



Isle of Man
Government

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Agriculture and Lands Directorate

Forestry, Amenity and Lands

TREE PROTECTION POLICY

Department Policy Relating to the Protection of Trees

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Introduction

Parts 1&2 of this document supplement the Island's existing tree protection legislation, the Tree Preservation Act 1993 ('TPA'). In conjunction with the TPA this document describes how the Department of Environment, Food and Agriculture ('The Department'), namely the Agriculture and Lands Directorate (the Directorate), will fulfil its statutory duty. It stipulates how various aspects of the TPA have been interpreted by the Department and how the tree register and applications made under Section 5 will be administered. It does not aim to restate or summarise the legislation but rather to provide further detail in relation to provisions which could be open to interpretation, or that lack detail on how the Department can fulfil its function and responsibilities.

Part 3 of this document explains the Directorate's role as a planning consultee and describes how this role will be fulfilled.

The purpose of this document is to provide increased transparency for the public; to ensure there is consistency and fairness in decision making; to provide the Department's officers and other technical professionals with guidance on how the Department will fulfil its functions; and to ensure that the resources available are used in the most efficient and effective way.

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PART 1: TREE PRESERVATION ACT 1993 - GENERAL CONSIDERATIONS

1.0 Scope

- 1.1** Within the confines of the powers given to it by the TPA and the resources available, the Department will protect trees in the interests of preserving the amenity value they provide for the benefit of the Manx public. The Department's understanding of the term 'amenity' is described in paragraph 2.1 below.

2.0 Interpretation

The following terms and phrases are used in the TPA without being defined. The Department's interpretation of these terms and phrases is provided below.

- 2.1 Amenity** – In this context the Department understands amenity to refer to the benefit which the community derives from the local environment, which includes that arising from visual appearance of the land and the pleasure of its enjoyment.

Note: this restricted definition of amenity means that the Department cannot protect trees solely for their inherent biodiversity value or the ecosystem services (e.g. carbon sequestration, urban cooling, reduced surface water run-off) they provide.

- 2.2 Tree** - The Department considers a 'tree' to be a woody perennial plant, typically (in its natural form, without management as coppice stool or low pollard) having a stem or trunk which can attain a height of 6m or more, and bearing lateral branches at some distance from the ground. Appendix 1 contains a list of species and genera that the Department considers not to be trees.

- 2.3 Fruit Tree** – The Department considers a 'fruit tree' to be a tree cultivated for the specific purpose of producing commonly eaten fruit which is edible without prior processing. For example, this includes species and cultivars which produce edible apples, pears, and plums but does not include other fruit bearing trees commonly grown on the Island, such as hawthorn, blackthorn, or flowering cherry.

- 2.4 Orchard** – The Department considers an 'orchard' to be a piece of enclosed land planted with fruit trees.

- 2.5 Garden** – The Department considers a 'garden' to be a piece of enclosed land adjacent to or associated with a dwelling which is devoted to the cultivation of flowers, fruit, vegetables, trees or lawns.

- 2.6 Recklessly destroys/destroy** – The Department considers 'destroy' to mean that all parts of the tree (above and below ground) will be killed (i.e. caused to die).

- 2.7 For Commercial purposes** – In relation to Section 3(3)(c) of the TPA the Department takes 'for commercial purposes' to mean that the plantation was

planted and maintained for the primary purpose of returning a financial revenue.

2.8 Measurement of trees

The Department applies the measurement conventions described in Section 3(3)(d) of the TPA but appreciates that the following additional guidance may be required for its implementation:

- (a) On sloping ground the measurement shall be made 1.52m above the highest ground level (i.e. on the uphill side).
- (b) Trees with low branching, where the stem union creates a wider girth at 1.52m above ground level than is characteristic of the tree, the tree shall be measured at the narrowest point below the stem union.
- (c) Trees with an irregular swelling that creates a wider girth at 1.52m above ground level than is characteristic of the tree, shall be measured at the narrowest point below the swelling.
- (d) For trees that have multiple stems at 1.52m above ground level, the tree will be considered to be of a licensable size if any one of the stems exceeds 8cm diameter (25cm circumference).
- (e) Trees that have multiple stems originating from the same point at ground-level will be considered to be the same tree (e.g. 1 tree).
- (f) Appendix 2 contains diagrams illustrating the points made above.

2.9 Section 1 of the TPA – tree work undertaken by public authorities

- (a) In relation to Section 1 of the legislation 'public authority' is defined as any Isle of Man Government Department, statutory board, local authority and Manx National Heritage.
- (b) There is a duty placed on all public authorities to have regard to the need to preserve trees in the interests of amenity and to consult with the Department before undertaking any work that could affect the health and longevity of any tree which is a licensable size.
- (c) The Department considers that the duty to consult does not imply that the restrictions of Section 3 (and the defences listed in Section 4) of the TPA do not apply; the intention of section 1 was to allow the Department to approve work outside of the application/licence process.
- (d) The Department does not expect to be consulted on work which would not require a licence (e.g. pruning of a non-registered tree).
- (e) The Department considers it necessary to require that any request for a consultation response from the Department should take the form of an application for licence, as set out in Section 5 of the TPA and Parts 2 and 3 of this policy, and that the Department's consultation response will take the form of a licence (if the proposal is supported) or confirmation in writing (if objections are raised).

2.10 Hedge Laying

Hedge laying is a process of bending and partially cutting through the stems of trees (known as 'pleaching') which have been planted in a line, and then arching

the stems over so that they grow horizontally and are intertwined with other stems. For any tree (not being a registered tree) with a stem diameter exceeding 8cm at 1.5m above ground-level, pleaching cuts will not be considered as cutting down, felling or reckless/intentional damage under Section 3 of the TPA if:

- (a) The stem diameter of the tree(s) being cut is no greater than 150mm at its base; and,
- (b) A section of bark and sapwood sufficient to support the canopy of the tree(s) is left uncut; and,
- (c) The trees being cut are part of an established line of trees which could be feasibly become a laid hedge, and the action is clearly being taken to lay a hedge in a traditional style, which include the use of stakes.

If hedges, or individual trees within hedges, are registered, then no hedge laying may take place without a licence granted by the Department.

3.0 The Tree Register

- 3.1** Where it is expedient to do so, the Department will 'register' individual trees, groups of trees or woodlands which deliver visual amenity value to an area or landscape. To be expedient, trees or woodlands will need to have a high amenity value or be considered to be at risk due to a particular set of circumstances (e.g. if the owner has expressed a desire to remove the tree(s)).
- 3.2** New register entries, amendments to existing register entries and the removal of existing entries from the register shall be supported and approved by at least two officers (with relevant technical knowledge and experience) from within the Directorate.
- 3.3** In assessing amenity value the Department will consider visibility, individual and collective aspects such as size, form, future potential, rarity, cultural value, contribution to landscape or street scene and may also take account of other factors such as importance to nature conservation.
- 3.4** The Department will hold the tree register maps in a digital format consisting of GIS point (single trees) and polygon (groups of trees and woodlands) data.
- 3.5** The tree register will be available for inspection 24 hours a day free of charge to any member of public by visiting www.gov.im/maps. Members of the public will also be welcome to view the register at the Department's headquarters in St Johns, Monday – Friday, 9am – 4pm. Any person wanting confirmation of a tree's registered status shall be either directed to www.gov.im/maps or be asked to put their request in writing.
- 3.6** Where a polygon is drawn on a map, any living tree which lies partly or wholly within the boundary of the polygon will be considered to be a 'registered tree' unless there are specific notes relating to that record which state otherwise.

- 3.7** A living registered tree which then dies (in its entirety, above and below ground) is no longer protected under the TPA.
- 3.8** The Department will not require an application for the removal of dead branches from a living tree.
- 3.9** Fruit trees on land comprised in an orchard or garden shall not be considered as registered; even if they fall within an existing registered polygon.

4.0 Risk Assessment and Duty of Care

- 4.1** In the course of administering the TPA the Department will not carry out tree safety assessments or tree risk assessments. This means that:
 - (a) Where the justification for proposed removal/pruning of a tree is for safety reasons, it will be the applicant's responsibility to provide arboricultural evidence to support the application.
 - (b) In the course of assessing applications any reference to the condition of a tree or trees will not constitute a tree risk assessment.
 - (c) Any Departmental decision about an application (i.e. approval or refusal) does not constitute a tree risk assessment and does not imply that a tree is safe, unsafe or otherwise.
- 4.2** In the course of administering the TPA the Department does not accept liability or duty of care for any tree outside of its ownership. The duty of care (to take reasonable care to avoid acts or omissions that cause a reasonably foreseeable risk of injury to persons or property) remains with the owner of the land or the party who has control over the tree's management.
- 4.3** If an application is submitted to remove or prune a tree on the grounds that the tree is unsafe, is causing an unsafe situation to exist, or is restricting the remedy of an otherwise unrelated unsafe situation, and the tree has sufficient amenity value to warrant it (see paragraph 12.4(a) for further details), the applicant may be asked to provide evidence to support the case for the proposed work e.g. a tree survey undertaken by a suitably qualified and experienced tree specialist or structural survey undertaken by a suitably qualified and experienced structural engineer. The onus will be on the applicant to prove that the proposed works need to be undertaken, rather than on the Department to prove that it doesn't.
- 4.4** The defence listed under Section 4(1) of the TPA allows for work to be undertaken on trees without a licence where it is urgently necessary in the interests of health and safety. The Department will not advise members of the public if the defence applies in a specific case but may provide general guidance to assist in making the decision process. For example, the principles of target and site assessment may be explained to allow a more informed decision to be made about the level of risk that is present. In all cases the individual will be reminded that the only way to be

absolutely sure they are working within the law is to apply under Section 5 of the TPA for a licence using the process defined in parts 2 and 3 of this policy document.

5.0 Woodland Management Agreements

- 5.1** In accordance with section 3(4)(b) of the TPA, the Department will consider approving 'a scheme for the management' of areas of tree cover that require on-going management. These agreements will be known as 'woodland management agreements' and will consist of a management plan which demonstrates that a woodland is being managed sustainably managed (as defined the United Kingdom Forestry Standard). The aim of such agreements is to reduce bureaucracy and encourage proactive woodland management.
- 5.2** In accordance with section 3(4)(b) of the TPA, the Department will not require an application to be submitted if the work is a planned operation which contributes to the objective of an approved woodland management plan being met.
- 5.3** The management plan which forms the basis of a woodland management agreement shall be drafted at the expense of the woodland owner/manager.
- 5.4** The term of any approved woodland management agreement shall be limited to a maximum term of 10 years
- 5.5** A management plan which forms the basis of a woodland management agreement shall contain, as a minimum, all of the following:
- A statement regarding the aim of management (e.g. a vision for the future)
 - SMART objectives
 - A detailed description of the woodland in the landscape
 - Information about the structure, age and species composition of the woodland
 - A description of previous management and its impact
 - An analysis of woodland threats (e.g. pests and diseases, grazing, soil erosion)
 - A system for monitoring and reporting progress against stated objectives

6.0 Data Protection and Freedom of Information

- 6.1** The Department will ensure that all personal data remains confidential, is disclosed only when lawful to do so and is processed in an equitable, open and transparent manner and in compliance with the data protection principles, as set out in the Data Protection Act 2018.

- 6.2** The Department is subject to the Freedom of Information Act 2015 and other obligations under law which require us to act transparently and which grant certain rights of access to the public to information held by us. This means that whilst we will respect the sensitivity of the information you provide, there may be legal requirements which oblige us to disclose the information.
- 6.3** The Department will publish, on a monthly basis, via the government website, a list of licences issued. This data will include the licence reference number, the address and a summary of the approved work.

PART 2: TREE PRESERVATION ACT 1993 - APPLICATIONS FOR LICENCES

7.0 General

- 7.1** Each application will be assessed by a Reporting Officer ('RO'). The RO will complete a standard 'assessment form' and make recommendations on whether the application should be approved/refused, what conditions (if any) are required, and whether a public notice is required. The application and the RO's recommendations will then be reviewed by a Countersigning Officer ('CO'). If the CO agrees with the recommendations of the RO then the application will be processed in accordance with that recommendation.
- 7.2** If the CO disagrees with the RO's recommendation or would like to make significant amendments to the RO's recommendation (for example, changing the number of trees to be approved for removal), the CO will consult a second officer (with relevant technical knowledge) and the application will only be determined if at least two officers agree.
- 7.3** The Department will aim to assess applications or request any additional information required to undertake the assessment within 20 working days (4 weeks). Following the submission of full and adequate information, as requested, the Department will aim to finalise its assessment of the application within 20 working days (4 weeks) Where a public notice is required (see paragraph 11) the Department will require an additional 21 days to allow representations to be made.
- 7.4** The Department does not take responsibility for correctly and precisely identifying the species/cultivar of a tree. It will assess felling applications on the broader merit of the tree(s) in question. In communicating with members of the public the Department recognises the importance of both parties having a clear understanding of which tree(s) is/are referenced. To aid clear communications the use of generic terms such as 'cypress', 'oak' and 'pine' will be used where it is felt that the risk of misunderstanding is low, and where the use of botanical names is unnecessary or would be detrimental to communications.
- 7.5** Subject to paragraph 9.10 below, the term of a licence will be commensurate with the type and extent of the work proposed, the context of the work site and the

amenity value of the trees concerned, but in any case shall not be less than one year or greater than 5 years from the date on which it is granted.

- 7.6** If the applicant fails to undertake the approved works within the licence period, a new application (with a fresh assessment) will be required.
- 7.7** Applications may be made [online](#) (through a link provided on the government website) or by returning a standardised application form. Applications made in any other way will not be accepted – see section 11 (validation) for further detail.
- 7.8** Officers of the Department may assist the applicant to complete the form but content must be written in the applicant's own words.
- 7.9** Applications may be amended after submission but must be done so in writing and by the same person/organisation who submitted the application. The application may not be amended once its assessment is complete (i.e. once countersigned) unless the application fee is paid again in full.

8.0 Fees

- 8.1** An application for the removal of a tree (or trees) will require the relevant fee to be paid. Applications for pruning registered trees are free of charge. Any payable fee covers the processing of the application and does not guarantee that a licence will be granted. If an application is submitted but the Department determines that no licence is required for the work proposed the application fee will not be refunded.
- 8.2** Payment will only be taken once the application has been validated (see section 11 for further detail).
- 8.3** Refunds will only be given if an application is validated in error and the applicant subsequently decides to withdraw the application. Refunds will not be given for the withdrawal of valid applications. .

9.0 Ownership

- 9.1** In accordance with Section 5(1) of the TPA an application must be made *'by a person having such an interest in the land¹ on which the tree stands as enables them, with or without the consent of another², to take the action for which the licence is sought*.

This section of the policy provides information about the Department's interpretation of this provision. Paragraphs 9.2 and 9.7 provide an interpretation of two specific parts of this provision, as indicated above.

- 9.2** ***'Interest in the land'*** is taken to mean that the person applying must effectively exercise a right of ownership over the land on which the tree(s) stand (the land). The Department's application form will require the applicant to confirm whether they are a freehold owner of the land. If the applicant is not a freehold owner of the land they will be asked to provide supplementary notes explaining how their interest in the land meets the requirement of the TPA.
(Note for applicants: see 'Application Guidance Notes' for further guidelines on what will be deemed sufficient interest in the land for an application to be accepted)
- 9.3** The interpretation provided at paragraph 9.2 means that applications may not be submitted in the name of 3rd Parties (e.g. tree surgeons, architects, agents etc.), even if they are acting under a contract and with the permission of the owner.
- 9.4** In addition to answering a direct question about freehold ownership (see paragraph 9.2) the applicant will also be asked to make a general declaration that they have the necessary authority required by the TPA and that the information provided in the application is true and accurate to the best of their knowledge and belief. Where there is no reason to question the applicant's declaration, the RO will not be expected to investigate the matter further.
- 9.5** If, for any reason, the RO suspects that the applicant does not have an interest in the land then the RO will seek written clarification from the applicant.
- 9.6** In a scenario where a 3rd party (e.g. a neighbouring land owner) would like to undertake tree work but no person *'having such an interest in the land'* (e.g. a freehold owner) can be identified or is contactable to reach an agreement, an application for a licence to undertake tree work may be submitted to the Department but this will be considered as an invalid application and no licence will be issued by the Department. Instead, however, if the Department considers that it would have no objection to the proposal on the grounds of its impact to amenity, a 'letter of comfort' may be issued by the Department confirming that no enforcement action will be taken under the TPA in the event that the tree is removed without a licence. Issuing a letter of comfort rather than a licence is viewed by the Department as a last resort. Accordingly, written evidence that all reasonable lines of enquiry to ascertain ownership have been exhausted will be required, including serving notice to all owners of adjoining land by service to the address or by placing a dated laminated A4 card on prominent display on the land or near the land at its nearest point to a public highway for a period not less than 21 days.
- 9.7** ***'With or without the consent of another'*** is taken to mean that if the applicant has an *interest in the land* the provision of Section 5(1) will be deemed to have been met. If there are multiple people who have an *interest in the land* it will be up to the applicant to seek consent from these parties, if so required,

before undertaking the action for which the licence was sought (if the application is approved and a licence issued).

- 9.8** The interpretation provided within paragraphs 9.2 and 9.7 means that the Department will not require an application for a tree on land owned by two people that cohabit to be signed by both individuals.
- 9.9** In issuing a licence the Department will have exercised its functions under the TPA. If, after a licence is issued, there is a third party allegation that either (i) the applicant did not have an *interest in the land* or (ii) the applicant did not seek the *consent of another* before undertaking the approved work, this will not be considered as a matter for enforcement under the TPA; this will be regarded as a civil matter between the complainant and the licensee.
- 9.10** If the licensee ceases to have an *interest in the land* within the licence period then it will not require another person who has an *interest in the land* to submit a separate application under Section 5 of the TPA to undertake the same work, unless the licence was issued subject to conditions, in which case the licence will be deemed to expire at the date the licensee ceases to have an *interest in the land*.

10.0 Interaction with the Town and Country Planning Act 1999 ('TCPA')

- 10.1** Applicants will be asked to declare a) any existing planning applications yet to be determined, or b) any planning applications which, to their knowledge, have been made for the land in the last 5 years. Where there is no reason to question the applicant's declaration, the RO will not be expected to investigate the matter any further.
- 10.2** If the applicant has declared that there is an existing planning application yet to be determined or an existing planning approval issued within the last 5 years, for the land on which the tree(s) stands, the RO will review the submitted/approved plans, the planning officer's report (where available) and, in the case of an existing planning approval, the conditions included on the approval notice to determine if the tree(s) in question were a material consideration in the planning decision. The Planning and Building Control Directorate (PBCD) will be consulted where necessary.
- 10.3** If the applicant has not declared an existing planning application yet to be determined or existing planning approval issued within the last 5 years, but the RO is aware that one exists the same process outlined in paragraph 10.2 above will be followed.
- 10.4** If the Department receives an application under Section 5 of the TPA to remove a tree which is clearly marked for retention on an approved drawing or in supporting information associated with a planning approval, the application shall be refused

if, (a) it appears to the RO that the removal would represent a material change to approved development operations, make it impossible to comply with a condition of the planning approval, or otherwise undermine the planning process AND (b) removal is not justified on grounds of safety. The PBCD will be consulted where necessary. If removal is justified on grounds of safety, the licence will be issued with a covering letter explaining that the removal of this tree may affect the applicant's (or any future title holder's) ability to implement the approved development, a copy of which will be sent to the PBCD.

- 10.5** The defence listed under Section 4(4) of the TPA allows for work to be undertaken on trees without a licence where it is required to facilitate approved development operations. The Department interprets the existence of this defence to mean that a planning approval issued under the TCPA, resulting from an application (i.e. not permitted development), permitting the removal of a tree (or trees), has the same effect as a licence granted by the Department to that effect. If the Department is satisfied that, in a given instance, such a planning approval constitutes "written consent" to the tree work, taking account of the wording of the approval and of the planning application and its accompanying documents, AND if all the 'prior to' conditions applied to an approval have been discharged, then it will not require the person concerned to submit a separate application under Section 5 of the TPA.
- 10.6** If the applicant declares an intention to develop the land in question but has not yet submitted a planning application the RO will continue to assess the application on its own merits. The removal or pruning of trees to facilitate development will not, in itself, be considered sufficient justification for a licence to be issued.

11.0 Validation of applications

- 11.1** All applications for a licence to undertake tree work submitted to the Department under Section 5 of the TPA will go through a validation process before they are accepted and payment of the relevant fee is taken. Payment of the relevant fee by cash (at the counter) will only be possible if an officer of the Directorate is available to validate the application.
- 11.2** For an application to be valid it must:
- (a) Be necessary, as in the circumstances referred to in Section 3 of the TPA.
 - (b) Have been made to the Department via the online application form (<https://www.gov.im/categories/home-and-neighbourhood/tree-protection/application-to-carry-out-work-on-trees/>) or on the standard application form, available from the Department headquarters, St. Johns and the government website.
 - (c) Only include trees in one distinct geographical location.
 - (d) Include all the information required by the form (i.e. all questions answered and all parts completed in full).

- (e) If the applicant is a corporate body then the person submitting the application must provide information about their position in the company and authority to act on behalf of its directors.
- (f) Include a plan showing the location of the tree(s) in relation to nearby identifiable features (e.g. a building, road, field boundary, or watercourse). This does not necessarily require a formal scaled location or site plan but it should be sufficient to identify the tree(s) on the ground.
- (g) The applicant must make some attempt to identify the species or types tree(s) in question. This can be as simple as 'conifer' or 'broadleaf' if specific species are unknown.
- (h) Include a detailed description of the work for which consent is sought, sufficient to allow an officer to assess its visual impact and to ensure that approved work has not been exceeded. For pruning work on registered trees a proposal simply to 'cut back', 'lop' or 'trim' some branches is too vague because it fails to indicate the extent of the works. For further information refer to appendix 4.
- (i) Include, as applicable, appropriate evidence describing any structural damage to property, utilities, or infrastructure or in relation to tree health or safety.
- (j) Include photos of the tree(s) which clearly identify the tree(s) in question.

11.3 For an application including fewer than 30 trees to be validated it must include circumference measurements for each tree included in the application. For circumstances where this is not practicable the applicant must contact the Department for advice prior to submitting the application.

12.0 Officer Assessments

- 12.1** Detailed application assessments, undertaken by officers with arboricultural knowledge and experience, will only be carried out where applications include:
1. Registered trees;
 2. A tree with a stem circumference of more than 900mm measured at 1.5m above ground level;
 3. Any tree located within a built up area ('BUA') or planning conservation area with a stem circumference of more than 600mm measured at 1.5m above ground level;
 4. More than 30 trees with a stem circumference of more than 600mm measured at 1.5m above ground level.

As amended by paragraph 12.2 below, this is illustrated by a decision tree in appendix 3. The designation of an area as a BUA will be guided by the spatial policies of the Isle of Man Strategic Plan 2016. All 'service centres' and 'service villages' referred to in that Plan will be considered by the Department to be BUAs. Settlements designated as 'villages' will be considered on a case by case basis depending on their street scene character and the intensity of development. Boundaries of what the Department considers to be a BUA will be held in the form of polygon data within proprietary Geographical Information System (GIS)

software which will be made available to view by members of the public upon request. The boundaries of 'conservation areas' are maintained by the planning authority and are available to view online at www.gov.im/maps.

- 12.2** Applications solely for the removal of the following species are exceptions to the requirement to undertake detailed assessments, as set out in paragraph 12.1(2) and 12.1(3) above;
- (a) *Fraxinus excelsior* (ash)
 - (b) Any species from a genera belonging to the sub-family *Cupressoideae* (includes all *Thuja*, true cypress, false cypress, hybrid cypress e.g. leylandii, juniper and other cypress-type trees)
- 12.3** Where a detailed assessment is required (as set out in paragraph 12.1), the designated RO will make a recommendation to the CO based on the various advantages and disadvantages of approval/refusal. An assessment will be made on the principle that the higher the amenity value of the tree(s) and the greater the negative impact of the proposed work, the stronger the argument will have to be to justify the approval. In contrast, if the amenity value is low and the impact of the proposed work is low the RO may find it appropriate to grant consent even if there is no arboricultural or silvicultural need for the work.
- 12.4** Where a detailed assessment is required (as set out in paragraph 15.1) the following factors will be considered:
- (a) The RO will assess the visual amenity value of the tree(s) by considering the probable score for each of the attributes used in Helliwell's system of street tree valuation (tree size, useful life expectancy, importance of position in the landscape, presence of other trees, relation to setting and form). For further details on the scoring methodology please refer to Helliwell (2008)⁽¹⁾.
 - (b) The RO will assess the impact of the proposal on the character and appearance of the area and/or street scene.
 - (c) The RO will assess the validity of the applicant's stated reasons for wanting to undertake the proposed work and whether the proposal is a proportionate solution to the concerns raised. The RO may also consider reasons for approval not stated by the applicant, as part of a broader assessment of the merits of the proposed work.
 - (d) The RO will consider the likely impact of the proposed work on neighbouring properties.
 - (e) The RO will consider whether, in a local area, the approval of an application would set a precedent likely to result in similar applications from neighbouring properties or land holders, which would then be difficult to refuse.
 - (f) The RO will consider the outcome of other applications processed in the area within the last 2 years and consider whether the cumulative impact

should affect the outcome of the application or the conditions under which it might be approved.

- (g) The RO will consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions.
- (h) The RO will consider whether any species protected under the Wildlife Act 1990 might be affected by the proposal but the responsibility for compliance with this Act rests with the applicant.
- (i) In the case of requests to prune a registered tree, the RO will consider the potential physiological impacts that the proposed works will have on the tree, whether the damage caused by pruning will cause an unacceptable shortening of the tree's useful life expectancy and how this relates to current best practice recommendations
- (j) For applications relating to woodland, the RO will ensure the proposal accords with good forestry practice as defined by the Forestry Commission (1998)⁽²⁾.
- (k) The Department acknowledges that tree work can impact upon neighbouring properties due to issues such as loss of screening and changes to the local landscape character in the immediate vicinity of works. The RO will consider the likely impact of the proposed work on neighbouring properties.
- (l) The RO will consider any other mitigating circumstances that are relevant.

12.5 The RO will determine the application that is presented and will not recommend a licence be issued which substantively increases the extent or type of work that has been applied for. The RO can, however, grant consent for less work than that applied for.

12.6 Where a basic assessment is required the application will normally be approved provided that the tree in question is not an exceptional example of their species and its removal would not have a significant detrimental impact on the amenities of the area.

13.0 Public Notices

13.1 In accordance with the provision of Section 5(5) of the TPA public notices (published in local newspapers) are only legally required when the action for which a licence is sought would seriously affect the amenities of the area and the Department intends to issue the licence.

13.2 The decision of whether the action for which a licence is sought would seriously affect the amenities of the area remains at the discretion of the Department (refer to paragraph 2.1 for interpretation of 'amenity').

- 13.3** Outside of the circumstances where it is legally required to do so, the Department will not normally issue a public notice prior to issuing a licence to carry out work on trees.

14.0 The use of conditions

- 14.1** In accordance with section 2 of the TPA conditions will only be applied where it is 'expedient to do so in the interests of good forestry, agriculture or in the amenities of the area' and in accordance with section 5(3) of the TPA, a condition must relate to at least one of the following scenarios:

- To secure a replacement tree
- To ensure that pruning is properly carried out to preserve the tree(s)
- To ensure that tree work is properly carried out to preserve other trees in the vicinity.

- 14.2** Other than for basic assessments carried out on applications relating to the removal of (*Fraxinus excelsior*) Ash and (*Cupressus macrocarpa*) Monterey cypress, the use of conditions will only be considered where a detailed application assessment has taken place (see paragraph 15).

- 14.3** In addition to the restricted list of scenarios to which a condition must relate in accordance with the TPA (paragraph 14.1), the RO and CO will apply 4 of the 6 tests included in the UK's planning condition policy (paragraph 206 of UK National Planning Policy framework) as additional guidance. Briefly summarised, these are:

- (a) ***Is the condition necessary?*** i.e. will the proposal have a substantially adverse impact on the local area? For example, you would not expect silvicultural thinning of a woodland, or the removal of a small (<6m tall) ornamental tree in a back garden, to have an adverse impact on the local area.
- (b) ***Is the condition relevant to the work to be permitted?*** For example, if the work for which a licence is sought would have a detrimental impact to the amenities of one area, replanting to mitigate that impact should not take place in a separate geographical location
- (c) ***Is the condition precise?*** The wording of the condition needs to be specific to a particular action or task that must be undertaken by the applicant before, during or after the approved works have taken place.
- (d) ***Is the condition reasonable in all other respects?*** The action(s) the Department will expect the applicant to undertake will be proportionate to the visual amenity impact of the proposed work.

- 14.4** For applications to undertake pruning work on registered trees, the RO will try to ensure that the work is done in accordance with the recommendations of BS3998:2012 (Tree work – recommendations) and apply conditions accordingly. The Department acknowledges, however, that there will be some cases where

pruning beyond the best practice standard can be justified to save the tree (usually with a reduced useful life expectancy due to the ingress of decay, excessive loss of leaf area and other issues associated with excessive pruning) and some instances where it would be better to remove the tree and replant another in its place.

- 14.5** When applying conditions relating to replanting the Department will adhere to the recommendations of sections 5, 6 and 7 of British Standard 8545:2014 (Trees: from nursery to independence in the landscape). This means it will consider the objectives and desired outcomes of planting, the vulnerability of new trees to pests and diseases, the anticipated effects of climate change, existing environmental conditions, and the site constraints.
- 14.6** All replanting conditions will require a replacement tree to be further replaced if it is removed or if it should die, or become seriously damaged or diseased, within a minimum of 3 years of planting.
- 14.7** In accordance with Section 5(4) of the TPA the Department will give the applicant chance to make written representation before a condition is confirmed.

15.0 Documenting decisions and record keeping

- 15.1** The Department acknowledges that it is not practical or necessary for the RO to document every aspect of their assessment for every application. The Department will produce an assessment form to be used by ROs and COs. This will contain a checklist to prompt the RO to consider all the salient points.
- 15.2** Written comments will only be required for aspects of the assessment (see paragraph 12) considered to be important in the determination of the application's outcome.
- 15.3** Each assessment form completed for an application will contain a clear statement setting out the recommendation of the RO (e.g. approval, part approval, refusal etc.).
- 15.4** Applications which result in part approval/refusal will be issued with a covering letter to make it absolutely clear what is being authorised.
- 15.5** All documents and correspondence relating to an application for licence, an entry or amendment to the tree register, or a contravention of the TPA (suspected or confirmed) will be retained (electronically) in accordance with the Directorate's Retention Schedule.

16.0 Decision reviews and appeals

16.1 If an application for a licence is refused or granted subject to conditions, the applicant will be offered the opportunity to submit a written representation, or make an oral representation in person, explaining why they disagree with the Department's decision.

16.2 The applicant's representation, alongside a representation from the Department's Arboricultural Officer, will be considered by a senior officer (Director level) of the Department.

16.3 The final decision shall be made by the senior officer and the applicant will be notified of the decision within 10 days of the representation being received or heard.

⁽¹⁾ Helliwell, D. R. (2008). *Visual Amenity valuation of trees and woodlands*. Arboricultural Association Guidance Note 4.

⁽²⁾ Forestry Commission. (1998). *The UK forestry standard*. Forestry Commission, Edinburgh.

PART 3 – AGRICULTURE AND LANDS DIRECTORATE’S ROLE AS A PLANNING CONSULTEE

- 17.** The Agriculture and Lands Directorate (The Directorate) will review planning applications and provide comments to the Planning and Building Control Directorate (PBCD) with the aim of:
- (a) preventing the removal of existing trees and woodlands of merit*
 - (b) preventing future conflict between the proposed development and retained trees and woodlands in the future
 - (c) protecting retained trees and woodlands from damage during the implementation of the development

*merit includes, but is not limited to, visual amenity value

Note: It is not the Directorate’s role to weigh up the merits of the proposed development against approved planning policy – this is the job of the PBCD.

Note: it is not the Directorate’s aim to ensure that the proposed development is appropriately landscaped, or that adequate green infrastructure is included in the proposals.

- 18.** In respect of the 3 aims outlined above, it is the applicant’s (or appointed agent’s) responsibility to submit sufficient arboricultural information and evidence to support their application; the planning application should present a solid case as to why the Directorate shouldn’t raise concerns/object; it is not the Department’s responsibility to prove that the proposed development conflicts with the aims outlined above.
- 19.** Where existing trees and woodlands of merit will be affected by the proposed development, it is the applicant’s (or appointed agent’s) responsibility to present a case to the PBCD for approving the application in spite of arboricultural impact (e.g. by showing how planning policies which support the proposed development should be given more weight than policies which provide protection of existing trees and woodlands of merit).
- 20.** The Directorate does not have the resources to review every planning application that is submitted. The Directorate will review planning applications when;
- (a) they are notified by PBCD that a planning application has been submitted which involves the removal of trees, the pruning of registered trees or development in close proximity to trees; or,
 - (b) they are notified by a third party (e.g. member of public, third sector environmental body or local authority) of a planning application which may have an impact on trees; or,
 - (c) An officer of the Department becomes aware of a planning application which may have an impact on trees

- 21.** The Directorate's officers may, free of charge, provide pre-application advice to those who request it in writing. The scope of this advice is limited to the aims listed in paragraph 17. The extent of the advice given will be limited to ensuring that applicants/agents understand the Directorate's policies and the standard of arboricultural information that will be expected to support the proposed development.
- 22.** The Directorate's officers will base their assessment of the development on the information that is available on the online portal. Any information that is provided directly to officers by applicants or agents but isn't available online will be disregarded.
- 23.** The Directorate will not submit comments to the PBCD when they have no concerns or objections to raise. When the Directorate reviews a planning application the possible outcomes will therefore be either;
 - (a) No submission is made to the PBCD
 - (b) A submission is made on a point of clarification or to request additional information
 - (c) A submission is made highlighting areas of concern and, if possible, how these might be addressed
 - (d) A submission is made setting out the Directorate's objection(s) to the application
- 24.** The published British Standard, *Trees in Relation to Design, Demolition and Construction – Recommendations* (BS5837:2012) is the leading industry best practice standard, but the Directorate's officers may also refer to a wide range of other publications as it sees fit according to the specific circumstances of the proposed development. A list of publications commonly referred to (not exhaustive) is provided in appendix 5.
- 25.** The Directorate will normally object to planning applications if any of the following is true:
 - (a) The proposed development includes the removal of any tree(s) worthy of a category A or category B classification, as defined by BS5837:2012.
 - (b) The proposed development includes the removal of more than 50% of existing tree canopy cover from the site.
 - (c) The proposed development includes the removal of any tree(s) worthy of a category C classification, as defined by BS5837:2012, without sufficient mitigation.
 - (d) The application includes insufficient information to properly judge the arboricultural impact of the proposed development
 - (e) The application does not show how the proposed development could be implemented without having a detrimental impact on the health and longevity of adjacent retained trees, and does not show how this impact will be mitigated.
 - (f) The proposed development is likely to lead to significant future pressure to remove or prune trees, either by an application made under the Tree Preservation Act 1993 and/or by complaints made under the Trees and High Hedges Act 2005*.

(g) The proposed development includes the removal of a tree, group of trees or woodland which is registered under Section 2 of the Tree Preservation Act 1993.

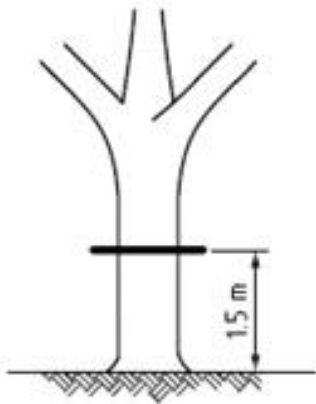
*Note: The Department does not administer the Trees and High Hedges Act 2005 but may act as a consultee to the public body (usually the local authority) dealing with the complaint.

- 26.** The Directorate can also object to a planning application for any other reason its sees fit in the interests of preserving and protecting existing trees and woodland or merit, but will always provide a full explanation of the justification for objecting.
- 27.** In exceptional circumstances the Directorate may not object to a planning application even if any of the circumstances described in paragraph 24 are true, but will always provide a full explanation of the justification for not objecting, if this is the case.
- 28.** If the Directorate's concerns do not warrant an objection to the planning application, a recommendation will be provided to the PBCD on how these concerns could be addressed, either through the submission of additional information and/or amended plans, or through the use of conditions.
- 29.** The Directorate recognises that in terms of the relevant planning policies available at the time the application is determined, a proposed development may be acceptable despite its potential impact on existing trees and woodlands of merit. If the Directorate submits an objection to a planning application, it will consider the possibility that the application may be approved and make recommendations to the PBCD on how the impact to existing trees and woodland of merit can be minimised (e.g. by the use of conditions).
- 30.** The Directorate will also act as consultees on information submitted to discharge conditions relating to tree protection or mitigation for tree removal. The officer's response will include a clear statement recommending whether, in their professional opinion, the information submitted is sufficient to discharge the relevant condition or not. Where the recommendation is not to discharge the condition, guidance will be given to the PBCD on how the applicant (or appointed agent) could address the concerns.
- 31.** Officers of the Directorate will attend planning committee meetings and planning appeals at the request of the PBCD.

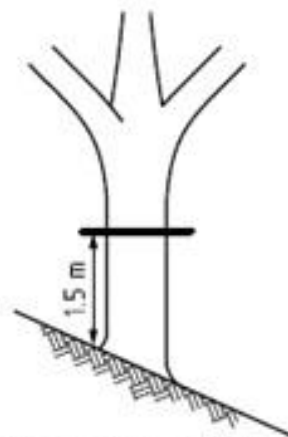
Appendix 1. A list of species and genera the Department considers not to be 'trees'

Botanical Name	Common Name
<i>Buxus sp.</i>	Box species
<i>Camellia sp.</i>	Camellia species
<i>Cornus sp.</i>	Dogwood species
<i>Crinodendron hookerianum</i>	Chilean lantern tree
<i>Cotoneaster sp.</i>	Cotoneaster species
<i>Escallonia sp.</i>	Escallonia species
<i>Eucryphia sp.</i>	Eucryphia species
<i>Fatsia japonica</i>	Paper plant
<i>Griselinia sp.</i>	Griselinia species.
<i>Hamamelis sp.</i>	Witch-hazel species
<i>Laurus nobilis</i>	Bay tree
<i>Olearia macrodonta</i>	New Zealand holly
<i>Olearia traversii</i>	Daisy tree
<i>Osmanthus sp.</i>	Osmanthus species
<i>Photinia sp.</i>	Photinia species (e.g. red robin)
<i>Pittosporum sp.</i>	Pittosporum species
<i>Prunus laurocerasus</i>	Cherry laurel
<i>Prunus lusticana</i>	Portugal laurel
<i>Rhododendron sp.</i>	Rhododendron species
<i>Rosa sp.</i>	Rose species
<i>Salix aurita</i>	Eared willow
<i>Salix repens</i>	Creeping willow
<i>Sambucus sp.</i>	Elder species
<i>Syringa vulgaris</i>	Lilac species

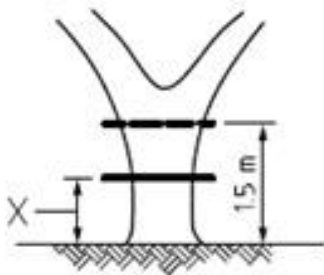
Appendix 2. Measurement conventions for trees. In these diagrams the standard measurement height (1.52m) has been rounded down to 1.5m.



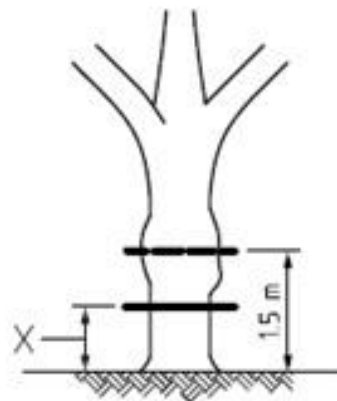
a) standard measurement



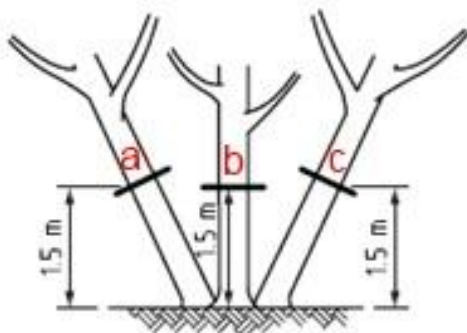
b) measurement taken on sloping ground



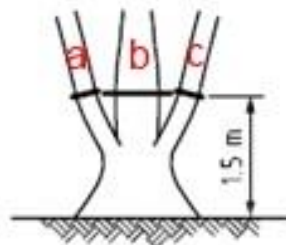
c) measurement of tree with low branching (X = the height with the narrowest diameter below the union)



d) measurement of tree with irregular swelling (X = the height with the narrowest diameter below the swelling)

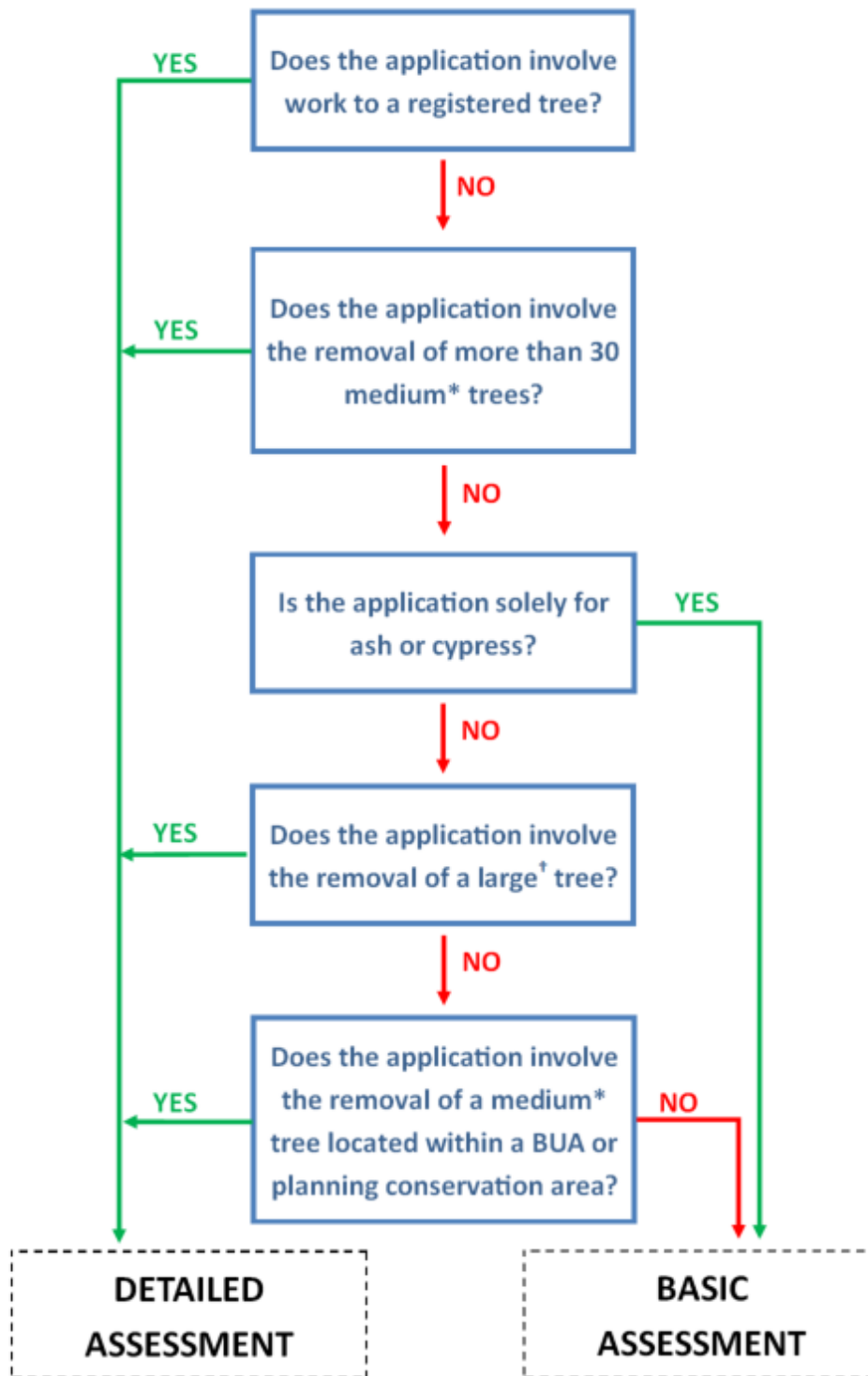


OR



e) measurement of trees with multiple stems. Take a measurement from the stem with the largest diameter.

Appendix 3. Decision tree for the type of application assessment to be used.







*Medium tree = stem greater than 60cm circumference (19cm diameter) measured at 1.5m above ground level

†Large tree = stem greater than 90cm circumference (28.5cm diameter) measured at 1.5m above ground level

BUA = Built Up Area, as defined by paragraph 16.1

Appendix 4. Describing a proposal to undertake pruning work on registered trees.

Common tree work operations

	<p>General information - The common operations described and simply illustrated here show some of your options.</p> <p>An arborist should be able to help in defining the work that will be appropriate for the tree(s) and in line with British Standard 3998 - <i>Recommendations for Tree Work</i>.</p> <ul style="list-style-type: none"> • Please note that the entire branch system is known as the 'crown'. • LPA approval is not required to remove dead branches.
	<p>Crown Thinning - This reduces the density of the tree's crown without changing the overall shape and size of the tree. Thinning reduces the amount of foliage and allows more light through the canopy or crown.</p> <p>The amount of thinning proposed should be specified as a percentage (%) of the leaf area (usually no more than 30%).</p> <ul style="list-style-type: none"> • Useful for letting more light into gardens and windows
	<p>Crown Lifting - This means removing lower branches to increase the clearance between the ground and the crown.</p> <p>Identify the branches you wish to remove, or specify a height above ground level to which you wish to "lift" the crown.</p> <ul style="list-style-type: none"> • Useful for allowing more light into gardens • Prevents low branches obstructing paths, drives etc.
	<p>Crown Reduction - The tree crown is reduced by shortening branches, and so changes the overall size and shape of the tree. Reductions are usually carried out all round the outer parts of the crown to maintain a balanced shape, but seldom should it include cutting through the main stem.</p> <p>The amount of reduction proposed should be stated in terms of the intended height and spread of the tree after pruning (rather than what percentage (%) of the overall crown is to be removed).</p> <ul style="list-style-type: none"> • Partial reduction may be useful for preventing branches contacting buildings, roofs and guttering

Appendix 5.

A list of publications the Agriculture & Lands Directorate commonly reference when making submissions to the Planning and Building Control Directorate in relation to proposed developments.

Please note that this list is not exhaustive; the Directorate's officers may also refer to wide range of other publications as it sees fit according to the specific circumstances of the proposed development.

Visual Amenity Valuation of Trees and Woodlands: The Helliwell System (Guidance Note 4), The Arboricultural Association (200?)

The Use of Cellular Confinement Systems Near Trees: A Guide to Good Practice (Guidance Note 12), The Arboricultural Association (200?)

BS5837:2012, *Trees in Relation to Design, Demolition and Construction - Recommendations*

BS8545:2014, *Trees: from nursery to independence in the landscape - Recommendations*

BS3998:2010, *Tree Work - Recommendations*

Capital Asset Value for Amenity Trees, London Tree Officers Association (2020)

Trees, Planning and Development: A Guide for Delivery, Trees and Design Action Group (2021)

Tree Species Selection for Green Infrastructure: A Guide for Specifiers, Trees and Design Action Group (2018)

Trees in Hard Landscapes: A Guide for Delivery, Trees and Design Action Group (2014)

Trees in the Townscape: A Guide for Decision Makers, Trees and Design Action Group (2012)

Surface Materials Around Trees in Hard Landscapes, London Tree Officers Association (2017)

Ancient Tree Guide 3: Trees and Development, The Woodland Trust (2011)

Planning For Ancient Woodland: Planners' Manual for Ancient Woodland and Veteran Trees, The Woodland Trust (2019)

Residential Developments and Trees: A guide for planners and developers, The Woodland Trust (2019)