

# Draft Tree Policy



*"Three hundred years growing. Three hundred years standing. Three hundred years decaying."*  
Lifecycle of English oak & sweet chestnut - Peter Collinson 1776

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# 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 west 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 (not all)
- 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.

## **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

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

### 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 an assessment of prioritisation is made of three zones, high, medium and low.

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

### Frequency of Inspections

Trees in the High Risk Zone will be inspected every 12 to 18 months. 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.

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

### Inspections

Following Zoning, tree inspection requirements and level will be identified by reference to their size, condition and 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.

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, appropriate remedial action should be identified and timescale specified.

Category 1 – Immediate action

Category 2 – high priority within 6-12 months

Category 3 – medium priority within 12-24 months

Category 4 – no action required until next scheduled inspection

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 Confirm as its asset management system for grounds maintenance. 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. Records will be kept for an adequate length of time given that they can aid in the defence of liability claims.

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 recommend 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 annually to ensure they meet the current legal duty of care standards.

## 7. Works

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, where appropriate will keep interested parties such Ward Members, Parish Councils, Tree Wardens and colleagues (Planning) informed of any works.

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 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 fall into this category.

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. Works will not normally be undertaken on a tree to reduce shading, leaf or fruit fall, or to improve TV signal reception.

### **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.

## 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 or 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. The Council also employs a Tree Preservation Officer who is available to offer specialist advice.

## 12. Review

The Council will review this policy every 2 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).

