



Trees - East Lindsey

Part One

Tree Policy | August 2010



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1.0 Background

- 1.1 "Trees East Lindsey" (2010) combines a number of documents in a folder, that together offer a more strategic view on how we may achieve a 'Greener District' by focusing on our trees, hedges and woodlands. The development of these documents has followed best practice identified in the Government funded report 'Trees in Towns II' and acknowledges the work of the adopted Newcastle Tree Strategy amongst others.
- 1.2 The documents seek to establish a point of reference for the public, councillors, officers and professionally interested people, to enable informed discussion and to establish a clearer, more structured approach to the issues concerned. There are two main parts:

- Part One contains our detailed policies for trees.

- Part Two provides guidance on tree management.

- 1.3 Parts one and two are written primarily for officers who deal with the District's trees but they are also designed to be helpful to elected members and to anyone else who would like to understand what sort of tree work is being carried out, the circumstances when it is necessary and why. We hope that the detailed policies and guidance will also be of interest to private tree owners and contractors carrying out tree, hedging and woodland operations. We would like to encourage others to follow the Council's example in trying to avoid unnecessary or inappropriate work to trees.

2.0 Introduction to the Policies (Part 1)

- 2.1 This document outlines the key policies that the Council will follow in relation to trees, woodlands and hedgerows. These policies have been developed from our guiding principles; 'Retain the trees we have', 'Care for them' and 'Plant more trees', and apply to the trees for which we have duties and responsibilities.
- 2.2 The Council is responsible for trees, woodlands and hedges on land it owns, and private owners are responsible for their own trees. However the Council has certain obligations imposed by statute and common law, which relate to trees and the public interest.
- 2.3 Highway trees (those on verges and sides of roads) are the responsibility of the Lincolnshire County Council. Trees on private land may cause a nuisance or obstruction to the highway. In which case the County Council may have to use powers granted through the Highways Act 1980.
- 2.4 Many trees are protected through the Planning Acts and related legislation, by Tree Preservation Orders and Conservation Areas. The Council is, in these cases, required to consider tree work by private owners before it is carried out and there are statutory powers to ensure that protection is enforced. In addition, the Council, as Local Planning Authority has a duty to ensure we 'make adequate provision for the preservation and planting of trees when granting planning permission by imposing conditions and making Tree Preservation Orders'.
- 2.5 The East Midlands Regional Plan also has specific planning policies for protecting trees, woodlands and hedgerows, and their associated biodiversity. These documents are listed at the end in Appendix A.
- 2.6 It is estimated that there are a total of 12,000 trees on Council owned land that we are responsible for. We also continue to make and administer Tree Preservation Orders to protect privately owned trees of amenity value from the threat of unnecessary removal or inappropriate management. In the District there are currently 414 Tree Preservation Orders covering approximately 15,000 individual trees and 124 woodlands. Trees and woodlands additionally receive protection in 16 Conservation Areas.
- 2.7 The policies below are grouped into three sections; those with the prefix 'CT' relate to Council owned trees, those with 'TP' are concerned with protected trees and those with 'H' relate to Hedgerows.



3.0 Policies for trees on Council owned land

CT 1 All well established trees will be subject to regular Health and Safety inspections.

- 3.1 Owners of trees have a legal duty of care and are therefore advised to carry out regular inspections to ensure that any foreseeable hazards can be identified and made safe.
- 3.2 The Council has a system of regular inspection and monitoring of its trees, which is detailed in Policy Guidance Note 'Tree Risk Management' (see Appendix B).

CT 2 No tree or woodland will be felled or pruned without adequate justification.

- 3.3 The Council will not carry out felling or pruning that is unnecessary. Trees do require work from time to time for example to reduce risk and liability, or to ensure that people are not deprived of a reasonable right of enjoyment of public or private property. Groups or plantations of young trees need to be assessed regularly whilst they are growing and selected trees will need to be removed to make way for the remaining trees to develop. The circumstances where The Council considers that pruning or felling would be acceptable are outlined in the Part Two, Tree Management Guidelines. This general guidance is expected to cover all but the most unusual or extreme cases.

CT 3 All requests for works to trees, woodland or hedgerows on Council land will be assessed against the current Tree Management Guidelines and processed in a timely manner.

- 3.4 The Tree Management Team will be responsible for processing the request and informing the public of the outcome, giving reasons if necessary. Individuals or organisations requesting tree work will be informed of the outcome within 4 weeks (28 working days) of receipt. Agreed tree work will be carried out in line with the recommended timescales in Policy Guidance. (Note: Tree Risk Management.)
- 3.5 It may be necessary to avoid tree work at certain times of the year, to prevent damage to some tree species or disturbance to other vegetation or wildlife, for example roosting bats or nesting birds. However applicants will be informed of any delays.
- 3.6 The Council's Tree Management Team is based within Street Scene and will be responsible for ensuring compliance with any wildlife legislation or legal restrictions affecting trees in their ownership.

CT 4 Where the Tree Management Team does not agree to a request for tree work, there is a right of appeal to the Business Manager of Street Scene.

- 3.7 When an appeal is received, the Tree Management Team will reassess the tree or trees and the Business Manager will make a decision with full regard to the Tree Management Guidelines.

CT 5 All work to Council trees or woodlands will be carried out to recognised industry standards and in line with the Tree Management Guidelines.

- 3.8 The Council is committed to ensuring that our trees are properly cared for and that tree felling and pruning is carried out to a professional standard, e.g. to British Standard BS 3998:1989 'Recommendations for Tree Work'.

CT 6 The Council will plant at least one new tree to replace every established tree felled. The planting will be in a location close to the site of the original tree except where circumstances dictate otherwise.

- 3.9 Replacement planting is essential to ensure continuity of the tree stock. Replacement trees do not have to be in exactly the same position as the felled tree and a nearby location may be more practical and appropriate.
- 3.10 When trees are planted close together for immediate effect, it is then necessary in later years to undertake selective thinning. This involves removal of some trees to benefit those remaining. In these circumstances replacement tree planting may not be possible.



CT 7 The Council will produce and regularly update Tree Management Plans for its main areas of trees and woodlands.

- 3.11 The main areas of trees and woodlands are: Westgate Fields in Louth, Eresby Avenue in Spilsby, Vine, Coronation, King George V Walks and Tower Gardens in Skegness.
- 3.12 The Tree Management Team will use the results of regular tree inspections to compile an inventory of our tree stock and to plan a phased management program.

CT 8 Tree planting and establishment will be carried out in accordance with good horticultural and silvicultural practice and other guidance promoted by government agencies and professional institutions.

- 3.13 We are committed to achieving a high standard of workmanship and setting a good example to others and will undertake work in accordance with British Standards: 4428:1989, 3998:1989 and 7370:1991



4.0 Policies for Protected Trees

All Local Planning Authorities have a duty enshrined in the Town and Country Planning legislation and in National Government guidance to protect trees and woodlands of public amenity value. Tree Preservation Orders (TPOs) can protect trees and woodlands, although there are certain circumstances where a TPO cannot apply. Trees within designated historic Conservation Areas also enjoy a degree of protection since any work to the trees must first be notified to the Local Planning Authority, giving them an opportunity to make a TPO. In making Tree Preservation Orders and Conservation Areas, Local Planning Authorities must follow the procedure prescribed in the legislation.

TP 1 The Council will protect trees and woodlands that are of important amenity value, where there is a discernible threat, by making Tree Preservation Orders.

- 4.1 Generally only those trees that are most visible to the public, suitable to their location and that are in reasonable health and condition will be considered for protection.
- 4.2 The Council has adopted the Helliwell system of amenity assessment to score trees in order to provide consistency of decision making and a clear explanation to the public of the decision making process. This system is currently in its fourth edition and is published by the Arboricultural Association (see appendix C for assessment scoring chart with current threshold).

TP 2 No protected trees or woodlands will be felled or pruned without adequate justification.

- 4.3 The Council will not support applications or notifications for felling or pruning that are unnecessary. The circumstances where we consider that pruning or felling would be acceptable are outlined in the Tree Management Guidelines. This general guidance is expected to cover all but the most unusual or extreme cases.
- 4.4 In addition there may be a need for a felling licence, if felling more than two cubic metres in a calendar quarter. The Forestry Commission (under the Forestry Act 1967) controls the felling of trees through felling licenses or Woodland Grant Schemes. There are some exemptions from the need for a licence e.g. trees in gardens, orchards, churchyards and public open spaces. If in doubt, ask the Forestry Commission. The Council is consulted on woodland proposals and responds where there are protected trees, significant landscape or wildlife implications.

TP 3 Amenity trees will be retained in good health, to enhance local amenity.

- 4.5 Trees of high amenity value will be protected from unnecessary pruning and from damage to any part of the tree above or below ground, through provision of arboricultural advice and information.
- 4.6 Management works that promote healthier tree growth and development will be encouraged and applications for appropriate and timely works will be supported.

TP 4 The Council will ensure that tree protection legislation is properly enforced.

- 4.7 We will take steps to investigate all reports of unauthorised tree work, following the Council's Tree Enforcement Policy Guidance Note (see Appendix D). Where it is considered that an offence has been committed and there is clear and sufficient evidence to do so, the Council will consider prosecution.
- 4.8 Councils have powers under Planning legislation to prosecute offenders who damage or destroy protected trees in contravention of the law. This includes damage to the tree trunk, limbs and canopy above ground, and also the tree roots below ground. It is an offence to lop, top, fell, or wilfully damage or destroy a tree in contravention of a Tree Preservation Order or Conservation Area. Potential fines can be administered of up to £20,000, or unlimited if committed for trial in the Crown Court.

TP 5 All applications and notifications for works to protected trees or woodlands will be processed efficiently, with adequate consultation and in accordance with statutory requirements and delegated powers.

- 4.9 The Council is required to maintain a register of all applications and notifications received and decisions made. This will be made available on the Council's website. In addition, the relevant Parish/Town Councils and Tree Wardens will be consulted.
- 4.10 There is a requirement to process applications for works to trees covered by Tree Preservation Orders within 8 weeks of receipt and Conservation Area notifications in 6 weeks. The Council will inform applicants of the decision as early as possible.
- 4.11 Delegation to officers currently includes decisions for all Conservation Area notifications and up to 50% reduction of trees covered by Tree Preservation Orders. The Council's Planning Committee determines more major applications, including felling.
- 4.12 In determining a Conservation Area notification, the only consideration is whether a Tree Preservation Order is necessary and Policies TP1 and TP2 will apply.
- 4.13 Anyone submitting a written response to a consultation will have their comments fully considered and the decision relayed to them.

TP 6 Minor pruning of protected trees to maintain necessary clearance will not normally require a formal application/notification.

- 4.14 Small branches or twigs may be pruned to maintain 2.5 metres vertical clearance where they cause an obstruction to public rights of way, footpaths, or access to property and gardens. Where trees overhang a vehicular access 4 metres vertical clearance is likely to be necessary and in such cases this will not require any formal notification or consent. Clearance works required by the Highways Authority may also be carried out without requiring formal consent.
- 4.15 In the case of buildings and other structures, pruning may be carried out to a maximum of 1.5 metres horizontally without the requirement for any formal notification or consent.
- 4.16 To avoid confusion or the risk of prosecution anyone carrying out work is advised to contact the Council for advice on whether an application/notification will be necessary.

TP 7 When a protected tree is removed we will require a replacement tree to be planted where possible.

- 4.17 Replacement planting is essential to ensure continuity of the tree stock and in the interests of local amenity. Replacement trees do not always have to be in exactly the same position as the felled tree and it is usually possible to agree the best location and species for the replacement through negotiation.
- 4.18 When a tree protected by a Tree Preservation Order or Conservation Area is removed under a legal exemption, or with the Council's consent, we will require a replacement tree to be planted, unless there is an overriding reason for not doing so.
- 4.19 The Council will maintain a database of trees requiring replacement under the legislation. Officers will maintain this record and periodically initiate enforcement action where required to secure replanting.



TP 8 The Council will encourage owners of woodlands or large numbers of trees to prepare Tree/Woodland Management Plans.

- 4.20 Protected and other amenity woodlands and tree groups require careful planning for tree removal and replacement to maintain a landscape feature. A suitable phased tree or woodland management plan can provide this continuity.
- 4.21 An application for permission under the Tree Preservation legislation can be approved, based on a phased program of works over a period of perhaps 10 years. The owner and the Local Planning Authority benefit because there is then no need for a series of repeat applications during the specified approval period.

TP 9 The Council will review and update its Tree Preservation Orders on a regular basis.

- 4.22 There are a number of reasons why older orders are less enforceable, including recent changes to legislation, inaccurate maps and out of date tree schedules (e.g. through loss of Elm trees due to Dutch Elm Disease).
- 4.23 Tree Preservation Orders will be reviewed periodically in line with best practice guidance and to ensure that the tree protection is in accordance with the most recent legislation. We will prioritise resources to those orders, which are considered to be the least enforceable, and where there are the most tree works applications.

TP 10 Owners of trees that are immediately dangerous will be asked to make them safe. In the event of failure to carry out work we will ensure that the public and valuable property is protected.

- 4.24 Owners are responsible for trees on their property and have a duty of care to others. Best practice advises regular inspections to ensure that any foreseeable hazards can be identified and made safe.
- 4.25 The Tree Management Team will assess whether a reported tree is immediately dangerous and take any necessary action in accordance with the Dangerous Tree Policy Guidance Note (see appendix E).
- 4.26 Where it is clear that an owner will not take action to make a tree safe, the Council will use its powers under The Local Government (Miscellaneous Provisions) Act 1976 to carry out essential works and recharge the costs to the owner.
- 4.27 If a tree on private land is a danger to the highway the Council will not generally use the above powers. However, Lincolnshire County Council as highway authority can use its powers granted through the Highways Act 1980.
- 4.28 When managing Council land we will consider whether neighbouring trees are likely to pose any threat to members of the public using Council property and take action where necessary, in accordance with the Dangerous Tree Procedure (see appendix E).

5.0 Policies for Hedges on Council owned land and private property

The Council wishes to protect hedges that are of high amenity, historical interest or nature conservation value, and that contribute to the character and value of the local landscape. It will use the powers available under the Environment Act (Hedgerows Regulations 1997), the Planning Acts and negotiation through the planning process.

Ancient and/or species-rich hedgerows are Priority Habitats in the UK Biodiversity Action Plan (BAP) published in 1995 and are included in the Lincolnshire BAP (2006) under farmland and grassland habitats. The Council's Environmental Policy (2008) encourages the use of species that are both wildlife friendly and drought tolerant.

H 1 The Council's hedges will be retained where appropriate and managed in a healthy condition, in the interests of local amenity and wildlife.

- 5.1 As well as providing an attractive boundary, hedgerows can be of significant nature conservation value. Hedges will be retained on Council land wherever possible. Young hedgerows will be managed to ensure that they develop into healthy mature hedges in accordance with good practice. Established and mature hedgerows will be protected from unnecessary removal or damage to any parts above or below ground.
- 5.2 Hedge growth can sometimes pose problems for the public or for property, for example by preventing maintenance of buildings or by obstruction of pavings, paths and vehicle accesses. Appropriate management will usually include regular clipping. If affecting the highway, Lincolnshire County Council Highways are able to implement the work and recharge it to the owner. For some hedges there may be a need for other works, for example hedge laying, provided the work is appropriate to the particular type, function and species composition of the particular hedge.



H 2 The Council will ensure that the Hedgerows Regulations are properly enforced.

- 5.3 Under these regulations, Landowners are required to give the Council 6 weeks notice of their intention to remove a countryside hedgerow. The Council will then check if it meets the criteria for protection under the regulations. A register is kept of all applications.
- 5.4 Where a hedgerow is considered important under the regulations a Hedgerow Retention Notice will be served.
- 5.5 The Council has powers under the Hedgerows Regulations to prosecute offenders who damage or destroy hedges in contravention of the law and can require replacement planting.
- 5.6 We will take steps to investigate reports of unauthorised work. Where it is considered that an offence has been committed and there is clear and sufficient evidence to do so, the Council will consider prosecution.

H 3 When considering removal of a hedge under the Hedgerows Regulations, the Council will request that a similar length of hedgerow is planted to compensate for any loss.

- 5.7 Where a hedgerow is not considered important under the regulations and is allowed to be removed, it is reasonable to request compensatory planting for biodiversity and landscape reasons.

H 4 In the open countryside the Council will encourage the planting of native hedgerows and where appropriate, the inclusion of hedgerow trees.

- 5.8 Opportunities will be taken to plant more hedgerows in the district, particularly in countryside locations, to reinforce local countryside character. Where possible this will include a percentage of native shrubs and trees, grown from local seed sources. In certain urban locations, hedges of more ornamental or exotic species may be suitable but will still contribute significantly to amenity and wildlife.
- 5.9 Species suitable to local character areas are detailed in appendix D of the Lincolnshire Design Guide for Residential Areas and species that are both wildlife friendly and drought tolerant are encouraged.

Glossary

- **Trees** are defined as woody plants with a self-supporting stem or trunk, reaching a stature of at least 4 metres. The stem may divide into two or more stems provided the division is above ground level. Some tree species can be managed in a particular way, for example by cutting or coppicing to control growth, retaining the trees in a shrub-like form e.g. hedges or woodland coppice.
- **Pruning** is the removal or cutting back of twigs, branches or roots. It is the general term used throughout these documents which describes all kinds of cutting operations to trees and hedges which can include lopping, siding, topping, clipping and reduction. These terms are described in more detail in Part 2: Tree Management Guidelines.
- **Selective thinning** involves removal of some percentage of trees in a group or woodland, to benefit those remaining. If thinning is not undertaken at the right time, then the majority of trees can die or be of poor shape and condition. This is especially important where trees are grown for timber value.
- **Coppicing** is cutting young stems close to ground level to allow more vigorous shoots to grow up. This was a traditional management regime of many woodlands in order to produce a range of wood products. It can be practiced on old hedgerows to renew them, combined with replanting of gaps.
- **Amenity value (public)** primarily this is interpreted as meaning that the trees are clearly visible from a public place and add to the street scene or local landscape. However evidence of strong cultural, historical, wildlife or rarity can increase the value.
- **Woodland Management Plan** is a written plan which considers the management of woods, often for multiple uses e.g. timber production, biodiversity, game production, amenity and access and recreation. Plans are generally detailed over a period of a minimum of 10 years.
- **Statute and Common Law** are the two separate areas of law in the UK. Statute law is that enacted by Parliament (specific Acts, often prescribing 'statutory powers') whereas common law is that derived by the decisions of a number of specific court cases, often over a period of years.
- **Arboriculturalist/Arborist** is a person with training and qualifications in the culture and management of trees, primarily for amenity and other non-forestry purposes.
- **Biodiversity** is the totality of all life on earth and the systems that support all the diversity. It includes for example mammals, birds, reptiles, amphibians, fish, invertebrates such as bees, butterflies and crayfish, plants, fungi, and micro-organisms.
- **Horticulture** is the science, skill, or occupation of cultivating plants, especially flowers, fruit, vegetables and ornamental plants.
- **Sylviculture** is the science and practice of growing trees. In Forestry, it refers to the cultivation of forest trees for timber or other purposes. (See also arboriculture.)



Appendix A

Current Legislation and Planning Guidance

- Town and Country Planning Act 1999 as amended.
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning and Compensation Act 1991
- Environment Act 1995
- Town and Country Planning (Trees) Regulations 1999
- Highways Act 1980
- Hedgerow Regulations 1997
- Wildlife and Countryside Act 1981 (as amended)
- "Tree Preservation Orders . A Guide to the Law and Good Practice."
- The Health and Safety at Work Act
- The Corporate Manslaughter Act 2007
- Local Government (Miscellaneous Provisions) Act 1976 (sections 23 & 24)
- "Tree Preservation Orders: New Regulations The Main Changes for Local Authorities." DETR 1999
- The East Midlands Regional Plan, Policies 26-31
- Lincolnshire Biodiversity Action Plan 2006
- The Lincolnshire Design Guide for Residential Areas 1996
- Forestry Act 1967 (as amended). Felling Licences
- Countryside and Rights of Way Act 2000 (CROW Act)

The following Policy Guidance Notes (PGN) are available on the Council's website:
www.e-lindsey.gov.uk

Appendix B

Tree Risk Management PGN

Appendix C

Public Amenity Assessment PGN

Appendix D

Tree Enforcement PGN

Appendix E

Dangerous Trees PGN

Useful Links

Trees in Towns

www.communities.gov.uk

Space4trees East Midlands
Tree Strategy

www.forestry.gov.uk

The Tree Council

www.treecouncil.org.uk

Hedgerow advice from
DEFRA for farming

www.defra.gov.uk

The Arboricultural Association

www.trees.org.uk

The International Society
of Arboriculture

www.treesaregood.org



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