

APPENDIX 5 LEGISLATION AND POLICY GUIDANCE

Legislation and Policy Guidance

Legislation

Statutory Controls and Protection

Town and Country Planning Act (1990)

Town and Country Planning is the land use planning system by which governments seeks to maintain a balance between economic development and environmental quality. The essential framework for the system was set in the Town and Country Planning Act 1947, with a critical addition in 1955 of green belts. Current planning legislation for England and Wales is consolidated in the Town and Country Planning Act 1990 (TCPA 1990). This allows Planning Authorities to set conditions relating to the retention, protection and enhancement of tree, hedgerows and woodlands within a proposed development. This legislation controls Tree Preservation Orders and Section 106 Agreements (the section of the planning permission that relates to landscape and trees).

Forestry Act (1986)

This act repealed and consolidated earlier legislation. The main subjects of interest include felling licences for large scale timber harvesting operations, and an associated requirement for to replant forests and woodlands where it is in wider rather than the commercial interest to do so.

The Hedgerow Regulations (1997)

These focus on the control of activities likely to damage or remove predominantly rural hedgerows, as these have significant influence on the landscape of the countryside and form a significant habitat resource.

The Anti-Social Behaviour Act (2003) Part 8 – High Hedges

This Act created new procedures to enable local authorities in England and Wales to deal with complaints about high hedges. It is clearly better if disputes can be settled between the parties concerned, but where negotiation fails, a complaint can be made to the local authority who can assess the case, acting as an independent and impartial third party. If they think it is justified the authority can order the owner to reduce the height of their hedge. But there is no general requirement that all hedges should be kept below a certain height. In particular it is not illegal to plant *X Cupressocyparis leylandii*, and it is not illegal to have a hedge more than 2m high.

Wildlife and Countryside Act (1981)

The Wildlife and Countryside Act 1981 (as amended) is the principle mechanism for the legislative protection of wildlife in Great Britain. This legislation is the means by which the Convention on the Conservation of European Wildlife and Natural Habitats (the 'Bern Convention') and the European Union Directives on the Conservation of Wild Birds (79/409/EEC) and Natural Habitats and Wild Fauna and Flora (92/43/FFC) are implemented in Great Britain. Similar legislation is enacted to fulfil these obligations

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elsewhere in the United Kingdom. The Wildlife and Countryside Act is divided into four parts.

- Part I is concerned with the protection of wildlife,
- Part II relates to the countryside and national parks (and the designation of protected areas),
- Part III covers public rights of way,
- Part IV deals with miscellaneous provisions of the Act.

Local Government (Miscellaneous Provisions) Act 1976

This act gives scope to Local Authorities to undertake actions that previously may have been considered outside their designated powers (*ultra vires.*) For example, LAs can remove trees that it can be reasonably considered to be a danger to the public, even if the landowner objects. The landowner can still seek remedy after the fact, but previously would have been able to contest the issue on wider grounds

Occupiers Liability Act (1984)

The Act places a duty of care on landowners in respect of others being exposed to risk of suffering injury whilst on the property. The duty of care becomes more comprehensive and far reaching as consideration is given to the extent by which a landowner should reasonably exercise this care. A private householder will not necessarily know the tree in their garden is dangerous; a Local Authority should do.

Highways Act 1980

Confers powers on the Highways Authority to control and manage all aspects of the Highway. An example is that the Highways Authority can serve notice on landowners to remove vegetation obstructing the highway (eg tree branches).

National Policy

Planning Policy Statements (PPG17)

Every Planning Authority (normally a Local Authority) is required to produce guidance on what it expects each proposal to deliver to mitigate the impact of the development. Planning proposals are required to identify existing trees and make new planting proposals as appropriate.

UK Forestry Standard (1998)

This sets out the criteria and standards for the sustainable management of all forests and woodlands in the UK. It is an important means for guiding and

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monitoring forestry. The standards are employed by the Forestry Commission in managing their own forests and have to be adhered to by those managing private forests that receive grant aid.

England Forestry Strategy (1998)

This Strategy sets out the Governments priorities and programmes for forestry. It aims to set out ways that the Government can work with partners in other organisations to ensure the future of England's woodlands.

Commission for Architecture and the Built Environment (CABE)

CABE offers advice and guidance to architects, designers, planners and other organisations involved in the creation and development of new buildings. In addition (via CABE Space) the importance of public parks is being raised and the need for effective management and maintenance to ensure the retention of these important resources.

Local Policy & Guidance

Community Strategy

The Community Strategy has been adopted by Exeter City Council in partnership with a wide range of organisations. It aims to improve the quality of life for those who live, work in or visit the City. It hopes to achieve this by promoting and improving the social, economic and environmental wellbeing of the area, both now and in the future.

Exeter Local Development Framework

The Local Plan sets out policies and proposals for future development and use of land in the City. The plan also provides for the protection of the environment for future generations. Following a change in legislation, the Local Plan is to be replaced by a Local Development Framework (LDF). This is in the process of being prepared and will contain policies regarding the protection of trees and woodlands and the natural environment.

Parks & Open Spaces Strategy

The Strategy is an umbrella document to link directly related strategies such as the existing Allotment Strategy, the Children's Play Best Value Service Review, and the proposed Trees and Outdoor Sports strategies and individual Parks Management Plans into a cohesive approach. It will not detail service delivery plans for each area as this will be the function of those strategies or management plans. It can also be used as a management tool for subject areas that may not warrant a strategy or formal plan, such as Outdoor events on Public Open Spaces. This strategy sets out a number of measures to deal with the issues and challenges facing our parks and Open Spaces. It will provide guidance for Parks and Open Space policy and the main areas of development for the next five years, and provides a framework to help identify and seek capital, revenue and external funding. The policy statements also act as a checklist for each plan or initiative, to ensure all the key issues are discussed.

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Countryside Strategy

This document has been produced by Exeter City Council and provides guidelines for conserving and protecting wildlife and habitat within the City. The strategy also sets out aims to improve opportunities for residents and visitors to appreciate 's natural heritage.

Biodiversity Strategy

Sets out biodiversity priorities for the city, deal with practical implementation of ideas, focus resources where they will have most benefit, encourage community action and partnership involvement, and provide guidance on how a wide range of individuals and organisations could contribute to helping the city's wildlife.

Environmental Strategy

The Strategy sets out the key environmental challenges facing Exeter and the objectives that are needed to address them and explores how to reduce the city's impact on the global environment. The Strategy also draws together and evaluates the effects of the Council's policies and practices on the environment, with the aim of reducing environmental damage.

Trees on Development Sites

Produced by ECC Planning section, this gives guidance for developers and others working on sites where trees are present

Potential Tree Specific Policies

Street Trees

Woodlands and Shelterbelts

Parks and Open Space

Trees on Private Land

Tree Protection

Statutory Protection

Protection through Advice

Rural Trees

Old Trees - Parkland and Veterans

Housing Areas