

Tree Management Policy

January 2011

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Chelmsford
City Council

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PREFACE

The Tree Management Policy was drafted to set out clearly management and maintenance practice and procedures relating to trees. It was adopted in January 2011.

January 2013 – The policy was revised to include updates that take account of legislation and policy changes, plus the granting of City status to the former Chelmsford Borough Council.

May 2015 – The policy was revised to address typographical errors and take account of the new British Standard on planting.

1.0 INTRODUCTION

1.1 Trees are one of the few landscape features that cross all the boundaries of modern urban living, and play a very important role by adding many benefits to our community, including helping to enhance streetscapes; reduce climatic extremes; improve air quality; and provide a habitat for wildlife. They touch every aspect of our lives, our homes, our work, our journey to work, and our recreational space. The benefits of trees and green spaces in terms of health, well being and environmental enhancement are well documented through much research, and should not be underestimated.

The World Health Organisation has stated that; *“health is a state of complete physical, mental and social well being and not merely the absence of disease or infirmity”*, consequently under this definition it is clear to us how important the role trees play towards the health and wellbeing of the residents served by Chelmsford City Council.

1.2 Trees growing in the area served by Chelmsford City Council provide a vital benefit and help to make life more pleasant for residents, workers and visitors. Their presence can help towards creating tranquillity and reduce stress. Trees have many benefits, for example, they:

- a) **Provide shelter:** Trees reduce wind speed around buildings, and their dappled shade provides a useful barrier from ultra violet radiation.
- b) **Cool the air:** Trees regulate evaporation, and have an effect on shade and heat reflection. Trees release oxygen into the air.
- c) **Stabilise soil:** Soil erosion on areas where there are no trees can be up to one thousand times greater than for a tree covered area.
- d) **Filter air pollution:** Trees act as filters to remove particulate pollution deposited on leaves. Trees remove carbon dioxide from the air and can help to mitigate against emissions considered harmful to planet earth’s ozone layer
- e) **Reduce noise:** Trees planted close together can absorb noise and provide a visual barrier and acoustic screening.
- f) **Create wildlife habitats:** Trees of varying ages provide homes for wildlife, shelter, food and support a wide range and variety of mammals, birds and insects.
- g) **Improve the landscape:** The presence of trees frequently provide a softening effect to built structures. Trees can form backdrops to urban settings to improve people’s enjoyment of the landscape.

2.0 OBJECTIVE OF THE POLICY

2.1 The objective of the Tree Management policy is to set out the Council's approach to the management of trees on council owned land and to its statutory responsibilities on land owned by others under the Town and Country Planning Act 1990 legislation. The aim of the policy is to:

- a) act as a source of information and reference regarding tree issues in the area served by Chelmsford City Council;
- b) act as a framework for decisions that will affect trees;
- c) support our vision for the area served by Chelmsford City Council to be at the leading edge for economic, social and environmental excellence in the heart of Essex.

It supports the Council's ambitions and priorities as outlined in the following documents:

Chelmsford City Council Corporate Plan

- a) Attracting investment and delivering infrastructure
- b) Facilitating suitable housing for local needs
- c) Providing high quality public spaces
- d) Promoting a more sustainable environment
- e) Promoting healthier and more active lifestyles
- f) Enhancing participation in cultural activities

Chelmsford Community Plan

- a) Our Community is Healthy and Active
- b) Our Community is Socially Inclusive
- c) Our Community is Thriving
- d) Our Community is Nurturing the Environment
- e) Our Community is Well Connected

3.0 ISSUES ASSOCIATED WITH TREES

3.1 Most residents in the area served by Chelmsford City Council live close to trees, especially in urban areas. Trees can create varying degrees of inconvenience to residents. Dilemma and conflict often arise when a tree or groups of trees make an important contribution to the local environment yet cause inconvenience to residents and those

living nearby.

All cases with regard to Council owned trees are investigated individually.

4.0 TREE MANAGEMENT - PRACTICAL TREE CARE

The tree management policy has identified four main categories:

- a) General tree management policy (GT)
- b) Parks and open spaces management policy (PO)
- c) Residential housing tree management policy (RH)
- d) Woodland management policy (WM)

It also supports the Council's Climate Change strategies (Task 10) and Biodiversity Action Plan priorities.

4.1 GENERAL TREE MANAGEMENT OBJECTIVES

The Council will seek to:-

GT1 - Develop the tree population. The tree stock will be expanded with new tree planting where appropriate and practicable.

GT2 - Provide and maintain a high quality and sustainable tree stock. Native species will be planted to maximise indigenous flora and fauna, where appropriate.

GT3 - Develop and promote a better understanding and awareness of the value of trees to the community, by way of engaging schools and community groups in tree planting and conservation projects.

GT4 - Provide the highest standards of tree care by stringent adherence to the British standard BS 3998: 2010 Tree Work - Recommendations, as well as adopting relevant arboricultural legislation and research development.

GT5 - Take all reasonable steps to fulfil duties and obligations to ensure tree safety for public and property.

GT6 - Resist the unnecessary removal of trees unless there are justifiable arboricultural or legal reasons.

GT7 - Assess all requests for arboricultural works to trees growing on land owned by the Chelmsford City Council. Work must be authorised by the Council's tree team before being carried out.

The Council will not normally:

GT8 - Undertake any tree pruning works or remove trees in direct response to any natural or seasonal phenomena, for example:

- a) falling leaves;
- b) sap exudation, (honeydew);
- c) falling fruits, nuts or seeds;
- d) bird droppings;
- e) blossom or pollen;
- f) reduction or increased moisture to gardens;
- g) germinating seeds from council owned trees;
- h) blocked or obstructed drains, gutters, flat roofs from tree deposits and leaves; or
- i) presence of algae, moss build up.

GT9 - Undertake any tree pruning work due to:

- a) Loss or interference with TV or satellite signal reception;
- b) Loss of sunlight or man made lighting during any part of the day;
- c) Blocking or obstruction of a view from a residence.

GT9a – Solar Panels - There is no legal requirement to prevent or negate the shading of solar arrays by trees and this not a legal 'nuisance' as defined in law.

The planned installation of, or the presence of an existing array on either a homeowner or third party property presents no justification for the excessive reduction or removal of a tree.

The Council may well agree to tree works that are reasonable and good Arboricultural practice. The Council is unlikely to agree to excessive works that would result in the removal or loss of a tree or trees.

The council will not agree to:

- a) Remove or significantly reduce tree(s) where shading of solar arrays is the sole reason for the works.
- b) Undertake works where there is doubt on the cause of shading.

GT10 - Where birds are found to be nesting in trees, tree works will normally be delayed until the end of the nesting season.

GT11 - Any trees identified and confirmed to be supporting roosting bats will not be worked on until Natural England is consulted. We will then act upon the advice given to us.

GT12 - When investigating claims of subsidence/heave and damage to properties from underground tree roots evidence will be required from claimants by way of a report from an appropriately qualified person. The report should discuss the following.

- a) A description of the property, including a description of the damage and the crack pattern, the date that the damage first occurred/was noted, details of any previous underpinning or building work, the geological strata for the site identified from the geological map.
- b) Details of vegetation in the vicinity and its management since discovery of the damage. Include a plan showing the vegetation and affected building.
- c) Measurement of the extent and distribution of vertical movement using level monitoring. Where level monitoring is not possible, state why and provide crack monitoring data. Data provided must be of sufficient detail to show a movement consistent with the presence of the implicated tree(s) and/or any hedges/shrubs.
- d) A profile of a trial/bore hole dug to identify foundation type and depth of soil characteristics
- e) The sub-soil characteristics including soil type (particularly that on which the foundations rest), liquid limit, plastic limit and plasticity index.
- f) The location and identification of roots found. Where identification is inconclusive, DNA testing should be carried out.
- g) Proposals and estimated costs of options to repair the damage.
- h) A report from an Arboriculturist to support the tree work proposals, including

arboricultural options for avoidance or remediation of indirect tree-related damage.

In the case of other structural damage to garden walls, drains, paving, drive surfaces, technical evidence should be provided by a relevant engineer, building/drainage surveyor or other appropriate expert.

GT13 - We will explore and develop opportunities to utilise the arisings (woodchip, logs, timber) generated by arboricultural operations towards greater environmental sustainability.

GT14 - Statutory undertakers (gas, electricity, water and telephone) are entitled to carry out works to trees in order to restore service or in the interests of public safety without giving notice. However they are encouraged to liaise with the Council in order to agree any work deemed necessary to affected trees.

4.2 PARKS AND OPEN SPACES OBJECTIVES

PO1 - Trees growing in the Councils parks and open spaces, including Council maintained cemeteries, are amongst the most significant in terms of providing visual amenity. Their benefits will be derived from a sustained high quality management programme.

PO2 - We aim to create a varied and sustainable tree population in parks and open spaces, with long term management plans for trees in parks and open spaces aiming to ensure continuity of tree cover.

Planting will be carried out in parks and open spaces and we will support appropriate planting at other locations.

4.3 PUBLIC OPEN SPACE IN RESIDENTIAL AREAS

RHI - We will only undertake inspections and surveys of trees growing on Council managed open space. Complaints and enquiries received concerning trees growing on land not in Council management will be directed to the relevant Housing Association, landlord or responsible landowner, where known. The Council does not maintain a register of private land ownership and where appropriate complainants may be directed to HM Land Registry Office.

RH2 - We will actively encourage new tree planting of appropriate species in suitable areas.

4.4 WOODLAND MANAGEMENT OBJECTIVES

WM1 - We will take reasonable steps to preserve and enhance woodland trees, particularly those that are indigenous to the area served by Chelmsford City Council.

WM2 - Where possible we will encourage natural regeneration in woodlands.

WM3 - Where possible, subject to public safety assessments, we will retain dead trees in woodlands preferring to prune rather than fell. In situ dead timber and felled trees are left to benefit habitat creation.

WM4 - We will manage woodlands as a long term sustainable resource.

WM5 - Where possible we will offset woodland management costs by marketing saleable timber and other woodland products.

WM6 - We will actively support and encourage community involvement in the planning and operation of woodland management.

WM7 - Where possible we will seek to expand and look for opportunities to create woodlands.

WM8 - We will produce and implement woodland management plans for all our woods.

WM9 - We will not fell a tree growing in woodlands without adequate justification.

WM10 - We will endeavour to manage and maintain all our woodlands in accordance with accepted forestry, arboricultural and nature conservation best practice.

WM11 - Management of our woodlands will take into account landscape and historic features, wildlife habitat and amenity value. This will be reflected in operational as well as

managerial aspects.

WM12 - Where possible we will encourage seed collection from sustainable woodland trees aiming to protect provenance.

WM13 - We will actively encourage appropriate access to woodlands and develop pathways within our managed woodlands.

4.5 INSPECTION FREQUENCIES

The Council will, where possible, inspect all trees for which it has responsibility in order to assess whether they represent a risk to life or property. A program of inspection will be undertaken based on:

- a) An assessment of risk;
- b) An assessment of hazard;
- c) A recommendation for work.

Each site will be individually assessed and allocated a zoning in order to identify risk areas based on the frequency and numbers of public use. A tree will be assessed in terms of maturity, vigour, life expectancy, height, trunk girth, crown spread, identified defects (e.g. dead wood, dieback etc) and any proposed arboricultural works.

High Risk:	e.g. close to main public areas, work yards, buildings, roads, car parks, major footpaths, picnic areas etc.
Medium Risk:	other footpaths, bridle ways etc in regular but not intensive public use, quieter areas of parks and gardens etc.
Low Risk:	Parkland, green space and woodland away from paths or only lightly used etc.

The frequency and method of inspection will reflect the designated Risk Zones:

Risk Zone	Inspect	Method
High Risk:	At intervals of no more than two years.	Searches for clear defects especially in the crown and around the base of the tree. Binoculars and probe required.
Medium Risk:	At intervals of no more	Search for clear defects.

	than 5 years	
Low Risk:	During normal routine visits	No formal inspection, just observation and awareness of the general condition of the trees.

4.6 RECORD OF INSPECTION AND MAINTENANCE

All arboricultural inspections will be recorded using appropriate software to maintain a database record.

4.7 TREE PRUNING

We undertake all tree pruning and arboricultural works in accordance with relevant British Standards.

4.8 NEW TREE PLANTING AND CLIMATE CHANGE

New tree planting including establishment and maintenance will be undertaken in the spirit of good horticultural and arboricultural practice to comply with

- a) BS 4428: 1989 Code of practice for general landscape operations (excluding hard surfaces)
- b) BS 3998: 2010 Tree Work - Recommendations
- c) BS 7370: 1991 Grounds maintenance. Recommendations for establishing and managing grounds maintenance organizations and for design considerations related to maintenance
- d) BS 5837: 2012 Trees in relation to design, demolition and construction - Recommendations

and with regard to the Council's Climate Change strategies and associated action plan.

Dependant upon the planting location we will plant trees varying in size from 45cm height (whip size) to 14-16cm girth, (heavy standard) through to 60cm and above, (semi mature).

We will aim to create a balance of appropriate indigenous and exotic varieties dependant upon the location of the new planting. Where proposed planting is close to an area of conservation significance it is expected that indigenous species will be used.

The aims of new tree planting will be to:

- a) maintain perpetuity of tree cover in the area served by Chelmsford City Council;
- b) contribute towards mitigation of climate change;
- c) provide all year round interest;
- d) encourage species diversity;
- e) provide wildlife habitats;
- f) enhance the area served by Chelmsford City Council landscape;
- g) provide screen, shelter and windbreaks;
- h) replace removed trees;
- i) commemorate and remember the community;
- j) improve air quality;
- k) assist in erosion control;
- l) explore timber production and timber products; and
- m) develop community involvement.

We will select trees that reflect the importance of their planted position and the anticipated maintenance needs throughout their life.

4.9 DISEASE CONTINGENCY

We have professional links to monitor and identify a programme of preventative and remedial works, advice and notification

- a) The Forestry Commission
- b) The Arboricultural Association
- c) The Tree Advice Trust, (Arboricultural Advisory and Information Service (AAIS))

Working in partnership with these organisations, we can formulate a strategic response approach to combat any particular tree disease.

4.10 CONFLICT - RIGHT OF APPEAL

Each year we receive a number of complaints and enquiries regarding trees growing on land we own. After an investigation and inspection we produce a programme of any works shown to be necessary, having regard to the tree(s) concerned in relation to

available budgets.

There are situations when our response does not meet the perceived expectations from the complainant. In an effort to reduce and prevent issues of conflict, opportunities exist for a process of appeal against our action or decision, to which we will respond in writing:

Complainants will be required to fill in and return the official form for comments and complaints. This form is available from Chelmsford Civic Centre and most public contact points. A comment, compliment or complaint can be made by:

- a) contacting our staff by phone, fax, letter, e-mail, or in person
- b) completing and returning the reply slip on the Customer Feedback Leaflet
- c) completing the customer feedback form on our website www.chelmsford.gov.uk

If any help is needed in making a comment, compliment or complaint, just let us know and we will do our best to help.

A Councillor or Member of Parliament may contact us on your behalf to let us know about your comment, compliment or complaint. This will still be dealt with under our procedure.

5.0 TREE MANAGEMENT - DEVELOPMENT MANAGEMENT

5.1 GENERAL POLICY OBJECTIVES

It is the policy of the Council:

DMI - To fulfil its statutory obligations of protecting trees of particular amenity value through the use of the Town and Country Planning Act 1990, the Town and Country Planning (Trees) Regulations 1999, the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008, the Town and Country Planning (Trees) (Amendment No. 2) (England) Regulations 2008 and the Town and Country (Tree Preservation)(England) Regulations 2012.

DM2 - To seek to ensure through the use of tree preservation order and conservation area legislation, that trees, of particular amenity value in the area served by Chelmsford City Council, are retained.

The more detailed policies to meet this objective are set out in the following paragraphs. The work is administered by the Tree and Landscape section of the Development Management Service, within the Directorate of Sustainable Communities. Policies DC14 and DC42 of the Core Strategy and Development Control Policies Development Plan Document adopted on the 20 February 2008 identify the importance of trees within the area served by Chelmsford City Council.

5.2 TREE PRESERVATION ORDERS

Local planning authorities have specific powers under Part VIII of the Town and Country Planning Act 1990, the Town and Country Planning (Trees) Regulations 1999, the Town and Country Planning (Trees) (Amendment) (England) Regulations 2008 the Town and Country Planning (Trees) (Amendment No 2) (England) Regulations 2008 and the Town and Country (Tree Preservation)(England) Regulations 2012 to make tree preservation orders (TPOs) to protect trees which are considered to be of value in their local surroundings. All types of trees, including hedgerow trees (but not the hedgerows, bushes or shrubs) may be protected by a TPO.

A TPO can be made in respect of individual trees, groups of trees, woodlands and on rare and urgent occasions, as an area designation. In assessing whether a TPO is justified the Council will use a recognised system of evaluation such as TEMPO (Tree Evaluation Method for Preservation Orders). TEMPO is designed as a guide to decision making and as such, it stands as a record that a systematic assessment has been made and that all the relevant factors have been considered. A copy of the TPO will be sent to the relevant Town or Parish Council.

It is the policy of the Council in relation to making and confirming TPOs:

DM3 - To use TPOs to protect selected trees, groups of trees or woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public.

DM4 - In considering whether a new TPO should be served, to assess the amenity value

of a tree, group, area or woodland, its public visibility, the level of threat, the condition of the tree(s), the life expectancy and other factors such as the tree's historic or commemorative importance.

DM5 - In assessing whether a new TPO should be served, to use the TEMPO (Tree Evaluation Method for Preservation Orders). A TPO will only be served if the tree in question scores 11 or more points.

DM6 - When serving a TPO the Council will take into account the following criteria in relation to amenity and expediency:

- a) **Visibility:** the extent to which the tree(s) or woodlands can be seen by the general public. If they cannot be seen or are not readily visible from a public place such as a road or footpath, a TPO will only be justified in exceptional circumstances.
- b) **Individual impact:** An assessment will be made of the tree's particular importance in relation to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value as a screen or contribution to the character and appearance of a conservation area. In relation to a group of trees or woodland an assessment will be made of its collective impact.
- c) **Wider impact:** the significance of the tree(s) in their local surroundings including their suitability to their setting, as well as the presence of other trees in the vicinity.
- d) **Expediency:** it may be expedient to serve a TPO if, in the opinion of the Council, there is a risk of the tree(s) being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate and in some cases a precautionary TPO will be served, for example, where the Council believe trees may be at risk from development pressures.

DM7 - To not preserve trees in the following circumstances:

- a) Where the trees are under good arboricultural or silvicultural management
- b) When owned and maintained by Chelmsford City Council or Essex County Council
- c) As a punitive measure
- d) To prevent development

DM8 - To serve new TPOs by letter on the owner/occupier of the land on which the tree(s) stand(s). Where the owner/occupier cannot be identified, to serve the TPO by means of posting the order at the site as close to the tree(s) as possible.

DM9 - To advertise new TPOs by means of a site notice and in circumstances where a tree overhangs a neighbouring property, by notifying that neighbour by letter.

DM10 - To make available a copy of the TPO for public inspection at the council offices.

DM11 - When no objections are received within 28 days of the date of serving of a provisional TPO to confirm with or without modification under delegated powers. It may be, after considering all factors, including objections and representations, it is decided not to confirm the TPO and in these circumstances the owner will be advised and the provisional order will be allowed to lapse at the end of the 6 months provisional protection period.

DM12 - To consider objections and representations received in respect of new orders and when objections are received and it is the recommendation of officers to confirm the order, or representations of support are received and it is recommended that the order be allowed to lapse, then the comments received on the new order, will be reported to the Ward Councillors to see if they wish the matter to be reported for determination by the Planning Committee.

DM13 – To keep TPOs under review, as advised by Central Government, by making full use of variation and revocation powers to ensure TPOs are brought up-to-date when the time is right to do so. All current TPOs will be available to view and download from the Chelmsford City Council website.

5.3 WORKS TO PRESERVED TREES

Unless an exception applies, the Council's consent is normally required to cut down or carry out works to protected trees. Enquiries may be made to the Council either in person or by telephone as to whether a tree within the area served by Chelmsford City Council is protected.

It is the policy of the Council:

DM14 - To respond to all applications for works to trees the subject of TPOs within 8 weeks of registration.

DM15 - To require all applications to be made to the Council on the standard application form published by the Secretary of State (IAPP).

DM16 - To require all applications to be complete and provide all reasonably required documentation including a plan.

DM17 - To require reasons for the proposed work to preserved trees to be provided with the application to enable the Council to assess its need and suitability.

DM18 - To provide advice and guidance to the public to assist in the preparation of their applications for works to preserved trees and suggest amendments where necessary during the lifetime of an application.

DM19 - When applications suggest that proposed tree work or felling is necessary to address tree related subsidence damage to a property, to normally require reports and technical analysis. These reports must include the following information as required by national legislation:

- a) A description of the property, including a description of the damage and the crack pattern, the date the damage first occurred or was noted, details of any previous underpinning or building work, the geological strata for the site identified from the geological map.
- b) Details of vegetation in the vicinity and its management since discovery of the damage, together with a plan showing the vegetation and the affected building.
- c) Measurement of the extent and distribution of vertical movement using level monitoring. However, where level monitoring is not possible, the applicant should state why and provide crack monitoring data. The data provided must be sufficient to show a seasonal pattern of movement consistent with the presence of the implicated tree(s).
- d) A profile of a trial/bore hole dug to identify soil characteristics and foundation type

and depth.

- e) The sub soil characteristics including soil type (particularly that on which the foundations rest), liquid limit, plastic limit and plasticity index.
- f) The location and identification of roots found. Where identification is inconclusive, DNA testing should be carried out.
- g) Proposals and estimated costs to repair the damage.

In addition, the application should include a report from an arboriculturist to support the tree work proposals, including arboricultural options for avoidance or remediation of indirect tree-related damage.

DM20 - To normally refuse unnecessary works to trees proposed merely for one or more of the following reasons:

- a) Falling leaves
- b) Sap exudation
- c) Falling fruits, nuts or seeds
- d) Bird droppings
- e) Reduced or increased moisture to gardens
- f) Blocked or obstructed drains, gutters, flat roofs from tree deposits and leaves
- g) Presence of algae or moss build up
- h) Loss or interference with TV or satellite signal reception
- i) Loss of sunlight
- j) Shading of solar arrays
- k) Blocking or obstruction of a view

5.4 CONSERVATION AREAS

All trees over 7.5cm (3 inches) diameter, measured at 1.5m above the ground (or 10cms if thinning is proposed to help the growth of other trees) within a Conservation Area are protected. Applicants are required to give six weeks prior notice of intended works. This is to give the local planning authority an opportunity to consider whether a TPO should be served to protect the trees.

It is the policy of the Council:

DM21 - To seek to respond to all applications for works to trees in conservation areas within 6 weeks' of notification.

DM22 - To consider objections and representations received in respect of publication.

DM23 - In assessing whether a TPO should be served, to assess the amenity value of the tree in accordance with Policies DM3, DM4, DM5, DM6 and DM7 and with special attention paid to the desirability of preserving the character and appearance of the conservation area.

5.5 ADVERTISING AND NOTIFICATION

It is the policy of the Council:

DM24 - To notify and advertise applications for works to trees either subject to a TPO or within a conservation area as set out below:

- a) Parish and town councils will be notified of all applications within their area
- b) Properties where an address can be identified, will be notified of any application to fell a tree on neighbouring property
- c) Properties where an address can be identified, will be notified of any application for works to a tree on neighbouring land that overhangs that property
- d) Properties where an address can be identified, will be notified of any application by a third party for works to a tree on that property
- e) A site notice will be erected at or near the site in respect of TPO applications to fell or remove trees the subject of TPOs or located within a conservation area.

5.6 TREES AND DEVELOPMENT SITES

Trees form a vital part of the fabric of our environment. They help soften the impact of new buildings whilst maintaining, in many instances, a wildlife presence. The Council's aim is to ensure the continuity from generation to generation of trees within the area served by Chelmsford City Council by the use of the planning powers and through negotiation.

In the processing of planning applications the Council will have a high regard for the retention of all trees of amenity value, and where the retention of a tree is not possible, will actively encourage new tree planting.

Policy DC14 - Protected Trees and Hedges and DC42 – Site Planning of the Chelmsford Council Core Strategy and Development Control indicate the importance of trees to new developments. All design elements (including buildings, roads and services above and below ground, security and changes in levels) should ensure a good relationship between the development and the trees to be retained including overshadowing to habitable room windows.

In dealing with all new developments applicants should ensure that development works near trees are carried out to the relevant British Standard, currently BS 5837: 2012 Trees in relation to design, demolition and construction - Recommendations. Applicants will be required to supply sufficient and appropriate information to enable proper and full consideration of a development proposal.

It is the policy of the Council:

DM25 - To provide pre-application advice to developers and prospective applicants on the following:

- a) to identify which trees hedges and/or other vegetation are appropriate for retention
- b) the effect of these trees on design considerations and
- c) the means of protecting trees during development.

DM26 - To require, when considered necessary in the opinion of the Council, for applications and pre-application submissions to provide sufficient and appropriate information to enable proper and full consideration of the arboricultural implications of the development proposal. The supporting information should be based on guidance within BS 5837: 2012 'Trees in relation to design, demolition and construction – Recommendations'.

DM27 - To require where possible landscaping and new planting within new developments that will be in keeping with the locality and replace any vegetation lost to development. Any new planting will be carried out in accordance with BS 8545: 2014 'Trees: from nursery to independence in the landscape – Recommendations'.

DM28 - To provide advice to developers and applicants on species, sizes and locations of new planting in relation to landscaping proposals in connection with planning applications in order to secure high quality landscaping compatible with the long term nature and use of the proposed development.

DM29 – When granting planning permission for development, to use planning conditions to protect and secure retained trees and their long term maintenance in accordance with BS 5837: 2012 ‘Trees in relation to design, demolition and construction – Recommendations’ .

DM30 - To review planting required by landscaping conditions at the expiry of the five year conditional protection period to assess whether TPOs should be served.

DM31 - Where it is subsequently requested to remove some or all of planting required as a condition of a planning permission, to require a formal application for the works and to charge a standard fee for that application based on the Council’s publicised fee at the time the application is made.

DM32 - In determining applications in relation to **DM31** above, to take into account the reason for imposing the condition, whether there has been a change in circumstances to warrant removal of the tree(s)/planting and to consider whether the tree(s)/planting removal would have a significant impact on the local environment and its enjoyment by the public.

5.7 ENFORCEMENT

There are two offences regarding protected trees. These are:

- a) Anyone who, in contravention of tree protection legislation, cuts down, uproots, or tops, lops or wilfully damages a tree in a way that is likely to destroy it, is guilty of an offence (See section 210(1) of the Act). Anyone found guilty of this offence is liable, if convicted in the Magistrates’ Court, to a fine of up to £20,000. In serious cases a person may be committed for trial in the Crown Court and, if convicted, is liable to an unlimited fine. In determining the amount of any fine for this offence the Court must have regard to any financial benefit which has accrued, or is likely

to accrue, in consequence of the offence (See section 210(3) of the Act).

- b) It is also an offence for anyone to contravene the provisions of a TPO otherwise than as mentioned above (see section 210(4) of the Act). For example, anyone who lops a tree in contravention of a TPO, but in such a way that the tree is not likely to be destroyed, would be guilty of this offence (the Court's interpretation of what is meant by "destroyed" directs that a tree need not be obliterated in order for it to be considered to have been "destroyed" for the purposes of the Act. It is sufficient for the tree to be rendered useless as an amenity or as something worth preserving). The penalty in this case is a fine in the Magistrates' Court of up to £2,500. For this offence the case has to be brought within 6 months from the date on which evidence, sufficient to justify the proceeding, come to the prosecutor's knowledge. Proceedings must be commenced within 3 years of the date on which the offence was committed.

Following a report of such works, an investigation will be carried out and if it is established that there is a case to answer, the applicant/owner/tree surgeon or persons who are alleged to have caused damage/felling of the tree will usually be invited to attend the Council offices for an interview under PACE. (Police and Criminal Evidence Act)

It is the policy of the Council:

DM33 - If it appears to the Council that unauthorised works have been carried out to a tree the subject of a TPO or within a conservation area, or a breach of an arboricultural related planning condition has occurred and it does not prove possible to resolve the matter by negotiation, formal enforcement action will be pursued where it is expedient to do so.

DM34 - In the case of replacement planting, to require, wherever practicable, a replacement on a one for one basis. The size, location and species of the replacement tree will, wherever possible, be determined following discussion with the owner.

DM35 - If it appears to the Council that a duty to replace trees or woodlands or a condition of consent has not been complied with, the Council will enforce the duty by

serving a Tree Replacement Notice wherever it is expedient to do so.

DM36 - When it appears to the Council that there has been failure to comply with a Tree Replacement Planting Notice that this will lead to a tree being planted at the landowner's expense where it is considered expedient to do so. The Council can recover expenses incurred by imposing a Land Registry charge on the property.

DM37 - When the Council decides not to take enforcement action on a particular case to be prepared to explain the reasons to anyone who would prefer to see some action taken.

5.8 DEAD OR DANGEROUS TREES (DD) AS DEFINED BY TPO AND CONSERVATION AREA LEGISLATION

There are a number of exemptions from the normal requirement to obtain the Council's consent for cutting down or carrying out work on protected trees. These include where a tree the subject of a TPO which is dead or has become dangerous.

It is the policy of the Council:

DM38 - To require anyone proposing to cut down or undertake works to a preserved tree under the dead or dangerous exemption to give the Council 5 days' notice in writing before carrying out the work, except in an emergency. The burden of proof that the tree was dead or dangerous lies with the defendant. In the case of an emergency, owners/tree surgeons should forward photographic and/or other evidence to the Council.

5.9 DANGEROUS TREES

Under the Local Government, Miscellaneous Provisions Act 1976, powers can be exercised, requiring owners of private trees (not necessarily protected by legislation) to undertake remedial works to alleviate a potential danger to the public or public property. Where no owner can be found, or even where the owner is known and in cases of extreme urgency, powers can be used to undertake the works and the Council can secure repayment by imposing a Land Registry charge on the property so that the monies to carry out the works can be recovered should the property be sold.

It is the policy of the Council:

DM39 - To exercise its right to require the owner to remove or make safe a tree that is not protected and in the opinion of the Council is considered to be dangerous, or is causing a risk or hazard. If the work is not undertaken or is undertaken unsatisfactorily the Council may make arrangements for the work to be done and recover its expenses.

5.10 HIGH HEDGES

As of 1 June 2005, Councils have powers to deal with complaints about high hedges under the Anti Social Behaviour Act 2003 (Part 8) and the High Hedges (appeals England) 2005. An application may be made to the Council to adjudicate between parties regarding the height of an evergreen or semi-evergreen hedgerow. Applicants need to demonstrate that an attempt has been made to resolve the issue over a period of at least three months through keeping a record of letters/communication between the parties (at least three letters must have been sent). There is a charge for making such an application which is not refundable.

It is the policy of the Council:

DM40 - To seek to determine all formal applications in relation to High Hedges under the Anti-Social Behaviour Act 2003 (Part 8) and the High Hedges (Appeals England Order 2005 within 8 weeks' of registration.

DM41 - To charge a standard fee for applications based on the Council's publicised fee at the time the application is made.

DM42 - To visit the site and consider the evidence and decide whether the hedge is adversely affecting the reasonable enjoyment of the applicant's property and, if in the opinion of the council that is the case, what action if any should be taken in accordance with the Anti-Social Behaviour Act 2003 (Part 8).

DM43 - Not to engage in negotiations between parties.

5.11 HEDGEROW REGULATIONS

Under the Hedgerow Regulations 1997 it is an offence to remove most countryside hedgerows without permission. The way in which the Regulations apply to individual hedgerows is quite complex and it is advisable therefore, to discuss informally with the Council, at an early stage any plans to remove hedgerows.

If a hedgerow is removed without permission it is possible that the perpetrator may face an unlimited fine. The onus is on this person to prove the hedgerow was not of sufficient value to be covered by the Regulations.

It is the policy of the Council:

DM44 - To seek to determine all formal applications in relation to the Hedgerow Regulations 1997 within 6 weeks' of registration.

DM45 - To assess applications with regard to the following criteria both as on site inspections and as desk top exercises involving research at the ECC Records Office.

These are whether the hedge:

- a) Marks a pre-1850 parish or township boundary.
- b) Incorporates an archaeological feature.
- c) Is part of, or associated with, an archaeological site.
- d) Marks the boundary of, or is associated with, a pre-1600 estate or manor.
- e) Forms an integral part of a pre-Parliamentary enclosure field system.
- f) Contains certain categories of species of birds, animals or plants listed in the Wildlife and Countryside Act or Joint Nature Conservation Committee (JNCC) publications.
- g) Within an average 30m length, includes:
 - i) at least 6 woody species
 - ii) at least 5 woody species, and at least 3 associated features;
 - iii) at least 5 woody species, including a black-poplar tree, or large-leaved lime, or small-leaved lime, or wild service-tree; or
 - iv) at least 4 woody species, and has at least 4 associated features.
 - v) at least 4 woody species, has at least 4 associated features and runs alongside a bridleway, footpath, road used as a public path, or a byway

open to all traffic

5.12 HERITAGE/VETERAN TREES

For many years, organisations such as the Tree Council, Woodland Trust and the Ancient Tree Forum have been campaigning for “old” trees and have done much to raise their profile. A Heritage or veteran tree is defined as being a tree which, because of its great age, size or condition to others of the same species, or has exceptional cultural, landscape or nature conservation value still have little if any protection. The normal tree protection measures do not always fit and far too often an “old” tree is seen as dangerous or an inconvenience.

The Council will therefore record on the mapping system and in writing with photographs, the stock of Heritage and Veteran trees in the area served by Chelmsford City Council, where known, and will subsequently report these to the national Ancient Tree Forum whether they are trees protected by legislation or not. If the tree is in private ownership, this will be acknowledged and privacy respected.

It is the policy of the Council:

DM46 - To recognise and record trees which are considered to be heritage or veteran trees and will safeguard their future where at all possible. The list is maintained locally on a computer database within the Council’s Development Management Service and is added to the national list held by the Woodland Trust Ancient Tree Hunt Register.

5.13 TREE WARDENS

The Tree Council’s Tree Warden Scheme seeks to involve volunteers in championing and managing their local trees and to meet locally with like-minded people for training, field trips and practical activities. The Council has run the scheme locally since 2003 and participated in local, county, regional and national events.

It is the policy of the Council:

DM47 - To continue to promote and facilitate a tree warden scheme locally through parish and town councils and the Chelmsford Society by sponsoring training and providing

information on protected trees within individual areas.

5.14 LIST OF COMPETENT PRACTITIONERS

The Council will hold and maintain a list of Tree Surgeons and Tree Consultants who work within the area served by Chelmsford City Council. Checks will be made into competency and professional qualifications before an individual is placed on the list. If a sufficient number of justified complaints are received relating to an individual or company on the list, this will be reviewed and that individual or company may be removed from the list. The lists will be available in a hard copy form and on the Council's web site.

These lists are to assist residents of the area served by Chelmsford City Council and the Council takes no responsibility for work carried out by a tree surgeon or tree consultants on the list which is provided solely to help the public find a qualified contractor. All contractors on the list must have public liability insurance which it is recommended be checked before the tree surgeon is employed.

It is the policy of the Council:

DM48 - Not to recommend tree surgeons or consultants but to provide a list of tree surgeons working within the area served by Chelmsford City Council, who, in the opinion of the Council are competent.

DM49 - To consider requests by tree surgeons to be included in the list, by requiring completion of an application form which requires information on at least 3 previous jobs which may be inspected or references sought. Checks will be made into competency and professional qualifications before an individual is placed on the list.

DM50 - To review the list regularly. If a sufficient number of justified complaints are received relating to an individual or company on the list, this will be reviewed and that individual or company may be removed from the list.

DM51 - To maintain the list available to the public in a hard copy form and on the Council's web site.

DM52 - To maintain a list of Tree Consultants who work in the area served by Chelmsford City Council and can provide technical reports in relation to trees on development sites available to the public and to maintain the list in a hard copy form and on the Council's website.

6.0 TREES AND BUILDING CONTROL

The ground conditions in Chelmsford, and its surrounding areas, comprise mainly of shrinkable clay sub soils (although there are some areas of sand/ballast). In the absence of a detailed site investigation and soil report, it should always be assumed, that the soil has "High volume change potential".

Highly shrinkable soils are subject to seasonal shrinkage and heave due to changes in ground water content. The proximity of vegetation (trees and shrubs) can add significantly to these effects. It is important therefore, that any planting scheme submitted to and approved by the council takes this into consideration.

At the time of a Building Regulation application, Building Control will check that the foundation depths are adequate for the soil type, and take into account planting, but this can only work IF shrub/tree planting is known and declared.

It should be remembered that:

- a) Planting may not have occurred by the time the construction has been completed (e.g. if it is not the planting season) and therefore may not be apparent on completion inspection.
- b) Council Building Control is not necessarily the Building Control body.
- c) Planning applications, including landscaping, may be approved before a Building Regulation application is made, and therefore revisions may be requested by Building Control that may impact on the landscaping scheme.

Where appropriate, an applicant's attention will be drawn to the guidance, so that provision can be made to allow for greater excavation depth or appropriate planting species are selected, and that sufficient distance is allowed from the planting to the foundations.

It is the policy of the Council:

BCI - Where the Council is the Building Control body for new building works that are controlled by Building Regulations, it will seek to ensure that the design and construction of new foundations will take into account the effect of seasonal shrinkage and heave shrinkable clay sub soils due to the presence of existing vegetation and planned new planting.