

# The Tree Strategy



“Valmorana was Mavis’s mother’s old family home, a white, Italianate Victorian house in a quiet tree-hazy corner of Kensington”

Dame Iris Murdoch, “An Accidental Man”

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Although policies for the care and maintenance of the Royal Borough's stock of publicly and privately owned trees are set out in Section 4.7 of the Unitary Development Plan (UDP), there has been a need to provide more detailed guidance for residents and those with a responsibility for trees.

This Tree Strategy has the aim of ensuring that trees are planted, preserved and maintained in accordance with sound arboricultural practices whilst regarding their contribution to amenity and the urban landscape for both current and future generations.

Whilst only the policies in the UDP can have the status that Section 54A of the Town and Country Planning Act, 1990 provides in deciding planning applications, the Tree Strategy has been subject to public consultation and a Council Key Decision and can be material in the determination of planning applications or when assessing how trees should be protected.

# 1.0 Introduction and Context

1.0.1 The environmental benefits of urban trees - clean air, shade, a home for wildlife - and their role in signifying the change in seasons and the passage of time are well understood. Trees are less often considered as an integral and historic component of the urban landscape and its architecture, where they contribute to local character and can define a sense of place, frame views and vistas and strengthen our heritage and culture. The sum of all these benefits is often defined as the amenity value of trees.

1.0.2 There are in the Royal Borough some of the earliest plantings of street trees and many mature trees in parks and private gardens, all of which interact with a wide range of styles and periods of building from grand Italianate terraces, through to those of the picturesque Arts and Crafts style. The environmental and architectural quality of the Royal Borough is reflected in the fact that over 70 per cent is designated Conservation Area. Through its ownership of trees, and by its control of privately owned trees in Conservation Areas or with Tree Preservation Orders, the Council has considerable influence over the contribution of trees to the urban landscape.

1.0.3 Early street tree plantings are typically of a single species set out in an avenue. The relative uniformity of species and spacing creates a sense of rhythm and discipline, appropriate to the terraces and squares that are



characteristic of an organised and built environment. However too many street plantings comprise disparate species resulting in visual jumble and confusion. Mistakes have sometimes been made in the selection of replacement planting, and there has on occasion perhaps been an excessive zeal to plant new street trees that have not been of benefit to the urban landscape, or complementary to the surrounding architecture.

- 1.0.4 The Tree Strategy emerges at a time when the Royal Borough is intent on recapturing for London the pre-eminent international reputation for streetscape design that the Metropolis enjoyed in the nineteenth and early twentieth centuries. Streetscape is all that we see in the street, the total picture. It is not only the buildings around us but also the scale and proportion of the spaces between those buildings. It is the quality of paving, the design of lighting, the pruning and selection of trees and the reduction of visual clutter. A thoughtful approach to the treatment of streetscape can bring out the best in an area and strengthen the sense of identity of a location. This Tree Strategy seeks to give greater emphasis to the relationship between trees in the Royal Borough and the built and historic environment. With careful consideration of planting position, spacing, selection of species and management, the strategy seeks to develop a more rigorous and coherent contribution by trees to the environment in which we live.



# 1.1 The Strategy

1.1.1 Our Strategic Aim is: -

*To ensure trees are planted, preserved and managed in accordance with sound arboricultural practice, with regard to their contribution to amenity and the urban landscape, for both the current and future generations*

In order to realise this Aim the following Strategic Objectives have been adopted:

- SO 1.** To manage the existing tree stock in accordance with good arboricultural and streetscape practice.
- SO 2.** To maintain a general presumption against the removal of trees, allowing felling only in accordance with good arboricultural and streetscape practice, and to ensure that adequate and appropriate replacement planting takes place where planting is aesthetically necessary and sustainable.
- SO 3.** To recognise the relationship between trees, especially new trees, and the built environment, promoting architectural vision in tree planting, particularly in Conservation Areas.
- SO 4.** To increase the stock of trees in appropriate locations on public land throughout the Royal Borough by the tree planting programme, and by encouraging the planting of trees on privately owned land by providing advice and information.
- SO 5.** To produce a Supplementary Planning Document to ensure protection of trees to be retained on development sites and to require high standards of replacement tree planting and landscaping.
- SO 6.** To initiate prosecution where unauthorised tree work has taken place, or to take enforcement action where breach of planning permission has occurred where it is expedient to do so. Successful prosecution and enforcement action will be publicised.
- SO 7.** To inform and educate residents, businesses and developers about the value of trees, and explore ways for greater involvement, consultation and protection.

## **1.2 Ownership of Trees in the Royal Borough**

- 1.2.1 Ownership of trees can be characterised as being either public or private. In the case of publicly owned trees, the Council has responsibility for street trees, trees in parks, and those growing within the grounds of Council housing. Privately owned trees can be found either in individual gardens, communal garden squares, cemeteries or growing on commercial and institutional premises.
- 1.2.2 By adopting this Strategy, the Council demonstrates its commitment to the care of trees within its ownership, and its intention of using its influence so that trees outside its ownership are also well looked after.
- 1.2.3 The means by which the Council can influence what happens to trees in private ownership is largely provided by the Town and Country Planning Act 1990.(“the Act”), Section 23 of the Planning and Compensation Act 1991 and the Town and Country Planning (Trees) Regulations 1999. The Act enables the Council to designate Conservation Areas within which trees are protected, to make Tree Preservation Orders (TPOs) in certain cases and to control development activity in accordance with policies within the Council’s Unitary Development Plan (adopted 25<sup>th</sup> May 2002) (“UDP”). Where a TPO has been made it is an offence to prune, cut down, uproot or willfully damage or destroy a tree without obtaining the Council’s permission. Permission is required where it is proposed to carry out any work such as pruning or felling trees or undertaking construction work which may affect a tree in a Conservation Area. Any breach of permission or conditions may lead to the Council taking enforcement action.



## 1.3 How to use the Tree Strategy

- 1.3.1 The Strategy first sets out the Council's Aims and Objectives for the Royal Borough's trees and then expands on the Objectives having regard to procedure, ownership and responsibility.
- 1.3.2 It is supplemented by three sections, which provide further detailed information and policy regarding the practical working of the Strategy, namely, Publicly Owned Trees, Privately Owned Trees and Trees on Development Sites.

## 1.4 Delivery of the Tree Strategy

### **SO 1. To manage the existing tree stock in accordance with good arboricultural and streetscape practice.**

- 1.4.1 Trees should be subject to inspection by a competent arboriculturist. Street trees are inspected on a three-year cycle and it is advisable for owners and managers of private trees to have their trees checked on a similar basis. In general terms pruning may be needed to allow the free flow of pedestrians and vehicles, to give clear sight of street signs and lighting, to prevent damage to buildings and otherwise to contain trees within the limits of the surrounding environment.
- 1.4.2 Parts of the Royal Borough, mainly the northern area, are underlain with highly shrinkable London Clay. Where trees grow, they can remove water from the clay with resultant shrinkage. A consequence of soil shrinkage can be subsidence and the seasonal movement of buildings. Pruning trees to lessen the amount of water they absorb from the soil is an accepted way to minimise or eliminate building movement. This pruning, where trees have the re-growth removed back to an established framework on a cyclical basis, often seems harsh.

- 1.4.3 The Council accepts that where a subsidence risk is proven, a policy of regular reduction by pruning may be necessary. Without a commitment to continuing such maintenance, the Council could find itself placed under considerable pressure to remove street trees, and may also subject residents to unnecessary concern that Council owned trees may damage their property.
- 1.4.4 Whilst acknowledging the practical realities of the need to prune, contain and maintain trees, the Council believes that this should be undertaken as sympathetically as possible to the streetscape and for the preservation of amenity. This may entail pruning street trees or front garden trees to similar standards in a given area, or seeking the retention of minor branches and leaves where trees are reduced to avoid a skeletal appearance.
- 1.4.5 Where trees are not owned by the Council, nor in a Conservation Area and not subject to TPOs, the Council may serve TPOs to ensure their protection.

**SO 2. To maintain a general presumption against the removal of trees, allowing felling only in accordance with good arboricultural and streetscape practice, and to ensure that adequate and appropriate replacement planting takes place where planting is aesthetically necessary and sustainable.**

- 1.4.6 The Council has a general presumption against the felling of trees. Often it is only once a tree is removed that its value becomes apparent. Even after replanting with substantial and large trees, the amenity lost can rarely be adequately replaced. However it is sometimes necessary to remove trees for safety or design reasons, or to enable development that brings benefits of a local, Borough or national significance.
- 1.4.7 On occasion, a tree may have been planted that is out of keeping with the main species that defines an avenue, locality or the available space. It may be a Leylandii planted as a rockery specimen, a self-seeded tree growing out of the top of a garden wall, or a pink flowering street tree in an avenue of white cherries. In exceptional circumstances

where removal would be of clear benefit to the streetscape or adjacent gardens and architecture, then that tree should be removed and replaced with another of the principal or a more appropriate species.

1.4.8 On rare occasions it may be appropriate to remove one or more trees that have been poorly sited in the past, for example, where a poor quality tree obscures an architecturally important building, with a view to replacing it with one that more effectively complements the built environment. However, prior to removal of any street tree, other than for urgent safety reasons, the Council will consult with local ward councillors and, where possible, local amenity groups.

1.4.9 Planning applications can affect trees, particularly where extensions or subterranean construction are proposed. In such circumstances the Council will take a view on the importance of a tree to the surrounding area, the tree's condition and reasonable life expectancy and any replacement planting and landscaping proposals.

**SO 3. To recognise the relationship between trees, especially new trees, and the built environment, promoting architectural vision in tree planting, particularly in Conservation Areas.**

1.4.10 As planting trees has such a dramatic effect on an area, it is important to consider all the implications they will have and be certain that they will not only complement the built environment but also that the right species of tree is selected for a particular site and planted in the optimal position within that site.

1.4.11 Trees should be selected for their appropriateness of scale and proportion to their surroundings and the aesthetic contribution and enhancement they make to that environment. Factors such as their robustness, form, flower, fruiting habits, leaf density and colour and propensity to harbour aphids should all be considered. Of equal importance is the architectural setting of any new trees, which should be planted so as to respect classical design principles, taking account of scale, vistas, age, style, symmetry and harmony of the existing built environment.

1.4.12 Individual trees that, combined with others, create an avenue or clearly defined group within part of a street should be planted with the same species.

**SO 4. To increase the stock of trees in appropriate locations on public land throughout the Royal Borough by the tree planting programme, and by encouraging the planting of trees on privately owned land by providing advice and information.**

1.4.13 Although many streets are planted with trees, additional planting may not be possible for a variety of reasons. It would be difficult to identify a whole road or street where an avenue of trees could be accommodated because of the presence of underground services and vaults.

1.4.14 The Council will increase the number of street trees where this would be appropriate to the streetscape, and will seek to implement imaginative tree planting programmes in such circumstances.

1.4.15 Should permission be given to fell trees within Conservation Areas or with TPOs, the Council will seek the planting of replacements, offering advice and information to facilitate this.

1.4.16 Tree planting is encouraged through planning conditions. Often, particularly with larger sites, planting opportunities exist that can add significant benefits to a scheme at little additional cost. The Council will seek to negotiate appropriate tree planting both on-site and off-site to enhance schemes and derive benefit to the local area and its amenities.

1.4.17 The Council's Tree Section has considerable experience in tree selection and planting and can offer informal advice to residents and businesses where planting is proposed within the Royal Borough.

**SO 5. To produce a Supplementary Planning Document to ensure protection of trees to be retained on development sites and to require high standards of replacement tree planting and landscaping.**

1.4.18 Development pressures in parts of the Royal Borough are great as space is limited and property values are high. There is a trend towards maximising development and frequently trees are affected where above ground and subterranean extensions are constructed.

1.4.19 The Council has a number of means by which it can control development activity, primarily as set out in the Act and the policies within its adopted UDP.

1.4.20 The Royal Borough will produce a Supplementary Planning Document for developers and residents to identify best practice in the protection and retention of trees affected by development.

1.4.21 The Council will usually seek the retention and protection of trees of significant amenity value, require replacement planting that at least offset any tree removal that may be agreed and require at least one metre, of top-soil depth over subterranean extensions.

1.4.22 The Council will consider whether limits should be placed on the extent of subterranean development where this may prevent the growth of large trees that are characteristic of the Borough's mature urban environment.

**SO 6. To initiate prosecution where unauthorised tree work has taken place, or to take enforcement action where breach of planning permission has occurred where it is expedient to do so. Successful prosecution and enforcement action will be publicised.**

1.4.23 The Council goes to considerable lengths to process tree work applications and to ensure the protection of trees on development sites.

1.4.24 Where trees are pruned without permission, or where permission or conditions are breached, the Council will actively pursue and prosecute where it is appropriate to do so. Successful prosecutions will be publicized in the national, local and trade press.

**SO 7. To inform and educate residents, business and developers about the value of trees, and explore ways for greater involvement, consultation and protection.**

- 1.4.25 There is a continuing need to educate residents and businesses about the value and requirements of trees. The Council's Tree Section frequently answers enquiries on a wide range of tree related issues from tree planting and pruning through to pest and disease control.
- 1.4.26 Guided walks are organised by the Friends of Holland Park as well as by the Council's Ecology Service. The Tree Warden scheme overseen by the Tree Section seeks to inform residents interested in tree issues about national developments. The Tree Officers work with residents and Ward Councillors to improve local environments and have contributed to schemes to improve school playgrounds.
- 1.4.27 Where an application to prune or fell a tree is refused, the Council will give reasons and an explanation as to how it arrived at its decision, together with information on rights of appeal.
- 1.4.28 The Council will continue to broaden and deepen its commitment to education about trees. Future proposals include making better use of the Internet with regular updating of a tree web page, using local press and producing a self-guided street tree walk.

# PUBLICLY OWNED TREES



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## 2.1 Introduction and Context

- 2.1.1 The Royal Borough of Kensington and Chelsea Tree Strategy sets out the overall Aim and seven Strategic Objectives for the care of trees throughout the Borough. The Strategy also provides a brief indication as to how each of the Strategic Objectives is interpreted within the contexts of trees that are publicly owned, trees that are privately owned and those that are affected by development.





## 2.2 Publicly Owned Trees

2.2.1 Throughout the Royal Borough, the Council has trees under its care and management growing in a variety of situations. Most prominent perhaps are the street trees, of which there are approximately 8,000, followed by the large number of trees growing within parks, open spaces and those surrounding homes cared for by the Tenant Management Organisation ( the “TMO” being the manager of the former Council housing stock). Lastly there are trees growing on land within schools and Social Services sites.

2.2.2 The Council was one of the first in London to employ Arboricultural or Tree Officers. Based within the Planning Department, these officers provide advice on tree related aspects of planning applications in addition to their responsibility for the care of street trees. They assist parks staff on tree matters and provide technical support and management of trees on some Borough school and Social Services sites.

2.2.3 There are responsibilities associated with ownership of trees. Some of these are legal duties and others are responsibilities adopted in the interests of good husbandry and neighbourliness. The Council seeks to be a good and responsible manager of trees, to uphold its duties of care and to maintain trees reasonably within the wide range of pressures and demands made of it.

**Brunswick Gardens PAST**



**...and PRESENT**



## 2.2.4 STREET TREES

Of the 8,000 street trees within the Royal Borough, most are managed by the Tree Section with the exception of those growing alongside Red Routes, which are managed by Transport for London.



### 2.2.5 Red Routes.

Any area of carriageway or pavement that has a single or double red line is a Red Route. Street trees alongside Red Routes are managed by Transport for London, although the demarcation of responsibility does vary on side and link roads where red lines are painted. Consult with the Tree Section in the first instance to check who is responsible in such circumstances.

#### **Roads within the Royal Borough on the Red Routes network;**

Chelsea Embankment,  
Earl's Court One-Way System,  
Holland Road  
Cromwell and West Cromwell Road  
A4, Brompton Road

2.2.6 Overall, street trees make a substantial contribution to the appearance of the Borough, helping to make it a pleasant place in which to live and work as well as creating a beneficial impression to visitors. A residents' panel survey conducted in 2001 asked 920 residents a number of questions including some about the streetscape. Well maintained trees and plants were considered to be the most important factor in making streets attractive, and over 90% of respondents considered street trees to be well maintained.

2.2.7 Some street trees, for instance the London Plane trees in Holland Park Avenue, are amongst the earliest plantings of street trees in the country, whilst others contribute to and create special ambience and local identity. Resident and amenity groups consistently express interest in street trees and one, the Cherry Trees Residents Association, has even defined itself in terms of the white flowering cherries around Brunswick Gardens and Palace Gardens Terrace.

2.2.8 There are a wide variety of street trees growing in the Royal Borough, of which many species have just one or a handful of representatives. This 'experimental' planting is not just botanically interesting, it enables the Tree Officers to identify trees that may be suitable for wider planting and may in the future be of use should new diseases or global warming, for example, threaten existing stocks.

**2.2.9**

There are 162 different tree species and varieties planted on the Royal Borough's streets. The top five species are as follows: -

Planes	2,260	(32%)
Cherries	801	(11%)
Acers	471	(7%)
Pears	449	(6%)
Limes	408	(6%)

More obscure plantings include *Arbutus x andrachnoides*, *Lyonothamnus floribundus asplenifolia*, *Ziziphus jujuba* and an increasing range of *Magnolias* and *Ginkgo* cultivars.



2.2.10 The Council is keen to plant new trees and has been successful in recent times despite the increasing difficulty of finding new and suitable sites. Frequently, new plantings tend to be of just one or two trees strategically located.



Rarely nowadays is a whole road or street identified where an avenue of trees can be accommodated, mainly because of underground services and vaults.

2.2.11

There have been remarkable successes in identifying new planting sites following detailed investigative work. Planting trees has a dramatic effect on an area and it is important to consider all the implications and be certain that trees will not only complement the built environment, but also that the right species of tree is selected for the particular site.

### 2.2.12 Planting a Street Tree

Since the appointment of the first Tree Officer in the early 1970s, considerable effort has been put into maintaining and increasing the tree stock. Requests for new planting received by the Tree Section are considered seriously but often it is not possible to plant. Simply put, if there are no trees present, it is likely that there is good reason for this; otherwise trees would have already been planted.

If there are no street trees, it is likely that underground vaults or services (pipes and cables) prevent planting or make it dangerous to do so. To verify whether planting is possible, officers make an initial visual assessment, which may entail checking for underground vaults and measuring the distance to which they extend under the footway. Manholes, valves and signs of disturbance can indicate the position of services and cable runs. A cable avoidance tool may be employed to detect the position of underground apparatus. If a location has planting potential, a trial hole is usually dug as a final check.

The Tree Section is developing a comprehensive register of where trees are planted and of sites that have been assessed and recorded as 'failed planting sites'. This will assist in addressing future enquiries and targeting resources.

### Tree planting at Notting Hill Gate



2.2.13 It must always be considered whether it is desirable to plant a tree even if there is no underground limitation. A tree should complement the existing architecture and masonry in both colour and scale. Trees should enhance and frame views of the urban landscape and should not, for example, obscure important buildings or monuments. The position of a tree relative to buildings and associated windows, doorways, architectural features and street furniture is important and so are the juxtaposition and placing of trees.

2.2.14 Street furniture in the form of matching tree guards and grilles have from time to time been used within the Borough to protect the root zone and trunk of establishing trees from damage. The Council's new streetscape principles seek to eliminate clutter and the unnecessary use of items such as these. If temporary support or protection is required, good quality guarding will be used.

- 2.2.15 The street can be a harsh environment and trees are planted in conditions vastly different from those in which they evolved. Many trees may not live as long as those growing in parks and gardens or their natural environments. Weakened, they become susceptible to disease, all the while being under pressure from traffic, highway maintenance, excavations, construction activity and the need for pruning.
- 2.2.16 The Council must prune to maintain trees and, from time to time, remove those that become a hazard, endeavouring to replant wherever possible. Street tree care involves management of individual trees as well as the tree population as a whole.
- 2.2.17 Residents of the Royal Borough are immensely appreciative, proud and protective of their street trees. Trees require regular safety inspections and following inspection tree surgeons may be instructed to carry out work. This work may be to allow the free flow of pedestrians and vehicles, to prevent damage to buildings or the removal of trees that have become hazardous.

**2.2.18 What would happen if we were to leave trees to grow without intervention?**

Given time, branches would grow low to the ground and up to and against buildings, street lights would be obscured, pavements would be lifted up, gutters would fill with fallen leaves, fruit and dead wood, and high winds and rain would blow down diseased and dangerous trees.

- 2.2.19 In addition to the need to maintain and contain trees there are further pressures. Issues such as loss of light, concern about sticky secretions of honeydew and tree roots interfering with drains or foundations arise frequently.
- 2.2.20 The Tree Section undertakes the Council's responsibilities to manage street trees. The prime duty of care is to public safety. There will be situations where tree management decisions will be at odds with someone's point of view.
- 2.2.21 Just as trees need maintenance and management, so too do buildings, highways, gas and water pipes, electricity and



telephone cables. Work associated with this maintenance often has an impact on street trees, which are placed under stress and strain as their underground and above ground parts are damaged. The refurbishment, demolition and reconstruction of buildings involves tremendous amounts of material movements, scaffolding, skips and delivery vehicles as well as excavations, all of which can lead to damage to trees. Reconstruction of footpaths and carriageways and excavations of underground services can all have an impact.



**Tree roots can lift and damage pavements**

#### 2.2.22

Such construction work is symptomatic of progress, both economic and social and to a large extent must be accepted. The Council however seeks to provide information and advice on the best way to minimise damage to street trees and to work in co-operation with those involved in construction works. Often a little thought, consideration and minor amounts of additional expenditure are all that are needed. Where the needs of street trees are blatantly disregarded, the Council will endeavor to take appropriate action to ensure their protection.

#### 2.2.23

Management and care of street trees takes place with reference to policies and practices that incorporate the Council's legal responsibilities, its duty of care, arboricultural need and the appearance and character of a tree's setting. The Council has responsibilities and encourages those whose activities affect street trees to act in a responsible manner.

#### 2.2.24 **Legal Context**

The Council is considered in law to be the owner of street trees that grow within adopted highways and in consequence is responsible for them. It is empowered by the Highways Act 1980 to plant and maintain street trees. However, where street trees grow within a designated Conservation Area, they benefit from the same protection as privately owned trees and anyone damaging or destroying a street tree can be penalised under the Town and Country Planning Act, 1990. The Council itself is exempt from the requirement of



notification of intent to maintain street trees or fell those that are dead, dying or dangerous.

2.2.25

The Council has a “duty of care” and employs trained and experienced Tree Officers to act as day-to-day managers as well as to provide technical advice on tree matters to Councillors and other sections and departments within the Council. This “duty of care” extends to maintaining trees in such a way that they do not interfere with pedestrian or vehicular traffic and, where building subsidence may be an issue, that appropriate action is taken to manage and minimise risks. It has been mentioned that trees are vulnerable to construction activity. When granting planning permission, the Council has powers under the Town and Country Planning Act, 1990 to protect trees “off site” that may be affected by the granting of a permission. Grampian Conditions or Section 106 Agreements can be used to protect street trees from development pressures or to agree schedules of work with developers to plant new street trees



**Holland Park Avenue PAST**

2.2.26

Scaffolding on the highway and footpaths requires a licence under the Highways Act 1980, to which conditions can be applied to protect trees. Also under this Act, Section 278 agreements can be entered into where development activity affects the highway and repair or improvements are required.

**...and PRESENT**



2.2.27

Statutory undertakers, such as companies supplying gas and electricity, are permitted to excavate the highway to carry out repairs and maintenance. There is little legal requirement for them to take special precautions to ensure the well-being of trees, although there is a code of conduct known as NJUG 10, which many are signed up to. Often, if problems arise, local negotiation results in satisfactory resolution.

### **2.2.28 Street Tree Management: Objectives and Policies**

The Council recognises that its street trees are an essential element of the streetscape and acknowledges that many residents and amenity groups appreciate them. Consequently decisions on planting, pruning, felling and the type of maintenance regime employed should be able to stand up to scrutiny.

## **THE COUNCIL POLICIES FOR THE MAINTENANCE OF STREET TREES ARE AS FOLLOWS:**

### **2.2.29 Street Tree Pruning**

To perpetuate the existing street tree stock as long as practicable and desirable in accordance with good arboricultural practice by a programme of care and maintenance, planting and replacement.

2.2.30 To keep a street-based register of trees within which the general management requirements and intentions for street trees are recorded.

### 2.2.31

To provide a pruning, planting and felling service that represents quality and value for money by supervising and monitoring work of contractors employed by the Council, requiring high standards of tree surgery, public safety and customer care.

### 2.2.32

To commission tree work according to priority and budgetary constraints. In areas of subsidence risk, pruning may be commissioned on a two-yearly basis, otherwise every three years where necessary. Requests to prune trees outside the three-year pruning cycle will be given a low priority unless there are reasons of safety, nuisance or threat of legal action.

### 2.2.33

To ensure street trees are inspected by a suitably qualified person on at least a three-year basis and works commissioned as necessary.



2.2.34 To prune trees to ensure free passage for pedestrians using the footway and vehicles using the carriageway as well as to give adequate clearance from property, whilst retaining a pleasing and balanced appearance.

2.2.35 To take appropriate action to remove the risk posed by a street tree as a result of subsidence.

2.2.36 To respond to specific requests for pruning by residents or businesses.



### **2.2.37 Tree Pruning and Subsidence.**

Parts of the Royal Borough, mainly the northern area, are underlain with highly shrinkable London Clay. Trees remove water from the clay which shrinks and can result in subsidence and seasonal movement of buildings. Subsidence is of concern to householders and represents a potential liability to the Council which may have to share the cost of underpinning and repair where damage is caused by street trees. In order to reduce this risk, the Council must prune its street trees to lessen the amount of water they absorb from the soil. The policy of aggressive pruning has made a significant impact on the number of claims the Council has received, and enables it to avoid costs and retain trees. Without this policy the Council could find itself subject to court injunctions compelling the removal of trees.

## **THE COUNCIL POLICIES FOR THE REMOVAL OF STREET TREES ARE AS FOLLOWS:**

### **2.2.38 Street Tree Removal**

To maintain a general presumption against felling in line with the Council's policies, but recognise that felling is a natural part of the life cycle and safe management of the tree population.

2.2.39 To remove, without delay or notification street trees, identified as being an immediate danger to persons or property.

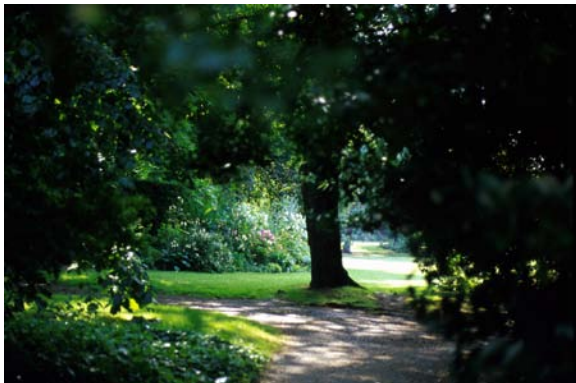
- 2.2.40 To fell, after notification to Ward Councillors, trees identified as being hazardous, and for which no other reasonable course of action is available.
- 2.2.41 It may be appropriate on occasions, (where a tree has been planted that is out of keeping with the main species that defines an avenue or place) to remove that tree and replace it with another of the principal species, following consultation with Ward Councillors and local amenity groups.

**THE COUNCIL POLICIES FOR TREE PLANTING ARE:**

**2.2.42 Tree Planting**

The Council is committed to increasing the number of street trees and will continue to implement imaginative tree planting programmes.

- 2.2.43 Where trees combined with others, create an avenue or clearly defined group within part of a street, new and replacement trees will be of the same or closely matching species.



- 2.2.44 The Council maintains a general presumption against mixing species of tree within planting groups and areas of clear individual character.

- 2.2.45 In all but extreme or irreconcilable circumstances, where a street tree is felled, it will be replaced in the current planting season or that following removal.

- 2.2.46 The Council will replace felled trees with another of suitable species in order to preserve the specific or unique character of the immediate environment with due regard to streetscape and design.
- 2.2.47 The Council will devise a tree-planting programme and prioritise its resources to the replacement of felled trees, followed by the establishment of new planting.
- 2.2.48 Prior to planting a new street tree, a trial hole may be excavated to investigate the nature of below ground conditions and to ascertain the presence or otherwise of underground services.

2.2.49 Enquiries and requests for new planting will be logged, inspections scheduled and a record made of findings. A database of trial hole excavation results will be maintained.

2.2.50 Trees will only be planted where the Council considers it is safe to do so.

2.2.51 Species utilised in tree planting programmes will be those judged by the Council to be appropriate for the circumstances based on policy, arboricultural knowledge and experience.

2.2.52 The Council maintains a general presumption against the use of street tree furniture such as tree grilles, utilising only lightweight aesthetically appropriate trunk guarding where necessary.

2.2.53 Trees will be selected for their appropriateness of scale and proportion to their surroundings and the aesthetic contribution and enhancement they make to that environment.

#### **2.2.54 Trees and Construction**

Where construction works affect street trees, the Council will co-ordinate its resources and powers to ensure protection of street trees for the duration of works.

2.2.55 The Council will seek to work co-operatively with those involved in construction activity, where street trees may be affected, to ensure their protection during the course of works. A Tree Officer attends quarterly liaison meetings with utility companies where their programme of future work is discussed.

2.2.56 Where trees need to be pruned to facilitate access to a property, for gantries, scaffolding, skips or to assist in the construction of protective hoarding etc, this work will be carried out by the Council tree surgery contractor under the supervision of a Tree Officer for which a charge will be made.





2.2.57

Where applicable, the Council will apply controls and, if necessary, sanctions to ensure that street trees are given adequate protection from site works.

**2.2.58 Education and Information**

Support the Tree Council’s Tree Warden Scheme which encourages members of the public to work alongside the Council to identify new planting opportunities and report street tree problems. The Council maintains a list of wardens who receive the quarterly magazine “Tree News”.

2.2.59

Provide an up to date web site describing planned maintenance and information about the street tree stock.

2,2,60

Raise awareness of the value of trees with residents.

2.2.61 Survey residents from time to time to find out their views on recent tree pruning.

**2.3.1 TREES IN PARKS**

The largest and perhaps most well known park within the Royal Borough is Holland Park, recorded as a Grade 2 park in the English Heritage Register of Parks and Gardens of Special Historic Interest. Extending across 44 acres, nearly half is woodland with the remainder laid out as formal gardens, an arboretum, sports areas and for play.

2.3.2 Holland Park is but one of a number of parks, gardens squares and other sites that are cared for by the Parks Officers in the Council’s Environmental Services Directorate.

2.3.3 Trees are one of the major components that define the landscape and layout of recreational open space and as such the Council recognises the importance of its parkland trees. These trees also offer a rich and unique wildlife habitat, particularly where they grow to form woodlands.

- 2.3.4 The parks are well stocked with trees although in places age and species diversity are not optimal. There are limited opportunities for planting new trees without encroaching on open space that, in itself, is important to the structure and use of the parks. Indeed the demand to sponsor tree planting in Holland Park greatly out-strips the available planting opportunities.
- 2.3.5 It is estimated that over a million people use the Borough parks and open spaces during the course of the year whether they are residents, workers taking lunch or visitors. Many residents have a long association with the parks and are particularly sensitive to work involving trees.
- 2.3.6 Many if not all of the open spaces, parks in particular, have multiple uses some of which may have an impact on trees. These multiple uses can bring sudden and possibly unforeseen pressures to bear on trees if they are not carefully managed.
- 2.3.7 The Ecology Centre in Holland Park organises a range of activities from guided walks to taking school classes. Through this service people are being educated and helped to see trees in new ways and with greater understanding.
- 2.3.8 Whilst it is complex to consult or notify all users of plans that affect trees, consultation and notification of significant work to trees in the parks, it may be possible to communicate using notice boards and through the 'Friends Of....' groups. Friends can also contribute significantly to projects in parks and have raised significant sums to support tree planting as well as other projects.

### **2.3.9 Sites Managed by the Parks Section:**

Holland Park, Avondale Park, Kensington Memorial Park, Emslie Horniman Pleasance, Athlone Gardens, Powis and Colville Squares, Roots Square, St. Quintin Gardens, Redcliffe Square, Westfield Park, Cremorne Gardens, Embankment Gardens, St. Luke's Gardens, Chelsea Common, Ropers Gardens, Leighton House, Dovehouse Green, Tavistock Park, Kensington Town Hall and North Kensington Library, and Gunnersbury and Hanwell Cemeteries (these lie outside the Borough boundaries).



### **2.3.10 LEGAL CONTEXT**

Trees in parks and open spaces may be subject to the Town and Country Planning Act, 1990. Although no trees in parks have Tree Preservation Orders, some are located within Conservation Areas.

- 2.3.11 The Council's Planning Department, where it believes trees are being managed satisfactorily, can, at its discretion, waive the usual requirements to submit a planning notification of intent to work on trees. In the case of Parks and Open Spaces, agreement has been reached whereby the Tree Officers are consulted prior to any felling or potentially controversial works, otherwise parks staff make their own arrangements for minor and routine works, or works that lie outside Conservation Areas.

### **2.3.12 Park Land Tree Management Policies**

Trees will be subject to an inspection programme undertaken by suitably trained personnel.

- 2.3.13 There is a general presumption against tree felling. However, from time to time trees may need to be felled for safety reasons or as a part of re-landscaping or habitat improvement works.
- 2.3.14 Where trees are removed they will be replaced unless prevailing circumstances or landscape conditions make this undesirable.
- 2.3.15 All proposals for tree felling in Conservation Areas require prior notification and agreement of the Executive Director of Planning and Conservation.
- 2.3.16 The Council will seek to raise awareness of the value of trees within parks through guided walks, information boards and by utilising specialist expertise.
- 2.3.17 Woodland management plans for Holland Park will be regularly reviewed to include proposals for tree removal, planting and diversification of tree species and age classes, and for the regeneration of desirable species of tree and woodland flora and fauna in accordance with sound woodland management principles.



### 2.4.1 OTHER COUNCIL TREES

As well as street trees and the trees within parks, the Council has responsibility for trees on land associated with schools and Social Service establishments and those surrounding homes managed by the Tenant Management Organisation.

2.4.2 There are currently fourteen sites managed by Social Services that have trees within their grounds. These are spread across the Borough and include nurseries, day centres, and residences for older people. Tree Officers inspect these trees and provide and supervise a programme of works ensuring necessary and routine maintenance on behalf of Social Services.

### 2.4.3 Schools Grounds

Schools owned by the Royal Borough are typically managed locally and operate with devolved budgets. Management responsibility for trees rests at this devolved level and managers may use the services of the Borough's Tree Officers, under a service level agreement, should they so wish.

2.4.4 Without a service level agreement in place, work to trees on school sites is treated as if they were in private ownership and therefore applications to undertake tree work must be made where property is within a Conservation Area or where a TPO protects trees.



### 2.4.5 Tenant Management Organisation

The Kensington and Chelsea Tenant Management Organisation (TMO) employs landscape managers who manage the tree stock that stands on Council housing sites. Whilst the Council owns the property, responsibility for management has been devolved. The TMO is organised to enable tenants to play an active part in the care and management of their premises through Area Review Board meetings.

2.4.6 There are 110 housing estates managed by the TMO covering over 86 acres with an estimated population of 2,500 trees. There are estimated to be a further 500 trees in

individual housing properties. With such a large number of sites and considering the number of trees that grow within them, it is clear that these trees are a significant component of the Royal Borough's tree stock and important contributors to visual and environmental amenity.

2.4.7 Where TMO managed trees grow within a Conservation Area or are subject to TPOs, planning applications are submitted for pruning or felling work. For trees without such protection, management decisions are taken by the Landscape Officers who, should they require technical assistance, liaise with the Tree Officers, for example, where significant trees are at risk or where controversial issues may arise.

#### **2.4.8 LEGAL CONTEXT**

All tree owners, whether public or private, are required to maintain their trees in a safe condition. As a whole the Council seeks to discharge this responsibility by having trees within its ownership regularly inspected and maintained, although portions of its stock are the responsibility of managers who may not have specific arboricultural expertise.

2.4.9 The Council has to comply with the requirements of the Town and Country Planning Act, 1990 where trees under its ownership are subject to TPOs or grow within a Conservation Area. Unless trees are managed by specialist staff or in accordance with agreed programmes of works, local managers must make planning applications to prune trees in the same way as a private individual or company.

#### **2.4.10 Tree Management and Council policy**

As part of the Council's Best Value Service Review, it was considered appropriate that the skills of the professional arboriculturists already employed within the Planning and Conservation Department should be available to those other parts of the Council with responsibility for trees. Service level agreements have been arranged to allow these departments to 'buy in' the services of the Tree Section to manage the trees that stand on sites for which they have responsibility.

2.4.11 Where the Tree Section does not manage trees, and they grow within a designated Conservation Area, the Section 211 requirement, under the Town and Country Planning Act, 1990, to give six weeks notice of intent to undertake works applies. Similarly, where a tree is protected by TPO, permission should be obtained before the commencement of works.

## **CONTACTS AND ENQUIRIES**

Please contact the local managers for enquires regarding trees:

Parks and Open Spaces	020 <b>7607 5281</b>
Social Services	020 <b>7361 2350</b>
Tenant Management Organisation	020 <b>7361 1882</b>
Schools	020 <b>7361 3700</b>
Planning and Conservation, for all other trees	020 <b>7361 2767</b>





## PRIVATELY OWNED TREES



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## 3.1 Privately Owned Trees

3.1.1 By far the majority of trees in the Royal Borough grow in private grounds, either communal gardens or those attached to property. The variety and visual appeal of these trees is remarkable, ranging from a few remnant Ash that probably predate the spread of development in Notting Hill to early plantings of London Plane, Lime, Weeping Ash and Laburnum. Front garden spring flowering Cherries, Apples, Hawthorn and Almond adorn many parts of the Borough and create a pleasant ambience that enhances the streetscape and complements its architecture.

3.1.2 Following the great storm of 1987 a survey carried out by Task Force Trees showed that 72 per cent of the Borough's trees were in private ownership.

3.1.3 These trees make a significant contribution to the visual appeal and amenities of the Royal Borough and are an important habitat for wildlife. Many of them are afforded legal protection under the Town and Country Planning Act, 1990 where they grow within a designated Conservation Area or are protected by a TPO.

3.1.4 The Council administers the regulations set out under the Act and, in summary, this means that if trees are protected either permission is needed or a notification of intent must be submitted to the Council before a tree in a Conservation Area is pruned or cut down. As over 70 per cent of the Borough is now designated as Conservation Area, the Council regulates the majority of activity on privately owned trees.

3.1.5 There are over 100 private communal gardens and garden squares in the Royal Borough for which access is restricted to specific residents and key holders. These gardens were typically laid out by



developers who saw them as the answer to a dilemma; to build high quality residential dwellings without the sizeable individual gardens normally associated with such accommodation. With time many gardens fell into a state of neglect that led to the passing of the Kensington Improvement Act 1851 and later the Town Gardens Protection Act 1863. The Act allowed for the establishment of a Garden Committee that could set a garden rate. The rate was applicable to specific properties that had access to a garden square and was collected by the Council in conjunction with Council Tax. The revenue thus raised was passed back to the committee to spend on maintenance.



### 3.1.6

Trees in back gardens, whilst not so readily apparent to the casual observer, are none the less of great significance to the people and communities who live nearby or have a view onto them. In particular they provide valuable screening and privacy between dwellings.

3.1.7 There are instances where trees self-seed themselves into inappropriate locations, Sycamore, Robinia and the Tree of Heaven most notably. These and trees that are seriously affecting buildings or have become diseased or dangerous may have to be removed. Other trees may need pruning for a variety of reasons and tree surgery may be considered a regular aspect of tree care where trees grow in densely built up areas.

3.1.8 Whilst a tree may be a source of nuisance and frustration to one person who might apply to have it felled, neighbours may feel as passionately about its continued retention although they may not suffer some of the consequences of living partly underneath it or have any of the responsibilities of ownership.

3.1.9 The Royal Borough covers some of the most densely populated land in the United Kingdom and any kind of garden or outside space where trees can grow, is important for amenity value. However, given the high property prices, space occupied by trees or that which could be occupied by trees, is at a premium, which can result in pressure to fell to enable development.



### 3.2.1 Legal context

Tree owners have a duty of care towards others and should ensure their trees are regularly inspected and maintained. There is no legal requirement to fulfil this duty but in the case of an accident or an insurance claim questions may be asked about how this responsibility was attended to.

3.2.2 Various legal means enable the Council to control and influence the treatment of private trees. The majority of these powers are given by the Town and Country Planning Act, 1990, with provisions made within other Acts, such as the Highways Act, 1980, which for example requires the cutting of vegetation to maintain clearances for the footway and highway.

3.2.3 Council permission is needed before carrying out any pruning to a tree if it grows within a Conservation Area or if a Tree Preservation Order protects it. With over 70 per cent of the Borough designated as Conservation area and with thousands of trees protected by TPOs, it is important to check if trees are protected by making an enquiry to the Tre Section who will be able to advise.

3.2.4 The Council's Tree Section deals with applications to carry out works on privately owned trees and an arboriculturally trained Tree Officer assesses an application and considers representations made. Applications are advertised in the local press and on the Council's web site. The Council keeps a public register of all tree work applications and permissions granted. The Tree Officer makes a redcommendation to the Executive Director of Planning and Conservation who is delegated to authorise or refuse permissions on behalf of the Council.



3.2.5 A Tree Preservation Order (TPO) gives a tree legal protection and makes it an offence to cut it down, uproot or wilfully destroy a protected tree and also makes it an offence to cut any part of the tree, including roots, without having first obtained Council permission. It is also an offence to cause another to harm a protected tree. If it comes to the Council's attention that a tree is not protected, it can consider whether to place it under a TPO. An objection to a TPO can

be made within 23 days of it being served. If an objection is made the matter is put before the Council's Planning Committee who will decide whether the TPO should be confirmed.

- 3.2.6 For unauthorised pruning of a tree or for causing another to undertake unauthorised work a fine of up to £2,500 can be imposed in a Magistrate's Court. For the destruction of a tree the maximum fine is £20,000 or, upon conviction in the Crown Court, unlimited. If a tree is maliciously removed to make way for development a fine proportional to the net financial gain can be imposed.



- 3.2.7 If a tree of any species greater than 7.5cm (3 inches) stem diameter, whether planted or self-seeded, grows within a designated Conservation Area, then six weeks' written notice of intent to do works must be sent to the Council. Penalties for carrying out unauthorised works to a tree growing within a Conservation Area are the same as those for a tree with a TPO.

- 3.2.8 The difference between the two is that a TPO requires an application for the Council's permission to carry out tree work whereas in a Conservation Area the Council has to be notified of intent to carry out that work. With the latter, if the Council considers the intent to be detrimental to amenity, the tree may be placed under a TPO and permission refused or a lesser amount of work allowed. If the Council refuses work to a TPO protected tree, there is a right of appeal to the Office of the Deputy Prime Minister (ODPM) Planning inspectorate.

- 3.2.9 If the Council allows the felling of a TPO tree it can compel the replanting of another whereas it can only request the planting of a replacement tree if its predecessor was only protected by Conservation Area designation. Where a protected tree has become dangerous and urgent work is needed, the Council Tree Section should be contacted for advice on how to proceed.

- 3.2.10 There is no requirement to contact the Council where it is necessary to prune trees (or shrubs) that obstruct the highway. The Council at its discretion will allow the removal of dead wood from within the crown of trees and the pruning of branch ends, and removal of basal and trunk growth to a height of three metres above ground level.

- 3.2.11 Under common law, one is allowed to remove branches growing over a boundary from a tree rooted in a neighbouring property. It should be noted however that where trees are protected, this right can only be exercised once an application has been made and a decision issued.
- 3.2.12 The shade tree cast can be a nuisance to some, but an owner of land is entitled to grow trees. A neighbour has no legal right to light. The Council is unlikely to consider a loss of light to be sufficient justification to allow the removal or excessive pruning of trees.
- 3.2.13 There are a number of pieces of legislation that directly relate to the Royal Borough's private communal gardens. The London Squares Preservation Act 1931 provides a framework to protect garden squares from development. The Kensington Improvement Act 1851 (37 gardens) and the Town Gardens Protection Act 1863 (9 Gardens), both provide a framework for financing maintenance.

### **3.3.1 Management and Council Policy**

The Council considers that trees are important to the heritage and visual amenity of the Royal Borough and maintains a general presumption against felling.

- 3.3.2 The Council will resist the loss of trees unless they are dead, dying or potentially a public danger, causing an actionable nuisance or, exceptionally, when removal is required as a part of a planting programme.
- 3.3.3 The Council does not distinguish between species of tree and whether they are planted or self-seeded.
- 3.3.4 Each tree work application will be considered on its merits with due consideration given to information supplied in addition to the basic requirements of an application (or notification of intent).
- 3.3.5 Excessive or unreasonable pruning, or unreasonable frequency of pruning will be resisted.
- 3.3.6 Each pruning request will be considered on the merits of the application made, in permitting pruning the Council will attempt to ensure consistency within a street.



- 3.3.7 The Council will seek to be fair and reasonable in allowing pruning of trees considering individual circumstances and reasons given. Excessive pruning due to shading and secretions of honeydew, in themselves, are usually insufficient reasons to allow heavy and unreasonable pruning.
- 3.3.8 The Council will require or request where practicable an appropriate replacement of any tree that is felled.
- 3.3.9 The Council will consult on applications made to prune or remove trees by advertisement in the local press, on the Council's website and by writing to the address at which a tree grows if the application is made by an agent or by someone from another property.
- 3.3.10 The Council will maintain a consultation list to advise residents, residents' associations and amenity groups of tree work applications that are made within an area in which an interest has been expressed.
- 3.3.11 Prosecution for cases of unauthorised tree work will be pursued where appropriate. The Council will publicise successful prosecutions and the penalties imposed.
- 3.3.12 Enforcement of replacement tree planting will be undertaken where the duty to plant a replacement tree has not been complied with.

#### **3.4.1 Tree Work Applications**

Tree work applications must be made in writing, either using forms available or by letter. An application will be acknowledged within seven working days of receipt.

#### **3.4.2**

If a tree is protected you do not need to be the owner to make an application to do work, however you may have to get the owner's permission to enter their land and as a matter of courtesy the work should be discussed between interested parties before an application is made. Whilst owners are responsible for their trees, there is little they are compelled to do by law to manage them; they may however be held liable for any harm or damage caused arising from neglect. Courts may not consider ignorance of the need to care for trees as a defence should a claim arise as a consequence of neglect.

3.4.3 Following receipt of a tree work application, the Council will usually make its decision following a site visit and on the basis of any information supplied. Should professional advice or reports be needed or be available, these should be included to supplement the application. The Council will consider any representation for or against an application and use the skill and judgement of a trained Tree Officer to assess the tree's condition and appropriateness to its location. By applying the Council's planning policies together with arboricultural and amenity judgements, in conjunction with any representations, a recommendation will be made. The decision will be either for the granting or refusal of permission or that the Council raises no objection to a notification of intent.

3.4.4 Should the Council refuse permission to undertake works applied for, an appeal can be made against this decision to the ODPM Planning Inspectorate. Each party submits its position via written representations and an arboricultural inspector considers the various aspects of the case and makes a binding recommendation. The Council considers refusals to undertake tree work very carefully and perhaps for this reason, a very high proportion of appeals are dismissed.





# TREES AND DEVELOPMENT



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## 4.1 Trees and Development

4.1.1 Trees are at risk from the pressures of development. Old buildings in need of refurbishment, the increasingly viable proposal for underground construction combined with a shortage of space and limited access, place both privately owned garden trees and street trees at risk.

4.1.2 Damage can be sustained by both the above ground and below ground parts of trees and in some cases the sheer tonnage and volume of materials moved in and out of premises and past trees can be enormous.

### 4.1.3 Tree Retention, Removal and Replacement

In determining a planning application where trees may be affected, Planning Officers will seek an arboricultural opinion to assist in the decision making process. The implications for trees will be judged in conjunction with a need for housing and high standards of design and construction, and assessed in the light of the relevant policies in the Council's UDP and supplementary data supplied by the applicant.

4.1.4 Trees that are to be retained through the course of building works may need protection. The above ground parts of trees are vulnerable to harm caused by erection of scaffolding and the movement of waste and new materials to and from site, skip lorries, crane jibs and piling rigs. The roots and below ground parts are vulnerable to trenching for foundations and services, compaction through storage and vehicle tracks and by contamination.

4.1.5 Council policy is generally to resist the loss of trees and there is a general presumption towards retention backed up by appropriate protection. Generally, the more prominent the tree the greater the likelihood it should be protected and retained. Retention of trees may involve additional expenditure through provision of physical protection and alternative methodology.



4.1.6 Not all trees can be realistically retained if permission is granted and it may be more practical to allow removal and replacement. Similarly if a tree is in decline or is judged inappropriate for its location, it is better to be realistic and permit removal.

4.1.7 Provision of new trees post development both on and off site is an integral part of the Council's approach to considering planning applications and more often than not, if trees are to be removed the Council will seek replacement planting.

4.1.8 Development proposals should be realistic insofar as they relate to proposals for excavation and construction in close proximity to trees. Reference should be made to British Standard 5837: The Guide for Trees in Relation to Construction (1991). On occasion a pre-application site visit may be appropriate so that early consideration of the needs of trees can be given. Accurate survey and positioning of trees and their crown spread can assist in successful and speedy processing of the tree aspects of a planning application. On occasion an applicant may be asked to excavate trenches and trial holes to avoid speculation about the presence of tree roots and to enable sensible dialogue.

4.1.9 Given that trees are vulnerable as a result of construction activity, the Council, when granting Planning Permission, has powers under the Town and Country Planning Act, 1990 to ensure the protection of trees "off site". Grampian Conditions or Section 106 Agreements can be used to protect street trees from development pressures or be used to agree schedules of work with developers that may include planting of new street trees to counter losses or harm.



4.1.10 Scaffolding and closure of parts of the highway and footpaths requires a licence under the Highways Act 1980 and conditions can be applied that require consideration and protection of trees. Also under this Act, Section 278 agreements can be entered into where development activity affects the highway and repair or improvements are required.

4.1.11 The Council will be moving toward requiring inclusion of tree conditions and survey information on submission of planning applications where trees are within the boundaries of a development site. At this time failure to include relevant information will result in an application being returned as incomplete. In the meantime applicants are asked to consider carefully submission of tree related information to reduce avoidable delays in processing planning applications.

#### 4.2.1 **Legal context**

The Council under the Town and Country Planning Act, 1990 controls development activity and the protection of trees. Conditions can and often are attached to planning permissions to facilitate this. Failure to comply with a condition may result in enforcement action, the serving of a breach of condition notice, and potentially a stop notice.

4.2.2 If permitted development rights apply, certain construction activities are exempt from the need to apply for Planning Permission. However, if a tree is protected, permitted development rights are subordinate to the tree's needs. Similarly where Building Control approval is required, or if the District Surveyor requires a specific course of action, tree protection takes precedence. If branches or roots need to be cut, a Tree Work Application should be made. Furthermore, measures to protect the tree may be required to avoid harm and the risk of prosecution for damage or destruction to a protected tree. To ascertain whether a tree is protected, contact the Council's Town Planning Department.

4.2.3 From time to time Section 106 agreements are made that bind developers into tree protection and provision of new trees off site where this may improve the local environment.

4.2.4 Where skips and scaffolding in connection with site works need to be positioned on the footway/ carriageway, a licence is required. In this context garden and street trees must be protected against damage and may require precautionary or reduction pruning.



### 4.3.1 Council Policies and Guidelines

Council policy in respect of trees and development sites is set out in the Council's UDP and some of the most relevant policies are summarised below:

- To give priority to the protection and enhancement of the residential character and amenity of the Royal Borough. (STRAT 1)
- To promote sustainable development to conserve and enhance the environmental quality of the Royal Borough. (STRAT 8)
- To resist off-street car parking in forecourts and gardens if the proposal would result in the loss of any trees of amenity value (including street trees). (CD 54b)
- To resist development proposals that would result in unnecessary damage or loss of trees. (CD 80).
- To encourage the planting of trees, particularly in new development. (CD 81)
- To resist the loss of trees unless they are dead, dying or potentially a public danger, causing an actionable nuisance, or, exceptionally, when removal is required in a replanting programme. (CD 82)
- To require where practicable an appropriate replacement for any tree that is felled. (CD 83)
- To ensure adequate protection of trees on sites in the course of development. (CD 84)
- To resist subterranean developments where a satisfactory scheme of landscaping including adequate soil depth has not been provided or where there would be a loss of trees of townscape or amenity value (CD 32 d and e)



#### 4.3.2

It is the Council's intention to produce a Supplementary Planning Document to inform developers in detail about protection of trees through the course of construction activities and the standards and methodologies that should be employed when submitting planning applications. The following guidelines are set out to inform applicants of the type and extent of information that may be required to enable determination of the likely effect of development on trees:

- Submit a tree survey to include all trees over 75mm trunk diameter within the curtilage of development sites, and, trees that may be outside the development site where the crown extends over it.
- The tree survey details must include the following:
  - ↳ Accurate location and species
  - ↳ Clear representation of trunk diameter at breast height (DBH),
  - ↳ Extent of canopy and height.
  - ↳ Health and vigour of each tree
  - ↳ Any structural defects, age and anticipated life expectancy.
- The applicant should have regard to the tree protection zones set out in Table 2.1 of the UDP Planning Standards (these are the same as BS 5837 [1991]). The Council is unlikely to approve any development where trees considered as being of significant amenity, which are in good condition and which have a reasonable life expectancy, are likely to be lost or harmed by development.
- The applicant will be required to describe the methods, and provide the means, by which trees are to be protected from the harmful effects of development.
- The Council will apply the guidelines for tree protection set out in British Standard 5837:1991 or its updated equivalent. Applicants are advised to familiarise themselves with BS 5837.

"Up to"

- Where trees are removed for the purposes of development the Council may require, by conditions attached to a planning permission, replacement trees to be planted. To provide adequate conditions for the establishment of healthy growth the applicant should familiarise himself with British Standard 4428: 1989 Code of Practice for General Landscape Operations.

- In cases where subterranean development is permitted the Council will usually require that up to a metre depth of topsoil and drainage layer should be installed above the upper surface of the subterranean part of the development.

- An applicant may wish to consider engaging the services of an Arboricultural Consultant to consider the tree related aspects of an application.

4.3.3 Street trees can be affected by development activity. Council Policies in such matters are:

- Where construction works are affecting, or are likely to affect street trees, the Council will co-ordinate its resources and powers to ensure protection of street trees for the duration of works.
- The Council will seek to work co-operatively with those involved in construction activity, where street trees may be affected, to ensure their protection during the course of works.
- Where trees need to be pruned to facilitate access to a property, for gantries, scaffolding, skips or to assist in the construction of protective hoarding etc, this work will be carried out by the Council tree surgery contractor under the supervision of a Tree Officer for which a charge will be made.
- Where applicable, the Council will apply controls and, if necessary, sanctions to ensure that street trees are given adequate protection from site works.





**ADDENDA** ►