



Blaenau Gwent County Borough Council

# **TREE POLICY FOR COUNCIL OWNED & MANAGED TREES & WOODLANDS**





## 1. Introduction

### 1.1

This Policy has been produced to inform the public, Councillors, Blaenau Gwent County Borough Council (BGCBC) staff and other parties when, why and how BGCBC will undertake works on trees and woodlands located on our land.

### 1.2

This Policy document aims to ensure that the Council is compliant with all relevant statutory legislation and local and national policy regarding the management of trees and woodlands within the Blaenau Gwent area, this includes management of trees to reduce any associated hazards as well as taking into account the social, economic and environmental benefits that a healthy urban tree stock provides.

### 1.3

This Policy is purely for the management of trees and woodlands located on Council owned land. The management of trees located on land outside of Council ownership is the responsibility of the relevant landholder. The Council may serve a Tree Preservation Order onto trees located on privately owned land however TPOs are only briefly discussed here as there is separate guidance relating to this process. The Council also has regulatory powers in relation to trees associated with development sites and there is a separate Supplementary Planning Guidance note (Trees and Development) which covers this issue.

### 1.4

This Policy is intended to be used as both a practical guide and definitive reference for all matters relating to trees and woodlands located on land within the ownership of BGCBC. It should be consulted by all those who have land management responsibilities within the Council.

### 1.5

The Green Infrastructure Team currently co-ordinates the management of the Council's tree stock and is responsible for reviewing and updating this Corporate Tree and Woodland Policy. Any queries in relation to this Policy should be directed to the Manager of the Green Infrastructure Team. A list of relevant contact details can be found at the end of the document.





## 2. Statement of Principles

### 2.1

To reflect wider governmental policy, BGCBC has developed the following three Key Principles in relation to The Authority's trees and woodlands in the BGCBC area these are to:

- **Manage our tree stock**

BGCBC has a comprehensive inspection programme that covers all trees within our ownership. All trees are inspected by a qualified Arborist on a cyclical basis, any which require work are reported to the BGCBC Green Infrastructure Team who issue contracts for the work to be undertaken. The Green Infrastructure Team coordinate the majority of BGCBC proactive and reactive arboricultural work to abate, where necessary, problems caused by trees in dense urban areas, and also to manage tree and woodland cover in a responsible way to ensure the long term retention of these valuable features.

- **Replant where tree stock has been lost or removed -**

BGCBC will lead by example at sites within its control by replanting where practicably possible and will seek to encourage the planting of trees and woodland on sites not owned by BGCBC.

- **Protect and Conserve -**

All trees owned by BGCBC are protected by The Authority. We will not allow any work to be undertaken to our trees without the permission of the Authority. In addition a significant number of council and private trees and woodland within Blaenau Gwent are protected by national legislation. These include Tree Preservation Orders (TPOs), planning controls and special land designation such as Conservations Areas. The protection of trees is covered in more detail within the separate Supplementary Planning Guidance (SPG), Trees and Development: A Guide to Incorporating Trees, Woodlands & Hedgerows into Development Proposals (2015) and separate guidance on Tree Preservation Orders, which can be found on the website.



### **3. Why we must manage our tree stock - understanding of the liability**

#### **3.1**

Under both civil and criminal law, an owner of land on which a tree stands has responsibilities in relation to the health and safety of persons on that land or on adjacent land, and also has potential liabilities with regard to the falling of trees or branches.

#### **3.2**

Civil law gives rise to duties and potential liabilities to pay damages in the event of a breach of such duties. The duty of care is to take reasonable care to avoid acts or omissions that cause a reasonable foreseeable risk of injury to persons or property.

#### **3.3**

The courts consider that it is the duty holder's fundamental responsibility, in taking reasonable care as a "reasonable and prudent landowner", to consider the risks posed by their trees. However the balance of risks posed by trees in general terms, their amenity or other values and the cost of different types of inspection and remedial measures are all relevant in relation to ensuring that reasonable care is taken.

#### **3.4**

Whilst the courts have not defined the standard of inspection required, the level of knowledge and the standard of inspection that must be applied to the assessment of trees are of particular importance. In addition the Health and Safety Executive have noted that "for trees in a frequently visited zone, a system for periodic, proactive checks is appropriate".

#### **3.5**

Criminal law gives rise to the risk of prosecution in the event of an infringement of relevant acts. The Health and Safety at Work Act 1974 places a duty on employers to ensure, so far as is reasonably practicable, that in the course of conducting their undertaking, employees and members of the public are not put at risk.

#### **3.6**

Whilst the acts of felling or pruning a tree obviously relates to this act, it is likely that the growing and management of trees on land also falls within the scope of this duty if such operations fall within the employer's undertaking. The Management of Health and Safety at Work Regulation 1999 may also be applicable under regulation 3 in relation to carrying out risk assessments of tree stock.

#### **3.7**

Whilst trees obviously have risks associated with them and no tree can be guaranteed to be safe, it is important to realise that such risk is generally accepted to be low. However considerable concern and uncertainty about managing trees for safety has arisen over the last few years. This has largely been stimulated by a number of court cases and other responses to rare incidents where falling trees or branches have killed or injured persons. It is therefore important for land owners such as BGCBC to have a reasonable, balanced tree risk management strategy in place.



**3.8**

Defendable practice that is consistent with a duty of care, based on reasonable care, reasonable likelihood and reasonable practicability provides a cost effective method of managing tree stock. Whilst such cost may be questioned it should be appreciated that it is in fact a sound investment, not only in relation to ensuring the safety of the general public whilst maintaining the many benefits that trees provide, but also in relation to providing a means by which the authority can robustly defend itself in the event of an accident occurring.

**3.9**

Such management regimes are costly and therefore works to trees have to be carried out in order of priority. The highest priority is works to trees that pose the highest risk to the safety of people and property. This is why lower risk work may sometimes have to be delayed and we will endeavour to make people aware of such delays. In addition we will try to contact neighbours and interested parties regarding tree work and removal, when this is to be carried out. However this may not always be possible.

**3.10**

On occasion the Council may have to remove a dangerous tree on private land, from a neighbouring property where this may be affecting the highway or other public area for example and where we cannot notify a landowner in a timely manner. We are legally able to do this under the Local Government (Miscellaneous Provisions) Act 1976.





## 4. How We Manage Our Trees and Woodlands – Our Tree Survey Programme and What Works We Will Undertake

### 4.1

BGCBC is responsible for managing its tree stock to ensure the health of the trees and to minimise the risk to public health and safety. The Council owes a duty of care to owners, occupiers and users of adjacent land and also to users of its own land. We fulfil this duty of care by undertaking both proactive management and reactive emergency tree work.

### 4.2

Proactive management involves cyclical assessment of the health and structural integrity of the trees with appropriate works being carried out where needs are identified, the works are in accordance with BS 3998:2010 – Tree Work Recommendations and other relevant and current industry good practice. The aim is to identify any hazards and undertake remedial tree works where necessary.

### 4.3

Relevant wildlife legislation is taken into account, primarily in relation to nesting birds and the potential for the presence of bats. Legislation relating to the management of trees within areas covered by protective designations, for example SSSIs, is also adhered to with assent sought from the relevant authorities where this is required.

### 4.4

Within Blaenau Gwent we have an annual tree survey programme which is managed by the Green Infrastructure Team. The survey is undertaken by a qualified Arborist and looks to inspect all of our trees on a cyclical basis. Each area has been assessed to see if it requires surveying on an annual or bi-annual basis or every three to five years. E.g. schools and highways are inspected every year due to the high risks that trees in these locations may pose whereas trees in remote areas of our parks or Local Natures Reserves may only be surveyed every three to five years.

### 4.5

The tree survey is undertaken by a qualified Arborist who inspects each of our trees and reports any defects or work requirements onto our digital tree management system (Arbortrack). Each work requirement added to the system is given a priority which is based on the identified hazard - Urgent work is undertaken within 24hrs (instances of urgent work are rare and are generally dealt with on the spot); Priority 1 work is undertaken within 6 months (this is the more usual timeframe) and Priority 2 work is undertaken within 12 Months of survey. At the end of the annual survey the Green Infrastructure Team issue a works schedule to external tree contractors with work issued based on priority.

### 4.6

This system ensures that we manage our trees on a pro-active basis and in accordance with our duty of care. It also ensures that resources are allocated to works based on a clear set of priorities and enables a clear audit trail of work we have carried out.



**4.7**

The system relies on the Green Infrastructure Team being aware of what land we own and where our trees and woodlands are located, it is thus important that all departments within the Council that have land ownership responsibilities keep this information up-to-date and share it with members of the Green Infrastructure Team.

**4.8**

Reactive tree management work is undertaken in response to an emergency situation such as damage to council trees following a storm event or on verification of a reported dangerous tree - it should be noted that the proactive tree survey is aimed at significantly reducing the instances of dangerous trees occurring within the Borough and the need for urgent works.





## 5. How we Manage our Trees - Public requests that will not be undertaken

### 5.1

The Council receives many requests from the public to carry out works to trees that we consider as non-essential, that is management that isn't directly related to the safety of our tree stock and which will result in the loss of this valuable urban resource.

### 5.2

Works we consider to be non-essential will not be undertaken, this is in accordance with Welsh Government policy and legislation which promotes retaining trees and canopy cover within our urban landscape for health, social and biodiversity reasons. This also ensures that Council funds are directed to prioritised works associated with our proactive tree survey program. The nature of the most frequent, non-essential requests which we will not undertake, are outlined below, these are:

#### 5.3 - Cosmetic reasons or appearance

This is unnecessary, costly and may adversely affect the long-term health and structural integrity of trees. Any pruning work has the potential to provide the opportunity for pathogens to enter via wounds and in addition usually promotes vigorous re-growth leading to the need for future cyclical management at significant and ongoing cost.

#### 5.4 - Loss of light / shading

There is no statutory or common law right to light in the UK therefore BGCBC will not carry out tree works to allow natural light or reduce shading in relation to domestic property. However where two or more evergreen or semi-evergreen trees are planted in a line with the potential to be considered as a hedge, then Part 8 of the Anti-Social Behaviour Act 2003 may be relevant.

#### 5.5 - Installation of Solar Panels

The fact that there is no statutory or common law right to light in the UK also impacts upon the use of solar panels. The presence of existing trees and the impact that they may have, both at present and in the future, should be taken into account when considering the installation of solar panels.

#### 5.6 - Loss or disruption in relation to TV or Satellite signal

The purchase of a TV licence or subscription to a service provider such as Sky, provides the purchaser with the right to operate the equipment that receives any available signal. However there is no legal right to TV / satellite signal in the UK. BGCBC will not carry out tree works in relation to loss or disruption of signal. Guidance should be sought from the service provider with regard to negating issues relating to reception.

#### 5.7 - Loss of views

As there is no right to a scenic view un-obscured by trees in the UK. BGCBC will not carry out tree works solely to improve views to and from domestic or commercial premises. This includes areas where views may have previously existed. BGCBC do reserve the right to remove our own trees if we believe, and can evidence that this will be for the benefit of public landscape and visual amenity.



### **5.8 - Shedding of leaves, fruits and debris**

Reasonable debris such as leaves, fruits, nuts, flowers, residues, minor deadwood, and naturally occurring by-products of the trees life processes, must be expected where trees occur. BGCBC will therefore not carry out tree works in relation to negating such matters. The excretions of birds and insects, primarily honeydew associated with aphids, are beyond the control of BGCBC and therefore no tree works will be undertaken to prevent this potential problem.

### **5.9 - Branches overhanging adjoining land**

BGCBC has no duty to prune overhanging branches except where they are in direct, or potential conflict with an adjacent built structure. The owner or occupier of adjacent land does have a common law right to cut back overhanging branches to the boundary line. However it should also be noted that owners and occupiers of adjacent land also owe a duty of care to the owners of trees and therefore they should take reasonable precaution when enacting their common law right in order to ensure that the long term health and structural integrity of the trees are not compromised. Anyone wishing to enact their common law right in relation to council owned trees is encouraged to liaise with the local authority. This is so we can ensure that works do not compromise the health of the tree or breach protective designations. Any tree management work should adhere to the following;

- All work is carried out in accordance with BS 3998:2010 Tree Work - Recommendations.
- Work is carried out at a time that does not conflict with leaf burst or leaf fall.
- All work is carried out in accordance with relevant wildlife legislation.
- Any contractor employed is suitably qualified and insured.
- All arising are disposed of in a safe and environmentally friendly manner
- The public should not trespass onto BGCBC land (nor any other land) without permission of the landowner

### **5.10 - Perceived risk due to 'tall' or 'swaying' trees close to properties**

The proactive tree survey programme is designed to pick up on dangerous trees located close to high risk areas such as property or highways. The public should be reassured that the annual survey will establish if a tree is hazardous and works will be undertaken accordingly.



## 6. Trees In Relation To Highways

### 6.1

Within the urban environment, and indeed the rural environment too, there is potential for conflict between the presence of trees and the safe use of the public highway. The Highways Act 1980 (amended 1986) is relevant to both BGCBC owned trees and those in private ownership that have the potential to affect the adopted highway.

### 6.2 - The Highway Act of 1980

Is administered by relevant competent authorities such as the Local Highway Authorities and the Welsh Government in Wales. In most cases BGCBC will administer the act through the use of delegated powers in a similar way to planning controls imposed by the Town and Country Planning Act.

### 6.3

Various sections of the Highway Act impose duties on owners and occupiers of land to ensure that the highway, including footways and associated infrastructure, is maintained in a safe and appropriate manner. Examples of vegetation works imposed by the Highway Act include, but are not limited to, the following:

- Pruning to provide between 5.4m – 6.1m vertical clearance above a highway.
- Pruning to provide 2.4m vertical clearance above a footway.
- Pruning to allow sufficient light spread from a lamp column or fixture
- Pruning to remove dangerous vegetation
- Pruning to allow prescribed vision splays at road junctions
- Pruning to allow the safe passage of pedestrians

### 6.4 - The Highways Act in relation to BGCBC owned land

BGCBC will endeavour to carry out all works required by the act within 14 days of the works being identified. In some cases, this may not be achievable due to availability of staff or access requirements.

### 6.5 - The Highways Act in relation to non-BGCBC owned land

The Highway Act 1980 applies to all landowners or occupiers. BGCBC will serve notice at all locations it feels are appropriate and commensurate with the use of the highway or footway in question. Sites where notices are required are usually reported through the call centre or are identified by BGCBC officers such as highway inspectors during the course of their daily duties.

### 6.6 - Emergency Highways Tree Work

BGCBC will carry out emergency works to make safe any tree or trees that have failed in part or wholly that affect the highway network. The cost of which may be recharged back to the landowner.



## 7. Additional Policy Principles

### 7.1 - Provision of Usable Soil Area

Trees require usable soil area in order to allow water percolation and gaseous diffusion, both vital to the development and maintenance of a healthy and viable rooting system. Within the urban environment the provision of such usable soil area is often heavily compromised and this is particularly relevant in relation to Highways trees where hard surfacing more often than not prevails.

### 7.2

The current practice of tarmac being laid up to the main stem of trees should, if at all possible be avoided. The branching structure of trees directs water, particularly during heavy rain along principle branches and down the main stem, therefore the provision of tree grills, the use of permeable resin bound paving, or a small area devoid of tarmac around the base of the tree allows a large quantity of water to enter the soil within the rooting environment of the tree. The use of non-permeable surfacing, such as concrete, around the base of trees should be avoided at all times.

### 7.3 - Perceived damage to built structures

Where damage to built structures is considered to be linked to the presence of BGCBC owned tree, property owners should, in the first instance, contact their buildings insurance company. The Council has a duty to investigate all structural damage claims following the submission of suitable evidence. The findings of an insurance investigation may find the Council liable and lead to recommendations regarding a Council owned tree (pruning, installation of root barriers, etc). The Council would be obliged to act accordingly in this situation.

### 7.4

Each individual claim would need to be considered on its own merit and follow the guidelines of the Joint Mitigation Protocol devised by the London Tree Officers Association. The results of previous compensation claims and/or settlements do not set a legal precedent for other potential claims.

### 7.5 - Criminal Damage to Blaenau Gwent County Borough Council Owned Trees

Any illegal or unapproved work to trees owned or managed by BGCBC will be regarded as criminal damage. This also includes the poisoning of trees or ring barking, which is unfortunately becoming increasingly common. BGCBC will, as far as is practicably possible, work with the police and seek to prosecute those responsible for illegal tree works.

### 7.6 - Blaenau Gwent County Borough Council will endeavour to maintain a zero net loss of trees under their control within any 5 year period and in fact aim to increase tree canopy cover within urban area through new tree planting schemes:

Trees will inevitably be lost as a result of (amongst others) vandalism, disease, death or if they must be removed to comply with a statutory obligation. To avoid a decline in the total tree population and to increase canopy cover within the urban area, new planting will be undertaken. Records will be maintained of tree loss and new tree planting within the BGCBC area via the Arbortrack system.





## 7.7

Zero net loss of tree canopy cover will be achieved by an annual increase in tree planting through the following ways:

- **New Planting:** Of appropriate tree species on existing Public Open Spaces, Strategic Corridors and gateway sites across the city, funded through planting contribution and other external grant sources.
- **Development Mitigation:** tree loss through development will continue to be mitigated not only through like for like replacement, but also in seeking additional planting compensation, where feasible.
- **Direct Management:** to maintain the tree stock balance by actively managing our own tree stock;
- **Community Involvement:** working with established community groups to plant on council sites.

## 7.8

**Where space allows a tree to be planted and reach its ultimate growth and form, BGCBC will seek to plant the largest tree possible notwithstanding the need to select trees for reasons of character, design and suitability:**

Trees should be planted at any reasonably suitable and available location within the BGCBC boundary. A tree's ultimate growth and form may not always be its natural growth pattern. Many types of management such as formative pruning and pollarding are adopted to ensure the long-term retention of trees in the urban environment and such management may be required in order to retain existing trees previously planted in inappropriate locations, or in locations where the adjacent land use has changed.

## 7.9

**BGCBC recognises that space is at a premium in urban areas and will seek to make use of alternative sites for tree planting:**

BGCBC understands the potential for cemeteries, public open space, formal parks and some of the wider highway verges to become suitable planting sites for woodland copse, arboretum and potentially as a harvestable crop. Through careful selection of appropriate species, BGCBC will make better use of the land available for tree planting.

## 7.10

**BGCBC will work towards the production of new or revised existing Tree and Woodland Management Plans where appropriate along with an overarching Tree Strategy for the Borough:**

## 7.11

BGCBC will continue its high standard of Arboricultural and Forestry works in compliance with any existing and forthcoming management plans along with working towards a new overarching Tree Strategy. This will ensure a balanced and reasonable approach to tree management within the BGCBC area and allow the correct allocation of resources.



### 7.12

#### **BGCBC will aim to achieve transparency in its actions and all decision making in relation to trees:**

When asked, BGCBC will provide comment to any person that asks for information about action taken or decisions made with regard to tree and woodland management. It should be noted that public safety is of key importance when making decisions about trees and woodland within the BGCBC area.

### 7.13

#### **BGCBC will continue with its cyclical management of pruning works:**

Several types of continued tree management such as pollarding and pruning to clear bus routes / highways require repeated works at set intervals. Such works will be included within any management plans for the BGCBC area to ensure the correct allocation of resources at the correct time.

### 7.14

#### **BGCBC will seek to ensure that where possible CCTV cameras are sited in locations where their line of sight is not, or will not be obstructed by trees:**

Repeated harmful pruning of trees can be avoided by the correct and considered placement of CCTV cameras. CCTV operators will be encouraged to work closely with the Police and BGCBC to ensure the best use of this increasingly important requirement. The Green Infrastructure Department will be consulted on the locations of all proposed new CCTV camera locations. Trees will not be retrospectively pruned if the locations of new cameras have not been through a consultation process.

### 7.15

#### **BGCBC will seek to encourage and take advantage of opportunities to create, expand and link established woodland and treed areas:**

In order to develop and maintain the green infrastructure and urban forest of the BGCBC area, BGCBC will endeavour to plant trees so as to join with existing features to develop biodiversity, ecological features such as wildlife corridors and other such landscape features.

### 7.16

#### **BGCBC will seek to involve community and local interest groups when practicably possible:**

Tree planting and management is often an evocative subject in many urban and rural areas. With this in mind BGCBC will seek to consult appropriate groups when undertaking significant works within the BGCBC area.

### 7.17

#### **BGCBC will seek to manage suitable areas of trees and woodland as a fiscal asset rather than liability:**

When a lateral approach is taken to certain areas of tree management, what may have been regarded as a pure liability can be turned into a cost free operation or potentially a source of revenue. Timber, logs and woodchip all have value and may be used by a wide variety of local groups such as forest schools initiatives within junior and infant schools, allotments may use woodchip for mulch or path surfacing. Occasionally trees that have to be removed have timber value that may be used to recover some or all of the cost of felling.



### 7.18

#### **BGCBC will undertake tree management in response to government guidance notes:**

On occasion local authorities will be tasked with tree removal to effect disease control or spread. This will follow guidance provided in the DEFRA publication Protecting Plant Health – A Plant Biosecurity Strategy for Great Britain. BGCBC's role may form part of a wider outbreak management strategy involving government agencies, non-government organisations, landowners and the public. Where such management may adversely affect domestic dwellings and public open space we will inform the public as to when and why the works are being carried out. In addition BGCBC will provide advice in relation to relevant biosecurity measures in order to seek to prevent disease spread.

### 7.19

#### **BGCBC will undertake tree management taking into account all of the social, economic and environmental benefits that trees provide:**

Trees are amongst the most versatile natural assets that planners, policy makers, businesses and communities can employ to cost-effectively raise the quality of the built environment. Notwithstanding the significant contribution that trees, woodland and hedgerows make to the aesthetics and biodiversity within the BGCBC area, a list of benefits that may not be obvious are provided below. BGCBC will endeavour to raise awareness of these additional benefits and take them into account when proposing management of our tree stock:

- Carbon capture and absorption / filtration of particulates
- Trees provide shade, cooling dense urban areas and making outdoor environments more pleasant.
- Trees intercept and store rainfall, reducing the burden on drainage systems and reducing runoff and localises flooding.
- Trees are financial assets to local authorities, their value, often significant, can be calculated using a system called CAVAT (Capital Asset Value for Amenity Trees) that has been developed by the London Tree Officers Association.
- Areas with a mature healthy tree population have been found to have lower levels of crime.
- Retail areas have found that they can generate 15% more revenue if the area has more trees.
- Trees can reduce heating bills by shielding the property from extremes of foul weather.
- Recovery rates of patients in hospitals are improved when the patient has a view of trees or woodland.
- House prices in Tree lined streets are often higher than similar streets with no trees.
- Trees are often the last remnants of previous land use.
- Trees have significant cultural and social value.



## 7.20

### **BGCBC will undertake tree management taking into account the growing pressures on our urban tree populations;**

There is growing pressure on urban tree populations and the reasons for their removal or lack of replacement are varied;

- There is an ageing population, leading to growing numbers of dying or dangerous trees.
- Increased threats from pests and diseases, often relating to specific tree species.
- Lack of understanding of solutions to aid better integration of trees into the urban infrastructure in relation to issues such as loss of light, deposition of leaves and fruits, blocked drains, footway surface heave, and subsidence.
- Increasing demand for new building development.
- Installation and maintenance of utilities infrastructure.
- 'Right tree in right place' approach to tree planting not being adhered to, compromising the trees' ability to reach their full potential.
- Lack of understanding of the benefits that trees bring to society.

### **7.21 - Tree Preservation Orders (TPOs) on Council Owned Trees**

Historically some trees on our land have been subject to TPOs and these are still in place. However as the Council is a responsible body with a statutory duty to protect and conserve trees it is not considered expedient for the Council to serve TPOs onto trees located on our own land. TPOs are served onto trees located on private land only when there is a risk of the trees being lost and it is considered expedient to do so, there is separate guidance associated with this process which details when and how a TPO will be served.

### **7.22 - Trees on Council owned development land**

Trees which are part of a development site or subject to planning applications and which are on land owned and managed by the Council will be subject to the same requirements as those located on privately owned sites. The Green Infrastructure Team should be consulted on all Council development proposals likely to affect trees. It will be expected that the trees are considered as part of the project in accordance with the guidance provided in the Supplementary Planning Guidance: Trees and Developments.











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