

# The Highland Council

<b>Agenda Item</b>	<b>11</b>
<b>Report No</b>	<b>ECI/40/2023</b>

**Committee:** Economy and Infrastructure

**Date:** 17 August 2023

**Report Title:** Adopted Tree Management Strategy Update

**Report By:** Interim Executive Chief Officer Infrastructure & Environment.

## **1 Purpose/Executive Summary**

1.1 Following further consultation with Members, this paper presents a series of proposed amendments to the *adopted* Tree Management Strategy.

## **2 Recommendations**

2.1 Members are asked to **agree** the proposed amendments as detailed in Section 5 and incorporate into the adopted Tree Management Strategy.

## **3 Implications**

3.1 **Resource** – The amendments to the adopted Tree Management Strategy propose to assist property owners by removing arisings resulting from pruning back Council trees to third-party boundaries; this will be deliverable within existing resources without significant issue. Otherwise, no resource implications are expected.

3.2 **Legal** – No additional legal implications will arise as a consequence of the amendments proposed.

3.3 **Community (Equality, Poverty, Rural and Island)** – The proposed amendments will assist property owners to remove arisings resulting from pruning Council trees back to property boundaries. The proposed amendments also seek to ensure that roadside trees are managed in a more appropriate and sustainable manner, ensuring mature trees are left in good condition to benefit climate change, biodiversity and local amenity.

3.4 **Climate Change / Carbon Clever** – The proposed amendments will seek to make better use of deadwood to maximise the carbon and biodiversity benefits this provides, ensure strong protection for heritage and veteran trees, as well as trees in designated sites including ancient woodland. They also seek to secure a greater rate of replacement planting by working across services to maximise opportunities.

- 3.5 **Risk** – The proposed amendments will result in no additional risks, and the Strategy will remain important in ensuring appropriate and proportionate action is taken where trees are identified as diseased, dangerous or dying, with a particular focus on trees infected by ash dieback and Dutch elm disease.
- 3.6 **Health and Safety (risks arising from changes to plant, equipment, process, or people)** – the Strategy will ensure that trees identified as dead, dying or dangerous are prioritised when managing the Council's estate.
- 3.7 **Gaelic** – The Tree Management Strategy will utilise Gaelic headings throughout in line with Council policy.

## **4 Background**

- 4.1 The Tree Management Strategy was presented to Members at Economy and Infrastructure Committee on 2 February 2023 where Committee:
- i) **NOTED** the contents of the updated Tree Management Strategy;
  - ii) **APPROVED** the Strategy and the policies contained within it; and
  - iii) **AGREED** to bring the amended report to the next Economy and Infrastructure Committee following further consultation with Members regarding being good neighbours, detailing tree maintenance protocols and preservation measures for mature trees and dead wood.
- 4.2 A Member consultation workshop, chaired by Cllr Green was held on 2 May 2023 to provide an opportunity for further consultation with Members on the matters outlined below and, where appropriate, amend the adopted Tree Management Strategy accordingly.
- 4.3 Following clarification with Members, the Member consultation workshop considered the following agenda items, with an opportunity to discuss any other concerns or issues arising:-
- deadwood;
  - being a good neighbour;
  - preservation of heritage and veteran trees; and
  - tree planting
- 4.4 Section 5 below details the recommended amendments (in italics) to the adopted Tree Management Strategy following the Member consultation workshop.

## **5 Proposed Amendments to the Adopted Tree Management Strategy**

- 5.1 Members stressed the importance of dead wood as part of a functioning and dynamic habitat. It was recognised it may not be practical, for health and safety reasons, to retain standing deadwood or dead wood habitat piles but it was acknowledged that opportunities do exist to accommodate deadwood in some circumstances, for example Council woodland. It was agreed that dead wood habitat piles with appropriate signage should be trialled, and Nairn was suggested as a pilot area, with Tradespark Wood providing a good opportunity.

## 5.2 Proposed amendments:-

New bullet point added to Section 2.2 Biodiversity:

- *Deadwood is an important component of woodland in terms of nutrient recycling and soil formation, and it supports many plants, fungi and animals.*

New line added to the third paragraph of Section 3.1 Management of existing [Council] trees:-

If a Council tree is deemed to pose a high risk to people and/or property, and is considered to be an emergency, then the Council will undertake appropriate action to make the tree safe as soon as is practically possible. *Wherever possible and where it is safe to do so, standing deadwood or dead wood habitat piles will be retained in the area for their biodiversity value.*

New line added to Policy 1:-

The Council will provide a sustainable, high quality and diverse tree population that contributes to delivering net zero, provides a biodiverse habitat for wildlife and delivers a healthy and attractive environment. *This may include leaving standing deadwood or dead wood habitat piles where suitable and safe to do so. Where appropriate, signage to inform the public of the biodiversity value of deadwood will be installed.*

## 5.3 Being a good neighbour

How the Council could be a good neighbour was raised both at committee and the Member consultation workshop. The consultation workshop reiterated the existing provision within the adopted Strategy, including policies 2, 4 and 8, for providing arboricultural justification to remove a tree, including the reasons described in Section 3.1:-

- Dead, dying, or dangerous tree that poses a danger to public safety.
- Trees proven to be causing significant damage where pruning or structural repair would not provide a solution.
- Tree removal is required as part of an agreed tree management programme or an environmental/community improvement project.
- It is considered by a Council arboricultural officer to be an inappropriate species for the location, in line with the concept 'the right tree in the right place' (e.g., a self-seeded tree close to wall/ fence or a tree, such as a commercial conifer, outgrowing its position in a small garden).

5.4 It was noted that this position is consistent with other Scottish Local Authorities; that the Council's Duty of Care and Health & Safety obligations require limited resources to be directed towards trees that are dead, dying or dangerous; the potential for reputational damage if felling or carrying out significant pruning to healthy trees; and the risk of setting a precedent that may lead to further pressure to remove healthy trees with associated budgetary, resource, reputation, net zero and biodiversity risks.

5.5 It was agreed that Council should do more to assist property owners removing overhanging branches. Accordingly, it is proposed to add a line to Section 6.1 (common law right to cut back over hanging branches and roots):-

If the encroachment is from a Council owned tree, any cuttings must be disposed of appropriately; *the Council may be able to assist with disposal of the prunings.*

- 5.6 It was agreed that recent works to roadside trees undertaken during verge management did not constitute being a good neighbour. A new paragraph is proposed to be added to Section 5.2 (Roadside tree issues) that makes reference to relevant sections of the Council's *draft* Verge Maintenance Manual as prepared by Roads and Infrastructure:-

*Any works to roadside trees will be undertaken sensitively using appropriate methods and will retain mature trees in good condition in accordance with Section 4.3.7 of the Council's Verge Maintenance Manual. Furthermore, and as per Section 4.2 of the Verge Maintenance Manual, any verges that are within or adjacent to SACs, SSSIs or are otherwise identified as 'special verges for biodiversity and conservation' (including verges with mature trees, if appropriate) will be mapped and recorded with any agreed special management/consultation requirements.*

This should provide a robust basis for managing verges that contain mature trees but should issues with management persist they could be identified as *special verges* with different management regimes agreed.

- 5.7 For reference, Section 4.3.7 of the *draft* Verge Maintenance Manual states that:-

**'Alternative methods** will be considered where there are trees with a diameter greater than 80mm and where the branches to be cut have a diameter greater than 30mm or where the verge has a special conservation status. Operational and financial constraints may limit the choice of method and require a departure from best practice to meet the service objectives (as stated in this document). Pruning and lopping are preferable to the use of flails or machine mounted cutting heads: chainsaws can be used. The timing and location of cuts to mature branches may impact on the long-term viability of the tree and also on the extent and type of regrowth. Different species have different requirements. Technical Advice can be sought from the Forestry Team.'

- 5.8 For reference, Section 4.2 of the *draft* Verge Maintenance Manual states that:-

**'Special Verges for biodiversity or conservation may be identified** by NatureScot, the Council's Environment Team, local conservation groups and others and will be agreed in writing with the Roads Operation Manager. Special treatment may be agreed for these verges for example the grass may be cut earlier or later in the year to allow special wildflowers to seed.

**Verges within or adjacent SACs or SSIs** identified by the Environment Team as requiring approval by NatureScot of scrub cutting operations will be recorded as Special Verges.

**The Roads Officer will begin and maintain a list and a map of the Special Verge locations** identified together with any special treatments agreed in a permanent file under verge maintenance.'

- 5.9 **Veteran and heritage trees**

Although the Council's estate is not thought to include many veteran or heritage trees, it is responsible for numerous mature trees, areas of ancient woodland and important amenity trees.

5.10 Proposed amendments:-

A new opening paragraph is added to Section 3.1 (management of existing trees):-

*The Council will seek to protect and enhance its trees and woodlands. Particular attention will be given to designated sites, ancient woodland and veteran/heritage trees that contribute positively to biodiversity, culture and heritage. Where veteran or heritage trees are identified, they will be given strong protection.*

A new line is added to Policy 1:-

*Designated sites (including ancient woodland) and veteran trees will be afforded strong protection.*

5.11 **Replacement planting**

Existing wording in Policy 9 ('Wherever practicable, at least one tree will be planted for every tree removed') was not considered sufficient. It is agreed that there are opportunities by working across services to carry out replacement planting at a higher rate, even when taking into account the inability of some Council functions (such as Roads) to replant where it has been required to remove a tree.

5.12 Proposed amendment:-

Policy 9 has been amended to include:-

*Wherever practicable, at least one tree will be planted for every tree removed. However, the Council will work across services to identify opportunities to plant at a significantly higher rate.*

**6 Next key stages**

- 6.1 Insert links to the Verge Maintenance Manual for Roads in rural areas in appropriate locations once confirmation is received that the Manual has been approved by the Roads Redesign Project Board.
- 6.2 Following adoption, a Gaelic title, headings and subheadings will be inserted along with an appropriate corporate cover, photographs and illustrations.

Designation: Interim Executive Chief Officer Infrastructure & Environment.

Date: 27 June 2023

Author: Andrew Puls, Environment Team Leader

Background Papers: None

Appendices: Appendix 1 – Revised Highland Council Tree Management Strategy

# The Highland Council

# Tree Management Strategy

Adopted February 2023

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# 1 Introduction

This Strategy sets out how the Council will manage its own tree resource. This includes trees on Council owned or managed land and trees adjacent to the adopted road network for which the Council has responsibility.

The Highland Council covers an area of 26,848 square km. The Council owns a very significant area of tree cover from individual trees through to woodlands. The majority of these areas are open to the public and many are subject to intensive usage, all year round.

Trees and woodlands are a valuable asset and provide many benefits including aesthetic, sensory, climate, health benefits, biodiversity, screening, shelter, and noise abatement. The Highland Council recognised the serious and accelerating changes to the world caused by climate change and so declared a Climate and Ecological Emergency on 9 May 2019. The Council's tree resource will be pivotal in the Council achieving net zero and in tackling biodiversity loss.

With age, some trees may present a number of problems, varying in severity from nuisance, such as unwanted shading and blocking of views, to danger to life, limb, and property due to defective trees, disease, and extreme weather. In most cases these issues can be effectively managed.

Legislation relating to tree management places duties on the Council to ensure appropriate risk management of its trees and woodlands to safeguard the public from harm in the case of tree failure. As a responsible landowner the Council intends to introduce a system of inspection and monitoring of its trees. Poor or ineffective risk management leaves the Council potentially open to claims of negligence where trees may be implicated in cases of injury or damage.

## 2 The Value of Trees and Woodland to The Highlands

Alongside climate change, tackling biodiversity loss is now recognised as one of the most significant issues and challenges of our time. The Council have declared a climate and ecological emergency and have committed to achieving net zero. In 2022 the Council joined over 300 governments, cities and local authorities around the world in signing the Edinburgh Declaration to acknowledge the importance of biodiversity and committing to tackling biodiversity loss. The Council's trees and

woodlands are a fundamental contributor if the Council is to achieve its net zero and biodiversity ambitions and targets.

Trees are of vital importance to the environment and widely appreciated for enhancing the rural and urban landscape. As public awareness of environmental issues becomes more influential there is an increasing need to focus attention on trees and woodland and their role in maintaining and enhancing their environmental benefits.

In addition to landscape, woodlands and trees offer multiple benefits in terms of addressing climate change, improving the water environment, providing valuable habitats, timber industry and creating recreational opportunities.

Some of the key benefits of trees are: -

## **2.1 Environmental**

- Sequester carbon.
- Enhance the aesthetic value of the landscape.
- Improve air quality.
- Reduce the impact of extreme weather and can help combat surface water flooding.
- Act as screening of traffic, eyesores and softening of development.
- Can reduce noise pollution.
- Provide a natural habitat for pollinators and other wildlife.

## **2.2 Biodiversity**

- Can increase the biodiversity of an area, providing an important habitat for flora and fauna including protected species.
- Trees are important for connecting greenspaces, provide wildlife corridors enabling wildlife to commute between greenspaces. They provide shelter and an environment for wildlife to live and grow.
- Deadwood can also be an important component of woodland in terms of nutrient recycling and soil formation and supports many invertebrates.

## **2.3 Economic**

- Can improve the amenity value of land surrounding developments, derelict, or underused land.
- Raise the overall quality of a development and enhance property values.

- Can create an attractive place for people to live, work and prosper.
- Enhance the landscape attracting visitors to the Highlands.
- Provide timber and other woodland products for sale.

## **2.4 Social**

- Enhance recreational resources such as parks and open spaces, provide areas for outdoor play, encourage physical activity and health lifestyles.
- Tree planting and caring for trees can encourage community participation and involvement, bringing people in communities together and foster a sense of pride in their local area.
- Can provide an educational resource for training and outdoor learning.
- Fruit trees play an important role in community food growing initiatives.

## **2.5 Health and Wellbeing**

- Trees in public spaces can improve mental health and wellbeing, spaces for physical activity and relaxation.
- Spending time in nature can boost mood and decrease stress, support mental health.

# **3 Council Owned Trees**

## **3.1 Management of existing trees**

The Council will seek to protect and enhance its trees and woodlands. Particular attention will be given to designated sites, ancient woodland and veteran/heritage trees that contribute positively to biodiversity, culture and heritage. Where veteran or heritage trees are identified, they will be given strong protection.

The Council has a duty of care to the public in respect of the safety of trees in its ownership. This does not strictly mean that the Council must inspect and record every tree to ensure they are all in a safe condition. Trees are dynamic organisms, subject to the forces of nature, which can fail without showing warning symptoms and can never be classed as entirely safe. However, the Council must try to keep risks presented by trees as low as is reasonably practicable.

If a Council tree is deemed to pose a high risk to people and/or property, and is considered to be an emergency, then the Council will undertake appropriate action

to make the tree safe as soon as is practically possible. Wherever possible and where it is safe to do so, standing deadwood or deadwood habitat piles will be retained in the area for their biodiversity value.

If a Council tree is deemed to pose a risk, but the risk to the public is not high, then the tree will be made safe depending on the degree of risk identified at the time of inspection. The action identified could range from pruning to felling and the approach deemed as the most effective will be applied.

It is intended to develop a Tree Risk Management Plan to assist with the management of Council trees. This would involve zoning of Council land according to varying levels of public use, focusing tree inspections on the most frequently visited areas and recording data on the trees along with tree work recommendations.

The Council will avoid felling trees unless it is required for sound arboricultural reasons. Each case will be carefully assessed on its own merits with tree felling not being accepted unless there is a clear justification for the work. In the event a tree has to be felled, at least one replacement tree of a suitable species and an appropriate scale will be planted.

Sound arboricultural reasons where a tree may be removed:

- Dead, dying, or dangerous tree that poses a danger to public safety.
- Trees proven to be causing significant damage where pruning or structural repair would not provide a solution.
- Tree removal is required as part of an agreed tree management programme or an environmental/community improvement project.
- It is considered by a Council arboricultural officer to be an inappropriate species for the location, in line with the concept 'the right tree in the right place' (e.g. a self-seeded tree close to wall/ fence or a tree, such as a commercial conifer, outgrowing its position in a small garden).

Most public trees near private property have been there for many years and help to create a more attractive and sustainable environment. The presence of trees should be considered by anyone looking to buy or rent a property. The Council is under no obligation to remove a tree on public land simply because it is disliked or may cause inconvenience to people who live nearby.

### **3.2 Tree Planting**

Where a tree has to be removed, for sound arboricultural reasons, one or more replacement trees will be planted as close to the position of the felled tree as soon as practicable after felling. This needs to be done to ensure that the existing tree stock is maintained or enhanced. All tree planting shall adopt the concept '*the right tree in the right place*' and consideration will be given to a species' eventual size and shape.

In addition, the Council work with local communities and other partners in pursuing opportunities for new tree planting. Planting should prioritise large species trees wherever possible and then scaling down to medium sized tree species and smaller tree species where the planting of larger growing tree species would not be appropriate. The Council will endeavour to establish a diversity of species to provide resilience against climate change, to contribute towards biodiversity enhancement, to improve local visual amenity, and to mitigate against tree pests and disease.

The Council will strive to provide space for planting new trees on public and development land, selecting species as noted above.

## **4 Trees on Private Land**

The Council has no authority to intervene where a privately owned tree affects the occupiers of neighbouring property, but the Council may be in a position to offer general advice via email or on the website. The Council will not carry out tree works on land in other ownership, with the exception of clearance of trees which have failed across a public road and there is an urgent need to re-open the road or removal of trees which are in such poor condition that they pose a significant risk to road users. Where a landowner cannot be found for trees which will impact on the adopted road network, the Council may require to step in and undertake tree works.

Property owners who have trees growing on their land have similar obligations to the Council and are responsible for ensuring that their trees do not pose a danger to their neighbours or the wider public. Private landowners should also ensure that trees and shrubs growing on their land do not obstruct or encroach on public carriageways or footpaths.

Private tree owners should check to see if the tree is within a Conservation Area or is the subject of a Tree Preservation Order (TPO) before carrying out any works. If the tree is protected by TPO or Conservation Area a tree work application must be made

in advance of any works taking place. Failure to obtain approval may result in prosecution and a fine. Please see sections 7.1 and 7.2 for more details.

If a tree subject to a Tree Preservation Order has been assessed by a professional arborist/arboriculturist as being clearly and imminently dangerous and posing a serious risk, the work can be undertaken without formal consent. However, proof of this must be provided (photographs of the tree and the damage) along with a retrospective tree work application to ensure there are no breaches of TPO or Conservation Area regulations.

Further guidance on TPOs can be found on the [Trees, woodland and forestry](#) section of the Council's website or in the [Trees, woodlands and development](#) supplementary guidance.

The Council has produced [Roads guidance for new developments](#) and [Roads guidance for forestry extraction](#) which are available on the Council website.

## **5 Trees on Roadsides**

### **5.1 Adopted carriageway and footway/ path obstructions**

The Council will undertake work to a tree in their ownership to maintain a minimum 5.5 metres height clearance over the adopted carriageway and 2.5m over an adopted footway/ path where necessary and reasonably practical.

Many roadside trees are in private ownership and tree owners have a responsibility for ensuring their trees do not cause an obstruction or danger to a public road or footpath. The Council have powers under the Roads (Scotland) Act 1984 to instruct a tree owner to remove an obstruction. If the owner does not do so, then the Council may do the work and recharge the tree owner.

If a tree appears to be in immediate danger of collapse onto an adopted road or is causing an obstruction requiring urgent attention, it will be treated as an emergency situation and the Council will attend the site as soon as possible to make the situation safe. If the tree is not causing an emergency situation, a site inspection will be undertaken as soon as possible, and the owner notified of what action is considered appropriate. The owner of the tree will be informed of what works they are responsible for to make the situation safe. If it is necessary that the Council undertake this work, then the owner will be charged in full for the Council's costs.

As stated above, developments have specific guidance and plans for vegetation may need approval. Please refer to the guidance at the link below.

[https://www.highland.gov.uk/downloads/file/527/road\\_guidelines\\_for\\_new\\_developments](https://www.highland.gov.uk/downloads/file/527/road_guidelines_for_new_developments)

Anyone proposing to plant vegetation within 5m of the edge of the carriageway requires the permission of the Roads Authority under the Roads (Scotland) Act 1984.

## **5.2 Roadside tree issues**

The Council will undertake work to a tree in Council ownership to maintain clear sight lines (where reasonably feasible) at junctions, cut back trees where they encroach on and obscure traffic signals, road signs or streetlights, and undertake measures to make safe an unacceptable trip hazard caused by tree roots.

Any works to roadside trees will be undertaken sensitively using appropriate methods and retain mature trees in good condition in accordance with Section 4.3.7 of the Council's Verge Maintenance Manual. Furthermore, and as per Section 4.2 of the Verge Maintenance Manual, any verges that are within or adjacent to SACs, SSSIs or are otherwise identified as 'special verges for biodiversity and conservation' (including verges with mature trees, if appropriate) will be mapped and recorded with any agreed special management/consultation requirements.

Standards for visibility vary according to the class of road and speed limit in force. If a privately owned tree is causing an obstruction to the visibility at a road junction (sight line) or a trip hazard in a roadside pavement, powers exist under the Roads (Scotland) Act 1984 to instruct the owner of the tree to remove the obstruction. If they do not, the Council will do the work and recharge the owner. Property owners may also be required, through their planning permission conditions, to maintain visibility at their access.

## **5.3 Reporting roadside tree issues**

Trees that are clearly a danger to an adopted carriageway and/or footway/ path, or are causing an obstruction should be reported to the Council on 01349 886601 or by using the [Report a Fault](#) web page and providing details of the nature and location of the hazard.

## 6 Tree Issues, Disputes and Nuisances

### 6.1 Common law right to cut back over hanging branches and roots

Any person has the right under Common Law to remove (abate) the nuisance associated with trees encroaching onto their property, while the tree owner is under no legal obligation to prevent their tree from growing over the ownership boundary. The Council will not prune back trees where they encroach onto a neighbouring property.

The following advice should be followed in relation to common law rights on encroaching trees:

- Only the parts of the tree which cross the boundary of the property can be removed. There is no legal right to cut or remove any part of a tree that does not overhang your property.
- A professional tree surgeon should be asked for guidance on how best to prune back encroaching trees, unless the works are trivial meaning the work could be done with hand secateurs or similar. All works should be carried out in accordance with BS3998: (2010) 'Tree work – Recommendations'.
- It is advised to discuss with the owner of the tree of any intention to prune encroaching branches or roots and any cuttings should be offered to them as legal owner. If the encroachment is from a Council owned tree, any cuttings must be disposed of appropriately; **the Council may be able to assist with disposal of the prunings.**
- Root encroachment can affect light structures such as walls, sheds and footpaths, but they are not generally capable of adversely affecting building foundations. Any concerns about this should be referred to the owner's insurance company for further specialist investigation.
- Before any works to a tree are considered, please check to find out if it is protected by a Tree Preservation Order (TPO) or is within a Conservation Area. If the tree is protected by TPO or Conservation Area you will need to make a tree work application in advance of any works taking place. Failure to obtain approval may result in prosecution and a fine. Please see sections 7.1 and 7.2 for more details.
- The location of Tree Preservation Orders and Conservation Areas can be viewed on an interactive map on the Council's Website at: [Tree preservation orders and conservation areas map](#)



## **6.2 Trees affecting sunlight, view, TV/ satellite reception or solar panels**

There is no right to light, a view or TV/satellite reception and the Council have no legal obligation to cut back trees. Council owned trees will not be significantly pruned or felled to improve natural light, view, TV/satellite reception or light reaching solar panels.

If you have an issue with TV aerial or satellite dish signal you should first consider repositioning your aerial/ dish.

The exception to this general policy would be where the pruning of the trees could be enforced under the High Hedges (Scotland) Act 2013 (see below).

- In law there is no general right to light or a view in Scotland. If natural light is being blocked by the growth of a hedge, then action may be taken to reduce the problem under the High Hedges (Scotland) Act 2013. This Act expressly requires the Council to take account of the effect of the high hedge on the amenity of the area and whether the high hedge is of cultural or historical significance.

## **6.3 Tree leaves, berries, fruit, and sap**

Council owned trees will not be pruned or felled to reduce/ remove leaf fall, berries, fruit, or sap. Fallen leaves, berries and fruit in the autumn is part of the natural cycle and cannot be avoided by pruning.

The maintenance of gutters is the responsibility of the property owner, and the Council is not obliged to remove leaves etc. that may have fallen from Council owned trees. Where gutters are regularly blocked by fallen leaves gutter guards may be fitted to provide a low maintenance solution.

Sap (honeydew) is excreted by insects feeding on leaves in the tree, it is a natural and seasonal problem. The council has no obligation to prune or fell trees for this reason.

- Where honeydew affects cars, warm soapy water will remove the substance, particularly if the car is washed as soon as possible.

## **6.4 Birds, mammals and insects**

We are in the midst of an ecological emergency and witnessing dramatic biodiversity decline. Trees provide habitat for a range of animals, birds and insects. The Council recognises the importance of its trees in providing essential habitat to a wide range

of flora and fauna and that its trees are essential to the Council meeting its commitments to tackle biodiversity loss and enhance biodiversity.

It is important to note that all wild birds, eggs, and nests, as well as most mammals, including bats, red squirrel and pine marten are protected under the Wildlife and Countryside Act (1981, as amended) and it is a criminal offence to kill, injure or disturb them.

The Council's trees also provide an important habitat for insects, many of which are experiencing dramatic population declines. Insects are essential components of a healthy ecosystem and for pollination.

The presence of birds, mammals or insects will not be considered reason or justification for the pruning or felling of any Council tree. Likewise, bird droppings falling from trees is not an acceptable reason to prune or fell Council trees.

- Where bird droppings settle on cars or other properties then warm soapy water is recommended to remove any residue.

## **6.5 Invasive roots and drains**

Tree roots do not generally invade drains that are in good condition and very rarely would a tree break a drain. It is however possible for fine roots to enter a drain that is already broken. Council owned trees will not be felled or pruned (including the roots) to prevent tree roots entering a drain that is already broken or damaged.

The Council has no authority to intervene where roots from a privately owned tree affect a neighbouring privately owned property.

- Tree roots found in a drain are often symptomatic of an underlying problem-requiring repair of the broken pipe. If residents are concerned about the condition of their drains, they are advised to contact their water and sewerage company.

## **6.6 Nuisance third party trees**

The Council has no authority to intervene in a dispute between neighbours regarding trees. However, if the problem is due to a 'high hedge', guidance may be found on the Council's website – [High Hedge Disputes](#).

## 7 Protected Trees

There are 3 layers of tree protection:

- Tree Preservation Orders (TPO)
- Conservation areas
- Planning conditions

Before any works to a tree are considered, please check to find out if the tree is protected.

Where we allow the removal of a protected tree, we expect appropriate replacement planting. In any development proposal, if it is planned to remove trees then any removals should be kept to a minimum and replaced with appropriate planting in a landscape scheme.

If required, further guidance on protected trees can be found on the [Trees, woodland and forestry](#) section of the Council's website or in the [Trees, woodlands and development](#) Supplementary Guidance.

Please note that trees may also be protected by [designated sites](#) such as Special Areas of Conservation (SAC) or Site of Special Scientific Interest (SSSI), and any proposed tree works on a designated site may require prior permission from NatureScot.

### 7.1 Tree Preservation Orders (TPO)

A Tree Preservation Order protects individual trees and woodlands that make a significant contribution to the appearance or natural beauty of an area, or where they have cultural or historical importance.

If the tree is protected by TPO you will need to make a [tree work application](#) and receive written consent before works commence. Failure to obtain consent before undertaking works on a tree protected by a TPO is an offence and may result in prosecution and a fine.

The location of Tree Preservation Orders can be viewed on an interactive map on the Council's Website at: [Tree preservation orders and conservation areas map](#)

Please email any TPO enquiries or applications to [FPC@highland.gov.uk](mailto:FPC@highland.gov.uk) .

## 7.2 Conservation Areas

Conservation Areas protect trees and woodlands as important landscape features which often make a significant contribution to the special character of the area.

In a Conservation Area you would need to make a [tree work application](#) giving six weeks' notice of the intention to carry out works. We will generally respond in writing within six weeks, but if no response is received you are free to continue with the works.

To determine whether a tree or woodland is within a Conservation Area, please find the specified area on the Council's Website at: [Tree preservation orders and conservation areas map](#)

Please email any trees in Conservation Area enquiries or applications to [FPC@highland.gov.uk](mailto:FPC@highland.gov.uk).

## 7.3 Planning conditions

Conditions may be applied to planning permission in order to ensure the retention of existing trees as well as the planting of new trees within a scheme of landscaping. Permission is needed to carry out works to trees protected by planning conditions.

Please check the [Contact Us](#) page on the Council website for Planning Duty Officer telephone number to determine whether your property is subject to any planning conditions prior to undertaking any tree works.

## 7.4 Designated sites

Trees and woodland may form important habitats on designated sites including nationally important Sites of Special Scientific Interest (SSSIs); National Scenic Areas (NSAs); National Nature Reserves (NNRs); or internationally important Special Areas of Conservation (SACs) and Special Protection Areas (SPAs). Should you wish to carry out tree surgery or felling on any site designated by NatureScot you should refer to the [www.nature.scot](http://www.nature.scot) website and contact your local NatureScot office for further advice.

## 8 Felling Permission

If you wish to fell trees, whether protected by the Council or not, Felling Permission may be required from Scottish Forestry. The Forestry and Land Management (Scotland) Act 2018 governs tree felling and permission should be sought from Scottish Forestry.

Any tree felling carried out without a licence or other permission is an offence, unless it is covered by an exemption. Please see the Scottish Forestry website for more details on making a [Felling Permission](#) application.

## 9 Tree Pests & Diseases

Over the past 20 years there has been a steady increase in the number of tree pests and diseases found to be present in the UK and in Highland. This has principally been the result of climate change, increased global travel and greater trade of plant material and timber.

Some of these pests and diseases have the potential to cause damage which adversely affects timber quality and therefore economic returns while other diseases could result in significant loss of tree cover and could result in landscape scale woodland loss.

The main pests and diseases currently affecting the Highlands are outlined below:

### **Ash Dieback (*Hymenoscyphus fraxineus*)**

This fungal disease has caused extensive tree losses in continental Europe and after it was first found in the UK in 2012. It has rapidly spread northwards and is now widespread across the Highlands. Although current level of infection is relatively low it is expected to rise significantly over the next decade.

There is currently no treatment for the disease and management efforts need to concentrate on identification and removal of the most seriously infected trees in areas of high risk.

### **Dutch elm disease**

Dutch elm disease is a fungal disease carried by the elm bark beetle. The current Dutch elm disease epidemic appeared in the UK in the 1960s and the first outbreak in Scotland was identified in 1976. In Highland the first confirmed case of the disease in was found in Auldearn in 1997. Since then, the disease has become well-

established around the Inner Moray Firth roughly contained within a line from Auldearn to Grantown-on-Spey, Aviemore, Invermoriston, Contin, Lairg and Wick, with further outlying incidences in Fort William and Ullapool. Work is still required to remove infected trees from private and Council land.

### ***Phytophthora ramorum***

Ramorum is a fungal disease that was first found in Scottish plant nurseries in 2002 and in gardens and parks in 2007. The first infection on Scottish larch trees was confirmed in 2010. It is capable of causing extensive mortality in larch trees, particularly in the wetter west of Scotland. The only control for Ramorum disease is to remove both the infected trees and a buffer of heathy trees to prevent the spread. When the disease is identified Scottish Forestry will serve a Statutory Plant Health Notices (SPHN) on the landowner to have the trees felled.

### ***Dothistroma needle blight (Dothistroma septosporum)***

*Dothistroma* needle blight (DNB) is a fungal disease affecting mainly pines. The fungus affects tree needles which are eventually shed and if it happens year on year, it can gradually weaken the tree, significantly reducing timber yields. It can also eventually lead to mortality.

### ***Phytophthora pluvialis***

*Phytophthora pluvialis* is a fungus-like pathogen known to affect a variety of trees including western hemlock, tanoak, pines and Douglas fir. It was discovered in a woodland in Cornwall in September 2021 and following extensive investigation, more outbreaks have been found in Cornwall, Devon, Cumbria, Wales and Scotland. It is currently present in a Demarcated Area in Wester Ross where there is a restriction on movement of infected material.

Further information on pests and diseases can be found on the Scottish Forestry website (<https://forestry.gov.scot/sustainable-forestry/tree-health/tree-pests-and-diseases>) and the Forest Research website (<https://www.forestresearch.gov.uk/tools-and-resources/>).

If a tree is identified which appears to be infected with any of the above pests and diseases, we would encourage reporting via Tree Alert (<https://www.forestresearch.gov.uk/tools-and-resources/fthr/tree-alert/>)

## **10 Tree Policies**

### **10.1 Introduction**

The Council will endeavour to ensure it has a safe, healthy and sustainable tree population, which supports a rich and resilient environment, helps tackle climate change and biodiversity loss, and for the benefit and enjoyment of local communities and visitors.

The following policies are set out in support of the Council's vision for the management of trees and woodlands in Highland.

All agents, partners and contractors of the Council will be required to comply with these policies.

The aim of these policies is to: -

- Set out how the Council proposes to inspect, protect and positively manage the existing Council tree and woodland resource now and for the future.
- Set out how the Council intends to fulfil its duty of care in relation to tree risk management.
- Set out how decisions are to be made on the management of existing Council trees.
- Set out how the Council proposes to maintain its tree stock through replacement of felled trees or new planting, wherever possible.

### **10.2 Legislation, Policy and Guidance**

The management of Council trees is carried out within a framework of legislation, policy and guidance which includes, but is not limited to the following: -

Town and Country Planning (Scotland) Act 1997; the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010; the Forestry and Land Management (Scotland) Act 2018; Wildlife and Countryside Act (1981) and as amended; Health and Safety at Work etc Act 1974; and the Occupiers' Liability (Scotland) Act 1960.

The Scottish National Planning Framework 4 (NPF4).

The Highland wide Local Development Plan (2012) and a suite of Local Development Plans.

Scottish Government's policy on the Control of Woodland Removal (2009).

Highland Council's Trees, Woodlands & Development Supplementary Guidance (2013).

### **10.3 General policies**

#### **Policy 1**

The Council will provide a sustainable, high quality and diverse tree population that contributes to delivering net zero, provides a biodiverse habitat for wildlife and delivers a healthy and attractive environment. This may include leaving standing deadwood or deadwood habitat piles where safe to do so and, where suitable, with signage to inform the public of their biodiversity value. Designated sites (including ancient woodland) and veteran trees will be afforded strong protection.

#### **Policy 2**

The Council will manage trees in a cost-effective and sustainable manner to ensure that it meets its legal responsibilities and adheres to current regulations, e.g. duty of care and Health and Safety.

#### **Policy 3**

The Council will seek to work with local communities and other potential partners to deliver and implement tree management initiatives.

### **10.4 Management policies**

#### **Policy 4**

The Council will aim to adopt an appropriate tree inspection and management programme to ensure a tree population which is in accordance with Policy 1 and Policy 2.

#### **Policy 5**

Where tree works are required, the Council will endeavour to maintain a high standard of tree maintenance and undertake all tree work operations according to standards of BS 3998:2010 – 'Tree Work Recommendations'. Wherever possible all tree works will be carried out outwith the bird nesting season and following appropriate ecological survey.

#### **Policy 6**



The Council will require all Utility Services to adhere to the guidelines as set out in the National Joint Utilities Group (NJUG) 'Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees'.

### **Policy 7**

The Council will seek compensation from any external organisation and/or person(s) responsible for significant damage to or removal of any Council-owned tree(s) to the value as calculated by CAVAT or equivalent.

## **10.5 Tree work and replacement policies**

### **Policy 8**

The Council will only remove trees for sound arboriculture reasons such as:

- Dead, dying or dangerous.
- Proven to be causing significant structural damage.
- When removal is required as part of an agreed tree management programme or an environmental/community improvement project.
- Considered by a Council arboricultural officer to be an inappropriate species for the location.

### **Policy 9**

The Council will undertake replacement planting where Council trees require to be removed. Wherever practicable, at least one tree will be planted for every tree removed. However, the Council will work across services to identify opportunities to plant at a significantly higher rate. Planting shall adopt the concept 'the right tree in the right place' and consideration will be given to a species' eventual size and shape.

### **Policy 10**

Whilst all tree complaints will be given due consideration, the following reasons will not constitute grounds for the significant pruning or removal of trees by the Council:

- Where a tree is considered by a member of the public to be too large and/or unsafe, but a professional assessment has determined this not to be the case.
- Interference with satellite dish or TV reception
- Obstruction of view and/or light
- Excessive leaf fall
- Problems associated with fruit and/or pollen
- Presence of birds and/or insects or mess caused by birds and/or insects
- Healthy mature trees will not be removed to create space to plant new trees.

- A third party is willing to pay for the removal and replacement of a tree
- Causing disruption to pavements and kerbs unless this conflicts with the Council's duty to maintain the network to a reasonable standard.
- Causing disruption to garden paths and walls. In these cases, engineering solutions will first be sought.

## **10.6 Planting policies**

### **Policy 11**

The Council will pursue opportunities for new as well as replacement tree planting, working with local communities and other partners. Planting should prioritise large species trees scaling down to smaller tree species where larger trees are not suitable. The Council will establish a diversity of species to adapt to climate change, contribute towards biodiversity, enhance visual amenity, and mitigate against pests and disease.

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