

# Kirklees Council

## Council Owned Tree and Woodland Management Policy

### 1. Introduction and Aims

- 1.1 Trees are a hugely important component of the landscape in both the urban and rural parts of the Kirklees district. Trees, whether appearing as individuals, groups or as woodlands, have a very significant effect on our quality of life by providing a range of ecological, aesthetic, social and health benefits.
- 1.2 The total area of woodland within the Kirklees district is approximately 6,199ha or 15.2% of Kirklees district's land area, which is considerably higher than the UK national figure of 11.8% (ONS figures). Kirklees Council owned/managed woodlands cover over 600ha, representing almost 10% of the woodlands in the district or 1.5% of the land cover.
- 1.3 Increasing tree cover and effective management of its tree and woodland assets are a key component of the Council delivering its Corporate Plan, in particular *Clean and Green*: enabling both our built and natural environment to contribute to the quality of life of our citizens and making the district a more attractive place in which to live and invest; and helping to connect people and places, improve air quality and be resilient in the face of extreme weather.
- 1.4 There is increasingly strong evidence and a growing consensus that trees, woods and forests have a key role to play in climate change mitigation and adaptation, and in delivery of ecosystem services in both rural and urban areas. As such this policy also forms part of the Council's response to the Kirklees Climate Emergency, declared in January 2019, and the subsequent report of the Kirklees Climate Emergency Working Party adopted in November 2019.
- 1.5 **The aim of this policy is to set out how the Council will effectively manage and enhance trees and woodlands under Council ownership, ensuring that they:**
  - **positively contribute to the area, the achievement of the Council's corporate priorities and the local response to the Climate Emergency;**
  - **maximise benefits for citizens and the wider environment;**
  - **meet legal obligations; and**
  - **minimise conflict with the public and other land owners.**
- 1.6 This policy and associated documents are intended to provide guidance for decision-makers across the Council when addressing any issues related to the management of trees and woodlands within Council ownership, as well as for the general public in terms of how requests/complaints relating to trees and woodlands will be dealt with.
- 1.7 A Tree and Woodland Guidance document was adopted by the Council in 2014. This policy and associated documents supersede that document and any other previous Kirklees Council tree policies, strategies and guidelines.

### 2. Scope

- 2.1 The Council's tree and woodland assets are managed by the Greenspace Department.
- 2.2 This policy primarily relates to trees for which the Council is currently responsible, namely those located on Council-owned land within:
  - i. Highway verges
  - ii. Council tenancy housing sites
  - iii. Cemeteries and churchyards
  - iv. Car parks
  - v. Parks and open spaces
  - vi. Woodlands
  - vii. Land vested with the corporate landlord (PRP)
  - viii. The boundaries of Council owned/managed buildings
- 2.3 This policy does not cover trees within private ownership unless the Council has a legal responsibility or power in respect of their management.

### 3. Background

### **Statutory obligations**

- 3.1 Under section 40 of the Natural Environment and Rural Communities Act 2006 (NERC Act) Local Authorities have a statutory obligation to have regard to the conservation of biodiversity, including restoring habitats and species populations, while exercising their functions.
- 3.2 Further statutory protection to species associated with trees and woodlands are conferred by the Wildlife and Countryside Act 1981 and European Protected Species legislation. Of particular note is legislation relating to bats and their roosts, badgers, and nesting birds.

### **Benefits of trees**

- 3.3 The benefits of trees have been widely researched and documented, and include:
  - Landscape character: contributing to the physical attractiveness of the district and providing screening for less attractive development, thereby also attracting local investment;
  - Local environment: mitigating noise pollution, providing shelter, stabilising soils thereby reducing erosion, and mitigating flood risk by absorbing water and slowing the flow of water into watercourses
  - Climate change: carbon capture and sequestration;
  - Biodiversity: supporting a multitude of other species of flora and fauna;
  - Physical health: significantly improving air quality through trapping of particulate matter, offering shade, offering opportunities for physical activity;
  - Mental health and well-being: contributing to attractive green spaces which are well documented to have a positive effect on mental health and well-being;
  - Education and culture: providing an educational resource e.g. for Forest Schools; many specific trees and woodlands have important historic and cultural significance; and
  - Commercial: a potential source of revenue.

### **Biodiversity and woodland management**

- 3.5 Forests, woods and trees make a major contribution to biodiversity in the UK but lack of management, fragmentation of habitat and climate change can compromise this contribution.
- 3.6 Kirklees contains examples of the following Habitats of Principal Importance, which are identified under section 41 of the NERC Act 2006: Lowland Mixed Deciduous Woodland, Traditional Orchards, Upland Mixed Ashwoods, Upland Oakwoodland, Wet Woodland, Wood-Pasture & Parkland. The list of Habitat (and Species) of Principle Importance is intended to inform the 'biodiversity duty' under section 40 of the NERC Act 2006 (see section 3.1 above).
- 3.7 Many woodlands across Kirklees have been under or not managed for a number of decades, leading to even aged stands of mature, often single species woodland with little regeneration or ground flora. Reinstating active management of many woodlands, together with connecting woodland habitats, is therefore an important component of improving biodiversity across the district, and will demonstrate that the Council is meeting its 'biodiversity duty' under section 40 of the NERC Act 2006.
- 3.8 Trees and woodlands are currently also under threat from a number of specific challenges including Ash Dieback and the effects of climate change, including changes in precipitation, temperatures and the spread of other pests and diseases, which are likely to increase into the future.

### **White Rose Forest**

- 3.9 Kirklees Council is a key partner in the White Rose Forest (WRF) initiative which covers the Leeds city region and aims for a 30% increase in tree canopy cover by 2044 as part of the wider Northern Forest programme. The WRF initiative includes a number of key work streams including Green Streets, focused on urban tree planting, and Landscapes for Water which views woodland creation through the wider lens of natural flood management and water quality improvement.

### **Tree-related risk**

- 3.10 The risk of being struck and killed by a tree or branch falling is extremely low - in the order of one in 10 million for those trees in or adjacent to areas of high public use. The Health and Safety Executive (HSE) views this level of risk as "broadly acceptable", however the public may not perceive the risk to be low following an incident depending on the associated media coverage.
- 3.11 As the owner and manager of trees Kirklees Council owes a duty of care to persons and property who may suffer harm caused by their failure in line with the following legislation:
  - The Health & Safety at Work Act (etc) 1974
  - Occupiers Liability Acts 1957 and 1984
  - The Management of Health & Safety Regulations 1999

- 3.12 As such the Council, as a reasonable and prudent landowner, has a responsibility to have a risk management framework in place which considers the risks posed by its trees, which balances the risks against the many benefits provided by its trees and woodlands, and which allows it to take actions which are proportionate to the risk and are reasonably practicable.
- 3.13 This subject is discussed in more detail in the *Kirklees Council Tree Risk Management Framework* which accompanies this document.

#### ***Conflict in relation to trees***

- 3.14 Whilst trees are widely recognised for their many benefits they can also be the source of conflict. Frequent causes for complaints to the Council relating to trees include shading, leaf fall, structural damage, interference with utilities/services, and obscuring of views.
- 3.15 Conflict may also arise where third parties undertake works to trees on Council land without prior written agreement from the Council.
- 3.16 Trees owned by third parties may also cause damage to Council land or property on failure, and on occasion private trees may be noted by Council tree inspectors as posing an imminent risk to Council land or property. The Council has powers under the Local Government (Miscellaneous Provisions) Act 1976 and the Highways Act 1980 to require a private individual to make safe a tree which poses an imminent danger.

## **4. Council Policy Statements for the Management of Trees and Woodland under its Ownership**

#### ***Tree and woodland enhancement***

- 4.1 **The Council will seek to proactively increase tree and woodland cover in both rural and urban parts of the district, by planning for the replacement of trees projected to be lost through disease and by maximising opportunities to plant trees wherever practicable and sympathetic to local topography, ecology and landscape character and taking into account the avoidance of future conflict with other landowners and users, in conjunction with the White Rose Forest and relevant elements of the Local Plan including the facilitation of biodiversity net gain and connectivity enhancement within the Kirklees Wildlife Habitat Network and the Strategic Green Infrastructure Network.**

#### ***Protection of existing trees/woodland assets***

- 4.2 **The Council will not agree to the removal of healthy trees from the environment unless this removal is deemed necessary under the *Kirklees Council Tree Risk Management Framework* or is in line with good woodland management practices, or is otherwise required under other legislation or to implement a planning permission.**

#### ***Woodland management***

- 4.3 **Where practicable the Council will seek to bring its woodlands back into active management in line with best practice as set out in *The UK Forestry Standard* through the creation and implementation of woodland management plans for sites and through seeking appropriate funding, in conjunction with local volunteer groups and commercial opportunities where appropriate, and ensuring adherence to all relevant wildlife legislation.**

#### ***Risk management***

- 4.4 **The Council will manage tree-related risk in a proportionate, consistent and effective manner through the implementation of the *Kirklees Council Tree Risk Management Framework* which accompanies this document.**

#### ***Conflict and complaints - Council and third-party trees***

- 4.5 **Requests and complaints from third parties in relation to Council trees will be dealt in accordance with the above policies 4.1-4.4 and the Council's Complaints Procedures where relevant, taking into account the specific circumstances and context of the request or complaint, and including an appeals process against any decision made.**
- 4.6 **The Council will seek compensation in the form of remedial work to rectify damage and/or full replacement cost values from any external organisation or individual(s) responsible for**

significant damage to, or removal of, any Council owned tree(s) according to the value as calculated by the Capital Asset Valuation of Amenity Trees (CAVAT) methodology.

- 4.7 The Council will, when identified as part of its own tree inspection programme, notify owners of private trees that pose a foreseeable risk to the public highway or to Council land of the need to carry out remedial works; in the event of non-compliance remedial works will be undertaken by the Council, with costs recharged to the tree owner, in line with relevant legislation.
- 4.8 Tree works will not be carried out at the Council's expense on behalf of private tree owners; where essential works are undertaken to rectify damage to Council land or property sustained through the failure of the whole or part of third-party trees the costs of such works will be recharged in full to the owner of the tree or trees in question.

## 5. Procedures and Implementation

- 5.1 The procedures and guidelines to be followed in implementing this policy are set out in the supplementary documents *Kirklees Council Tree Works on Council Owned Trees: Guidance Document* and *Kirklees Council Tree Risk Management Framework*.

## Key References

- Natural Environment and Rural Communities Act 2006 (section 40: duty to conserve biodiversity)
- National Planning Policy Framework (Section 14: Meeting the challenge of climate change, flooding and coastal change; and Section 15: Conserving and enhancing the natural environment)
- Kirklees Council Local Plan (adopted March 2019)
- Trees in Towns II (DCLG, 2008)
- Local Authority Tree Strategies (The Woodland Trust, 2016)
- British Standard BS 5837:2012 Trees in relation to design, demolition and construction - recommendations
- British Standard BS 3998:2010 Tree work – recommendations
- The UK Forestry Standard (the Forestry Commission, 2017)
- The State of the U.K.'s Forests, Woods and Trees (The Woodland Trust, 2011)