

Policy Development and Review Committee

27 November 2018

Tree Policy Update Draft

In December 2015 the Council's Tree Policy was formally adopted following PDRC consideration and wider stakeholder consultation. The document set out the Council's responsibilities and role in managing and maintaining the trees and woodland on Council owned land.

The Policy identified the need for regular review and following the Leisure Services Transformation Report, the need to review the document was identified, to ensure it is clear about what SBC do/don't do and to aid the promotion of the Council's responsibilities and what residents are able to do for themselves.

The draft document has been reviewed and updated to reflect operational use of the Council's tree management software system and with particular emphasis of adding sections identifying the type of work the Council will undertake, its respective priority and clear information on what we will not do.

The updated Policy can then be used to form and provide clear information to customers both on the web site, but also directly by staff when receiving enquiries.

Member views on the general principal and content of the paper are requested.

Tree Policy



“Three hundred years growing. Three hundred years standing. Three hundred years decaying.”

Lifecycle of English Oak & Sweet Chestnut - Peter Collinson 1776

Draft Policy for 2019-2013

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Document Control

1	Tree Policy 2015 – Approved Cabinet Member 21 December 2015
2	Draft refresh document for PDRC – 27 November 2018

1. Introduction

Trees are an important asset throughout Swale playing a vital role in contributing to the visual amenity and ecological value of both rural and urban landscapes.

Kent is often referred to as “The Garden of England” and Swale while having the three main urban towns of Faversham, Sheerness and Sittingbourne, is predominantly a rural borough. The borough is characterised by the North Kent Downs Area of Outstanding Natural Beauty to the south, North Kent Marshes along the north coast with a central mainland plain of orchards and arable land. Significant areas of the borough have nature conservation designations and trees are present along our mosaic of highways, in public open space and within private land. Important areas of woodland can be found to the south and east of the borough including the fringes of The Blean ancient woodland at Dunkirk.

Against these positives and benefits are problems and risk associated with root damage, obstruction of lighting and danger of falling limbs or whole trees. There is a recent background of increased claims for structural damage so the defence of claims in addition to pure health and safety is increasingly an issue.

This policy sets out Swale Borough Council’s responsibility for trees on its land including open space, woodland, country parks, allotments, car parks, closed churchyards and cemeteries. Swale has a role in managing, maintaining and enhancing the environment and aims to sustain a balanced and healthy tree population while recognising the constraints of budget and prioritising safety first.



2. Scope

This policy relates to trees within Swale Borough Council ownership or responsibility, which can predominantly be identified within the boundaries of the following areas:

- Parks and open spaces
- Country parks
- Woodlands
- Amenity land
- Allotments
- Cemeteries
- Closed churchyards (only those formally transferred to SBC)
- Car parks
- Retained development land

As well as the urban area the Council is responsible for approximately 120ha of woodland across 7 sites, including Perry Wood, Oare Gunpowder Works Country Park and Milton Creek Country Park.

The Council has identified and surveyed 4,765 individual trees and 115ha of woodland.

3. The Value of Trees

Trees and woodlands bring many benefits to the local environment especially in the urban area. They soften and enhance the landscape by providing form, colour and diversity that change with the seasons. They help improve air quality, provide shade, screening, shelter and cooling, play a part in water management and offer valuable habitats for a wide range of wildlife.

Trees are complex living organisms that are one of the longest lasting assets of the natural environment. However they are subject to pests and disease, climatic and site changes that can seriously affect their health. Incidence of Dutch Elm Disease and Bleeding Canker of Horse Chestnut has had a dramatic effect on the landscape of local parks and Ash Dieback Disease has the potential to be as devastating. In addition some species have characteristics that are undesirable or are difficult to manage as they mature. Development, changes to the location and well intentioned, but ultimately inappropriate planting in the past has also left a legacy of problems.

4. Legal Obligations and Risk

Under both civil law and criminal law, an owner of land on which a tree stands has responsibilities for the health and safety of those on or near the land and has potential liabilities arising from the falling of a tree or branch.

The duty holder who has control over the trees management whether as owner, lessee, licensee or occupier of the land has in general terms a duty to

take reasonable care as a reasonable and prudent landowner for the safety of those who may come within the vicinity of a tree and to consider the risks posed by the tree.

Relevant legislation includes:

- The Occupiers Liability Act 1957 & 1984
- Health and Safety at Work Act 1974
- Health and Safety at Work Regulations 1999
- Highways Act 1980
- The Compensation Act 2006
- Wildlife and Countryside Act 1981

The Health and Safety Executive has in its Sector Information Minute 01/2007.5 *Management of the risk from falling trees*, identified the risk as “broadly acceptable”.

Each year between 5 and 6 people in the UK are killed when trees fall on them. Thus the risk of being struck and killed by a tree falling is extremely low and as almost the entire population of the UK is exposed, the risk per person is about 1 in 10 million. However the low level of overall risks may not be perceived in this way by the public, given attitudes in a risk-averse society.

Exposure to an element of risk is an unavoidable consequence of trees being in the environment, but in considering management policy, it is necessary to strike a balance between risk and benefit.

Trees can also damage property either directly from the action of roots or from the desiccation of susceptible soils (clay). Exposure to a risk of increasing insurance claims needs to be managed through proactive inspection and maintenance; and with adequate and timely intervention when necessary.

5. Tree Risk Management

Defendable management is consistent with a duty of care based on reasonable care, reasonable likelihood and reasonable practicality. Being reasonable involves taking actions proportionate to the risk, both proactive and reactive. It is an approach based on achieving a balance between the benefits trees provide to the environment and people and on the other hand, risks posed to public safety.

A key objective is to maintain a defendable position at the lowest cost while avoiding the loss of valued trees.

Tree management has both reactive and proactive elements that plan and guide management decisions and practice. Three essential elements:

- Zoning: understanding trees in relation to people or property
- Tree inspection: assessing obvious faults
- Managing risk: identifying, prioritising and undertaking safety work

6. Inspection Regime

The Council undertook a comprehensive survey of all of our trees in 2017. All of the information from this survey is stored in a specialist software package called MyTrees.

Which Trees – Zoning

The first step in tree risk management is understanding the location in context of levels of use. It considers all the trees on the property and determines which are in areas of high public access or close to property that could be damaged. As such a score of 1-6 is applied, resulting in a prioritisation made up of three zones, high, medium and low.

- High Risk zones (1-2) – used by many people every day, busy roads, railways, car parks, private dwellings, buildings and children’s play areas.
- Medium Risk zones (3-4) – moderate use by people and road users, adjacent to private dwelling gardens, parks and gardens.
- Low Risk zones (5-6) – deep woodland, rarely used open space.

Frequency of Inspections

Trees in the High Risk Zone will be inspected every 12 to 18 months unless otherwise stated. This will facilitate one inspection in the summer months, followed by the next inspection in the winter months and vice-versa.

Trees in the Medium Risk Zones will be inspected every 3 to 4 years unless otherwise stated.

Trees in the Low Risk Zones will receive no, or only informal inspections unless otherwise stated.

In addition to specified formal inspections, it is expected that any Council Officer or contractor will visually inspect trees and report defects whenever on site and that following an weather event, a visual inspection of high risk trees will be undertaken.

Who Inspects

Following Zoning, tree inspection requirements and level will be identified by reference to their size, condition and the level of use within its fall distance.

- Informal Observations – people with good local knowledge of the site and its trees. Typically this will not be a tree specialist but a member of staff or the public who understands the way the site is used and the implications/danger should a tree be found falling apart or uprooting.
- Formal Inspections – require general tree knowledge and the ability to recognise normal and abnormal appearance and growth of trees for the locality. They will be able to recognise obvious visual signs of ill health and significant structural problems. Staff carrying out these inspections will have undertaken a Tree Inspection course and have experience of working with trees.

- Detailed Inspections – Will be carried out by a competent person, experienced in the field of investigation to be carried out, having attained the Certificate of Advanced Tree Inspection and/or qualified to the level of Diploma/Technical Certificate in Arboriculture.

We utilise a range of personnel for the above, including our own staff, those of our grounds maintenance contractor or specialist tree consultants.

Trees will be assessed by means of scheduled systematic visual assessment from ground level.

- Consideration of the trees location allied to other structures in the landscape/proximity.
- Visual inspection of the tree for symptoms and overall vitality and health.
- If a defect is suspected on the basis of the symptoms, the presence or absence of the defect must be confirmed by thorough examination
- If the defect is confirmed, it must be quantified, remedial action identified and a priority of works recorded.

Prioritisation

Where defects are confirmed as posing unacceptable risk or physical damage to structures following a regular tree inspection, or from direct customer contact, appropriate remedial action should be identified and timescale specified. Action response times are based on specific action times as identified following the condition survey.

Prioritisation	Hazard examples
Category 1- immediate action, response within 1 hour to make safe	Emergency work, for example a leaning tree in danger of collapse, or a fallen tree causing an obstruction
Category 2 – high priority action within 1 month	A standing dead tree, significant dead branches in Zone 1-2, vegetation interference with carriageway and/or footpaths, trees touching property
Category 3 – medium priority action within 6 months	A tree showing significant signs of decline, uplifting works to trees, dead wooding, removal of epicormic growth
Category 4 – low priority action within 1 year	Removal of stakes, minor uplifting of canopy, minor dead wooding. Other minor works as dictated by budget
Category 5 – no action required	No action required

The Council will prioritise actions based on risk and works that are deemed to be necessary for safety reasons will override any other priorities that exist within tree works schedules.

Records

Full and readily accessible records will be made, whether as part of the routine inspection regime, response to a complaint or in connection to maintenance work. The Council currently use MyTrees to manage the condition survey data to all Council owned and/or managed trees. Data recorded will vary depending upon the level of inspection, but will be a positive record, i.e. a report even in the event there is no defect. MyTrees is maintained on an independent server accessible to staff with appropriate access rights.

A specimen inspection record is shown in Appendix 1.

Objective 1

To ensure the safety of the users of the Councils land

Action:

- SBC will arrange for the inspection of trees on SBC owned land using suitably qualified staff. Safety works will be prioritised and subject to budgetary constraints, will be undertaken within the timescale recommended by the inspector. The felling of trees will only be undertaken when other maintenance techniques have failed or are impractical.
- This document and the process of guiding the inspection and maintenance of trees will be reviewed to ensure they meet the current legal duty of care standards.

7. Works

The following table identifies the type of works typically undertaken to manage the health and health and safety of our tree stock.

Works Undertaken	Description
Remove epicormic growth	Removal of new growth, which usually is from dormant buds breaking directly from the stems or trunk.
Pollard/ re-pollard	Removal of the top of a tree to a prescribed height to encourage multi stem branching. Once pollarded, trees need to be re-pollarded every 5-7 years, depending on species to the initial pollard point.
Deadwood	Removal of significant sized dead branches and stems throughout the canopy of the tree. It is not possible to remove every dead stem, priority must be given to the larger branches more likely to cause damage or injury.
Crown thin	Crown thinning is the removal of smaller branches to provide a uniform density of foliage and an evenly spaced branch structure.

Crown reduction	The reduction in height and/or the reduction in spread by a percentage to the overall crown of the tree.
Fell	Removal usually to ground level of the tree. Treatment or removal of the remaining stump may also be undertaken.
Crown lift	Usually this task is undertaken to help alleviate low branches on a tree where they might interfere with the movement of people, either by vehicle or pedestrians. It is usual for trees to be crown lifter to 2.4m for pedestrians, and 5m for vehicular traffic.

Enquiries and service requests are logged through the Council's "My Council Services" system and acknowledged upon receipt. Response times are advised to the customer, with assessment ranging from immediate to 1 month. Following assessment the work is prioritised and ordered from contractors to complete.

Enquiry	Timescale
Dangerous	Immediate
Damage caused, damage to, dead branch, fallen, fungal growth, pest infection	Assessment within 7 days
Basal Growth, low branches, overgrown, overhanging, interference	Assessment within 1 month

All birds, bats and active nests and roosts are protected by law by the Wildlife and Countryside Act 1981 from intentional harm. As such inspections are made and work may be delayed by their presence at certain times of year.

Trees can be damaged as a result of poor workmanship, resulting in a reduction in the health of the tree, increased risk and increased future maintenance costs.

Arboriculture contractors require specialist knowledge and skill to adequately undertake maintenance operations. Contractors will as a minimum have appropriate trained staff, the correct equipment with maintenance records, a suitably trained person to undertake risk assessments, a staff training programme and a Health and Safety Policy. This is in addition to any normal contractor requirements of working for the Council.

Contractor working and office practices will be subject to regular monitoring and review by the Council.

Objective 2

To maintain and enhance the stock of SBC trees

Action:

- SBC will use qualified arboricultural contractors when undertaking tree maintenance.
- SBC will monitor preferred contractors on a regular basis and ensure that their workmanship, competency, qualifications, and equipment meets required standards.

8. Communication

The Council has a duty to maintain its trees in a safe condition. It also has a responsibility to respond to queries and provide information where its actions impact on the local amenity. Often, concerns can be raised due to a lack understanding or knowledge of proposed or necessary tree works.

The Council will maintain a web page that provides appropriate information and advice to assist the community and clearly identifying the Councils responsibilities and priorities.

Where appropriate we will keep interested parties such Ward Members, Parish Councils, Tree Wardens and colleagues (Planning) informed of any works and where significant programmed works are proposed, a letter drop at least a week in advance to local residents will also be implemented and contractors will display information boards with the Council contact details.

Objective 3

To communicate tree management and maintenance information

Action:

- SBC will maintain a web page that identifies clear information and priorities to assist residents at the first opportunity.
- SBC will provide information on surveys and tree works to organisations and individuals as requested.
- SBC will carry out letter drops to local residents at least one week in advance of undertaking significant programmed tree works.

9. Nuisance

Nuisance is often difficult to define, screening by trees may be acceptable and welcomed by one person, but cause shading and interference with TV signals for a neighbour.

Trees can be viewed as a nuisance because of leaf fall, seed dropping, shading, branch overhang, TV interference or honeydew deposition. Solutions to these problems are difficult if not impossible short of removal of the tree and maintenance can often worsen the original issue by promoting strong regrowth. There is no legal requirement for an owner of a tree to carry out works to abate this type of nuisance.

Certain types of nuisance fall into the category of legal nuisance and the owner of a tree must take steps to abate the nuisance. Problems associated with root damage and subsidence fall into this category.

Objective 4

To minimise the likelihood of insurance or other claims against SBC

Action:

- SBC will seek appropriate advice from qualified advisors, legal advisors and insurers in respect of action required to mitigate any claim or future claim that may arise.

Works over and above the need to maintain a tree in a safe or healthy condition will be considered on an individual tree basis and will only be undertaken in the severest cases - usually due to insurance claims. Works will not normally be undertaken on a tree to reduce shading, leaf or fruit fall, or to improve TV signal reception.

The table below identifies common cause of nuisance and the Council's response.

Enquiry	Response
Tree overhanging property	We will not prune or fell a tree in council ownership or managed by the council to alleviate the nuisance of overhanging branches. However the nuisance caused by overhanging branches may be considered as part of our general tree-work programme, although this programme is prioritised and subject to the availability of funding. Residents have a common law right to cut back encroaching vegetation to their boundary, and to offer the arising's back, although the Council does not have to accept the arising's. Throwing the trimmings back

	over the boundary could constitute fly tipping.
Tree blocking light	We will not prune or fell a tree in council ownership or managed by the council to allow natural light into a property. There is no automatic right to direct sunlight, only daylight.
Tree blocking view	We will not prune or fell a tree in council ownership or managed by the council to improve a view for a property.
Tree touching building	<p>If a tree in council ownership or managed by the council is touching a property we will take action to remove the nuisance.</p> <p>It will be usual practice to prune the tree to reduce or remove the nuisance, but occasionally it may be necessary to fell the tree. This will only be considered if pruning is not sufficient to reduce or remove the nuisance.</p> <p>Residents have a common law right to cut back encroaching vegetation to their boundary, and to offer the arising's back, although the Council does not have to accept the arising's. Throwing the trimmings back over the boundary could constitute fly tipping.</p> <p>Apart from trivial work, as could be undertaken with simple hand tools, it is advised to contact the council to arrange for removal of the nuisance. Any works organised by the resident should be carried out by a qualified arboriculturist, after advising the council that the work is to be undertaken. Before any work is undertaken, it is necessary to check whether the tree is covered by a Tree Preservation Order, and is within a Conservation Area, and the appropriate consent sought.</p>
Tree dropping leaves	<p>We will not prune or fell a tree in council ownership or managed by the council to stop or reduce leaf fall.</p> <p>Autumn leaf drop is part of the natural cycle of trees and cannot be avoided by pruning. Council contractors carry out removal of leaves from highways and open spaces but will not enter private property to remove leaves.</p>
Tree dropping sap/honeydew	<p>We will not prune or fell a council owned or managed tree to remove or reduce honeydew or other sticky residue from trees.</p> <p>Honeydew is a seasonal problem caused by aphids (greenfly) feeding on the sap and excreting a sticky residue, which often gets colonised by a black sooty mould. Aphids are almost impossible to remove from a</p>

	<p>tree, and any pruning would only offer a brief respite from the problem. The flush of growth following pruning would result in an increase in the problem as this would be more prone to aphid infestation.</p>
Tree dropping flowers	<p>We will not prune or fell a council owned or managed tree to remove or reduce blossom from trees. Spring blossom is part of the natural cycle of trees and cannot be avoided by pruning. Council contractors will remove blossom from highways and footpaths in open spaces as part of their contractual obligations, but will not enter private property to remove fallen blossom.</p>
Trees dropping fruit/seeds	<p>We will not prune or fell a council owned or managed tree to remove or reduce the nuisance of fruit or seeds. Production of fruit and seeds is part of the natural cycle of trees and cannot be avoided by pruning. Council contractors will remove fallen fruit and seeds from highways and footpaths in open spaces as part of their contractual obligations, but will not enter private property to remove fallen fruit or seeds. Occasionally, there may be significant anti-social behaviour associated with fallen fruit such a fruit being thrown at cars or properties. We will consider removal of the tree and replacement of a more suitable tree species. Where it is claimed or known that unsupervised young children will be exposed to poisonous fruit or berries, the situation will be investigated, and a decision made on the most appropriate action.</p>
Trees and bird droppings	<p>We will not prune or fell a council owned or managed tree to reduce or remove bird droppings from trees, or to remove bird droppings from private land. Though bird droppings can be considered a nuisance, it is not a significant reason to carry out pruning or felling works to a tree. All birds, nests and eggs are protected by the Wildlife and Countryside Act.</p>
Trees and insect/animal pest	<p>We will not prune or fell a council owned or managed tree to remove or reduce insect pests such as bees, wasps or brown-tailed moth, or wild animals. Bees are endangered in the UK, and no action will be taken to control bees. If there is evidence of an active wasp nest in the tree, this should be reported to the Council for eradication if practical to do so. It is not practical to treat a mature tree for brown tailed moth, although smaller trees and shrubs can be treated, based in an individual assessment.</p>

<p>Trees and TV signal</p>	<p>We will not prune or fell a council owned or managed tree to prevent interference with TV/satellite installation or reception.</p> <p>It may be possible for your satellite or TV provider to suggest an alternative solution to the problem, for example relocating the aerial/dish or means to boost the signal.</p>
<p>Tree “too tall/hasn’t been pruned” or “may fall in high wind”</p>	<p>We will not prune or fell a council owned or managed tree because it is considered to be 'too big' or 'too tall' or “hasn’t been pruned for some time”</p> <p>There is a common misconception that all trees should be regularly pruned. A tree is not dangerous just because it has grown large within its surroundings. The council will carry out pruning or felling of trees if there is an identified risk to people or property. Any trees reported as dangerous will be inspected and appropriate work carried out if identified as necessary.</p>
<p>Tree related subsidence damage</p>	<p>If you suspect a council owned or managed tree is causing subsidence damage to a property, it is advised the resident contacts their insurer at the first instance to discuss concerns and agree on an appropriate course of action. Any claim will be investigated and, if it proven the councils trees are at fault, appropriate action will be taken.</p>
<p>Tree roots- in garden/causing damage</p>	<p>The council will not prune or remove a tree because there are tree roots in a resident’s garden.</p> <p>Residents have a common law right to cut back encroaching roots to their boundary, provided it does not adversely affect the health of the tree.</p> <p>If there is suspected root damage to a property or drain, the claimant will usually be required to provide supporting evidence through their insurance company.</p>
<p>Tree growing through overhead lines</p>	<p>We will not fell a council owned or managed tree to remove or reduce interference with overhead wires.</p> <p>There may be instances where the Council will consider undertaking works to prune trees and reduce interference to telephone wires where pruning will be an effective measure as part of our general tree work programme.</p> <p>Any enquiries relating to trees interfering with overhead power cables will need to be referred to the appropriate utility company in the first instance.</p>

10. Replanting

With concern at the loss of trees and particularly mature specimens, there is often a desire for replacement planting. However it does not necessarily follow that it is suitable to replant on a site utilised originally some years ago. Factors can change, such as increased utility service provision, increased vehicular or pedestrian access and the presence of diseases.

The Council is committed to the replanting of trees to ensure that the amenity of the area is maintained and enhanced. However this will only be undertaken following consideration of all the constraints that may make a site unsuitable.

Any planting will be undertaken during the correct planting season (November – March) and with an appropriate species for the particular site.

Objective 5

To maintain and enhance the Public Open Spaces tree stock and ensure that tree species are appropriate to the specific site and where possible enhance biodiversity

Action:

- Where appropriate SBC will undertake the replanting of trees removed for safety reasons.
- SBC will seek appropriate alternative sites and funding opportunities where site constraints and budgets prevent replanting.

11. Resource

The Council will regularly review the resource requirement to manage its trees both in terms of inspections and works arising from both proactive and reactive responses. Currently one Officer is responsible for managing the Council's tree stock using an allocated revenue budget of £26,800 (2018/19 budget figure). The Council also employs a part time Tree Preservation Officer who is available to offer specialist advice.

12. Review

The Council will review this policy every 4 years to ensure its compliance with recognised guidance and best practice, and to ensure that it meets its legal duty of care.

This document was written with reference to “Common Sense Risk Management of Trees – Guidance on trees and public safety in the UK for owners, managers and advisers” by the National Tree Safety Group (ISBN 978-0885538-840-9).

Appendix 1

Tree Inspection Form

Site.....	Inspectors Name.....	Date.....
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Tree No.	Species	Size/ Height	Zone	Comments	Recommendations	Priority	Action Taken

Size S Small Diameter at breast height of under 250mm
 M Medium Diameter at breast height of between 250-500mm
 L Large Diameter at breast height of over 500mm

Risk Zone L Low
 M Medium
 H High