

TREES : LEGISLATION & PROCEDURE



INTRODUCTION

Trees are a vital part of the environment of both town and country. Not only do they reduce air pollution and provide food and shelter to insects, birds and mammals, but they also give form and shape to the landscape. In the London Borough of Richmond upon Thames, there are several magnificent open spaces – Bushy Park, Kew Gardens and Richmond Park for instance – where the importance of trees to their character is obvious, but the contribution made by trees to the smaller open spaces and the roads and gardens of the more urban areas is less well appreciated. Dutch elm disease which killed over 6,000 trees in the Borough alone followed by the 1987 and 1990 storms, brought home to many just how barren our landscape would be without trees.

Little can be done to protect trees from such natural disasters but this leaflet briefly describes the ways in which the treescape can be protected and safeguarded by the Council and other authorities and in particular by the general public, since so many of the Borough's trees grow on private land but give visual pleasure to many people.

CONSERVATION OF EXISTING TREES

The Borough's treescape is, in the main, an inheritance from individual owners of land who have planted and cared for trees for their own pleasure and enjoyment. The protection and enhancement of the treescape depends largely upon the goodwill of the present owners in retaining existing and planting new trees on their land.

However, the Council too has a role to play. Section 198 of the Town and Country Planning Act 1990 empowers local planning authorities to protect trees from being cut down, topped, lopped, wilfully damaged or destroyed by the making of *Tree Preservation Orders*. It is also a duty of the local planning authority to ensure, in granting planning permission, that adequate provision is made for the

preservation or planting of trees and to make *Tree Preservation Orders* as necessary.

Sites where development is proposed are therefore automatically inspected for trees suitable for preservation. In other cases, *Orders* may be made on trees which make a significant impact on the environment and its enjoyment by the public. This usually means that the trees must be visible from a public place such as a road or footpath, but individual trees of intrinsic beauty or rarity may exceptionally be included even when this is not the case. Before deciding to make an *Order*, the trees are inspected to gauge not only their amenity value but also to see whether there are signs of disease or decay; or if the trees are causing or likely to result in damage to existing buildings. Fruit trees are not generally included since these have to be cut back periodically to encourage fruiting. Hedges, shrubs and bushes cannot be made the subject of an *Order*. Trees or groups of trees which are considered to be worthy of an *Order* are identified by species in a schedule and their positions shown on a map. Copies of the *Order* are served on all owners of the land on which the trees protected are growing. The *Order* is also available for inspection at the Planning & Building Control Department, and is registered as a local land charge.

Once an *Order* is made, the permission of the local planning authority is generally required before any works, including pruning may be undertaken. There are some exceptions to this rule – when a tree is dead or dangerous for instance, but it is always best to check with the *Tree Preservation Officer* before carrying out any work. He will send you an application form to complete and a list of Council approved tree surgeons. Your application should clearly identify the tree(s) and the schedule of works you wish to carry out. Before the Council gives a decision the tree(s) will be inspected and in some cases alternative work may be suggested. If permission is granted for felling, in most cases a replacement tree is required and this automatically becomes the subject of the *Tree Preservation Order*.



PENALTIES

If anyone cuts down, tops, lops or otherwise wilfully damages a tree the subject of a *Tree Preservation Order* he is liable to a maximum fine of £20,000 on conviction in the Magistrates Court, or an unlimited fine on indictment. For lesser offences, the fine may be up to £2,500. On indictment the Court is required, in assessing the fine, to have regard to any financial benefit which may have accrued to the offender as a result of the felling of the tree(s).

If you see work being carried out to trees you believe may be protected, please telephone the Planning & Building Control The Civic Centre 020 8891 7808 (East)
020 8891 1411 ex 4356 (West)

Many trees have been saved from unnecessary felling thanks to the vigilance of concerned members of the public and action by Council staff.

TREES IN CONSERVATION AREAS

Since 1974, trees in conservation areas have been the subject of special procedures. Section 211 of the Town and Country Planning Act 1990 requires that six weeks' notice be given to the local planning authority of any work it is intended to carry out on any tree growing within a conservation area. This must be in writing. Until this notice has expired, the trees enjoy the same protection as if they were the subject of a Tree Preservation Order and the same penalties for felling or damaging them etc. apply.

There are some exceptions to this rule – trees with a trunk diameter, measured 1.5m from the ground, not exceeding 75mm (about that of a milk bottle) and works which would be allowed if the tree was subject to a Tree Preservation Order, i.e. felling of a tree which is dead or dying etc., but it is always advisable to contact the Tree Preservation Officer if you are considering felling or pruning any trees.

The notice should give details of the location and species of the tree and the details of the works proposed. Once it is served, the tree is inspected and the local planning authority decides on the suitability of the proposed tree work and in some cases alternative work may be suggested. Under certain circumstances the tree(s) may be protected by a Tree Preservation Order. If it is decided that no Order should be made, then the work can commence but, if the work is not completed within two years of giving notice, a further notice is required.

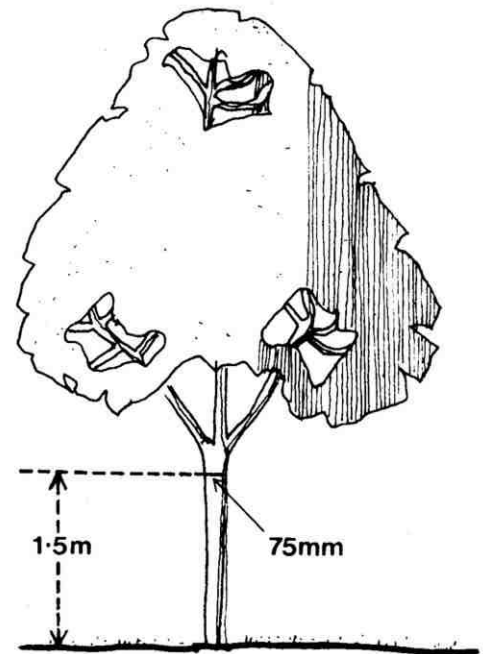
A register of all notices received is available for public inspection in the Planning & Building Control Department giving details of the species of the tree and the address of the land on which it is growing, the works proposed, the date of the notice and who served it and the decision (when made) of the local planning authority.

TREES ON DEVELOPMENT SITES

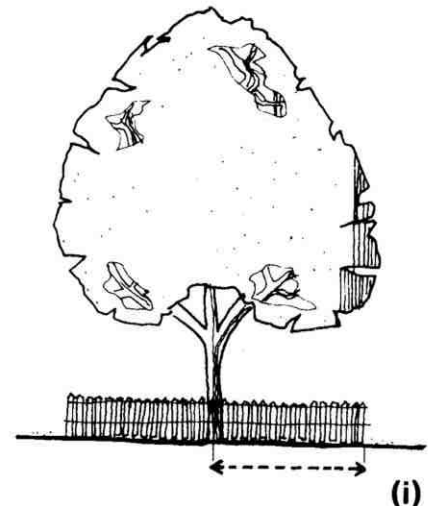
Any new development, be it of houses, flats, offices or industry, can benefit greatly from the retention of existing trees. They help to soften the impact of the new buildings and integrate it with adjacent development. So when dealing with planning applications the local planning authority may impose conditions requiring the submission of detailed drawings showing which trees are to be retained and which felled, or prohibiting felling or lopping without prior written permission. The trees so protected may be the subject of a Tree Preservation Order. Others may not be of sufficient quality to merit an Order or are perhaps growing in positions where their long term retention is impracticable. In these cases it may nevertheless be worthwhile retaining the trees for a shorter time to allow further planting to be carried out and to mature.

Conditions are also imposed:

- (i) requiring those trees to be retained to be protected by fences during construction. These fences should enclose the ground beneath the existing crown spread or be at the distance specified in BS5837 (1991) Trees in Relation to Construction (table 1).
- (ii) requiring special care to be taken when excavating for foundations in the immediate vicinity of a tree with excavation being carried out by hand and the bridging of roots if necessary.



Trees with a trunk diameter above this size normally require notification to carry out tree work.



Minimum distance to the outer reach of the crown spread or half the tree height which ever is the greater or as per recommendations given in BS5837 (1991) Trees in Relation to Construction. (Such distances to be assessed by an experienced arboriculturist).

Developers are also advised to consult the Tree Preservation Officer in certain cases so that a meeting on site can be arranged when the location of the buildings or roads have been pegged out on site to check that existing trees will not be adversely affected. In some cases minor adjustments to the layout may be agreed in order to save trees from felling or lopping.

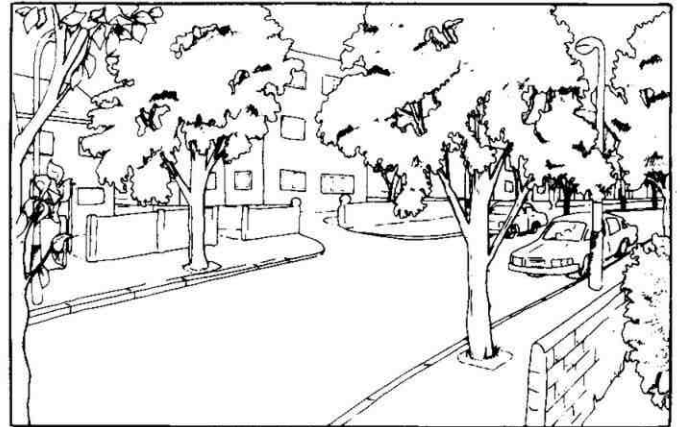
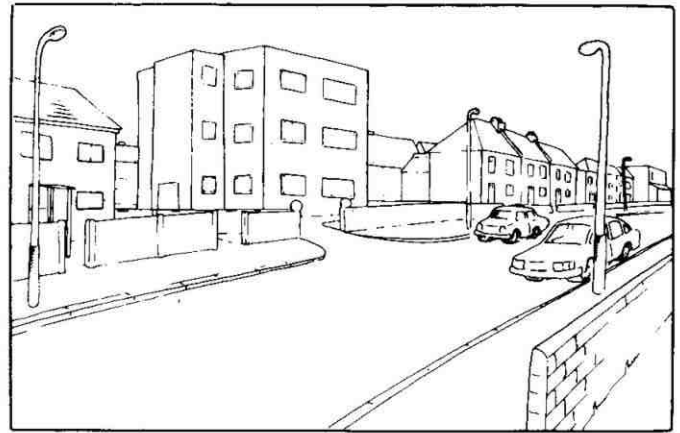
PROVIDING FOR THE FUTURE

If future generations are to enjoy the same benefits and visual beauty of the trees the present generation has inherited, then it is essential that a continuing programme of tree planting be carried out. The Unitary Development Plan identifies areas where the Council considers further planting is most needed and contains policies which seek to encourage further planting. When considering applications for new development, landscaping conditions may be imposed requiring new trees to be planted as part of the development. The Council also has its own tree planting programme for the gardens and open spaces for which it is responsible.

The Council is responsible for some 15,000 street trees growing in 540 streets in the Borough. As well as replacement planting further street planting is proposed in areas where there are few existing trees. Some new street planting has been carried out financed, in part, with money from the bottle bank scheme.

The Council will also carry out new street planting, if requested to do so by the residents of a road, provided the residents are prepared to meet the full costs. If you would like your street planted, get together with your neighbours and then write to the Parks and Recreation Manager at Langholm Lodge, 146 Petersham Road, Richmond. You could also consider planting a tree in your own garden. You should make sure there is sufficient space for the tree to grow to maturity without causing a nuisance or damage to your own or your neighbour's property. Wherever possible, try to choose a tree native to the British Isles. A reputable supplier should be able to advise you on the eventual height and spread of your chosen tree.

Remember, Richmond upon Thames can only retain its sylvan appearance with the help of those who live and work in the Borough.



The effect of trees on the street scene.

FURTHER INFORMATION

Planning & Building Control Department
2nd Floor, Civic Centre
Twickenham
TW1 3BZ
020 8891 7808
for enquiries about: tree felling or pruning, Tree Preservation Orders and trees in conservation areas, applications to carry out tree work.

Recreation & Amenities Division
Leisure Services Department
Langholm Lodge
146 Petersham Road
Richmond
TW10 6UX
020 8940 8351
for enquiries about: street trees and trees on Council land

Refs for Trees L&P Leaflet
BS 3998 (1989) Recommendations for Tree Work.
British Standards Institute.
BS 5837 (1991) Trees in Relation to Construction.

L.B. RICHMOND Design Guidelines leaflets:
5: Trees: Landscape Design, Planting & Care.
8: Wildlife in Gardens.
9: Nature Conservation & Development.

LONDON BOROUGH OF RICHMOND UPON THAMES PLANNING INFORMATION LEAFLET No. 5

Planning & Building Control Department
2nd Floor, Civic Centre, 44 York Street,
Twickenham TW1 3BZ
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