches i.e. storm damage.
- Vandalism/ anti-social behaviour and associated damage.
- Urgent tree related damage

An emergency call out includes responding to incidents that affect the safe use of the public highway. Once a public highway is made safe, all other incidents including remaining clearance works will be dealt with shortly afterwards, as other priorities and resources allow.

Routine Maintenance

As part of its regular inspection of the maintenance of trees and hedges that it owns, the council undertake routine works such as maintenance for highway visibility and footpath clearances. These typically include clearances above paths, parking and vehicular routes, clearance around signs and lights, and clearances from built structures and important lines of sight.

Priority 1 Service Requests

These requests are reviewed within 28 working days following the issue being reported.

Priority 1 requests include dealing with dead, dying or dangerous trees, storm damage, trees causing actual damage or direct interference with private property/structures, highway obstructions, street lighting obstruction, reports of vandalism or other incidents.

The council will log an enquiry as a Priority 1 service request, where it considers there to be a significant health and safety issue, legal obligation or actionable nuisance to persons or property or an incident relating to trees. Categorized as follows:

| CATEGORY | DESCRIPTION |
|---|---|
| Incident reporting / Emergency Call Outs | Vandalism to trees, snapped trees, ring barked, fire damage |
| | Storm damaged or fallen trees/ branches |
| | Dead, dying or dangerous trees |
| | Actual Damage to property caused by falling trees or branches |
| Tree work & tree inspection Requests | Tree Causing direct obstructions in public Highway |
| | Blocking public path or road access / driveway |
| | Obstructing road sign or signals |
| | Obstructing street lighting |
| | Tree causing <u>actual</u> visible damage to property, e.g. wall, driveway, subsidence to house |
| | Trees touching house, buildings other structures that need cut back |
| Tree Advice | Advice to external companies / utility providers |
| | Tree Preservation Orders / Trees in Conservation Areas |
| Tree Planting | Memorial or dedicated trees (online application form) |

Actionable Nuisance

Trees that fit into the category of created a legally defined 'nuisance' (i.e. one that is in contact with a property or structure therefore causing an actionable nuisance) may be pruned, where this is the most reasonable, effective and proportionate means of abating the issue. Therefore, such enquiries would be within the category of being a Priority 1 service request.

Priority 2 Service Requests

These would be any other request not included within Priority 1 essential maintenance, and would normally be assessed during the next scheduled survey for the area in question.

Defining Nuisance & Negligence

To be liable under 'nuisance' there would normally have to be some form of damage or injury to a third party, an act or an omission (due to negligence) on the part of the duty holder (i.e. tree owner) and a reasonable degree of foreseeability including the ability to have taken preventive action.

Conversely, a landowner (tree owner) will not be liable for damage or injury caused by trees if it was not considered to be foreseeable and could not have reasonably been able to take preventive action (Acts of God). An example could be the failure of an otherwise sound tree branch in stormy weather conditions.

Example of Actionable (Legal) Nuisance

A legal nuisance may be where a tree causes direct property damage or where it is deemed to cause unreasonable interference with the use and enjoyment of an adjoining property and this is usually defined whereby the nature and extent of the 'interference' may give rise to an action for damages against the tree owner (actionable nuisance), e.g. blocking a public highway.

It generally excludes 'nuisance' in the everyday sense, e.g. from shading, leaf litter, and debris. etc which would normally be regarded in legal terms as 'inconvenience' and that would not normally require preventive or remedial action by the tree owner.

Failure to inspect and maintain a tree appropriately may result in 'negligence' which can, in turn, give rise to an action for damages against the owner: for example, if the long-standing dead or unstable tree that the owner ought to have been aware of through inspection and survey procedures, falls on a highway causing injury or damage. Records of Common Law cases relating to trees can be found in case law index (UK).

Insurance Services

Stockton Council's Insurance department manages all claims relating to council-owned trees. Where a council tree is implicated as having caused property damage, the onus is on the claimant to provide evidence that the tree is the cause. Occupiers of adjacent land will be expected to provide evidence that a particular tree is causing any alleged damage and action will not be taken solely based on an allegation. Any course of action will be informed by the quality and state of repair of the structure in question and its ability to withstand reasonable and normal influences by the presence or activity of trees or hedges. If there is proof and implication of further damage towards a structure or property, the Council will review the implications and evidence and act accordingly. Typically, this would include works to remove obstructions by overhanging branches, or to remove a proven cause of subsidence or other structural damage.

Example: Garden Wall Damage

Damage to light structures, for example walls and patio flags is considered to be remediable and would not usually warrant the removal of a tree or hedge. It is common, when a path or wall is speculatively damaged by tree roots, to suggest that the tree is removed, however this is not always required. It can be less expensive to repair the structure using slightly different methods which allow the tree to be retained and so save felling and reinstatement costs.

Our broader statements on tree and woodland management are as follows:

- Healthy trees and woodlands will be protected, retained and managed to ensure healthy growth, development and species diversity. Trees will be managed in line with our Tree Management Policy.
- Stockton Council's tree stock and canopy cover will be increased to give greater species and age diversity to ensure a healthy, balanced tree population.
- Stockton Council will use its powers to prevent unnecessary damage to trees within all construction/development in accordance with the current version of

BS5837 and pursue enforcement action where appropriate if trees are damaged or destroyed.

- Using powers available under the Town and Country Planning Act, related legislation and or/lease clauses Stockton Council will, in the interests of amenity, protect trees and woodlands that are of acknowledged value where they are visible to the public, are in reasonable health and condition and where there is a threat.
- Where council land containing trees is to be sold the trees will be assessed to determine whether protection via a TPO or restrictive clause in a lease is appropriate to ensure retention for the benefit of the wider population.
- Stockton Council will engage with partners, the public and other landowners to raise awareness of tree protection, maintenance, planting and establishment best practice.
- Stockton Council will seek compensation from any external organisation responsible for significant damage to or removal of any council owned trees to the value as calculated by CAVAT.

Summary of Policy for Public Service Requests

The following are our principles of management according to the variety of service requests that we receive.

Felling Trees

Stockton Council will generally avoid felling trees unless it is necessary.

Trees will only be removed on council land in one of the following circumstances:

- The removal of the tree will benefit the development of nearby better quality neighbouring trees and will maintain or improve a sustainable tree population e.g. woodland thinning.
- The tree is, in the view of an arboriculturist, of a size and/or species that is unsuitable for its location.
- The tree is proven to have caused significant structural damage, such as by subsidence, and that removal will mitigate further damage as the only way the problem can be solved.
- Where tree removal is unavoidable, in order to deliver other council services and objectives, where the benefits clearly outweigh the loss of the tree.
- Tree removal where it is the only practical means of complying with a statutory duty.
- The tree is in a dead, dying or dangerous condition, and felling, or regular heavy pruning, is the only way to satisfactorily remedy the situation.
- The tree is growing in an unsuitable location, and it is foreseeable that the tree will require regular heavy pruning or removal in the future to mitigate the above effects.
- If the tree is protected by a TPO and the proposed works are exempt under existing TPO legislation.

Tree Pruning

Permission for pruning will normally only be granted where the work is in line with good arboricultural practice and:

- It is required to prevent direct or indirect physical damage to buildings.
- Accords with the current version of British Standard 3998 'Recommendations for Tree Work' (see Appendix: *Pruning Techniques*)
- Would not adversely affect the tree's long-term health and amenity value.
- Where it is necessary to improve the growth of adjacent better quality trees.
- to abate a statutory nuisance.

The Council will not support heavy pruning or removal of trees that do not accord with the above, or for the following reasons:

- Blockage of light
- Loss of Views
- Interference with television or satellite dish reception
- Excessive leaf fall, fruit fall or other deposits
- Branches interfering with telephone lines
- Mess caused by insects or birds
- Damage to drains and water pipes
- Problems associated with pollen
- Root invasion in gardens
- Where the tree is perceived to be too large
- Because someone is willing to pay for the removal and replacement of the tree

To explain reasons for work further, we can look into each issue in more detail:

Overhanging or Obstructing Branches

Under English Common Law a landowner is entitled to cut branches back to their property boundary, but not beyond. The Council will only consider cutting back

branches from trees that overhang adjoining private property if it considers the trees or vegetation in question are causing a severe encroachment.

We will not cut back trees if they are partially overhanging properties and in the council's opinion, not considered to be causing an unreasonable interference with the use and enjoyment of property.

Shading and Loss of Light

The council will not normally prune or remove trees to alleviate light loss unless the trees are causing substantial encroachment into a property or in the council's opinion, are considered to be causing unreasonable interference with the use and enjoyment of property. There is currently no legal right to direct sunlight or to a view and often pruning trees will only marginally improve the amount of natural light reaching a house or garden.

Television and Satellite Reception

Although a television license allows the operation of equipment to receive a transmission, it is not a guarantee of television reception and a television owner does not have a legal right to a viewable image.

Removal or pruning of trees to enable a clear television reception will not normally be considered. Most televisions allow for a degree of variation in reception, which usually enables a viewable image, whereas satellite dishes need a clear line of view to the satellite.

Where there is a persistent problem and tree pruning cannot provide a reasonable solution it will normally be necessary to seek further specialist advice to assist in either repositioning or improving the quality of the aerial device.

Bird Droppings, Falling Leaves, Fruit/Flowers, Seeds or other Deposits, Insects, Pollen Allergies

These types of nuisances associated with trees are mostly natural and short spanning seasonal occurrences.

However, they are not regarded in Law as a 'legal nuisance' that puts an obligation on the tree owner to take remedial action. Instead, the Law regards these types of

nuisance as 'inconveniences' or 'everyday nuisances' which should normally be dealt with by individual landowners as part of 'property maintenance'. The council will not therefore undertake tree pruning or removals to try and alleviate the effects of these types of nuisance.

If a member of the public however has concerns over the cleanliness or safety of local public footpaths, they are advised to contact Care for Your Area on (01642 391959), who may consider additional cleansing within this area.

Overhead Cables and Other Utilities

Utility companies have certain legal rights to carry out works on public or privately owned trees to address health and safety problems and to maintain a clearance between trees and their apparatus. This may sometimes involve minor pruning or even the loss of trees. Where works to trees are necessary as a result of proximity or conflict, the council will encourage utility operators to adopt the most appropriate long term solution, considering future tree health, plus the impact on local tree cover and visual amenities.

Problems caused by branches interfering with privately owned telephone wires should be taken to the service provider as they would have the expert opinion to determine when an issue is actionable. They may be able to reroute a cable to avoid a tree canopy. Trees and telephone wires are normally a compatible scenario unless excessive strain is on a wire. The council would work with the service provider where required however we rarely receive requests from providers to attend to pruning to clear telephone cables. Tree removal will not usually be considered.

Tree Roots

Many tree conflicts arise on account of the presence of tree roots and the perception that they are causing damage. Tree root issues are normally very speculative when viewed from above ground and 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 and common occurrence and root presence is unlikely to be affected by tree pruning or removal. Landowners have a common law right to prune back tree roots to their boundary, providing that this would not lead to tree death or instability and 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 trees will re-sprout from the stump when cut down. Many species will also 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, or localised ground disturbance. Several tree species (including cherry and poplar) are likely to produce root suckers as a response to being felled. These can be physically removed and chemically treated using a weedkiller until they cease to persist.

The encroachment of roots into adjoining land is not considered to amount to actionable legal nuisance unless the roots proceed to cause direct property damage. In most cases, roots can be pruned or accommodated.

Damage to Walls, Fences and Paths

It is normally possible to build or repair garden walls, fences, and paths to take account of adjacent trees. This can be achieved in several ways (for example installing a section of railing or bridging foundations around the base of a tree). Where trees are considered to be causing damage to walls or fences, Stockton Council will normally consider tree removal only where the wall or fence is irreplaceable and of exceptional importance e.g. a retaining wall or of historical interest. If a damaged wall or fence was constructed after planting the tree, it may mean that the design or construction has failed to take the presence of nearby trees into account. The structure should normally be repaired or rebuilt to accommodate the tree. If a tree was planted or self-sown after the wall was constructed and is subsequently deemed to be unsuitable for long-term retention/ or has already caused damage it will normally be removed – this will be determined by the anticipated cost and ability to implement a lasting repair.

In the event this type of direct damage has been caused the third party owner may be entitled to claim repair costs against Stockton Council.

Tree Influence on Ornamental Landscaping Features

The council will not normally remove trees because they are disrupting pavements, kerbs, garden paths and walls.

Damage To Property

Tree removal will not normally be considered as a response to complaints about damage where insufficient evidence of the tree's contribution to damage is submitted, or where building or foundation design has failed to take into account the presence, at the time of construction, of established or newly planted trees.

Damage to Drains or Water Pipes

There is no evidence to suggest that tree roots can actively penetrate an intact pipe or drain, however, fibrous roots will commonly exploit defects in pipe work that result in water leakages. In these situations, the owner of the drain should seek to get the drain repaired or replaced at their own expense and prune roots directly interfering with the pipe work. Tree removal or other pruning work will not normally be considered unless the tree is clearly shown to have caused direct damage from root plate movement or is otherwise unsuitable for longer-term retention.

Subsidence

Tree-related building subsidence is generally only a problem in those areas that are underlain with shrinkable clays (or sometimes peat). Although trees are commonly implicated as being a cause of damage, a variety of other factors can also be a significant cause of structural failure: this includes, for example, inadequate foundation design, structural works to adjacent properties, internal alterations, different foundation depths or construction methods between buildings and extensions, change of surface materials close to trees, or seepage from broken or poorly maintained water pipes.

Removal Of A TPO Or Conservation Area Tree

When a TPO tree is alleged to be causing damage to a building and the only remedy is tree removal, the tree owner would apply to the council in this regard, and the council will permit the removal of the tree provided that:

- There is sufficient evidence to demonstrate that the tree is an influencing cause.
- The removal of the tree, or regular heavy pruning that might affect the public amenity value of the tree, is necessary to deal with the problem, and;
- The removal can be carried out without contravening wildlife legislation.

Evidencing Damage Caused by Trees with a TPO

Applications for works to protected trees (i.e. those within a Conservation Area or under a Tree Preservation Order) on private land, about alleged damage, are expected to be accompanied by evidence to show that the tree in question is a significant contributory factor or effective cause of the reported damage.

For example, permission to remove trees, or carry out works to trees, may not be considered on the grounds of subsidence alone without evidence of the following:

- Structural report providing a detailed appraisal of actual damage including crack or level monitoring records over a sufficient period; Category of Damage rating as per Building Research Establishment classifications.
- Formal identification of live roots of the same family or species found below the level of the foundation depth;
- Soil moisture tests at varying depths to below foundation level;
- Geo-technical survey indicating trial pits, and soil profiles; Evidence of desiccated soil;
- Details of other vegetation within the theoretical 'zone of influence';
- Confirmation of foundation depths and whether the building was constructed before or after the tree was planted;
- Other evidence may be required in some circumstances, such as a survey of the drainage system.

- The council may obtain expert specialist advice to verify submitted evidence as necessary.
- Removal of trees will **not** normally be considered where insufficient evidence is submitted or where building or foundation design has failed to take into account the presence, at the time of construction, of established or newly planted trees.

Insurance Claims Relating to Trees Owned by Stockton Council

As above 'evidencing damage caused by trees': claims are to be directed, in the first instance, to Stockton Council's Risk Management & Insurance Services. They may then be dealt with by the Council's Independent Claims Handlers or Insurers, who may request appropriate supplementary information.

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APPENDICES

i. Summary of Legal Background

The Local Authority must ensure tree and woodland management services are undertaken according to its statutory requirements and best practices. The main elements are summarised below:

Legislation and Statutory Duties for Local Authorities Pertaining to Trees

Statute Law (Acts of Parliament & Regulations)

Occupiers Liability Act 1957 & 1984 /

Health & Safety Executive: Risk from Falling Trees

The Local Authority is required to have an appropriate defensible system in place for the inspection and maintenance of trees and woodlands within its ownership.

This normally requires:

- Undertaking regular inspections of all trees and woodlands within its ownership.
- Maintaining adequate records of surveys and inspections.
- Implementing an ongoing programme of essential tree maintenance.

Highways Act 1980 (S. 96, 154)

The Local Authority must manage trees on or adjacent to the highway to ensure they do not interfere with the safe use of the highway such as maintaining adequate branch clearances over footpaths and carriageways and preventing trees from interfering with highway signage, lighting, sight lines, surfacing, structures or cause obstructions.

The Local Authority must also identify dead, dying or dangerous trees/branches that may foreseeably fall onto the highway and make sure these are removed.

The Local Authority has powers within the Act to notify and serve legal notices on private landowners, e.g. if dead, dying or dangerous trees are identified on private

land that interfere with the safe use of the highway. Notice can be served requiring essential remedial works to be undertaken within a specified timescale.

Local Government (Miscellaneous Provisions) Act 1976 (S.23 & 24)

Local Authorities have powers within the Act to notify and serve legal notice on private landowners, e.g. if dead, dying, or dangerous trees are identified on private land that may affect public safety. Similar to the Highways Act, notice can be served requiring essential remedial works to be undertaken within a specified timescale.

Unsafe Trees on Private Land

Owners and occupiers have a duty of care to others with regard to the safety of the trees on their land under the Occupiers Liability Act. If trees are dangerous, the Council have powers granted under the Local Government (Miscellaneous Provisions) Act, 1976 to require an owner to make safe a tree which is deemed to be an immediate threat to people or property. In the absence of the landowner, the Council can also act directly in the interests of public safety and recover any reasonable costs associated with the works. Any other dispute between neighbours is a private matter which should be resolved between the affected parties. Where private trees are considered a threat to users of the highway or public footpaths, the Council have powers under Section 154 of the Highways Act 1980 and can require the owner to make the trees safe. If trees and hedges are causing an obstruction to the highway the Council will issue a letter requesting works to be carried out to remove the obstruction within 28 days. If the works are not carried out in this time a formal notice will be issued giving a further 14 days to have the works carried out. If the works are still not carried out after this time legal proceedings may be instigated. Even if the trees are protected emergency work can be carried out if specified by an arborist. Owners are advised to contact Planning to discuss the extent of the works and any additional balancing of the crown which may be required.

Town & Country Planning Act 1990 (Tree Preservation Orders)

Under section 198, the LA has powers to make and serve Tree Preservation Orders (TPOs) on private land. This will normally include the protection of prominent trees where it is deemed 'expedient in the interests of amenity'.

The order makes it an offence to cut down, uproot, prune, damage or destroy the tree/s without written consent from the LPA (exemptions apply in certain circumstances).

Tree owners must therefore apply to the LA planning department before undertaking work on protected trees.

Anyone found guilty of cutting down, uprooting, topping, lopping or wilfully damaging a tree in a way that is likely to destroy it (including destruction of a tree's amenity value) is liable to a fine of up to £20,000 if convicted in the Magistrates' Court, or an unlimited fine if convicted in the Crown Court. The maximum penalty for contravention of the regulations in a way that does not lead to the destruction of the tree (or its value as an amenity) is £2,500 in the Magistrates' Court.

Trees and Their Protection During Development

Under section 197 of the Act, the Local Authority must make provision for the preservation of trees and must regard them as a 'material consideration' when granting planning permission.

The Council will be guided by 'British Standard 5837: Trees in Relation to Design, Demolition and Construction 2012 - Recommendations' and impose conditions where necessary to ensure trees are adequately protected during the process of new development, including all associated demolition and construction works.

The Council will also make provision for the planting of replacement trees that are lost during the course of new development and ensure that adequate new planting is included where possible.

Trees in Conservation Areas

The Town and Country Planning Act 1990 makes special provisions for trees located within Conservation Areas.

In summary, before carrying out works to any tree with a stem diameter greater than 75mm, 6 weeks written notice must be made to the LPA, describing the trees, their location and the works to be carried out. The LPA will consider whether or not to

place a TPO on to the tree(s) in question. Not giving the requisite notice before carrying out tree works is an offence under the Act,

The exemptions and penalties for trees in Conservation Areas are the same as those applicable to trees under Tree preservation orders.

Planning Enforcement

The LPA has enforcement powers under the Act for dealing with unauthorised works or damage to protected trees, or to require the replacement of trees.

Anti-Social Behaviour Act 2003 Part 8.

High Hedges: The Local Authority has enforcement powers under the Act for dealing with neighbour disputes about High Hedges. This includes procedures for enforcing the management of 'evergreen' hedges that cause a nuisance to a third party (neighbour). This does not include non-evergreen hedges or trees. Following a complaint being registered to the Planning Dept of the Local Authority, the Local Authority can then review, and enforce reduction of hedges that are deemed to cause a nuisance, where appropriate.

Forestry Act 1967

Forestry Commission (FC) Felling Licences: The Forestry Act contains legislation that gives the Forestry Commission powers to control the number of trees being felled at any one time. A felling licence is usually required where 5 or more cubic metres of wood are to be felled within any calendar quarter.

Certain requirements and exemptions apply, and these can be confirmed by the Forestry Commission, which deals with Felling Licences.

The Forestry Commission can be contacted at northeast.fce@forestry.gsi.gov.uk

Hedgerow Regulations 1997

Hedgerow Protection: Where applicable landowners must submit a Hedgerow Removal Notice to the LPA if they intend to remove hedgerows. The LPA has powers to serve Hedge Retention Notice to protect important hedges under the terms of the Regulations.

Section 40 Natural Environment and Rural Communities (Nerc) Act 2006

Conserving Biodiversity 'Every public body must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'.

Wildlife & Countryside Act 1981.

Countryside Right of Way (Crow) Act 2000 / Conservation Of Species And Habitats Regulations 2010

Certain listed species of plants and animals and their habitats are protected by legislation (inc. under European Habitats Directive 1992). The council therefore must comply with applicable regulations to protect wildlife including species and their habitats.

Health & Safety at Work Act 1974

All operational tree work must comply with the provisions under the Act, including relevant regulations and associated best practice guidance:

For example, organisations must ensure they have appropriate arrangements for health and safety including a written health and safety policy, risk management systems, suitably trained personnel.

Examples of relevant regulations and best practice include following:

- Management of Health & Safety at Work Regulations 1999
- Working at Height Regulations 2005
- New Roads & Street works Act 1991 / Chapter 8 Regulations
- Provision & Use of Work Equipment Regulations 1998
- Lifting Operations and Lifting Equipment Regulations 1998
- PPE at Work Regulations,
- Noise Regulations
- Control of substances hazardous to health (COSHH)
- First Aid / Accident Reporting
- Codes of Practice / Arboriculture Forestry Advisory Guides (AFAG) / HSE Guidance
- Wildlife & Countryside Act 1981 / Conservation of Species and Habitats Regulations 2010

English Common Law (Case Law) - Nuisance & Negligence

In exercising its functions, the Local Authority must pay due regard to English Common Law regarding the management of trees to limit potential liability for claims of nuisance or negligence. Where no specific Statutory Law exists, past legal judgements and precedents under English Common Law form the basis of resolving disputes between landowners; outlining their responsibilities and establishing liability in the event of injury or damage caused to third parties.

Many Common Law judgements and precedents exist in respect of trees and carry significant weighting in the resolution of civil disputes, insurance claims, etc. In most cases, judgements are made on the grounds of what is deemed reasonable and what would be considered the appropriate actions of a prudent or reasonable person.

The Council's tree management policy and procedures are therefore based on its interpretation of resultant best practice: For example, the Local Authority aims to take reasonable care within its means to manage trees and woodlands in such a way as they do not cause a legal or 'actionable' nuisance to a third party and it is not negligent in its legal duty of care: this normally requires it has a defensible and proactive system of inspection and maintenance in place.

ii Tree Management Service – FAQ's

Please can you arrange overgrown trees to be cut back?

The Council will only cut back trees if they are severely overhanging into a property and considered to be causing unreasonable interference with the use and enjoyment of property, not simply if they are considered 'too big' in a general sense.

Can I cut back trees to my boundary?

A landowner is entitled to cut branches or roots back to their boundary but not beyond. You must also check first if the trees are protected by a Tree Preservation Order or if you are within a Conservation Area as you will need to apply for permission first.

Trees are blocking light/shading my garden.

There is no absolute right to light or a view. The Council will only consider cutting back trees if they are severely overhanging into a property or if it considers them to be causing unreasonable interference with the use and enjoyment of property.

Trees are blocking a streetlamp/obscuring a road sign/blocking a road or path?

The Council will arrange to inspect the tree/s and have the necessary work carried out – if the trees are privately owned we will write to the landowner first and request they carry out the work.

The tree is damaging my fence/wall/driveway etc.

The Council will contact you to arrange an inspection and advise what action can be taken. In some cases you may be entitled to claim repair costs for any damage caused.

Tree/s are damaging my drains.

The Council will not normally accept any liability for reported damage to drains and is therefore unlikely to prune or remove trees. Tree roots will often exploit defects in pipe work/seals etc but will not 'break and enter' an otherwise intact drainage system.

How tall is a tree allowed to grow?

There is no law on how tall a tree can grow although in some cases there are restrictions on Evergreen Hedges (Leylandii) – contact Planning Enforcement for further advice.

Does the council do work on privately owned trees, or can the council recommend a suitable tree work contractor?

The council does not undertake tree work on private land but can provide a suggested list of contractors and consultants if required.

Is my tree protected by a Tree Preservation Order?

The council's Planning Department has records of all protected trees – please contact Care for Your Area for this information.

The tree is interfering with my TV reception/satellite dish.

There is no legal right to receiving a TV or satellite reception therefore the council will not normally prune trees back to alleviate interference, and not if it is likely to damage or disfigure a tree.

Tree is dropping sap/honeydew on my car.

This is not classed as a legal nuisance and the council will not therefore undertake pruning to alleviate this -the owner of the car would be expected to either wash or cover the car, or park elsewhere.

Does the council clear fallen leaves?

Usually no, except in some instances where some council depts have special arrangements for this, e.g. Clearing roadside gullies, Care Homes, etc It is and landowners' responsibility to undertake maintenance of their properties regardless of where leaves originate from.

I think a tree is dangerous.

Please contact Care for Your Area and state where the tree is and why you think it is dangerous and it will be inspected by one of the council's Tree & Woodland Officers.

I live in a thirteen house and would like a tree pruned or cut down?

Please contact thirteen direct with all tree work or inspection requests.

How often does the council inspect trees?

All trees and woodlands are on a cyclical survey programme and are inspected by a qualified arborist a minimum of every 3 years. Some trees are inspected more often, for example trees in town centres and schools are inspected once a year.

I would like a tree/tree's to be planted near where I live.

Please contact the Council's Customer Services team with details of where you would like tree/s planted and your request will be reviewed before the next planting season (December-March).

I would like a dedicated tree to be planted.

Please go to Stockton Council's website and complete the online application. A member of staff will contact you to discuss your request at the time of receipt of the application and in more detail a few weeks before the start of the planting season.

Does the council have a programme for planting new trees?

Yes, the council has a tree planting programme that identifies priority areas for new tree and woodland planting. This includes major green spaces, parks, highways and other public open spaces where new trees are likely to provide the greatest benefit to the environment and public amenity. These sites will be targeted for new planting where funding opportunities exist.

When will my tree be inspected? – I phoned up a few weeks ago?

All service requests are logged and given a priority rating:

Priority 1 Service requests will be inspected within 28 working days and will include dead, dying dangerous trees, anything health & safety related or that implies a legal obligation on the council. This will also include general advice requested over the phone.

All other service requests will be logged as Priority 2 service requests and dealt with depending on the current volume of service requests with no pre-determined response timescale.

Please note that requests for works that are not deemed essential or considered appropriate management of trees may be declined.

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iii Explanation of Pruning Techniques

In carrying out any tree works, the overall amenity value, form, condition, health and shape of the tree must be retained.

All tree works shall be carried out by BS 3998: Recommendations for Tree Work 2010.

Description of Tree Pruning:

Crown Lifting

The removal of the lowest branches of a tree so that the remaining lowest branches are at a specified height, usually 2.5m over a footpath and 5m over a road unless otherwise stated. This operation is undertaken for several reasons, such as: to allow access under a tree; to clear branches from low structures; or to allow light under the canopy.

Crown Thinning

The removal of a specified proportion of branch material from the interior of the crown without affecting the crown shape of the tree. This operation is usually undertaken to: reduce crown density and wind resistance; form a healthy branch structure by removing dead; diseased, damaged, crossing and rubbing branches, and allow more light through the canopy.

Pollarding

This severe operation entails the removal of the entire tree's branch structure back to the trunk or main branch forks. An ancient way of maintaining trees that is sometimes necessary, particularly on trees that have been pollarded before. Only certain species will tolerate this degree of pruning, and new growth may be weak and prone to tearing off. This method of management is not therefore normally acceptable unless required as a last resort for retaining a tree or removing hazardous branches.

Crown Reduction

Reducing the overall size and spread of the crown area by a specified percentage by pruning back the leaders and branch terminals (outermost branches) to lateral branches that are large enough to assume the terminal roles (at least one-third the diameter of the cut stem).

Topping

This entails cutting at a certain height to reduce the height of the tree. Topping is not acceptable as it severely affects the public amenity and health of the tree, sometimes leading to death. Topping can also lead to future problems due to a flush of weak re-growth that can represent a danger and also exacerbate existing problems. If height reduction is considered essential and unavoidable, crown reduction (see above) is preferred.

Dead Wooding or Crown Clean

This operation is similar to a crown thin except that only dead, diseased, crossing and rubbing branches are removed to tidy up the appearance of the tree. No healthy, sound wood is removed. This operation is recommended to help maintain a healthy, safe tree.

Formative Pruning

The removal of problematic or potentially problematic branches, ensures good tree development.

iv Tree Planting Selection in The Urban Environment

Many tree species and cultivated varieties may be suitable for use provided they are carefully selected following the principles of good landscape design and are compatible with and sustainable in their intended environment.

The trees selected will include those of favoured ornamental form and character that will potentially provide high amenity value however the suitability of individual species will be highly dependent on the conditions and local environment where they are to be planted.

Trees selected for planting in the borough will include both native and non-native/exotic species: Native species will primarily be used in natural green spaces, wildlife corridors and rural countryside areas to help support local biodiversity but will also be included in formal urban settings where possible; Non-native or exotic trees will generally only be used within more urban landscapes such as formal parks, green spaces or built environments where they function primarily as specimen ornamental features.

Individual tree species have different ideal growing conditions therefore consideration will be given to physical and environmental factors such as soil type, exposure, site drainage and water requirements, pollution tolerance, light conditions etc.

Tree selection will also give careful consideration to the ultimate size and spread of tree/s about the available growing space, the growth habit and form of the trees, and any associated characteristics of the species (including, for example, any negative characteristics, e.g. shedding of honeydew in parking areas).

Some trees will be suited for use as individual specimen trees of high ornamental value and some may be suitable for use in large numbers for avenues, groups or simply creating 'green mass' in open spaces where tree cover/landscaping is otherwise absent or minimal.

New trees introduced to the landscape need to be compatible with existing trees as well as each other and new schemes will seek to adhere to principles of good landscape design: tree planting layouts should complement existing buildings, highways, other structures, landscape features etc and be in scale and context with surroundings, present and future.

Number of tree species used should be proportionate to the total numbers of trees planted and not overcomplicated by the use of too many species.

New tree planting schemes as well as the placement of single trees in the landscape will aim to be 'sustainable' and represent a long term investment in the urban landscape – new trees would have a good prospect for long term retention/ensure selected trees are planted where they can grow to full size and maturity and add value to the landscape.

Tree planting specifications are equally important to ensure trees have adequate growing medium to ensure they can mature in their location, receive adequate aftercare and are protected during their establishment phase through to future independence in the landscape.

v. Definitions of Statutory or Essential Inspection & Maintenance

Tree Work Inspection & Maintenance Programme

All council-owned trees will be inspected on a regular cycle as part of an ongoing programme of 1-3 years depending on location. The council will seek to address common management issues and arrange statutory, legal or essential tree maintenance as part of an ongoing work programme. 'Essential work' will include pruning trees to maintain clearances near structures, houses, road and footpaths, street lighting, signage and to maintain general health and safety.

Request for Services: Priority 1

The council will log an enquiry as a Priority 1 service request, where it considers there to be a significant health and safety issue, legal obligation or actionable nuisance to persons or property or an incident relating to trees. Categorized as follows:

| CATEGORY | DESCRIPTION |
|---|---|
| Incident reporting / Emergency Call Outs | Vandalism to trees, snapped trees, ring barked, fire damage |
| | Storm damaged or fallen trees/ branches |
| | Dead, dying or dangerous trees |
| | Actual Damage to property caused by falling trees or branches |
| Tree work & tree inspection Requests | Tree Causing direct obstructions in public Highway |
| | Blocking public path or road access / driveway |
| | Obstructing road sign or signals |
| | Obstructing street lighting |
| | Tree causing <u>actual</u> visible damage to property, e.g. wall, driveway, subsidence to house |
| | Trees touching house, buildings other structures that need cut back |

| | |
|---------------|--|
| Tree Advice | Advice to external companies / utility providers |
| | Tree Preservation Orders / Trees in Conservation Areas |
| Tree Planting | Memorial trees (online application form) |

Following inspection, the council will undertake work where it is deemed to require statutory or essential maintenance.

The council is not obliged however, to take undertake work in response to requests that are considered non statutory, non essential, or contrary to good arboricultural practices, therefore in most cases the council will decline any such requests.

Emergency Incident Reporting/Emergency Call Outs

The council will respond to general incident reports within 28 days and all Emergency Call Outs within 1 working day.

During normal working hours between 7.30am to 3.30pm, the Grounds Maintenance team will respond to incident reports and emergency calls outs via the customer service team on 01642 391959. Outside these normal working hours the council will respond to incidents reported via the CCTV security centre on 01642 528989.

If an emergency call out is received outside normal working hours we will only respond to incidents that directly affect the safe use of the public Highway or cause significant direct damage to property. This will only include undertaking the minimum work necessary to make the site safe e.g. cordoning off affected areas and / or removing obstructions, debris, fallen trees or branches from the public Highway or affected properties. Once minimum works have been undertaken, any remaining clearance works or other non-urgent remedial works will be dealt with during normal working hours.

Requests for Tree Planting

Requests for Memorial or Commemorative trees can be made via an application form obtainable on the council website.

Non-Statutory or Non-Essential Services

This will include all other enquiries where the council is not legally obliged to respond or take action or that are not considered to require essential tree works in line with good practice. For example, where there is no immediate danger or health and safety issue, or no direct damage or legal nuisance.

The council will therefore not give priority to pruning trees that are reported to be blocking sunlight or a view, complaints about leaf fall, debris, overhanging branches, trees obstructing satellite dishes, overgrown trees etc.

These types of enquiries will not be logged for an officer response or further action, however the customer service team will provide general advice in accordance with the council's policies and procedures: All policies relating to tree management are closely guided by Statute Law (Acts of Parliament), English Common Law (Case Law) and modern Arboricultural best practices.

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Further Guidance:

www.legislation.gov.uk (UK Statute Law)

www.trees.org.uk (UK Arboricultural Association)

www.stockton.gov.uk/trees (SBC web site)

Relevant Strategies, Policies, Publications & Best Practice:

Stockton Borough Council Summary Council Plan 2009-2012,

Stockton Renaissance, Sustainable Community Strategy 2008.

Tees Valley Green infrastructure Strategy/ Stockton Council green infrastructure strategy

Climate change adaptation plan

Tees Valley Joint Strategy Unit (2008), Tees Valley Green Infrastructure Strategy 2008: Enhancing the environment and achieving the economic and sustainable vision.

Defra (2007) A Strategy for England's Trees Woods & Forests.

Government Office for the North East & Forestry Commission (2005) Trees, Woodlands, Forests ...and People, The Regional Forest Strategy for the North East of England.

Christopher Neilan, CAVAT (Capital Asset Value for Amenity Trees), London Tree Officers Association, 2008.

Chris Britt & Mark Johnston (2008), Trees in Towns II, A new survey of urban trees in England and their condition and management, Research for Amenity Trees no. 9, Communities and Local Government, 2008

CABE space (2010) Urban Green Nation: Building the evidence base, Research summary, CABE

David Lonsdale (1999) Principles of Tree Hazard Assessment and Management – Research for Amenity Trees no. 7, HMSO

RG Strouts, TG Winter (1998 & 2000) Diagnosis of Ill-health in Trees – Research for Amenity Trees No. 2

Mattheck & H. Breloer (1994) The Body Language of Trees: A handbook for Failure Analysis: Research for Amenity Trees no. 4.

Bradshaw, Hunt & Walmsley (1994) Trees in the Urban Landscape, E & FN SPON

National Urban Forestry Unit (1998) Trees Matter! The benefits of trees and woods in towns, NUFU

European Arboricultural Council (1999) European Tree Pruning Guide, EAC

British Standard 5837: Trees in Relation to construction 2005 Recommendations

British Standard 3998: Tree Work Recommendations 2010