



Supplementary Planning Guidance Note

No.04 Trees and Development

Adopted by Flintshire
County Council on 17th
January 2017



Purpose

It is Flintshire County Council's intention to prepare and keep up to date a series of Supplementary Planning Guidance (SPG) Notes which will provide detailed guidance on a range of development issues and topics. The purposes of these Notes are:

- To assist the public and their agents in preparing planning proposals and to guide them in discussions with officers prior to the submission of planning applications,
- To guide officers in handling, and officers and councillors in deciding, planning applications, and
- To assist Inspectors in the determination of appeals

The overall aim is to improve the quality of new development and facilitate a consistent and transparent approach to decision making.

Planning policies: the Flintshire context

The Development Plan

Under planning legislation, the planning policies for each area should be set out formally in the Development Plan. Flintshire County Council, as the Local Planning Authority (LPA), has a legal duty to prepare and keep up to date a development plan for the County, and the Flintshire Unitary Development Plan was adopted in 2011. The UDP provides broad policies together with allocations of land for all the main uses such as housing, employment and retailing, and will help to shape the future of Flintshire in a physical and environmental sense as well as influencing it in economic and social terms. The Plan therefore seeks:

- To help the Council make rational and consistent decisions on planning applications by providing a policy framework consistent with national policy and
- To guide development to appropriate locations over the period up to 2015.

The need for Supplementary Planning Guidance

Despite the Plan containing policies with which the Council can make consistent and transparent decisions on development proposals, it cannot in itself give all the detailed advice needed by officers and prospective applicants to guide proposals at the local level, such as house extensions or conversions of agricultural buildings. The Council's intention is to prepare a range of Supplementary Planning Guidance notes (SPG) to support the UDP by providing more detailed guidance on a range of topics and issues to help the interpretation and implementation of the policies and proposals in the UDP. The review of the Local Planning Guidance Notes will be undertaken on a phased basis and details of the available SPG's can be found on the Council's website. Where there is a need to refer to another SPG this will be clearly referenced. These SPG Notes are freely available from Planning Services, Directorate of Environment, County Hall, Mold, Flintshire CH7 6NF (telephone 01352 703228), at the Planning Services reception at County Hall and can be downloaded from the Planning Web pages www.flintshire.gov.uk/planning

The status of Supplementary Planning Guidance

Supplementary planning guidance can be taken into account as a material consideration in the decision making process. The National Assembly will give substantial weight to SPG which derives out of and is consistent with the development plan. In accordance with National Assembly advice the Council's suite of SPG's has been the subject of public consultation and Council resolution. The draft of this SPG was approved for public consultation on 26.07.13 (Council Minute no.17). The SPG was the subject of a public consultation exercise between 18.12.15 and 12.12.16. The 2 comments submitted to the Council have been taken into account and where appropriate amendments have been incorporated into this final draft which was approved by the Council on 17.07.17 (Council Minute no.8) for use as a material consideration in determining planning applications and appeals. A summary of the representations and the Council's response is set out in Appendix 3.

This document should therefore be afforded considerable weight as a material planning consideration.

No.04 Trees and Development

The intention of this guidance note is to promote the retention of trees, highlight their importance in the environment and to set out the approach that the Council will take when dealing with proposals that affect trees on development sites. This note constitutes a material consideration in the determination of relevant planning applications.

1 - Background

1.1 - Trees are an integral component of Flintshire's landscapes and make a valuable contribution to the quality of both rural and urban settings. There is a general appreciation of trees by the public and a desire that they should be retained wherever possible. They provide visual amenity, indicate the changes of the seasons, support wildlife, absorb pollution and give a sense of place. The majority of trees have a lifespan in excess of one hundred years with many species capable of living for several hundred years. Due to their longevity trees outlast many changes in the world around them and are a bridge between the past and our future. Mature trees cannot be replaced in the short or medium term and therefore need to be protected where they occur. Development can be a major threat to mature trees and must therefore be carefully planned to safeguard them from damage and also to preserve their setting.

1.2 - The importance of trees has long been recognised within planning legislation, with powers granted to local planning authorities (LPAs) like Flintshire County Council to protect selected trees by making tree preservation orders. Most trees within conservation areas are also protected, and the Council can impose conditions on planning consents to safeguard trees and hedgerows.

1.3 - This Note also gives advice on hedgerows in the context of sites which may be affected by development.

2 - Policy

2.1 - "Planning Policy Wales", 2016 (paragraph 5.2.9) confirms the position from the Welsh Government's (WG) viewpoint. "Trees, woodlands and hedgerows are of great importance, both as wildlife habitats and in terms of their contribution to landscape character and beauty... (paragraph 5.2.10) Local planning authorities should, as appropriate, make full use of their powers to protect and plant trees to maintain and improve the appearance of the countryside and built up areas." Both this document and WG's Technical Advice Note 12: Design emphasise the duty of LPAs to consider the conservation and enhancement of biodiversity - or biological diversity - in their decision making processes. Trees, woodlands and hedgerows are important in this context both as being species themselves and as wildlife habitats.

2.2 - The Council's Unitary Development Plan (UDP) aims to retain, protect, enhance the quality and increase the level of tree, woodland and hedgerow cover through Policies TWH1 Development Affecting Trees and Woodlands, TWH2 Protection of Hedgerows, and TWH3 Woodland Planting and Management. These policies are reproduced in Appendix 1. In addition, the Council's Biodiversity Action Plan "Creating Space For Wildlife" (2002) is a significant cross reference, and can be accessed via the internet at www.flintshire.gov.uk or the Biodiversity Officer in Planning Services, County Hall, Mold (telephone 01352 703263).

3 - Taking trees into account

3.1 - Trees should be considered an integral part of the planning and design process. As a first step in planning a development, developers must ensure that the application site is accurately surveyed and described, and obtain a tree report before drawing up any plans.

3.2 - The information obtained at this early stage should influence the extent and nature of the development to achieve a well designed layout that is integrated around the trees to be retained. The LPA will expect large healthy trees to be retained and the emphasis should be on retaining smaller trees in healthy condition. The survey, together with any arboricultural impact assessment, should be submitted as part of the application to demonstrate that the trees and other vegetation on the site have been considered, and to show that where removal is proposed it is demonstrably the only viable option. This will enable the Council to assess the reasoning behind a particular layout. Pre-application discussions with the Council's Forestry Officer (in the Environment and Conservation Section of Planning Services at County Hall, Mold, telephone 01352 703264) are encouraged as this can prevent delays once the application has been submitted.

3.3 - Development that affects the long term viability of a woodland will not be acceptable. Where development adjacent to a woodland is considered acceptable a suitable buffer zone between the edge of the woodland and the development will be required.

3.4 - Applications for small scale development such as householder applications will not usually require a full tree survey. Nevertheless the site plan should accurately indicate the trees and their crown spreads within the vicinity of development. In addition the species of each tree and whether it is to be removed or retained as part of the development plan should also be indicated.

3.5 - Large applications for development will require a more comprehensive tree survey in accordance with the British Standard, Trees in Relation to design, demolition and construction - Recommendations BS 5837 (2012). The information contained in the following section is a summary of guidance contained in the British Standard.

4 - Surveying for trees

Land surveys

4.1 - As an initial stage in the development process a land survey should be undertaken which identifies all relevant existing features such as watercourses, ponds, ditches, active services, roads and drives in addition to the vegetation. The position of the trees should be accurately plotted on the survey plan and the crown spreads accurately shown. The crowns of trees are rarely perfect circles, and will usually extend further in one direction than others and this should be reflected on the survey plan. Trees on neighbouring land that may be affected by the development should also be included. In most cases all trees over 75mm in diameter when measured 1.5m above ground level should be surveyed. Where woodland adjoins the site boundary, the crown spread of the woodland edge should be shown. Hedgerows should be plotted, and some shrubs may be of sufficient interest to merit plotting because they provide a valuable wildlife habitat.

Tree surveys

4.2 - The tree survey should provide information in table form about the trees, shrubs and hedgerows referred to on the survey plan, to provide the basis for deciding which trees should be retained. The tree survey should be completed by a person experienced in arboriculture and include information about each tree, shrub or hedgerow included on the land survey.

4.3 - The British Standard includes a colour-coded system that can be used to indicate each tree's priority for retention on the survey plan.

4.4 - Trees should be categorised according to the following criteria:

- Category A – Trees of high quality and value
- Category B – Trees of moderate quality and value
- Category C – Trees of low quality and value
- Category R Trees that should be removed for arboricultural reasons



4.5 - The trees survey should be used as a supporting document to justify a particular layout and the Council will assess the adequacy of the tree survey as part of the planning application process. The trees will be regarded as a material consideration in the determination of any application for development.

Layout and design

4.6 - The survey information should be used to prepare a Tree Constraints Plan (TCP) which identifies the constraints imposed by the trees and hedges on the site. The TCP will take into account the need to safeguard tree roots (see below) as well as the limitation imposed by the current and future potential growth of the canopies. Where trees are situated close to a proposed structure that is sensitive to shading (e.g. dwelling or other inhabited building) the ultimate height category should be shown on the TCP along with the shadow pattern. This is depicted by a segment with a radius from the centre of the stem equal to the height of the tree drawn from the due North West to due East.

Root protection Area

4.7 - If a tree is to remain an enduring feature on a development site it is imperative that its roots are safeguarded together with the surrounding soil. The British Standards includes a formula for calculating the Root Protection Area around trees and should be used as a basis for calculating the area around a tree which must remain undisturbed unless the works have been agreed by an arboriculturist.

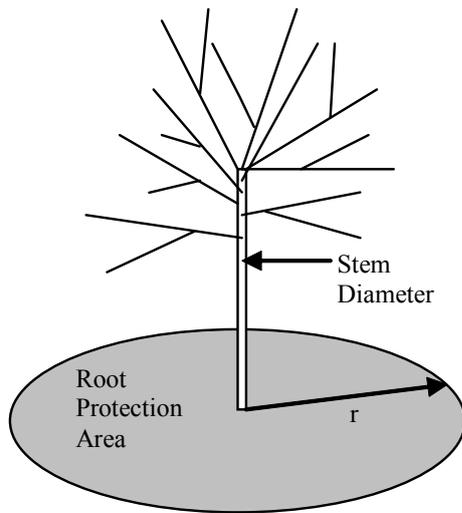
4.8 - It is critical that the above guidance is followed along with any additional advice provided by an arboriculturist. Tree root damage is the most frequent course of harm to trees on development sites and can be caused in a variety of ways. Lowering soil levels and even scraping the ground to remove a thin layer of soil together with the non woody vegetation, will result in damage to roots. Raising soil levels or compacting the ground will reduce the amount of oxygen in the soil that is required for root growth and survival. Chemical spills such as oil, petrol, diesel and cement will also damage roots. Where roots have been killed or severed the vigour of the tree is reduced. Significant root damage will result in the crown dying back and may not become fully apparent until years after the development has been completed. If the damage to roots is particularly severe the tree may become unstable.

4.9 - Heat from fires can also cause damage to trees by killing bark on the buttress, trunk, branches and roots. Lesions of dead bark caused by heat do not become evident one or two growing seasons following the damage.

Calculating the Root Protection Area

Number of stems	Calculation
Single stem tree	$RPA (m^2) = \left[\frac{\text{Stem diameter (mm) @ 1.5 m x 12}}{1000} \right]^2 \times 3.142$
For trees with two to five stems	$RPA (m^2) = \sqrt{(\text{stem diameter 1})^2 + (\text{stem diameter 2})^2 \dots + (\text{stem diameter 5})^2} \times 3.142$
For trees with more than five stems	$RPA (m^2) = \sqrt{(\text{mean stem diameter})^2 \times \text{number of stems}}$

To give an idea of the size of the area needed to protect the roots of a single stemmed tree when using this formula see the diagram and table below.



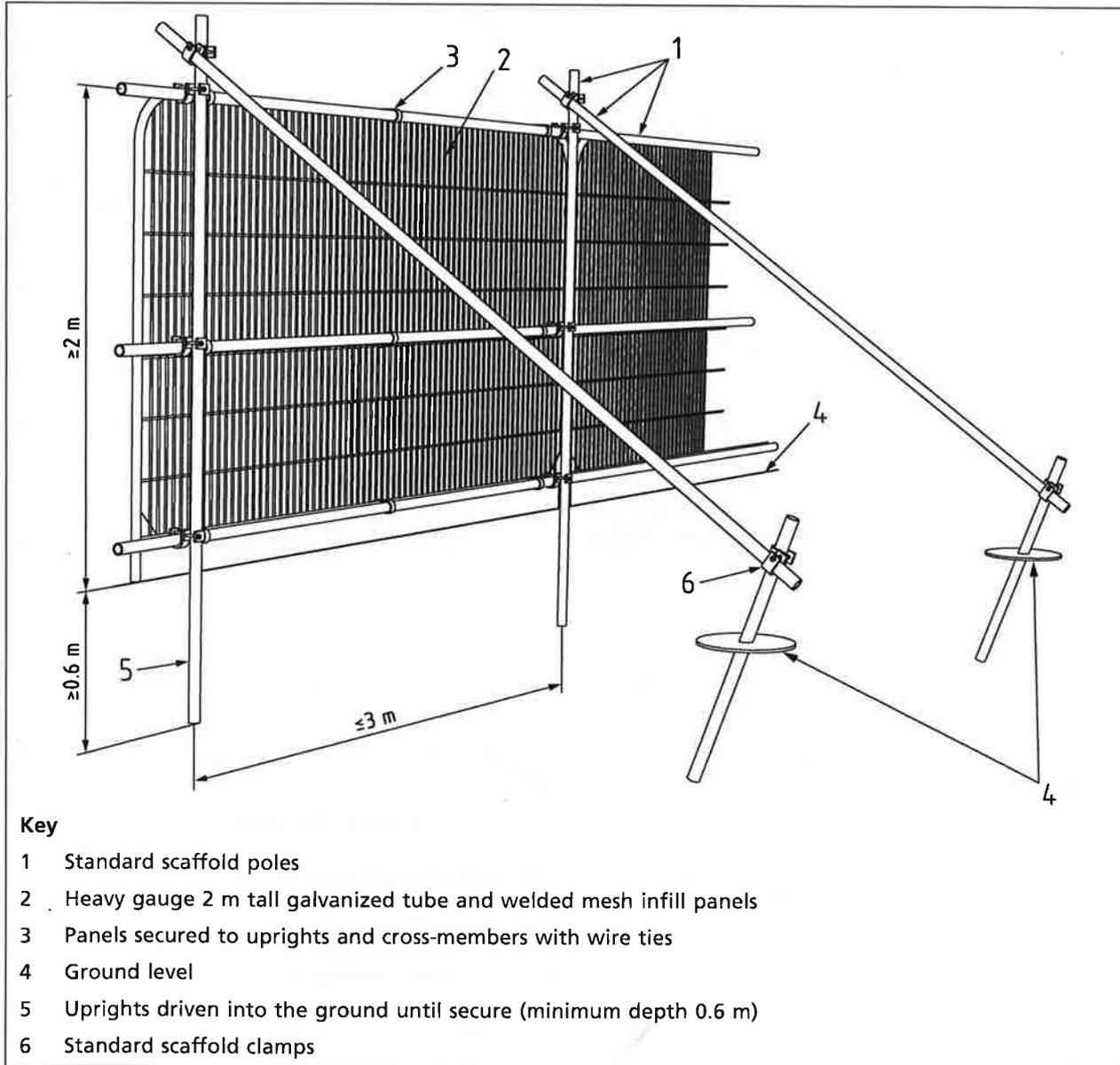
The same principles apply to multi stemmed trees. See previous table (Calculating the Root Protection Area).

Stem diameter at 1.5 m above ground level	Root protection Area (m ²)	Radius from the base of the tree
300mm	40m ²	3.6m
400mm	72m ²	4.8m
600mm	163m ²	7.2m
800mm	290m ²	9.6m
1000mm	452m ²	12.0m

Physical protection of trees from development

4.10 - It is critical that retained trees are physically safeguarded during development to avoid harm to the roots, trunk and canopy. The most effective way of ensuring the protection of trees on development sites is the erection of protective fencing in a position which encloses the Root Protection Area prior to any work commencing on site and which stays in position until the development is completed. The fencing demarcates the Root Protection Area around the trees where development works are prohibited unless they are specifically designed to safeguard the trees.

Figure 2 Default specification for protective barrier



Specification of Protective Barrier from British Standard

4.11 - Planning conditions will be imposed to ensure protective fencing is erected and maintained for the duration of development. Weldmesh panels on rubber feet are not acceptable as they are easily moved and are not resistant to impact.

Tree Protection Plan

4.12 - On sites where there are many trees, the Council may require the submission of a specific Tree Protection Plan (TPP) which indicates the trees that are to be removed and those which are to be protected and retained. The TPP should show the precise position of protective barriers and any other measures to safeguard the trees (e.g. ground protection). Where works within the root protection are proposed, the Council will usually require an Arboricultural Method Statement which details how the works are going to be implemented without damaging the trees.

Proximity of Trees to Development Sites

4.13 - Adequate separation distances must always be provided between trees and development to ensure that trees are not damaged or come under long term threat of removal. When considering the distances between trees and development the Council will have particular regard to the proposed juxtaposition between them. Inadequate consideration of a tree's setting and its physical nature combined with poor consideration of the occupants' amenities often result in conflict.

4.14 - Welsh Office Circular 64/78, Trees and Forestry (para. 76), which is still current, advises: "Layouts may require careful adjustment to prevent trees which are to remain from causing unreasonable inconvenience to future occupiers, leading inevitably to a request for consent to fell".

4.15 - When determining applications for development, therefore, the Council will pay specific attention to the guidance contained in Section 6.3 of the British Standard, Trees in Relation to design, demolition and construction - Recommendations BS 5837 (2012).

4.16 - This section outlines the various factors which must be considered when assessing development adjacent to trees. Adequate space for future growth, the proximity of a tree's crown to windows, shading, safety concerns and characteristics of a tree to cause complaints (e.g. leaves blocking gutters) all need to be considered. This is particularly important where residential development is proposed. The design phase should be a natural progression from the survey phase and will consider the other aspects of development such as access, visibility splays, positioning of underground and over ground services.

Landscaping

4.17 - Landscaping is an integral part of the overall development process and should not be a minor consideration at the end of the construction phase. Early discussions with the Council regarding landscaping should take place on large or difficult sites. Careful landscaping can considerably enhance the appearance of a development and the surrounding area.

4.18 - The Welsh Office Circular 64/78, Trees and Forestry (para70) states "The impact of new building development is generally enhanced (or mitigated) where adequate landscaping proposals are implemented and this aspect should be given due consideration when applications for planning permission are submitted." Planning conditions will be imposed to ensure the landscaping of developments is undertaken. (See LPG Note 3 Landscaping for further advice.)

Legal protection

4.19 - Trees can be protected by tree preservation orders or by being located inside a conservation area and anyone proposing to carry out works to such trees (e.g. felling and pruning) or works that may affect them (e.g. excavations and earth moving) should ensure that there are no restrictions prohibiting the work from proceeding. In addition to these planning controls, Natural Resources Wales administers controls under the Forestry Act 1967 which in effect restrict the number of trees which can be felled without a licence.

Substantial penalties can be incurred for contravention of any of these forms of legal protection.

Tree Preservation Orders (TPOs)

4.20 - Under the Town and Country Planning Act 1990 the Council has powers to protect trees and

woodlands that afford significant amenity value by making tree preservation orders. There are several hundred TPOs in Flintshire which may cover anything from a single tree to several woodlands, groups of trees and individual trees scattered over a wide area. Most frequently TPOs are made to protect trees on land which is likely to be developed. Before any development commences, owners or applicants must check, with the Council, whether any tree affected by the development is covered by a T.P.O. In a situation where branches of a T.P.O tree overhang onto a neighbouring property, owners of that property have the right to remove any overhanging branches but they will still need to get TPO consent from the Council.

4.21 - A TPO prohibits the lopping, topping, felling, damage or destruction of a tree, subject to certain exemptions, without the Council's consent. If you are proposing to carry out work to a tree subject to a TPO, such as pruning or felling, or as part of an amendment to a development, you should seek advice from the Council's Forestry Officer or the Development Control Section, both in Planning Services at County Hall, Mold. General advice is also available on the Planning Services website.

Conservation areas

4.22 - Flintshire has 32 conservation areas, which are mostly located around the oldest parts of towns and villages. (See LPG Note 7 Conservation Areas for a list, or check with Planning Services.) The Town and Country Planning Act 1990 requires you to give the Council six weeks notice if you are proposing to carry out works - lopping, topping or felling – within a conservation area. This period gives the Council the opportunity to assess the trees and the effect that the proposal will have on them. If you do not hear from the Council within six weeks of the date they were notified you can presume the Council have no objection to the work being undertaken. The work must be undertaken in accordance with your notification and carried out within two years of the date of submission. Advice about conservation areas as regards trees is available on the Planning Services website or from the Council's Forestry Officer.

Penalties

4.23 - Ignorance of TPOs or conservation areas cannot be relied upon as a defence in court, and developers will be expected to take seriously their responsibilities for supervising what happens on site. Unauthorised work such as pruning and felling, or harm resulting from inadequate measures to protect trees, entails the risk of prosecution, a substantial fine and the requirement to replant. The Council, in accordance with The Police and Criminal Evidence Act 1984, has set up procedures for the formal investigation of TPO and conservation area contraventions. The adoption of these procedures has led to successful prosecutions where significant fines have been imposed by the Courts.

Planning conditions

4.24 - Trees may be protected by planning conditions attached to planning consents, which are legally enforceable documents. Planning conditions can be specifically worded to require special measures to safeguard trees, for example hand digging, or erection of fencing. An application to remove or vary any condition must be made to the Council.

Felling licences

4.25 - Where no TPO or conservation area exists it will still be necessary to obtain a felling licence when the volume of timber to be felled or removed as part of site clearance exceeds certain amounts. Felling licences are administered by Natural Resources Wales under the Forestry Act 1967. Their base is:

- Natural Resources Wales, Tŷ Cambria, 29 Newport Road, Cardiff. CF24 0TP (Telephone 0300 065 3000) Email: enquiries@naturalresourceswales.gov.uk

5 - Appendix 1: Related Topics and Information

Hedgerows

5.1 - The native hedgerows found throughout much of Flintshire are an important landscape and environmental asset. They are also of historical significance with many dating back to the first Enclosure Acts in the 1830's. Unfortunately, many were removed between 1945 and 1997, and many of the remainder are becoming degraded, resulting in a loss of biodiversity and local distinctiveness.

5.2 - The Hedgerow Regulations 1997 prohibit the removal of hedgerows without the Council's consent. Those who do so can be prosecuted. It is therefore advisable to check the position with the Council's Ecologist to find out whether a notification to the Council is needed. No fee is payable. Once a notification has been made, the Council has six weeks to assess the hedge. If the hedge is considered to be important a Hedgerow Retention Notice will be made, stopping its removal but subject to an appeal process.

5.3 - It is unnecessary to seek the Council's consent to carry out hedge trimming, hedgelaying or coppicing although a planning condition attached to a consent for development might prevent you from undertaking these activities without the Council's agreement.

High Hedges

5.4 - Relevant to householders, the WG has introduced regulations via the Anti Social Behaviour Act 2003 to restrict the height of domestic hedges. The Council's Planning Enforcement Service can advise further on this aspect, and further information is given in LPG Note 3 Landscaping.

Woodlands

5.5 - During the 20th century Flintshire's woodlands became less important commercially and also generally neglected. Timber values and biodiversity have therefore diminished. The Council now works closely with Natural Resources Wales to ensure that existing woodlands are safeguarded and to encourage new planting in harmony with the countryside.

5.6 - Coed Cymru is a partnership supported by the Council which assists landowners in the planting and sustainable management of small woodlands to benefit the rural economy and biodiversity. The Council's Coed Cymru Officer (telephone 01352 703261) will offer advice.

Ecology

5.7 - Trees provide habitat for a wide variety of flora and fauna such as badgers, bats, birds, beetles, lichen and bluebells which can be subject to a separate legal protection. It is important that any person sanctioning tree felling and clearance of land is aware of these requirements and where necessary obtains consent from the relevant authority.

Choosing a Tree Contractor

5. 8 - It is important to ensure that any tree work is undertaken properly. Many companies offer tree pruning and felling as part of their services, but look for businesses which have comprehensive insurance (to cover public liability, professional indemnity and employer's liability), can operate safely, give good advice and be capable of working to a high standard. The contractor should be readily verifiable with the company name and address on their stationery, as opposed to merely having a mobile phone number. The main tree care organisations are:

- The Arboricultural Association, The Malthouse, Stroud Green, Standish, Stonehouse, Gloucestershire. GL10 3DL (Telephone 01242 522152) Email: admin@trees.org.uk Web: www.trees.org.uk
- The International Society of Arboriculture, 148 Hydes Road, Wednesbury, West Midlands. WS 10 0DR (Telephone 0121 5568302) Email: admin@isa-arboriculture.org.uk Web: www.isa-arboriculture.org

6 - Appendix 2: Flintshire Unitary Development Plan Policies

TWH1 Development Affecting Trees and Woodlands

6.1 - The Council will protect from development those woodlands and trees which are considered to be important local landscape, townscape and wildlife features. Where the principle of development affecting trees or woodland is acceptable, the County Council will require that:

- a. any tree, groups of trees or woodlands of value on or adjacent to the site are retained and that development is sympathetically incorporated around them;
- b. the pre-planning assessment of the trees and the development complies with the British standard, Guide for Trees in Relation to Construction (BS 5837) 2005;

and,

- c. where the removal of trees is considered acceptable, suitable replacements that are appropriate to the character of the area shall be established elsewhere within the site.

TWH2 Protection of Hedgerows

6.2 - Hedgerows which are important for their wildlife, landscape, historic or archaeological value will be safeguarded from significant damage or loss. Where development proposals affect hedgerows the Council will seek to ensure that, wherever possible, they are retained and incorporated into the layout of the development.

TWH3 Woodland Planting and Management

6.3 - Proposals for woodland management and planting, including community woodlands, will be supported provided that:

- a. the planting respects the topography and character of the existing landscape and incorporates landscape features into a suitable and agreeable landscape design;
- b. new woodland reflects the pattern of existing native woods and their species composition;
- c. environmentally sensitive areas, important plant and wildlife habitats and sites of archaeological or geological interest are protected and incorporated into a suitable plan; and
- d. they are managed in a sustainable manner and are accessible to the public wherever appropriate;

See also the policies relating to landscape protection, listed in LPG Note 3 Landscaping.

APPENDIX 3

Supplementary Planning Guidance Note (SPGN) Public Consultation, (Dec 18th 2015 and Feb 12th 2016) comments and responses to SPGN No 4 Trees And Development

Commenting Body / Individual	Comment	Response	Recommendation
No. 4 Trees and Development			
Bourne Leisure	<p>Bourne Leisure is concerned that the Revised Draft Trees and Development SPGN implies that a tree report will be required for all planning applications. The Company considers that it is unreasonable for a tree report to be required where trees and hedgerows would not be affected by the proposed development. Bourne Leisure considers that the SPGN should be redrafted to clarify that only where trees or hedgerows would be affected by a development will a tree report be required. Bourne Leisure proposes the following amendment to paragraph 3.1:</p> <p>“As a first step in planning any development that potentially impacts upon trees, developers must ensure that the application site is accurately surveyed and described, and obtain a tree report before drawing up any plans.”</p> <p>The Revised Draft SPGN then goes on to state in paragraph 3.5 that:</p> <p>“Large applications for development will require a more comprehensive tree survey in accordance with the British Standard, Trees in Relation to design, demolition and construction – Recommendations BS 5837 (2012).”</p>	<p>The approach to be taken will vary according to the specific circumstances of each proposal. It is not always clear which trees will or will not be affected by new development and on this basis it is considered that the guidance adds clarity by seeking survey information relating to the whole site. If, as part of pre-application discussions it can be shown that a tree survey is not necessary on the whole site then this can be considered accordingly.</p>	No change

	<p>Bourne Leisure contends that even with a larger application, the requirement for a tree survey should depend on whether/ the way that the proposed development impacts upon trees.</p> <p>Bourne Leisure therefore considers that the above text should be reworded as follows: “Large applications for development that potentially impacts upon trees will require a more comprehensive tree survey in accordance with the British Standard, Trees in Relation to design, demolition and construction – Recommendations BS 5837 (2012).” (proposed amendments underlined)</p>		
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