



Derry City & Strabane
District Council

Comhairle Chathair
Dhoire & Cheantar
an tSratha Báin

Derry Cittie & Stràbane
Destrict Council

Derry City & Strabane District
Council

Planning Department
Tree Protection Strategy
2025

(Consultation Draft)



DERRY CITY AND STRABANE DISTRICT COUNCIL

PLANNING DEPARTMENT



Tree Protection Strategy

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Section 1 –Tree Protection in our District

Introduction

- 1.1. Derry City and Strabane District Council recognises the importance of protecting and planting trees within the District. The benefits of trees are extensively documented as they provide numerous social, environmental, economic, and health benefits to both urban and rural areas. Maintaining appropriate levels of tree retention, upkeep, and planting within the District is crucial in order to secure these benefits, mitigate the effects of climate change and align with the Council's environmental objectives.
- 1.2. The effective promotion, administration and enforcement of tree protection is critical to long term strategies to improve the social, environmental and economic wellbeing of our areas and people. Trees have a key role not only in increasing biodiversity and combating climate change but are also increasingly recognised for the value they add to homes and public spaces and for their wide-ranging benefits to public health.
- 1.3. This Tree Protection Strategy has been prepared to take account of the recommendations in the Northern Ireland Public Services Ombudsman report 'Tree Protection: Strengthening our Roots' Report, published in November 2023 (<https://www.nipso.org.uk/our-findings/search-our-findings/strengthening-our-roots-overview-report-tree-protection-planning-0>). The report provides a renewed focus on trees as valuable assets and the effectiveness of the current protection protocols.



- 1.4. This Tree Protection Strategy sets out the Council's approach to tree protection in the City and District and reflects the above objectives, including the increasing role of trees in mitigating the impacts of climate change. The Green Infrastructure Department at the Council includes a qualified Arboriculturist and is responsible for the maintenance and management of all trees on Council-owned land, and some others that the Council has responsibility for. For all other trees in the District, the landowner is responsible for the maintenance and management. However, those trees which are protected by a Tree Preservation Order, located in a Conservation

Area or protected via Planning condition prior consent for tree works will be required from the Planning Tree Protection service, before works are carried out.

- 1.5. The Tree Protection service is administered by the Planning Tree Officers who are part of the Local Development Planning team, within the Planning Department of the Council's Environment & Regeneration Directorate. The Officers' primary duties are to assess requests for new TPOs and requests for remedial works to protected trees, manage the Register of TPOs and provide both internal and external advice in respect of impacts to, and of, protected trees.
- 1.6. This Tree Protection Strategy shall be considered to be Supplementary Planning Guidance (SPG) and is prepared in support of the proper interpretation and implementation of LDP and regional Planning policy and the Tree Regulations. This will ensure consistency in decision-making processes and to promote the application of good practice. It should be noted that the Strategy is a living document and as such, it is subject to regular monitoring and review. It will be updated as and when required – so as to remain current, in line with changes to regional and local policy, procedures, best practice and government guidance. Any changes made to this document will be highlighted on the Council's website and consulted-upon if appropriate.
- 1.7. Section 1 of the Strategy is for information purposes and sets out the vision, aims and objectives of the Council at the time of publication. Section 2 provides an overview of the procedural guidance to supplement the legislative framework around tree protection.

Planning Policy Context

Regional Planning Policy Context

Regional Development Strategy (RDS) 2035

- 1.8. The Regional Development Strategy (RDS) provides regional guidance under the three sustainable development themes of Economy, Society and Environment. RG11 recognises the importance of conserving, protecting and, where possible, enhancing our natural environment. It also highlights the importance of protecting and encouraging green and blue infrastructure within urban areas. The RDS recognises the contribution that our natural environment makes to improving health and well-being and in promoting economic development.

Strategic Planning Policy Statement (SPPS) for Northern Ireland (2015)

- 1.9. The Strategic Planning Policy Statement (SPPS) identifies core principles to assist with plan-making and decision-taking. Under 'Preserving and Improving the Built and Natural Environment', the SPPS recognises the importance of the environment, and also sets out some of the benefits a well-managed local environment can provide. The SPPS underpins the principles of sustainable development and requires that future development is shaped by the local context, subject to aligning with the planned system. Policy states that Planning permission will not be granted where it would result in the unacceptable adverse impact on, or damage to natural heritage features worthy of protection, including trees and woodlands.

Local Planning Policy Context

Local Development Plan – LDP Plan Strategy (2032), adopted July 2025

- 1.10. The Independent Examination (IE) for the Council's Local Development Plan (LDP) draft Plan Strategy concluded in October 2023 with the Planning Appeals Commission completing their report in May 2024. Following this, the Council received the Direction from the Department for Infrastructure (DfI) on 17th December 2024. The LDP Plan Strategy (PS) was adopted in July 2025 and immediately commenced implementation. The second part of LDP 2032, the Local Policies Plan (LPP), will detail all the site-specific proposals and will be prepared from 2025 to its adoption in 2028 approximately.
- 1.11. The LDP aims to protect and enhance the natural environment to achieve biodiversity, quality design, enhanced leisure and economic opportunity and promote health and well-being. Additionally, the Council's LDP aims to protect ecosystem services of fauna and flora, as well as achieving significantly more tree-cover, energy efficiency, less pollution and other measures to tackle climate change.
- 1.12. It is the LDP's intention to raise the District woodland cover / tree planting from its current baseline (11,000ha) by 2032. There is the potential for the LDP to contribute significantly to the numbers of (native-species, broadleaf) trees in the District over the LDP period and to positively mitigate against the effects of climate change and enhance our District's biodiversity net gain and ecosystem services. The uptake and success of this initiative will be monitored annually and considered as part of the LDP Review.
- 1.13. Within the LDP Plan Strategy, Place-making & Design Principle 5 (PDP 5) emphasises that good urban design and landscape architecture is needed which demonstrates that natural features are not constraints to development, but rather, are integral assets that increase the environmental, social and economic value of the place in question. Retaining mature trees is one the ways the Strategy identifies to incorporate natural features to add meaningful value to the District's places.
- 1.14. Key LDP principles / policies which provide the mechanism to achieve this aim include:
 - GDP 7 Development Principles: Preserving and Enhancing the Natural Environment
 - GDPOL 1 General Development Management Policy
 - Policy NE 3 Biodiversity or Features of Natural Heritage Importance
- 1.15. PS Para 7.61 notes that through Policy GDPOL 1, the LDP will require sympathetic tree planting of a scale commensurate with the proposed site and normally additional to that required as part of landscaping proposals associated with development. Where feasible, development proposals (other than minor development) will be required to have sufficient land included within the proposal to permit the planting of a proportionate quantity of native-species trees as part of the development.
- 1.16. Policy NE 3 is the Council's key Planning policy that aims to proactively protect trees and encourage general tree retention, with specific reference to the TPO protection mechanism which assesses the visual amenity and character of trees. The policy

states that Planning permission will only be granted in wholly exceptional circumstances for proposals likely to result in damage or direct loss of habitats, such as ancient or long-established woodland, which cannot be mitigated or fully compensated for. To protect the amenity value of trees and woodland, the Council will, where appropriate, make Tree Preservation Orders (TPOs) on woodlands, groups of trees and individual specimens which satisfy the TPO criteria and contribute to the visual amenity and character of the surrounding area.

- 1.17. The associated Justification & Amplification text to Policy NE 3 states:

“Our District contains several key areas of ancient (areas wooded since 1600) or long-established woodland. Such woodland covers less than 1% of Northern Ireland’s landscape. Host to many rare and threatened species, these woodlands are fragmented and small in size and often undervalued accordingly. Many types of development can cause indirect impacts on ancient and long-established woodlands, often because they are adjacent to or closely abutting these areas.”

- 1.18. *Section 121 of The Planning Act (NI) 2011 places a duty on the Council when granting Planning permission for any development, to make adequate provision, by the imposition of conditions, for the preservation or planting of trees; and, when considered appropriate, to make Tree Preservation Orders in connection with the grant of such permissions under Section 122 of the same Act. In order to meet this duty, development proposals will be expected to take account of existing trees and hedges which in the interests of visual amenity or wildlife habitat should be retained. The Council will seek to ensure the protection of such features through the inclusion of conditions in any permission granted, or permission will be refused if appropriate.*
- 1.19. *All development proposals on sites which contain or are adjacent to trees or hedgerows, will be required to submit a survey and take account of them, protecting them where appropriate, during their design and any future construction stage. This is to ensure that such trees are not at risk to unacceptable adverse impacts as a result of development activities.*
- 1.20. *Particularly important trees will be protected if they are of significant public amenity value by the making of a Tree Preservation Order. This prohibits the cutting down, topping, lopping or wilful destruction of protected trees without the prior consent of the Council. Where the Council consents to the removal of protected trees, it will be a requirement that suitable replanting occurs.*
- 1.21. *The Council will require that development proposals on sites containing, or adjacent to, protected trees will require the submission of a site survey accurately showing the positions, species, heights, canopies and health condition of all protected trees. Existing and finished site soil levels will also be required to be shown relevant to the protected trees.*
- 1.22. *In considering development proposals, the Council will seek to achieve site layouts which avoid the root systems of existing trees and minimises future concerns over residential amenity. The Council will require developers to manage their sites and their responsibilities to protect trees in strict accordance with BS 5837 (2012) Trees in relation to Design, Demolition & Construction.’*

Other Plans / Strategies for the District

Strategic Growth Plan

- 1.23. Derry City and Strabane District's Inclusive Strategic Growth Plan (SGP) 2017 - 2032: Our Community Plan, aims to 'improve the social, economic and environmental well-being of the City and District and to do so in a sustainable way'. The Growth Plan seeks to protect and promote our natural environment and ensure everyone can benefit from accessing it.

Green Infrastructure Plan 2019-2032

- 1.24. The Council's Green Infrastructure Plan 2019- 2032 (GIP) is linked with the Council's SGP and is a strategic approach for the creation of a planned and managed network of multi-functional green and blue spaces, which can deliver a range of environmental, economic and social benefits for local communities. It identifies priority areas for protecting and improving green infrastructure and highlights the importance of enhancing biodiversity, safeguarding ecosystem services, mitigating and adapting to climate change and improving health and well-being benefits. Aims set out in the GIP include increasing tree planting in both urban and rural areas and build on existing TPO provision to ensure protection of existing trees and woodland.

Climate Change Adaptation Plan

- 1.25. In line with the SGP and GIP, the Council's Climate Change Adaptation Plan encourages the planting of urban trees which can be achieved through the Planning process and trees in new development.



British Standards in relation to Trees

- 1.26. British Standards are documents published under license from The British Standards Institution and prepared by a technical committee of experts with the aim of planning, programming and co-ordinating standards for trees and tree work, resourcing and organizing the structure and work necessary to produce and maintain the standards. It is considered to be best-practice, internationally.

- 1.27. Key documents include BS58:37:2012 (Trees in relation to Design, Demolition and Construction) BS 8545:2014 (Trees: From Nursery to Independence in the Landscape – Recommendations), BS 3998:2010 (Recommendations for tree Work) and BS 3936-1 (Nursery Stock Specification for Trees and Shrubs).
- 1.28. BS 5837:2012 - Trees in relation to Design, Demolition and Construction, is used to ensure the application of best practice in respect of works to trees or development which would impact them. Key points from this BS are set out below:
- 1.29. *The development constraints arising from existing trees, both above and below ground should inform the site layout design, although it is recognised that the competing needs of development mean that trees are only one factor requiring consideration. Certain trees are of such importance and sensitivity as to be major constraints on development or justify its substantial redesign or modification to the design proposal. Care should be taken to avoid tree damage, attempts to retain too many or unsuitable trees, or post completion demands for the removal of trees due to psychological impacts or amenity issues for residents.*
- 1.30. *As trees can affect and be affected by many aspects of site operations during the conception and design process, the project architect or in major schemes, the project arborists should be involved in ongoing reviews of layout and all members of the design team being made aware of the requirements for the successful retention of trees – protected or otherwise.*
- 1.31. *Please refer to BS 5837:2012 for more detailed information and guidance regarding constraints posed by existing trees and the subsequent protection measures. Documents which may be required during the development process include (but are not limited to) a tree survey, tree protection plan, arboricultural impact assessment and tree management plan.*
- 1.32. *In addition to information and guidance for the design process and construction periods, BS 5837:2012 provides guidance on tree management in post-development environments.*
- 1.33. *Once the layout has been finalised, a tree management plan should be prepared which sets out all anticipated works required to facilitate the development and accompanied by a plan clearly identifying each tree.*
- 1.34. *Regular maintenance of trees is necessary for tree health and longevity, and a detailed maintenance schedule may be required. Common maintenance techniques include crown thinning, crown lifting, crown reduction, crown cleaning and pollarding.*

Section 2 – Protected Trees

Introduction

- 2.1. There are significant aesthetic benefits, including screening undesirable features, enhancing privacy and adding greenery and colour of trees. They are part of the historic fabric of the City and District, providing a link to the past and are key features of heritage assets such as Historic Parks & Gardens and Conservation Areas.
- 2.2. This section will focus on the Council's role in tree protection. Tree Preservation Orders (TPOs) are statutory protections afforded to trees under the Planning Act (NI) 2011.

Legislative Context

- 2.3. Tree protection is applied in order to protect selected trees or woodland if their removal is likely to have a significant impact on the local environment and adverse public amenity impact. The Council has a specific statutory duty in relation to trees under Section 121 of the Planning Act (NI) 2011.
<https://www.legislation.gov.uk/nia/2011/25/part/4/chapter/3>
- 2.4. Trees can be protected under the Planning system by:
 - A Tree Preservation Order (TPO).
 - Conservation Area designation.
 - Planning conditions
- 2.5. TPOs are statutory protections afforded to trees under the 2011 Act. The Act gives local Councils the discretionary power to make TPOs where they consider that it is 'expedient in the interests of amenity'. Whilst the making of new TPOs primarily sits under the remit of Councils, the Department also retains the power to make them in certain circumstances. The 2011 Act is augmented by The Planning (Trees) Regulations (NI) 2015 (the Tree Regulations) which set out the form and content of TPOs, along with the procedures to be followed when making, confirming and revoking TPOs. <https://www.legislation.gov.uk/nisr/2015/84/contents/made>

Tree Preservation Orders

- 2.6. A TPO can be requested from a member of the public, elected representative or an interest group. Additionally, the Council may initiate TPOs as a result of a Planning application, the Development Plan process or in response to any threat.
- 2.7. An Order can cover anything from a single tree to a woodland and all types of trees can be protected, subject to them meeting relevant applicable criteria. Hedges, bushes and shrubs will not be protected.
- 2.8. Some trees (or woodlands) should be protected because they enhance views, help define character and promote a sense of place, add colour and seasonal interest, have historic importance, support wildlife and/or if they are under threat.
- 2.9. If a tree or wood is protected by a TPO, anyone wishing to carry out management work or remove the tree will be required to obtain consent from the Council prior to

any works being carried out. If consent is not sought from and given by the Council, illegal works could lead to criminal prosecution.

How does the Council decide which trees to protect?

2.10. The Council may make Tree Preservation Orders for the purpose of:

- Protecting trees considered to be of special value in terms of amenity, history or rarity, which may or may not be under threat.
- Ensuring the continuance of a woodland area which may be felled with Council (or in the case of Council-owned trees – Departmental) consent, by securing the replanting of trees, where this is considered necessary.

2.11. To be considered for a TPO, trees must be of high public amenity value and in reasonable condition.



2.12. The following criteria is used when assessing the merits of a potential TPO;

- a) *Potential Threat*: Priority will be given to the protection of those trees deemed to be at immediate risk from active felling or damage from development on site. All other requests will be assessed and prioritised accordingly.
- b) *Visibility*: The extent to which the trees or woodlands can be seen by the general public will inform the assessment of whether the impact on the local environment is significant.
- c) *Individual Impact*: The mere fact that a tree is publicly visible will not itself be sufficient to warrant a TPO. The tree's particular importance will be assessed by reference to its size and form, its future potential as an amenity should also be assessed taking into account any special factors such as its screening value or contribution to the character or appearance of an area. In relation to a group of trees or woodland, an assessment will be made of the collective impact.

- d) *Wider Impact*: The significance of the trees in their local surroundings will also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.
- e) *Historical Importance*: Certain trees because of their age, association with the setting of listed buildings or the contribution they make to the special character of a Conservation Area may require consideration for TPO protection.
- f) *Rarity*: There may be occasions where a tree(s) may be considered for TPO protection solely on the grounds of its rarity. The priority of the consideration will reflect the rarity of the species.

How are Requests for a TPO processed?

- 2.13. In most cases, the Council will impose a Provisional TPO (pTPO), which takes effect immediately on the date specified in the notice sent to the owner and provides protection for the trees for a period of six months. During this six-month period, a detailed assessment of the trees is carried out by the Council, generally with the services of an Arboriculturist and a decision is made as to which trees, if any, should be protected. The Provisional Tree Preservation Order will then be confirmed on those trees which are deemed worthy within the six months or allowed to lapse if it is considered, as a result of the detailed assessment, that they are not worthy of protection.
- 2.14. Alternatively (but rarely), a full TPO may be served in circumstances where the Council considers it unlikely that there is any significant risk to the tree. The Council may give notice to the owner and occupiers of the land that it proposes to make a TPO within a 28-day notice and representation period. Within this period, a detailed assessment of the trees is carried out by the Council's appointed arboriculturist (as above wording), and a decision is made as to which trees, if any, should be protected. The full Tree Preservation Order will then be applied to those trees which are deemed to warrant it, within the 28-day period, or not proceeded with if it is considered, as a result of the detailed assessment, that they do not warrant protection currently.
- 2.15. At the time of making a TPO, it is served on the owner, and where necessary the occupier if not the owner (the 'persons interested' as set out in the 2015 Tree Regulations). A copy of the Order will be attached to a protected tree or other obvious location and immediate neighbours will also be notified by letter.
- 2.16. Further, a Statutory Charge registration is made to Land Registry, so that from that time forward, any prospective purchaser of the land will be made aware of the presence of the TPO (through their Solicitor's Property Certificate Search).

Third Party Representation

- 2.17. The Council can receive comments from interested persons or other members of the public within 28 days from the date of a pTPO, or from the date of issue of the letter of notification for a full TPO. Comments are fully considered before deciding whether or not a TPO is confirmed.

Decision-making

- 2.18. Part 4 Section 7 (4) (b) Local Government Act (NI) 2014 allows a Council Committee to delegate certain types of decisions to an officer of the Council. The Council's (Amended, Planning) Scheme of Delegation 2020 ([Derry City & Strabane - Services](#)) sets out those types and in respect of tree protection, states that the following matters are delegated to the appointed officer (i.e. the Head of Planning or such officers as are authorised by the Head of Planning (HoP)):
- The making of a Tree Preservation Order (TPO)
 - The serving of a Provisional Tree Preservation Order (pTPO)
 - Confirmation of a Provisional Tree Preservation Order
- 2.19. However, the HoP may decide to take the matter to the Planning Committee for decision if it is considered to be contentious or subject to significant objections. The Officers prepare formal reports for any matter brought to the Planning Committee, which are publicly viewable on the Council website and set out the rationale for any decisions. Officers also prepare reports for any matter that is approved under delegated powers and these will be reported Quarterly, to the Planning Committee, with the report being made publicly available upon request, also setting out the rationale for any decisions.
- 2.20. The Council follows a procedural protocol named 'Protocol for the Authorisation of TPOs and Works to Protected Trees' which sets out the managerial level as to which responsible officer is authorised to sign-off works. When a Provisional Order is served, only a Principal Officer or the Head of Planning is authorised to sign-off.
- 2.21. The Council holds a Register of TPOs in the District and in accordance with Section 242 of the Planning Act (NI) 2011, it is available for inspection by the public at all reasonable hours. The Register is also available on the Council's website, updated on a quarterly basis. There are currently sixty-eight confirmed TPOs in the District (as of July 2025). Most TPOs comprise groups of trees, rather than individuals. Specific TPO files are available for inspection on request, and these normally detail the numbers, location, species, and health and condition of individual trees. In addition, the Council carries out periodic reviews of the TPOs to ensure that all TPOs remain valid.

Requests for a new TPO can be made:

- *online via Northern Ireland Planning Portal - <https://submissions.planningsystemni.gov.uk/app/applications/new>*
 - *via email by setting out the request and supplementing it with details which meet the 6 criteria to planning@derrystrabane.com*
 - *by submitting a hardcopy request to Council Offices at 98 Strand Road, Derry, BT48 7NN*
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Trees in Conservation Areas

- 2.22. Trees in a Conservation Area are also subject to protection as though a TPO were in place. Conservation Areas are areas designated by the Council as having special architectural or historic interest. Trees located in Conservation Areas (subject to size constraints) generally receive similar protection to those which are protected by TPOs. It is a criminal offence to carry out works to trees in Conservation Areas without first serving notice on the Council.
- 2.23. Currently there are five Conservation Areas within the District. They are as follows:
- Magee, Derry City
 - Clarendon Street, Derry City
 - Historic City, Derry City
 - Sion Mills
 - Newtownstewart
- 2.24. Full details, including design guides and maps, can be found on the DCSDC website - <https://www.derrystrabane.com/services/planning/planning-service>

Works to Protected Trees

Requests for Works to Tree Preservation Order (TPO) Trees

- 3.6. If a person wishes to carry out works to protected trees, they must first seek the Council's consent to do so. You must clearly specify the trees involved, identify their locations, provide photographic or health surveys as evidence to substantiate any health claims, the extent of the work you wish to carry out and the reasons why you wish to carry out the work. This information should be included in the application form.
- 3.7. The Council considers that trees can contribute significantly and in a variety of ways to the local area and would encourage that no works take place unnecessarily, irrespective of their protection status. The Council will refer to the guidance in BS 5837:2012 (Trees in relation to design, demolition and construction) when assessing applications.
- 3.8. The Council will consider the application and may grant Consent, grant Consent subject to condition or refuse Consent. The Council will not normally Consent to the removal of healthy trees unless there are convincing reasons to do so and this has been demonstrated to the Council's satisfaction. There are limited exceptions, for example the condition or position of the tree means it must be removed for safety, the tree has caused damage, or is likely to cause imminent damage, to adjacent structures and where remedial works cannot sufficiently address this, the tree's roots have damaged the major path or road causing potential hazards and where root pruning is not an option. Applications will normally be required to be supported by evidence from a suitably qualified person, i.e. an arboriculturist.
- 3.9. Should an application for Consent be refused or granted subject to conditions, applicants have the right to appeal in writing to the Planning Appeals Commission (PAC) within 4 months of the decision stating the grounds on which the appeal is based.

- 3.10. Where Consent has been granted to fell a tree which is protected by a TPO, the landowner normally has a duty to replace the tree; this will be reflected in the attached conditions to the Consent. This is also true if the tree is dead, dying or has become dangerous. It is recommended for the landowner to provide a replacement tree:
- of an appropriate size and species,
 - at approximately the same place,
 - as soon as he or she reasonably can.
 - If the land is sold before the landowner has replanted the tree, this duty passes to the new owner.
- 3.11. When the tree is replaced, the Council must be informed, and it is now covered by the original TPO.
- 3.12. The Notice will also carry informatives in relation to gaining consent from the landowner, where they are not the applicant, and the provisions of The Wildlife (Northern Ireland) Order 1985 in respect of carrying out consented works without detriment to wildlife.

Requests for Works to Trees in a Conservation Area

- 3.13. The process is slightly different for trees located in Conservation Areas, as notice of any proposed works must be served on the Council.
- 3.14. In a Conservation Area, anyone proposing to carry out works to trees must submit notice to the Council, which has six weeks to consider the proposal and respond. Work cannot proceed until the Council has responded or the six-week period has expired. In exceptional circumstances, where there is imminent health and safety issues, the applicant may proceed, at their own risk, with works immediately but must satisfy the Council by submitting evidence (normally in the form of a report and photographs) sufficiently demonstrating that the works were necessary within the provisions of the legislation.
- 3.15. If the Council objects to any proposed works, it can make a formal TPO to protect the tree(s).



Process

- 3.16. An application to carry out work to protected trees (TPO or Conservation Area) can be made by completing the Works Request Form located within the TPO section of DCSDC website.
- 3.17. Anyone can apply to carry out works to trees protected by a TPO or within a Conservation Area, even if you are not the landowner. Where consent is granted you, however, you will require the owner's consent prior to entering the land or carrying out works on or from the property.
- 3.18. In terms of supporting information and/or evidence, there will be cases where the Council will request an arboricultural tree survey, conducted by a suitable qualified professional. The onus is on the applicant to obtain their own independent evidence. The necessity for an arboricultural tree survey will be determined on a case-by-case basis. However, scenarios where this may be requested include (but are not limited to) applications with large quantities of subject trees, trees located in particularly significant public viewpoints, the proposed felling of any tree.

Requests for Works to protected trees can be made:

- *online via Northern Ireland Planning Portal - <https://submissions.planningsystemni.gov.uk/app/applications/new>*
 - *via email by setting out the request and supplementing it with the application form and necessary details to planning@derrystrabane.com*
 - *by submitting a hardcopy request to Council Offices at 98 Strand Road, Derry, BT48 7NN*
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Decision-making

- 3.19. Decision-making on works to protected trees is normally a delegated function which means that it is mostly Council officers, and not the Planning Committee, that will

grant Consent for the works. In instances where the officers have recommended refusal of a works request, these applications will be presented to Planning Committee for decision, in accordance with the Council's Protocol for the Authorisation of TPOs and Works to Protected Trees.

- 3.20. Officers make regular, usually Quarterly, update reports to the Planning Committee which include:
- The number of applications for works to protected trees;
 - Whether Consent is granted or refused; and
 - The basis for the decision making.
- 3.21. When issuing the Consents / Refusals, the Council will supply the applicant with a Decision Notice and accompanying Letter. In accordance with best practice, the Council advises applicants through these documents that:
- works is granted in accordance with the attached Notice of Consent (along with any conditions attached) and submitted accompanying documents
 - recommends that the remedial works should be carried out by a suitably qualified tree surgeon in accordance with BS3998:2010
 - attention should be given to the Informatives on the Notice of Consent, specifically those relating to obtaining the landowners' permission where the applicant differs from the landowner and also the requirements for nature / birds protection; and
 - highlights that cutting / trimming of protected trees can be a sensitive issue in many localities; therefore, the Council would recommend that applicants bear this in mind prior to planning / commencing the works and if appropriate, should make neighbours or any local residents' association, etc. aware of the proposed works.
- 3.22. There is no statutory requirement or legislative mechanism for notifying, consulting or taking account of the opinions of interested parties in advance of deciding a Tree Works request. Requests are normally a technical matter, of health / condition or safety. However, the Council operates in a transparent manner and any consideration report or decision notice is made available for third parties, upon request, after the decision is made, for information-only purposes.

Protected Trees on Council-Owned Land

- 3.23. Where a protected tree is located on Council-owned land, this could result in a situation where the Council itself is the applicant in a Tree Works Request or even potentially be suspected of a tree protection breach.
- 3.24. It is important that cases where the Council is in this position, they are dealt with transparently and that conflicts of interest are avoided or adequately managed. This is a statutory requirement under Regulation 10 of the Planning General Regulations (NI) 2015 which states the principle that Councils cannot seek consent from themselves. Therefore, if the Council wishes to carry out work to a protected tree on land which it owns or is responsible for, the Council's Tree & Woodland Officer (TWO) must make an application for Tree Works Consent directly, or indirectly, to the Department for Infrastructure (DfI), rather than the Council approving a Consent for itself. DfI is currently preparing its resources and procedures for this Consenting

process, but it may be the case that DfI would expect the Council's TWO to submit a Tree Works Request in the normal manner, to the Council's Planning Department so that the Planning / Tree Protection Officers or the Planning Committee as the case may be, would consider the Request and then forward its report and Recommendation to DfI for the actual decision.

Statutory Undertakers

- 3.25. Statutory undertakers are organisations which have been given statutory powers to carry out certain public functions e.g. transport providers and utility companies.
- 3.26. Schedule 3 of the 2015 Regulations enables statutory undertakers to carry out works to protected trees without Council consent in specific circumstances. The trees must be situated on operational land and the work must be necessary for either safety reasons, in connection with the inspection, repair or renewal of apparatus or to enable a statutory undertaker to carry out 'permitted development'.
- 3.27. The Council recommends that statutory undertakers notify the Tree Protection Officers ahead of any works to protected trees being carried out. Any such works would be expected to be reasonable and the minimum necessary. The Council will undertake a preliminary review, upon being notified of any such works and would advise the undertaker if we were concerned. In any case, we would advise them to liaise with any interested neighbours or residents associations, etc. This notification practice will help ensure that resources are not erroneously allocated to investigating works which are perceived to be in breach, and so that information can be shared with interested parties such as members of the public. The TPO records are then updated accordingly.

Planning Applications and Planning Conditions

- 3.28. Under Section 121 of the 2011 (NI) Planning Act, it is the duty of the Council to ensure, wherever it is appropriate, that in granting Planning permission for any development, adequate provision is made, by the imposition of conditions, for the preservation or planting of trees. If an owner / developer subsequently wishes to carry out works to trees protected by condition(s) attached to a Planning permission, they must apply to the Council's Planning Development Management (DM) section in writing, to either discharge or vary the condition. DM officers would liaise with the Tree Protection Officers if technical expertise is sought or in cases where they were concerned about unreasonably excessive works and/or the trees were of such amenity to possibly justify consideration a specific TPO.

Planning Applications in relation to Protected Trees

- 3.29. If Planning permission is applied for, which includes works to protected trees, then the subsequent Planning permission outweighs the TPO as full consideration of any proposed tree works or impacts to protected trees are considered through the Development Management (DM) process.
- 3.30. While it is for Development Management section to consider and attach appropriate weight to all material considerations and representations in its assessment of the proposal, the Tree Protection Officer will be internally-consulted as part of the application process and the proposal (in terms of the specific implications for the protected tree) will be assessed. Sufficient detail must be provided which

appropriately demonstrates that there will no significant adverse impact on protected trees.

Unauthorised Works

- 3.31. It is a criminal offence to cut down, lop, top, uproot or wilfully damage a tree protected by a TPO or Conservation Area in a manner likely to destroy it, without consent and on summary conviction the responsible person could be fined up to £100,000 (and on conviction on indictment, to an unlimited fine). To wilfully damage a tree that is protected by condition, is a breach of Planning control and may result in a fixed penalty and, on summary conviction.
- 3.32. In instances where a condition requires a replacement tree, and the landowner has failed to plant it, the Council reserves the right to serve an enforcement notice requiring the landowner to plant a tree or trees to ensure compliance with their Consent.
- 3.33. As per the DCSDC Enforcement Strategy, all alleged breaches of Planning control will be investigated, with the exception of anonymous complaints unless the breach relates to unauthorised works to a listed building or works to trees which are in a Conservation Area or protected by a Tree Preservation Order.
- 3.34. However, because of the legal test of 'expediency', formal enforcement action will only be taken where it is fair and reasonable to do so. In reaching this decision, the main issue is whether the breach would unacceptably affect public amenity or use of the land that should be protected in the public interest.
- 3.35. Further information regarding enforcement, the Enforcement Strategy and protected trees can be found on the DCSDC website - <https://www.derrystرابane.com/services/planning/useful-links>

Unauthorised works can be reported to the Council by:

- *Contacting the Planning Enforcement Team on 028 7125 3253*
-

Exceptions

- 3.36. There are specific exceptions and circumstances as to when works can be carried out to a protected tree. Specifically, consent is not required for the removal of dying, dead or dangerous trees. However, it is the duty of the owner of the land to plant another tree of an appropriate size and species at the same place as soon as the owner reasonably can – unless the Council agrees otherwise in writing. The replacement tree(s) shall then be subject to the same TPO protection.

- 3.37. The landowner should ensure that they have evidence of the tree having died or becoming dangerous; should there be uncertainty as to the condition of a tree, it is advised to obtain the advice of a qualified arboriculturist. It is strongly recommended that the Council is made aware of the proposed works and where it exists, the Council should have opportunity to review any tree survey prior to works being carried out.

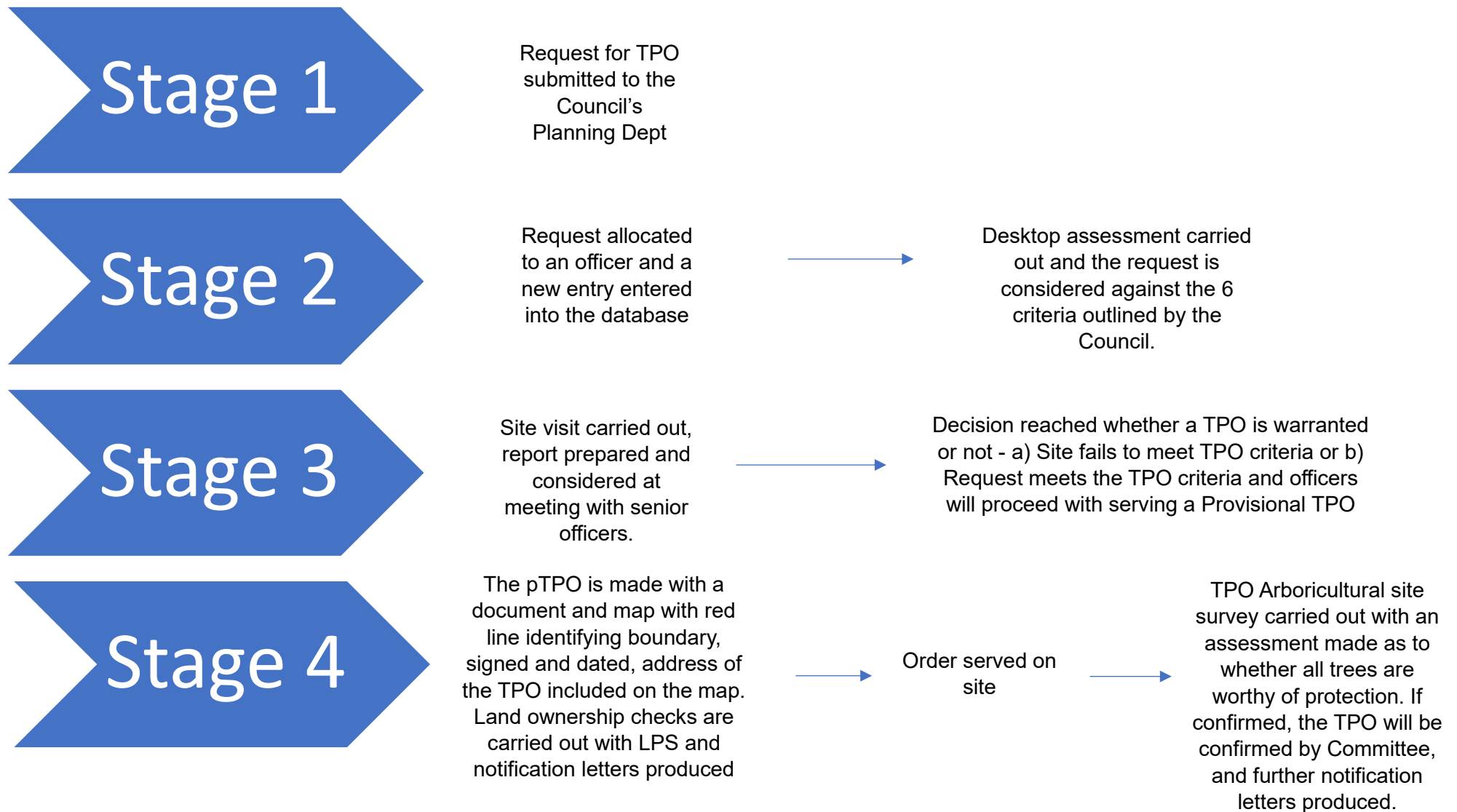


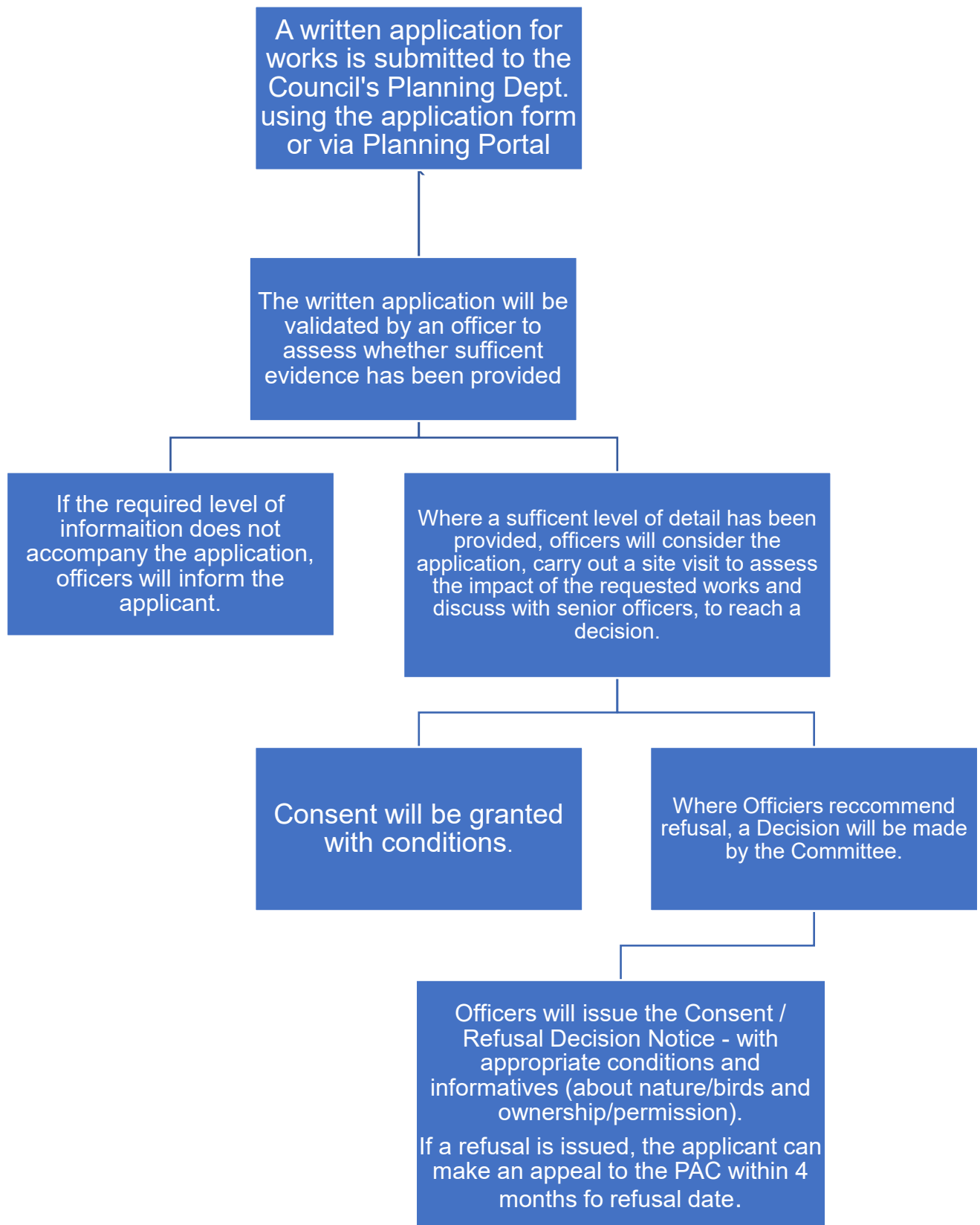
Ownership and Responsibility of Protected Trees

- 4.1. Derry City & Strabane District Council (DCSDC) owns and oversees a considerable number of trees throughout the City and District, primarily in its public parks. Additionally, the Council manages a substantial quantity of street trees on behalf of the Department for Infrastructure (DfI Roads).
- 4.2. With regards to trees located on privately owned land, the responsibility for these lies with the landowner. There is a duty of care to manage and maintain those trees in a safe manner and it is the responsibility of the landowner to take reasonable care to avoid acts or omissions which he or she could reasonably foresee may result in harm or injury.
- 4.3. Irrespective of whether a TPO has been imposed, the ownership and responsibility of the protected trees lies fully with the landowner. The landowner remains responsible for the trees, their condition and any liability in relation to damage they may cause. The Council would therefore emphasise the importance of continued management of woodlands, individual trees and groups of trees covered by the Tree Preservation Order.
- 4.4. Should you wish to carry out works to protected trees, have health/condition surveys carried out or a site inspection, you must contact the landowner. If the landowner is unknown, you may wish to contact Land Registry to check this.
- 4.5. In terms of carrying out works to a tree, even under any exception or exemption, the onus is on the landowner to ensure wildlife laws are not contravened. If in doubt you are advised to seek advice from an appropriate professional on how to proceed.

Appendix 1

Requesting a TPO - for a Tree Preservation Order to be made, for a tree or group of trees

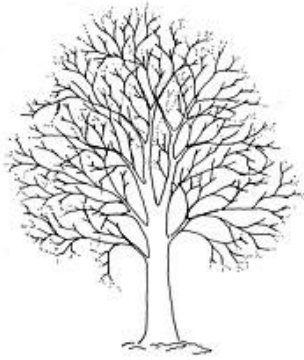




Appendix 3 Common Tree Works

Applications for works should be as detailed as possible for officers to consider and assess the proposal fully. The British Standards, most relevant, to arboricultural terms and works are BS3998: 2010 Recommendations for Tree Work and BS5837: 2012 Trees in Relation to Design, Demolition and Construction - Recommendations.

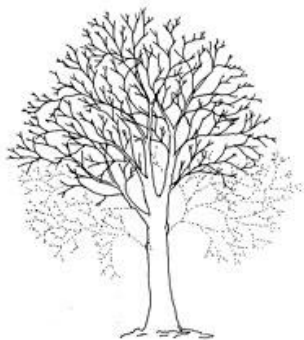
The most common proposed works include:



Crown Thin

Crown thinning is the removal of a portion of smaller/tertiary branches, usually at the outer crown, to reduce density.

Crown thinning does not alter the overall size or shape of the tree. Common reasons for crown thinning are to allow more light to pass through the tree and reduce wind resistance. Applicants should specify the amount of thinning as a percentage of the leaf area, with usually no more than 30% consented to.

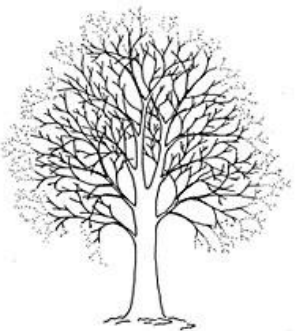


Crown Lift

Crown lifting is the removal of the lowest branches with good practice dictating that this should not include large branches growing directly from the trunk.

Crown lifting on older, mature trees should be avoided or restricted to secondary branches or shortening of primary branches rather than the whole removal wherever possible.

The ratio of the living crown to total tree height should ideally be at least two-thirds (e.g., a 18m tree should have living branches on at least the upper 12m). The distance from the existing ground level to the desired height of the start of the crown (in metres) should be specified.



Crown Reduction

The reduction in height and/or spread of the crown with the final result retaining the main network of the crown. The outline of the tree should remain as before although smaller.

Reductions should be specified by actual measurements, where possible, and may also refer to lengths of parts to be removed to aid clarity, e.g. 'crown reduce in height by 2.0m and lateral spread by 1.0m, all round to finished crown dimensions of 18m in height by 11m in spread (approx.).

General Tree Queries

When received, queries will be registered on the Tree Query Register and acknowledged and answered within the proposed timescales of 21 days, in line with the Council Customer Services Charter. The name and contact details of the customer will be kept for any follow up queries.

Request for a TPO - for a Tree Preservation Order to be made, for a tree / group of trees

When a request for a TPO is made, the case will be logged onto the system by administrative staff and then passed onto a case officer for an initial validation check. This should be done within the first twenty-four hours after receipt, (in line with Development Management Section protocol as a benchmark), given that subject trees may be under threat.

A site visit and assessment will then be carried out by officers with a Decision proposed to be issued within 21 days. This will result in a Provisional TPO, or a letter setting out why a Provisional TPO is not being pursued.

As part of the transfer of Planning powers in 2015, the making of TPOs and all associated actions in accordance with Part 4, Chapter 3 of the Planning Act (NI) 2011 and the Planning (Trees) Regulations (NI) 2015, were transferred to the Council. Under the agreed Planning 'Scheme of Delegation', the authorisation for signing Provisional TPOs (pTPO) and Tree Works Consents was delegated to the Head of Planning or nominated senior officers.

The confirmation of a pTPO has normally required the approval of the Planning Committee but the temporary covid amendments (March 2020) have made TPO confirmation a delegated matter. Members of the Planning Committee have been routinely notified when a Provisional TPO has been served on a specific location and a relevant paper has been brought to Planning Committee within the 6-month statutory Provisional period to seek their agreement for the confirming, confirming-with-modifications or lapsing of the Provisional TPO.

Confirmed TPOs and pTPOs will be signed by the Principal Planning Officer or the Head of Planning.

Application for Tree Works Consent

When an application for works is submitted (through Planning Portal/via email/in hardcopy), the application will be acknowledged, an application opened in Planning Portal by administrative staff and a case officer assigned. The officer will carry out an initial validation check to ensure enough information has been submitted which will allow officers to make an informed and proportionate decision.

The case officer will liaise with the Senior officer throughout the application, with briefings to the Principal officer made in more complex circumstances.

In terms of issuing decisions, the Council proposes the following:

- Tree Works Consents for non-significant / non-contentious works to trees covered by TPO, CA status or Planning condition – Senior Planning Officer (SPO) or a Principal Planning Officer (PPO).
- Consents for more-significant/contentious works to protected trees, including significant or contentious cutting or felling authorisation for one or more substantial trees covered by a TPO, CA status or Planning condition - HOP or a PPO.
- Refusal of a TPO Request or a Tree Works Request – depending on the complexity and/or public interest, the refusal requires HOP or a PPO signature. Otherwise, routine

requests can be recommended for refusal by the SPO. The Committee paper must then be presented at Planning Committee for decision.

A cover letter and decision notice including a map, with the trees shaded (usually in blue), outlining the works consented to is then sent to the applicant and a copy of these put in the relevant TPO file. Particularly, if the applicant does not own the tree/s in question, they are advised in the cover letter to obtain the permission of the owner of the trees prior to carrying out any works, and that this is a civil matter. They are also referred to the NI Wildlife Order.

Unauthorised Works

Where it is suspected that unauthorised works have been or are being carried out, a report must be made to the Enforcement Team immediately. In accordance with the Enforcement Strategy, when determining what (if any) action is to be taken priority will be given to those breaches where, in the Council's opinion, the greatest harm is likely to be caused.

The priority allocated is determined by the guiding principle that any action in response to a breach should be proportionate to the harm it causes. Priority 1 cases are works resulting in public danger or development which may result in permanent damage to the environment which includes works to trees protected by a Tree Preservation Order or in a Conservation Area.

Arboriculturist	An Arboriculturist (or Arboriculturalist) is a professionally qualified and experienced tree specialist, more than just a tree surgeon or tree-maintenance person. (The term 'arborist' is sometimes used but could relate to either.) They are normally expected to be a member of a professional body such as the Arboricultural Association. See definition in BS 5837:2012.
Biodiversity	The variety of plant and animal life in the world or in a particular habitat, a high level of which is usually considered to be important and desirable.
British Standards	British Standard BS 5837:2012 - Trees in relation to Design, Demolition & Construction. Also, BS 8545:2014 focuses on the entire process of transplanting young trees, from nursery production to achieving independence in the landscape. Additionally, BS 3998: 2010 provides recommendations for tree work practices, including pruning and felling, while BS 3936 Part 1:1992 outlines nursery stock specifications for trees and shrubs.
Green Infrastructure	Green infrastructure has been defined as a strategically planned network of natural and semi-natural areas with other environmental features
Legislative requirement	A legislative requirement refers to the legal obligations that must be met, primarily set out in Part 4, Chapter 3 of the Planning Act (NI) 2011 and the Planning (Trees) Regulations (NI) 2015.
Local Development Plan	The Local Development Plan: guides development within the District, sets out the long-term future for the District. outlines how the Council will ensure that growth is delivered in the right places. guides how the growth will take into account the needs of our local communities
Planning Appeals Commission (PAC)	The Planning Appeals Commission is a statutory tribunal, independent of any government department, government agency or district council.
Pollarding	Pollarding is a pruning system involving the removal of the upper branches of a tree, which promotes the growth of a dense head of foliage and branches.
Statutory	Decided or controlled by law
Statutory Undertaker	Statutory undertakers are bodies that have been given statutory powers in relation to functions that are of a 'public' benefit e.g. utilities companies.