

Scottish Borders Local Plan  
Supplementary Planning Guidance on

# Trees and Development

October 2020







## Trees and Development

This note amplifies policies contained within the Council's adopted Local Plan in relation to the protection of trees and woodlands. The note outlines the Council's requirements when considering applications which could affect trees and will form a material consideration in the determination of planning applications where trees are present.

British Standard 5837:2012 provides guidance for a balanced approach on deciding which trees are appropriate for retention, the effects of trees on design considerations and appropriate means of protection during development.

Developers should ensure that development schemes include measures to safeguard trees, and where appropriate to supplement an area's tree cover. Development which would result in the unjustified felling, or which would result in damage to important trees or woodland resources, will not be permitted. Conditions and Tree Preservation Orders (TPOs) will be used to safeguard trees in appropriate cases. (See Appendix)

## Survey Requirements

Before submitting planning applications for land in close proximity to trees, or on which trees are growing, a developer should commission detailed tree and land surveys, the requirements of which are outlined below and overleaf.

- In the case of a full planning application, all sites with trees on or near them should first be evaluated prior to trees being identified for removal or final layouts decided.
- Where woodland is within a site, the woodland should be accurately plotted with all boundary trees shown indicating tree position and crown spread. If development is proposed within the woodland area, it will be necessary to plot all the trees.
- If woodlands are outside the site boundary, then the woodland edge (including the four principal points of crown spread) should be shown. Hedgerows should also be accurately plotted. Certain shrubs may be of sufficient interest as to merit plotting where they provide valuable shelter, interest, colour or wildlife habitat.
- An accurate land and tree survey with any topographical survey to allow the production of an Arboricultural Implication Assessment, (AIA) should be produced. This document must be produced in conjunction with the development proposals and after consultation (including a possible site visit) with the local planning authority.



## Tree Surveys

- The location to within 1m of all existing trees with a stem diameter greater than 75mm at 1.5m above ground level on or adjacent to the site.
- The tree species, health, vigour, age range, condition.
- The tree's height, diameter at 1.5m above ground level (Diameter at Breast Height - DBH) and crown spread (Note: the four principal points of the crown spread should be shown and the location of its trunk, to indicate any uneven growth characteristics e.g. leaning trunks, one-sided crown spread, etc.)
- The desirability for retention of each tree, or group of trees, should be designated as per the detailed requirements of British Standard BS5837 (2012) Section 4.5 (Table 1).

Where any tree felling is permitted to accommodate development, applicants should note that no subsequent permission will be granted for further felling to accommodate subsequent crown development, changes to the development layout or other amendments.

## Land Surveys

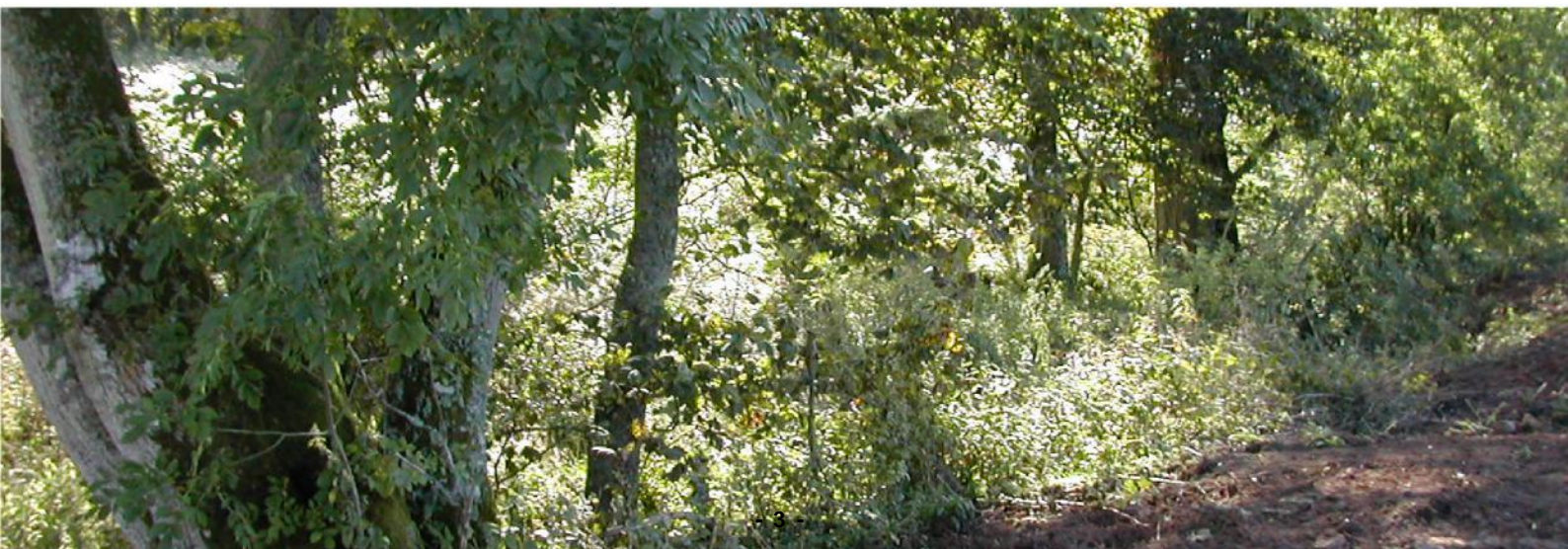
- Should include all soft and hard landscape features. Changes in ground levels should be shown and known finished levels such as roads, floor slabs etc. included.
- Any hard surfacing or services proposed to pass under the spread of the canopy should also be indicated and relocated where possible. Significant service runs, (such as gas or sewerage) need to be relocated

beyond the crown spread of trees for retention.

- On complex or large sites, (defined under the Planning Acts as 'major'), a full hydrological and / or soil survey may be required, with appropriate cross sections, to fully allow assessment of the impact that changes will have on trees and woodlands.
- Land surveys will be expected to meet the requirements of section 4 of the British Standard BS5837 (2012) Trees in Relation to Construction - Recommendations.

Trees are particularly susceptible to root damage by soil compaction and soil level changes. The lowering of soil levels can weaken the anchorage of tree roots and cause dehydration. Raising soil levels reduces the amount of oxygen available to roots; whilst compaction can damage roots directly and also causes water logging and loss of soil porosity, further reducing the availability of oxygen. These changes affect root respiration and can cause severe decline, sometimes over many years. As any changes in ground levels will affect the long term survival of trees, it is essential to have details of both existing and proposed ground levels illustrated by contours and at least one cross section. This information should also be supplied at the initial stage in the application process.

Developers must ensure that experts commissioned to advise on technical matters within planning applications have the appropriate qualifications and experience.







## Development Proposals

Development proposals must take account of:-

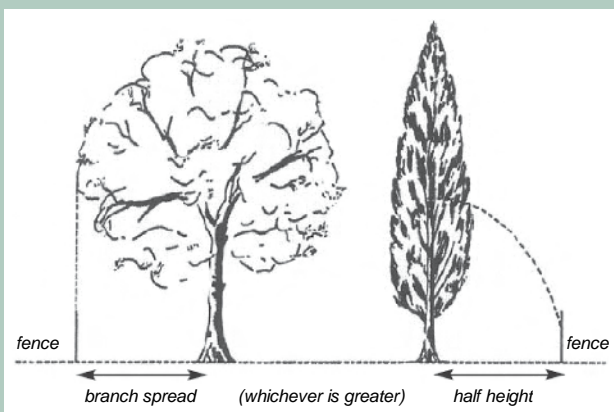
- A detailed description of the site including: tree cover, topography, soils description, proposed levels for roads, pathways, steps, fencing, retaining walls, floor slabs, services and any areas of reduced dig needed for construction purposes which are not shown as part of the development plan.
- An analysis of the tree cover including: total number of trees, the numbering sequence, analysis of landscape / amenity values, impact of shade on residential amenity, trees to be lost for development, trees to be lost for any other reasons, and proposals for replacement planting. This information should be shown on a planting plan.
- A Tree Constraints Plan in accordance with section 5 of BS 5837 (2012) should be submitted at the planning application stage. This should include the position of protective fencing and its construction (See Figures 1and2). A schedule of remedial tree surgery should also be submitted to bring trees for retention to a safe and healthy condition.
- A plan showing any requirements of the Council for sight lines and other highway infrastructure and furniture.
- The Council will be particularly guided by the recommendations contained within British Standard 5837:2012: "Trees in relation to construction - Recommendations". The Standard gives essential advice with regard to all of the important issues relating to trees in relation to construction.
- Developers are particularly advised to consider Annex A of the Standard, which deals with how development can damage trees. Site layouts should seek to reduce to a minimum the potential harmful effects development can have.
- Designers are particularly advised to consider Section 5 of the Standard which deals with the range of problems that building operations and construction can have in relation to tree positions and/or growth.
- Development located too close to the established canopy spread of a tree/s or where the proximity of the dwelling would result in tree/s having an over-dominant and oppressive effect, harm the outlook from windows, cause loss of sunlight and / or give rise to safety concerns, will not be permitted. Development, which would result in important trees causing unreasonable inconvenience or nuisance to future occupants, or where a tree's canopy would unduly impinge on private amenity space, will not be permitted.
- Developers must make allowance for the space needed during construction including access for vehicles, placement of scaffolding, storage of construction materials and suitable safe working distances. Such activities must be kept outside the defined tree protection areas. (At least 1 m must be allowed beyond the edge of a tree crown for the safe erection and use of scaffolding.)
- Landscape Architects are particularly advised to consider section 8 of the Standard. These sections deal with new planting, its relationship to development and requirements for future growth. The developers' project team should submit the fullest range of reports, surveys, drawings (including cross sections) to allow officers of the Council to fully assess proposals and report to the planning committee.

## Determination of Planning Applications

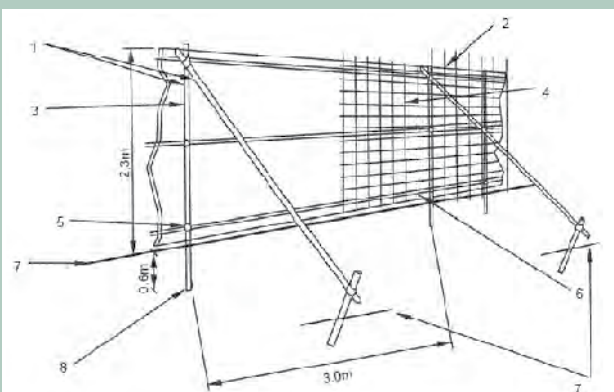
In determining applications, the Council will consider the effect on trees and the overall landscape as a material consideration, with due regard to existing statutory and relevant development plans, Government advice and this Supplementary Planning Guidance Note. The Arboricultural Implication Assessment (AIA) and other detailed submissions (Method Statements) will be an important aspect in assisting the Council in evaluating the balance between tree/landscape losses and gains thus providing a basis for determining appropriate planning conditions.

All planning authorities are expected to determine planning applications within timescales set by the Scottish Executive. Failure to provide the necessary information described in this note will lead to the application being refused; unless the consequent delays can be minimised to enable resolution of the application within the statutory 8 weeks.

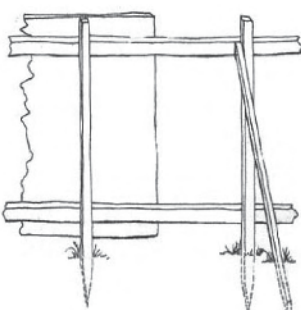
### Fig 1 Protective Fencing



### Fig 2 Protective Barrier - BS 5837



1. Standard scaffold poles
2. Uprights to be driven into the ground
3. Panels secured to uprights with wire ties and where necessary standard scaffold clamps
4. Weldmesh wire to the uprights and horizontals
5. Standard clamps
6. Wire twisted and secured on inside face of fencing to avoid easy dismantling
7. Ground level
8. Approx. 0.6m driven into the ground



#### 2.4m Close Board

**Posts:** 100mm x 100mm x 3.5m driven in to 1m depth at 2.5m spacings.

**Top and Bottom Rails:** 50mm x 75mm softwood, twice nailed to uprights.

**Support Struts:** 75mm x 50mm softwood, securely nailed to uprights at every third post and at each corner or change of direction.

**Ply board:** 2.4m high, min 20mm thick plyboard, securely affixed to timber frame

## Tree Preservation Orders

As previously stated, the local authority has the power to create Tree Preservation Orders (TPO) to maintain the amenity of the local environment.

With regard to development proposals, the Council will utilise TPO powers in a flexible manner.

This may include serving TPOs :-

- prior to development proposals;
- after receiving development proposals;
- during development proposals;
- after development is complete; or
- not serving TPOs if inappropriate.

The above range of responses will be implemented on the basis of the site's importance, individual specimen importance, the development proposals and the level of data provided to the LPA with regard to development.

In the event that a TPO is placed on a site, the Council requires that there should be consultation between the developers and the Arboricultural Officer of the Council, before the submission of any proposed design or layout.



## Implementation of Planning Permission

The Council will require the use of appropriate management and programming of works to ensure that trees and other soft landscape features are safely and attractively integrated into the construction phase. The Council will also require developers and their advisers to obtain the appropriate professional advice. Where necessary this will extend to supervision of the construction phase by the developer's own arboriculturist.

If, for any reason, trees identified for retention are lost or damaged during the development works, the Council will require the developer to carry out planting to replace those trees at an adjoining or other location to be agreed with the Council.



The applicant is advised to contact the Council's Tree Officer for any further information or to arrange a pre-application site meeting.

### For further information contact:

**Development Management,  
Scottish Borders Council,  
Newtown St Boswells,  
Melrose, TD6 0SA  
Tel: 0300 100 1800  
Fax: 01835 825158  
Email: [prs@scotborders.gov.uk](mailto:prs@scotborders.gov.uk)**

### Other contacts:

#### [Arboricultural Association](#)

Produces a range of publications on tree care and tree management.

#### [The Landscape Institute](#)

Provides a list of registered landscape practices.

#### [BSI British Standards](#)

### Useful Reading

- Arboricultural Association Leaflet No 9 Protection of Trees on Development Sites, Part 1: Drawing Board: Obtaining Planning Permission
- Arboricultural Association Leaflet No 9 Protection of Trees on Development Sites, Part 2: On site: Implementing Planning Consent
- Amenity Value of Trees and Woodland (Arboricultural Association)
- Tree Survey and Inspection (Arboricultural Association)
- BS 5837:2012: Trees in Relation to Construction (BSI)
- BS 3998:2010: Recommendations for Tree Work (BSI)
- NHBC Standards, Ch 4.2, Building near trees (October 1992)
- NJUG (National Joint Utilities Group) Publication No 10 (1995)



Permission to reproduce Figure 2 from BS 5837: 2005 is granted by British Standards Institution.

# Appendix 1

## Tree Preservation Order (TPO)

Legislation concerning Tree Preservation Orders is contained within The Town and Country Planning Act (Scotland) 1997. The following notes serve as a very brief summary of the legislation. Please contact Planning and Economic Development for further information.

### What is a TPO?

A Tree Preservation Order (TPO) is an order made by a Local Planning Authority (LPA) in respect of trees. The order makes it an offence to cut down, uproot, prune, damage or destroy the tree or trees in question. A TPO can apply to a single tree, a group of trees, an area of trees or a woodland. TPOs can only apply to trees; they cannot apply to bushes, shrubs or hedges (unless the hedge has reverted back to a line of individual trees). The tree under an order can be of any size, species or age.

The LPA may make a TPO if it is deemed that the tree offers amenity value to the surrounding area, and that its loss would have a significant impact on the environment and its enjoyment by the public. To this end, the tree(s) would normally be visible from a public place and would contribute to the landscape in some way. The LPA has to justify the placement of a TPO and the tree owner can object to the placement of such an order.

A TPO does not mean that the Council now owns the tree nor does it mean that they are responsible for its maintenance or the cost of its maintenance. A TPO exists to prevent anyone from felling or pruning the tree without the consent of the LPA. This does not necessarily mean that you can't eventually prune or fell the trees; it simply means that you must obtain permission from the LPA first.

It is always advisable always to seek professional advice, from a qualified tree surgeon or tree consultant, prior to making an application for tree work. A list of tree surgeons is available from the Council's Landscape Section, (see contact below).

Trees within a **Conservation Area** are also covered by statutory protection; however the legislation is different from trees covered by a TPO. The Council's Tree Officer can advise further on trees within a Conservation Area.

The removal of trees from within woodlands and forests may also require permission from the Forestry Scotland. Further information can be obtained from the leaflet 'Tree Felling - Getting Permission', available

from your [local Forestry Scotland office](#), or by contacting the Council's Tree Officer.

### Penalties

The courts have powers to fine anyone contravening a TPO. The maximum fines are £20,000 for destroying a tree or, in certain cases, an unlimited fine and up to £2,500 for anyone who does not completely destroy a tree but has carried out other works without consent. It is no defence for a defendant to plead that they were unaware that a TPO existed on a particular tree. In addition the Council will require that a replacement tree is planted.

### Works, Objections and Appeals

Once the Council have served the order, any objections to the TPO must be made in writing within 28 days. The TPO must be confirmed by the Council within 6 months for it to become permanent, otherwise it will lapse. It is also recorded with the Land Registry, and places a legal burden attached to the title of the land.

Anyone wishing to carry out works to a tree must submit an application, stating the reasons for making the application, the works required and making it clear which tree(s) the application relates to. The LPA will normally respond to applications for works within a period of 2 months (8 weeks). Should the Council refuse to grant permission for the requested works, the applicant may appeal to the Secretary of State. This should normally be made within 28 days of the receipt of the decision.

### Contact

All enquires and applications should be made to the LPA at the address given below.

**Tree Officer,  
Heritage and Design,  
Council Headquarters, Newtown St Boswells,  
Melrose, Scottish Borders TD6 0SA.  
Tel: 0300 100 1800**

**Email: [trees@scotborders.gov.uk](mailto:trees@scotborders.gov.uk)**