

Trees and Development

1 INTRODUCTION

- 1.1 This Note is one of a series of Supplementary Planning Guidance Notes (SPGs), amplifying the development plan policies and other issues in a clear and concise format with the aim of improving the design and quality of new development. The Notes are intended to offer broad guidance which will assist members of the public and officers in discussions prior to the submission of planning applications and assist officers in handling and members in determining planning applications.

2 STATUS AND STAGES IN PREPARATION

- 2.1 The Council's SPG Notes are not part of the adopted plan. However, they have been the subject of both a formal Council resolution and public consultation. The Welsh Assembly Government (The Assembly) has confirmed that following public consultation and subsequent Local Planning Authority (LPAs) approval, SPG can be treated as a material planning consideration when LPAs, Planning Inspectors and the Assembly determine planning applications and appeals. This Note was approved by Full Council on 18th March 2003 for use in development control. A statement of the consultation undertaken, the representations received and the Council's response to these representations is available on request.
- 2.2 These Notes have been prepared in accordance with guidance contained in Planning Policy Wales; Unitary Development Plans (Wales); Technical Advice Notes.

3 BACKGROUND

- 3.1 Trees on a development site can make an important contribution not only to the nature conservation / biodiversity value but also its overall quality and commercial value. In addition they can significantly enhance the general or public amenity of an area. They are therefore a material consideration in considering planning applications. This SPG provides guidance on how existing trees on development sites can and should be protected. SPG 2; "Landscaping New Developments" deals with additional landscaping including new trees.

4 POLICY

- 4.1 Reference should be made in particular to UDP Policy ENV7, Landscape / Townscape Features. The broad thrust of this policy is aimed at maintaining and enhancing the quality and value of Denbighshire's natural environment. With regard to trees in development, the broad aim is to maintain as many trees as possible, especially those of higher standard, as an integral part of development.
- 4.2 Trees should be considered an integral part of the planning and design process. It should not be simply a case of protecting trees on boundaries and clearing all trees in the middle to maximize both the developable area and efficiency of construction work. However, when mature, the height or branch spread of many tree species can be in excess of 20m and would therefore dominate single and 2 storey buildings and cover or affect a substantial part of the site. Forward planning is therefore required from the initial stages of development to assess the existence of trees and to formulate a plan for the long-term management of the tree resources.

5 PROCESS

- 5.1 The overall objective is for development schemes to be designed and constructed so as to avoid the necessity of felling trees. In the past many trees in urban / developed areas have been lost due to development. This adds extra value to those remaining and new ones that are introduced. The Principal Countryside Officer - Woodlands & Conservation will be consulted on all relevant planning applications.



- 5.2 The initial stage is to undertake a tree survey which provides the basis for deciding which trees should be retained. An important issue at this stage is to consider the type of development proposed and the impact of the root growth and spread on future development. Regard should be had to the effect of root growth in terms of (a) physical damage to services/foundations/walls, and (b) water table/moisture content. The adequacy of all tree surveys produced will be assessed as part of the planning application process.
- 5.3 A tree survey should ideally be prepared by a person experienced in arboriculture who, in making an assessment, should pay particular attention to the following:-
- i) the health, vigour and condition of each tree;
 - ii) any structural defects in each tree and its life expectancy;
 - iii) the size and form of each tree and its suitability within the context of the proposed site development;
 - iv) the location of each tree relative to existing site features, e.g. its value as a screen or as a skyline feature;
 - (v) the contribution to the character and amenity of the surrounding area.

In addition, in accordance with BS 5837:1991 trees may be categorised into the following, clearly identified on the plans -

- (a) Trees whose retention is most desirable: high category
 - (1) vigorous healthy trees, of good form and in harmony with proposed space and structures;
 - (2) healthy young trees of good form, potentially in harmony with proposed development;
 - (3) trees for screening or softening the effect of existing structures in the near vicinity, or of particular visual importance to the locality;
 - (4) trees of particular historical, commemorative or other value, or good specimens of rare or unusual species.
- (b) trees where retention is desirable, moderate category -
 - (1) trees that might be included in the high category, but because of their numbers or slightly impaired condition, are downgraded in favour of the best individuals;
 - (2) immature trees, with potential to develop into the high category;
- (c) trees which could be retained: low category -
 - (1) trees in adequate condition, or which can be retained with minimal tree surgery, but are not worthy for inclusion in the high or moderate categories;
 - (2) immature trees, or trees of no particular merit;
- (d) trees for removal: fell category -
 - (1) dead or structurally dangerous trees
 - (2) trees with insecure roothold;
 - (3) trees with significant fungal decay at base or on main bole;
 - (4) trees with a cavity or cavities of significance to safety;
 - (5) trees that will become dangerous after removal of other trees for the reasons given in items 1 to 4.

- 5.4 Basically, preference should be given to retaining the high and moderate category trees, low category trees will usually only be retained where they are not a significant constraint or development. Trees of high and moderate categories that are felled through construction ought to be replaced after construction with a tree of similar species. However, it should be possible and preferable to retain dead trees as an amenity and nature conservation / wildlife feature for their biodiversity value, subject to safety considerations.



6 LEGAL PROTECTION

- 6.1 There are a number of types of protection afforded to trees under planning legislation

(a) Conservation Areas

The Town and Country Planning Act 1990, requires that no work shall be carried out which will affect trees over a certain size which are situated in a Conservation Area without giving six weeks written notice of intent to the Local Planning Authority before the work is carried out. This provides an opportunity for the Local Planning authority to make a Tree Preservation Order to protect the trees if appropriate.

(b) Tree Preservation Orders (TPO)

Individual groups or woodlands may be protected by Tree Preservation Orders (TPO's) under the provision of the Town and Country Planning Act 1990. TPO's have the effect of preventing the cutting down, lopping, topping, uprooting, wilful damage or wilful destruction of trees, except in certain circumstances, i.e. where the tree is dead, dying or dangerous, other than with the consent of the Local Planning Authority. The best quality trees with regard to their condition and their amenity value within the area will within the area will be protected by a TPO.

(c) Planning Conditions

Trees may also be protected by planning conditions attached to planning consents, preventing without prior written agreement/consent from LPA their lopping, topping or felling. Planning conditions will be used to protect trees of high amenity value, but do not merit a TPO. Planning conditions can also be used to ensure protection of trees on site during clearance and construction phases.

- 6.2 Both TPOs and planning conditions are contained in legal (and enforceable) documents available for inspection at the planning offices.
- 6.3 Where no specific legal protection exists, it may still be necessary to obtain a felling licence - this is under separate legislation. This applies if the volume of timber exceeds specific amounts. Site clearance, even of small areas, could easily exceed the felling licence quota. Felling licenses are administered by the Forestry Commission under the Forestry Act 1967.
- 6.4 Substantial penalties can be incurred for contravention of any of these forms of legal protection.

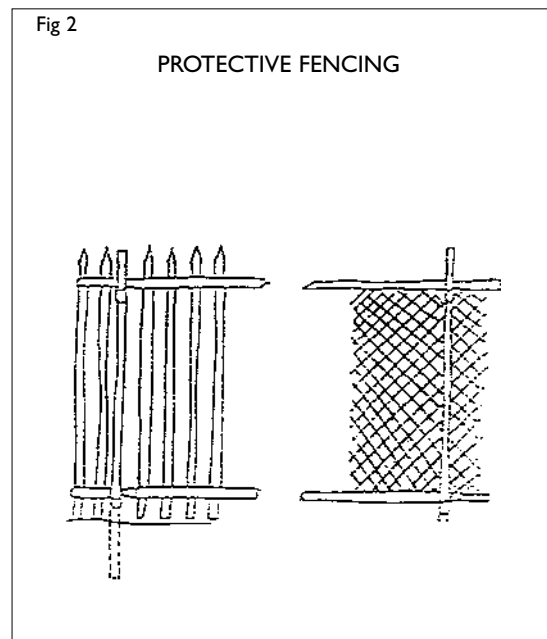
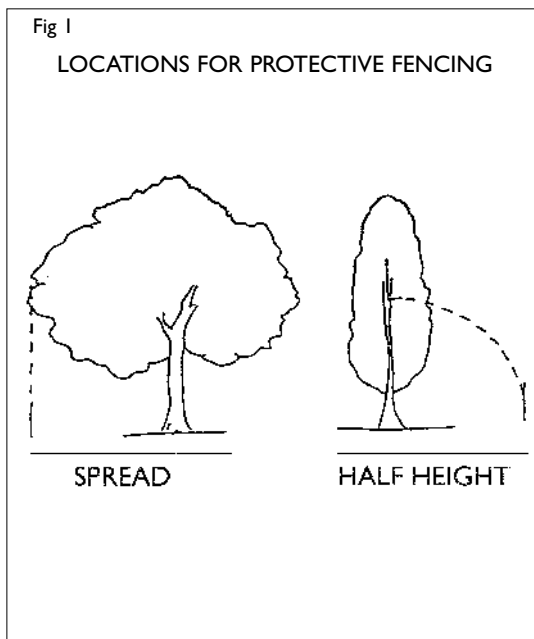


7 PROTECTION OF TREES

- 7.1 It is essential to protect the trees physically during development so as to avoid damage to the trees by construction work.
- 7.2 The part of a tree most susceptible to damage is the root system which, because it is not immediately visible, is often ignored. Damage to the root system will affect the health, growth, life expectancy and safety of the tree. The effects of such damage may only become evident several years later.
- 7.3 It is difficult to predict the extent of the root system as root growth and development is affected by the need for the tree to have physical stability and the availability of nutrients.
- 7.4 Damage to the root system may be as a result of loss of "breathing" space (e.g. where hard surfacing occurs), soil stripping or excavation. Compacting of soil around roots reduces the space between soil

particles and therefore the oxygen present. This is of particular importance in clay soils, where a single passage by heavy equipment can cause significant damage. In addition, spillage of petrol or diesel or even the lime in cement may damage roots irreparably. Removal of topsoil and excavation for foundations may also cause serious root damage.

- 7.5 In order to prevent such damage, all trees being retained on site should be protected by stout fencing (see figs. 1&2), as a minimum this fencing should extend to the limit of the crown spread of each tree. Fencing should be erected prior to any materials or machinery being brought onto the site and before any development, including demolition or erection of site huts, is commenced.



8 AFTER-CARE

- 8.1 Every effort should be made to retain and maintain trees after development has been completed. Consequently appropriate planning conditions and/or agreements are normally attached to any planning consent to ensure that any trees are cared for a specified period - usually 5 years. This normally prevents felling and requires the developer to carry out specified maintenance operations. The Council may, where appropriate, extend the specified period for after-care through planning conditions (to 7 years for example).
- 8.2 Owners/developers are encouraged to undertake periodic general tree management to individual and groups of trees to both maintain their long term health and nature conservation/visual value.

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9 FORM OF APPLICATION

- 9.1 In submitting an application form for consent to carry out work to a tree which is the subject of a Tree Preservation Order (this is a different form to a planning application), or making a formal written request for a tree situated within a Conservation Area, the following information is required.
- Location of the trees
 - Full postal address
 - An Ordnance Survey Field No. or full description of the location of the tree
 - Ownership
 - You can make an application even if you are not the owner of the trees, for example if you want to cut off a branch

which overhangs your land. The granting of consent does not give you any right to carry out work on trees which are not in your ownership.

- Details of the Order
- The Proposal
- Reasons for the Application
- Identification of the TPO which protects the trees.
- Details of the work to be carried out.
- It will assist the Local Planning Authority to deal with the application if you give reasons for your proposal.

10 WARNING NOTES

- 10.1 You should not carry out work on a tree which is protected by a Tree Preservation Order until written consent has been granted. If you carry out unauthorised work you run the risk of prosecution, a substantial fine and the requirement to replant. You do not need consent to remove, uproot or destroy a tree if it is dead, dying or has become dangerous, however, the owner of the tree must plant another tree of appropriate size and species in the same place as soon as he reasonably can. Except in an emergency at least 5 days prior notice to the removal must be given to the Local Planning Authority to enable it to decide whether or not to require replanting. If there is doubt about whether a tree is dead, dying or dangerous and the Local Planning Authority decides to prosecute, the burden of proof will be on the defendant.
- 10.2 Consent to fell, top, lop or uproot a tree subject to a Tree Preservation Order is a decision made by the Local Planning Authority under the Town and Country Planning Act. It does not convey any approval or consent which may be required under any other enactment, bye-law, order or regulation. Please check with the Council's Planning Services whether other types of approval will be required.

Further Information

Technical Advice Note 10 - Tree Preservation Orders



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Planning & Public Protection Services can also be contacted by e-mail dcc_planning@denbighshire.gov.uk
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