

HENLEY-ON-THAMES TOWN COUNCIL



TREE MANAGEMENT POLICY

VERSION CONTROL:

Version ID	Description of Change	Version Sponsor	Policy Owner	Version creation date	Version Approval Date	Next Review Date
0.1	Policy creation	Parks Manager	R&A Committee	29/03/21	06/04/21	April 2023

1. Scope of the Policy

1.2 This policy sets out the Council's approach to tree management on its land. The Council will follow a proactive, systematic and consistent method of management that will both conserve and enhance its tree population and the amenity value of its land.

1.3 The aim of the Council's tree management policy is to improve the Council's tree population by encouraging best practices, safeguarding habitats and biodiversity and improving the visual amenity of its parks and playgrounds, whilst recognising the need to identify and control risks to people and property.

2. What and who is covered by the policy

2.1 This policy covers all trees on Council-owned land only, and does not apply to any trees on other land, including any land on which the Council carries out grass cutting on behalf of the County Council.

2.2 This policy will be used by staff and councillors to assess and monitor the tree population, and also by contractors to help inform their work.

2.3 This policy may also be useful for neighbouring landowners to determine any disputes regarding trees overhanging neighbouring properties.

3. Legal framework

3.1 The Council has a legal duty as a landowner to anyone using the land, or who may be affected by a dangerous tree, to maintain its tree stocks. The relevant legal principles are summarised in *Stagecoach South Western Trains v Hind 2014*:

- To act as a reasonable and prudent landowner;
- To act where there is a danger apparent to the landowner (although that should not amount to an unreasonable burden or force the landowner to act as the insurer of nature);
- To carry out inspections on a regular basis;
- In certain circumstances (including where there is some form of trigger) to arrange for fuller inspections by an arboriculturalist;

3.2 The Council as an occupier of land, has a common duty of care under the Occupiers' Liability Act (1957) and (1984) to others who enter its land, even where people do not have access by right or by invitation. The Council will take reasonable care to maintain its land such that it does not give rise to harm to any person entering the land.

3.3 This policy also refers to the Council's duty regarding trees causing damage to neighbouring properties which, whilst not subject to any special principles, are governed by the laws of negligence and nuisance.

3.4 The Council, along with all public bodies, has a legal duty to conserve biodiversity (set out under section 41 of the Natural Environment and Rural Communities Act 2006),

and with its declaration of a climate emergency in February 2020, recognises the importance of the provision and conservation of trees.

- 3.5 In cases where remedial action is being considered, the Council has a duty to abide by the legislation on Tree Preservation Orders (Part VIII of the Town and Country Planning Act 1990 as amended and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012) and Conservation Areas (section 211 of the Town and Country Planning Act 1990).

4. Assessing and Monitoring

- 4.1 The Council will continue to follow a proactive programme of inspection to check tree health and recommend remedial work.
- 4.2 The frequency and type of inspection will depend on the level of risk, based on an assessment of how potentially hazardous a tree is (e.g. over-mature or with signs of disease) against the likelihood and severity of any incident (e.g. the chances of a falling branch hitting person or property).
- a) **Informal observations.** The Council's Park Wardens through the course of their daily work will inform the Council of any adverse change in a tree's condition that they become aware of and which they feel may threaten public safety. The Council will also act upon and assess reports from members of the public.
- b) **Formal inspections.** All trees on Town Council land will be subject to a detailed inspection at least every 3 years or sooner depending on the assessment of risk as advised by the Council's appointed arboricultural contractor.

5. Tree Inspections

- 5.1 The Council appoints an arboricultural contractor to carry out a schedule of detailed inspections of all trees on Town Council land, to identify any health and safety-related risks and to recommend remedial work where necessary.
- 5.2 All tree work will be prioritised and carried out according to identified hazard and risk. The following categories will be used to prioritise the Council's tree works:

24 hours – imminent
4 weeks – planned safety work
Within 3 months
Within 12 months

- 5.3 All tree work will be undertaken in compliance with *British Standard 3998: Recommendations for Tree Work*. Each task will be assessed as to determine whether it can be carried out in-house in accordance with BS 3998, and if not, it will be carried out by a competent tree surgeon.
- 5.4 The period of re-inspection will depend on the level of risk associated with a tree i.e. those rated as high risk may be inspected annually, whereas a low risk tree may be

inspected once every 3 years. The importance of adopting such a regime was highlighted in *Witley Parish Council v Cavanagh (2018)*, where the inadequacy of the Council's tree inspection regime led to liability for damages for a serious injury caused by a falling tree in stormy winds.

6. Tree Preservation Orders and Conservation Areas

- 6.1 Many of the trees in the Town Council managed areas are protected through either a Tree Preservation Order (TPO) or through inclusion in a Conservation Area. Before carrying out any tree work, the Council will confirm whether the trees are subject to any protection, and abide by all necessary legislation.
- 6.2 Where a TPO is in place, the Council shall seek permission for all works from the Local Planning Authority (LPA) South Oxfordshire District Council, save where the work meets the exceptions outlined in *Regulation 14 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012*.
- 6.3 Where a tree isn't subject to a TPO but is within a Conservation Area, the Council will serve a section 211 notice (*Town and Country Planning Act 1990*) to the LPA at least six weeks prior to the work being carried out.

7. Tree planting

- 7.1 The Council will strive to increase the quality and quantity of tree stock by planting in suitable locations with appropriate species to enhance the enjoyment of our open spaces, promote local distinctiveness and to conserve the environment. To this end, the Council will:
- a) Endeavour to plant native species, dependent on the site, sourced from local stock
 - b) Acknowledge that exotic species may be planted at sites with a formal, ornamental character, e.g. Mill Meadows formal gardens
 - c) Where possible, replace trees on a like-for-like basis.
- 7.2 The Council will engage with key volunteer partner groups, the public and landowners to develop a tree planting, hedging, biodiversity and protection of habitat strategy for the future.

8. Damage to buildings

- 8.1 Damage to buildings and other property may occur through either falling trees or branches, or subsidence. The Council will take action to protect its own, or neighbouring properties, wherever it deems that damage is reasonably foreseeable (see judgement in *Robbins v Bexley Borough Council 2012*). Potential damage is an important consideration in our formal inspections. Where a neighbouring landowner has any concerns, we strongly recommend they seek advice from a structural engineer or/and appropriate tree consultant and inform the Council of any potential issues as soon as they become aware of it (see judgement in *Delaware Mansions Ltd v Westminster City Council 2002*).

9. Trees over boundaries

9.1 The Council recognises that landowners, under the common law tort of nuisance, have a right to cut back any branch or root encroaching onto their land. We strongly recommend that where such a tree is on Council managed land, the Council is consulted before any work is carried out to ensure that:

- a) The work is carried out by a competent person
- b) The work is not contrary to any protection under a TPO or conservation area
- c) Pruned material is returned to the Council or, if agreed, disposed of safely.

10. Minor inconveniences

10.1 Given the number of trees on Town Council managed land and the cost of tree work, it is unlikely that the Council will be able to carry out work where it is not necessary for either public safety, damage to property or the health of the tree. Examples of where we are unlikely to carry out work and where we have no legal obligation are:

- Overhanging branches
- Bird droppings, leaf or fruit fall or honeydew
- Shade, loss of view or signal interference
- Apprehensions due to tree height or sway
- Allergies.

10.2 The Council will nevertheless consider requests on a case-by-case basis, balancing cost, benefit and risk.

11. Insurance

11.1 While the Council shall ensure that all work carried out is done competently and effectively, either in house or by an external contractor, we will ensure that we keep sufficient public and employer liability insurance. The Council will ensure that all contractors carrying out maintenance work have sufficient public liability insurance and that contractors carrying out tree inspections have sufficient professional indemnity cover.

Appendix B: Draft Tree Species List

Appropriate Tree Species included within the emerging Henley Town Council Tree Strategy.

The JHHNP is keen to ensure that the planting species are used where possible.

Latin name	Tree species
Alnus glutinosa	Alder
Malus sylvestris	Crab apple
Malus domestica	Fruit apple
Faxinus excelsior	Ash
Fagus Sylvatica	Beech
Betula pendula	Silver Birch
Betula pubescens	Downy Birch
Rhamnus cathartica	Purging Buckthorn
Rhamnus frangula	Alder Buckthorn
Prunus spinosa	Blackthorn
Prunus avium	Wild Cherry
Prunus padus	Bird Cherry
Prunus domestica insititia	Damson
Cornus sanguinea	Dogwood
Sambucus nigra	Elder
Crataegus monogyna	Common Hawthorn
Crataegus laevigata	Midland Hawthorn
Corylus avellana	Hazel
Ilex aquifolium	Holly
Carpinus betulus	Hornbeam
Tilia platyphyllos	Broad Leaved Lime
Tilia cordata	Small Leaved Lime
Tilia x vulgaris	Common Lime
Acer campestre	Field Maple
Quercus robur	Pedunculate Oak
Quercus petraea	Sessile Oak
Pyrus pyraster	Wild Pear
Pyrus cordata	Plymouth Pear
Pyrus communis	Fruit Pear
Pinus sylvestris	Scots Pine
Populus canescens	Grey Poplar
Populus alba	White Poplar

Populus nigra	Black poplar
Populus tremula	Aspen
Hippophae rhamnoides	Sea Buckthorn
Euonymus europaeus	Spindle
Viburnum lantana	Wayfaring Tree
Viburnum opulus	Guelder Rose
Sorbus aucuparia	Rowan
Sorbus torminalis	Wild Service
Sorbus aria	Whitebeam
Salix fragilis	Crack Willow
Salix alba	White Willow
Salix caprea	Goat Willow
Salix viminalis	Osier
Salix pentandra	Bay Willow
Salix cinerea	Grey Willow
Taxus baccata	Yew

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Appendix C: Site Deliverability Evidence

The following information has been provided in April and May 2022 by the site promoter or landowner.

Site A1: Land West of Fair Mile Around

- Expected timescales on when a planning application might be submitted, and timescales for progression of application. Also expected commencement date for work and build out rates.
Response: a full planning application was submitted in 2019 (ref: P19/S2350/FUL) and we're working with SODC to resolve some final items prior to determination. Commencement date is unknown.
- What type of planning application would be submitted (Outline and Reserved Matters, or a Full application),
Response: as above a full application is currently under determination.
- Whether there are any site specific constraints such as ownership issues, infrastructure provision, or site viability.
Response: no.
- Any site assessment work already undertaken.
Response: a full application is under determination by SODC following extensive pre-application discussions.

Site C: Gillott's School Playing Field

- Expected timescales on when a planning application might be submitted, and timescales for progression of application. Also expected commencement date for work and build out rates.
Response: A planning application will be submitted as soon as we have resolved an issue with the access that is close to being resolved. Build out rates will be dependent on the developer's programme and market conditions at the time but with 50 to 100 dwellings one would expect completion of the development within two to three years from the grant of planning permission.
- What type of planning application would be submitted (Outline and Reserved Matters, or a Full application).
Response: We anticipate a full planning application to include another application to upgrade the School's existing facilities to be funded by the sale of the land for residential development.
- Whether there are any site specific constraints such as ownership issues, infrastructure provision, or site viability.
Response: There are no issues save for the access point mentioned above.
- Any site assessment work already undertaken.
Response: Much work has already been undertaken including a tree survey, a topographical survey etc.

Please note that this site is allocated for around 50 residential units.

Site E: Empstead Works / Stuart Turner

- Expected timescales on when a planning application might be submitted, and timescales for progression of application. Also expected commencement date for work and build out rates.
Response: It is anticipated at this stage that a planning application for development on at least part of the site will come forward within the next 12-18 months. Comprehensive development of the site is contingent on the plans of the main occupier.

Assuming planning permission is granted we would expect development to commence imminently with the completion of the development expected to occur within a 12-24 month period.

- What type of planning application would be submitted (Outline and Reserved Matters, or a Full application)

Response: Given the sensitivities of the site it is anticipated that a full application will be submitted although as mentioned above this is likely to be on a phased basis.

- Whether there are any site specific constraints such as ownership issues, infrastructure provision, or site viability.

Response: There are no site-specific constraints that we are aware of that would hinder future development or could not be mitigated for as part of the planning application process.

- Any site assessment work already undertaken.

Response: A full suite of technical reports has already been undertaken as part of pre-app discussions with the LPA. These will be supplemented as required.

Site F: Chilterns End

- Expected timescales on when a planning application might be submitted, and timescales for progression of application. Also expected commencement date for work and build out rates.
Response: Whilst discussions are ongoing it is likely that any planning application would be submitted within the next 12 months, with the timeline as follows:

Application submitted	By April 2023
Planning permission received	By October 2023
Discharge of conditions / reserved matters	By April 2024
Start on site	Approx. Spring 2024
Build out rate	60 ECH + 10 smaller units – say 15 months 27 dwellings + 10 smaller units – say 10 months

- What type of planning application would be submitted (Outline and Reserved Matters, or a Full application)
- Response: If the application is for OCC operational requirements then it will be a full application; if the application is submitted prior to disposal of the site to a developer then it will be an outline application (probably with access not reserved).
- Whether there are any site specific constraints such as ownership issues, infrastructure provision, or site viability.
Response: There are Tree Preservation Order protected trees on the south eastern and north eastern boundaries of the site; otherwise there are no specific constraints as far as we are aware.
- Any site assessment work already undertaken.
Response: Built form plans have been produced to assist with site capacity assessment work.

Site J: 357 Reading Road

- Expected timescales on when a planning application might be submitted, and timescales for progression of application. Also expected commencement date for work and build out rates.
Response: The council expects to submit a planning application before the end of 2022. If planning permission is obtained, the site would probably be sold to a developer. Work is not likely to start until 2024.
- What type of planning application would be submitted (Outline and Reserved Matters, or a Full application),
Response: it is anticipated that an outline planning application will be submitted
- Whether there are any site specific constraints such as ownership issues, infrastructure provision, or site viability.
Response: in order for the Council to develop the land, the sports clubs that hold leases for clubhouses on the site must agree to relinquish their leases. Further information on site viability is expected to come out of the work about to commence on preparation of plans for housing and the sports clubhouse for Jubilee Park.
- Any site assessment work already undertaken.
Response: some initial site investigations were carried out by a previous development partner and further studies will be commissioned as part of the design work that is about to start.

Site X: Henley Youth Club

- Expected timescales on when a planning application might be submitted, and timescales for progression of application. Also expected commencement date for work and build out rates.
Response: The planning timeline is outlined in the submitted Carterwood Planning Needs Assessment Oct 2021 on Page 7:
 - JHHNP submitted to South Oxfordshire District Council for consultation and independent examination – December 2021.
 - Referendum on the submitted Plan (assuming it passes examination with minimal changes) – Spring 2022
 - Planning Application for C2 care home through to approval - autumn 2022 to mid-2023.
 - Ground works commence – spring/summer 2024.
 - Construction of care home to spring/summer 2026.
 - Care home fit out and registration with the Care Quality Commission (CQC) - opening anticipated autumn/winter 2026.
- What type of planning application would be submitted (Outline and Reserved Matters, or a Full application),
Response: A full planning application is proposed, as previously applied for.
- Whether there are any site specific constraints such as ownership issues, infrastructure provision, or site viability.
Response: The site has been in the private ownership of B&M Care since 2016 and there are no site constraints in respect of infrastructure provision, viability or deliverability of a care home on this site.
- Any site assessment work already undertaken.
Response: Site assessment work was previously undertaken in respect to the two previous planning applications on this site on 2017 & 2019. Matters of access, parking, ecology, flood risk, drainage, TPO trees, landscaping, air quality and archaeology were all investigated, assessed and deemed acceptable during the application stages.

New Sites

Site M1: Northern Field at Highlands Farm

- What are the expected timescales on when a planning application might be submitted, and timescales for progression of application. Also expected commencement date for work and build out rates?

Response: We are currently preparing all detailed surveys and reports to assist with a planning application, which we forecast being ready to be submit in August/September '22. Regarding timescales for progression, we expect SODC to promptly progress with the application once submitted, given the application will accord with SODC and HTC's neighbourhood plan policies and previous engagement on the existing Highlands Park scheme to the south. Assuming planning permission is granted at the end of '22 we would be looking to commence construction early '23, certainly no later than Spring '23. We anticipate a building pace of c.50 completions per annum.

- What type of planning application would be submitted (Outline and Reserved Matters, or a Full application)?

Response: Hybrid planning application (residential in full with employment/community building in outline) to fast track formal consent of the scheme.

- Are any site specific constraints such as ownership issues, infrastructure provision, or site viability?

Response: There are no site specific constraints which preclude the delivery of the above timescales. Crest Nicholson own the freehold of the site which will not cause any delay to delivery or implementation to any applications. There are no infrastructure constraints or concerns given our familiarity to the area/ site with us currently being active on the southern site. There are no current concerns of viability.

- Any site assessment work already undertaken?

Response: We have carried out assessments for all key disciplines including; highways, transport, archaeology, flood risk, sustainability, landscape, ecology and arboriculture and there are no technical constraints which preclude delivery. More detailed reports are underway to inform the planning submission.

Site Y: Chiltern Centre

- Expected timescales on when a planning application might be submitted, and timescales for progression of application. Also expected commencement date for work and build out rates.

Response: As soon as the JHHNP is approved, the current Chiltern Site will be marketed for sale by Saviles. Q3 2022? The purchaser will then make their own planning application but the work, as explained above, cannot commence until the new facility has been built. There can be no certainty regarding timescales for this but the best current estimate would be 2026/2027.

- What type of planning application would be submitted(Outline and Reserved Matters, or a Full application)

Response: This will be the decision of the site purchaser, unless The Chiltern Centre decide to make their own Outline application.

- Whether there are any site specific constraints such as ownership issues, infrastructure provision, or site viability.

Response: None. The Chiltern Centre own the freehold. However an overage condition of the original purchase from OCC remains in force until 2027.

- Any site assessment work already undertaken.

Response: Not as yet. As a charity we will only commit funds to the project once we get the green light that all the essential elements are included in the JHHNP.