

Our Beautiful Trees

Preserving and Protecting our Trees, Wildlife and our Vistas; finding the balance

In the villages of Dethick, Lea and Holloway, we are very fortunate to live with such wonderful wildlife and landscape within this Derwent Valley World Heritage zone. Luck comes with compromise; the beauty is only retained because of planning controls and regulations in place to protect, preserve and enhance the natural beauty of the area. That requires us to comply so as to protect our good fortune. Wildlife habitat, carbon dioxide absorption and their sheer beauty are just some reasons to protect our trees.

Some of our trees are part of ancient woodlands (ie. Leawood, Bow, Leashaw, Coombs, Holt) and are preserved and protected under special planning policies and legislation. Many have tree preservation orders on them and cannot be disturbed without good reason, and usually only if they have become dangerous. Tree management and felling is however necessary, and in fact it is because of good management in the past that we are lucky to have retained many ancient woodlands, historically used to fuel the lead industry and mills of our area. If forests are too thick that can limit growth on the under storey and restrict wildlife. But management of large areas of over a certain number of trees requires a felling licence.

Our villages are additionally in a conservation area and that means that even our own gardens are affected. The council must be notified before any tree works, such as crown lifting or coppicing, and simple pruning before any works can be done. A decision on the 'amenity value' will be made within 6 weeks, which may result in a TPO being placed on valued specimens. Reasons for felling may include loss of light, potential danger to foundations of a property or a wall, and dangerous or dying trees. Any sapling tree can be removed without notification if it is less than 7.5 cm at 1.5 meter high.

Some areas of our villages are additionally in what is termed as a 'special landscapes' area, which is intended not just to preserve historical aspects, but is directly aimed at preserving the landscape itself, including the vistas that are to be enjoyed and preserved. This therefore means that extra forests and woods cannot be planted if they affect others right to light and become overbearing to neighbouring properties, or change the landscape and interfere with those preserved and protected vistas. Change of use to land requires planning permission. For example, to plant a forest on top of heath land would constitute a change of use but would additionally damage the existing ecology and habitat of Britain's rarest and most protected heath land.

The high hedges act limits trees being grown above 2 meters as part of a hedge. Trees running adjacent to each other constitute a hedge, which may prevent skylight to neighbouring windows. It is useful to note however, that any tree that creates part of a hedge does not require an application for pruning, and neither do garden 'shrubs' such as lilac or fruit 'trees' (as commonly called) that need regular pruning, in order to encourage flowering and fruit growth and to avoid getting suckers.

So, let's preserve, enhance and protect both the vistas and the woodlands and try and find our balance of the best of both worlds within our DLH wildlife wonderland, and to consider our neighbours and our community. Happy Gardening!

Tree Notifications: Who to Contact

The Amber Valley Borough Council deals with tree notifications; 01773 570222.

Our Parish council has its own tree warden who is happy to advise or contact any councillor if in doubt. Further information on tree pruning can be found below:

<http://info.ambervalley.gov.uk/docarc/docviewer.aspx?docGuid=111abf743fe84ce6ae9c82152f84002c>

<http://planningguidance.communities.gov.uk/blog/guidance/tree-preservation-orders/protecting-trees-in-conservation-areas/exceptions-relating-to-section-211->

<http://www.ambervalley.gov.uk/environment-and-planning/trees-and-hedgerows.aspx>

When do I need to apply to cut down a tree?

If you are in a conservation area, which most areas of our villages are, then you must notify the council of all works that are required and cannot cut them before 6 weeks except:

- Trees with a trunk diameter of less than 75mm measured 1.5m above ground level.
- Dangerous or dying trees, but evidence may need to be kept to show it was dying
- Trees with a trunk diameter of less than 100mm measured 1.5m above ground level where the work is carried out to improve the growth of other trees.

The application for tree works is known as a 211 notice. Further details can be found at <http://planningguidance.communities.gov.uk/blog/guidance/tree-preservation-orders/protecting-trees-in-conservation-areas/exceptions-relating-to-section-211-notice/>

Planning Regulations and Policies that affect trees in our area.

Planning regulations come under three categories of

- *Local*
- *National*
- *subject specific.*

Local includes both Borough and Parish level, if a Neighbourhood Plan is in place, which is a legal document set by local parishes that, once in place, must then be adhered to by the planners at Borough County level. Our council has voted to work on a Neighbourhood Plan for our area. Aspects that require tree applications include:

- *World heritage area and world heritage buffer zone*
- *Conservation area*
- *Special Landscapes area*
- *Important open spaces*
- *Ancient Woodlands*
- *Local policy: DLH Character Statement*
- *Wildlife protected species (ie bats and badgers)*

The definitions of most of the above can be found in

<http://jncc.defra.gov.uk/page-1527>

and articles on planning policy land categories (to be added later). The “my property” page at Amber Valley council:

<http://www.ambervalley.gov.uk/utilities/my-property.aspx>

The above tells you about your area and which of the above issues your property is covered by. If you are not in a conservation area you do not need permission to cut down trees.

Please note that the full list is not always recorded by the council’s technology department, as it only picks up things within a certain range, and it is worth checking to see what is covered for your own area. Some things will only become apparent once an application is lodged. If in doubt, ask the tree officer at the council.

Related Planning Policies:

Tree and Wildlife Habitat specific:

Ancient Woodlands

An ancient woodland is one that has been used since at least 1600 AD. It is considered that the age of the trees, the flora and the fauna, the ecology and its wildlife inhabitants are such that it is irreplaceable. Any disturbance is irreversible. Veteran trees are protected more specifically, based upon their age, size and native species. Only 6% of ancient woodlands remain and is valued to be as precious as rainforests as its biodiversity cannot be replaced. This recently received attention in the house of Commons (20th April 2016) by Right Honourable MP Rebecca Pow and a new Heritage Bill (2008) intends to put further protection on our native woodlands. It is worth noting that the survival of our ancient woodlands is because they were so well managed in the past, which allowed these trees to live longer. There are fine coppiced examples in our local woods. Therefore notification of works is simply a protection to ensure things are done properly and with valid reason. A felling licence is required for cutting down more than 600 trees

<https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences>

http://planningguidance.planningportal.gov.uk/blog/policy/achieving-sustainable-development/delivering-sustainable-development/11-conserving-and-enhancing-the-natural-environment/#paragraph_118

http://www.derbyshire.gov.uk/environment/conservation/tree_preservation/

Wildlife protected species

Bats and badgers, various wild protected birds, slow worms, snakes are the main protected species in our area. Bats and birds in particular rely on trees and any damage to their roost or nest is a prosecutable offence. Mostly our bats live in trees in the area and do not affect individual garden trees, but worth checking. Nesting times of all birds must not be disturbed tree works planned accordingly outside of nesting times.

<https://www.gov.uk/topic/planning-development/protected-sites-species>

http://www.bats.org.uk/pages/bats_and_the_law.html

http://www.bats.org.uk/pages/bats_and_planning.html

<http://www.rspb.org.uk/forprofessionals/policy/wildbirdslaw/>

Special Landscapes Area

This is a protection for the landscape, including the trees and comes under local policy number EN6 – 8 and EN13 in particular (see below) as being a protected area and under the Adopted Local Plan 2006. This is defined by Defra as being a local authority development plan with a view to safeguarding areas of regional or local ‘landscape importance’ from inappropriate development. That has to be shown to be necessary, and trees as part of that landscape which is to be preserved, and cannot be felled without good reason. However, the intention is also to save and protect the special ‘vistas’ within the landscape. There are moves to restore historical vistas, for example, Willersley Castle area. It may be there is a case to restore the views from our memorial gardens and the whole area of Long Lane.

http://www.derbyshire.gov.uk/environment/conservation/tree_preservation/

Local Plans:

Policy EN6 local policy states the intention is to retain the character of the landscape and to refuse any application unless it is considered essential and to have no substantial impact upon the character and nature of the landscape and area as a whole.

Policy EN7 in section 6.39 and 6.40 more specifically relates to trees within that landscape where development may be being considered:

"Trees, woodlands, hedgerows, dry stone walls and other landscape features make an important contribution to the character of Amber Valley, by enhancing the quality of the landscape and providing screening for visually intrusive land uses. Landscaping proposals are an integral and essential part of the design of any substantial development and may affect the position and form of buildings and accesses. Opportunities should therefore be taken wherever possible to secure the provision of or contributions towards the continued protection and management of existing landscape features or the provision of new features. The Borough Council will use its powers to retain trees, woodlands, hedgerows and other landscape features through the use of planning conditions. Development that involves the loss of, or adversely affects, significant trees, hedgerows and woodlands (especially ancient woodlands), will not be permitted unless there are exceptional circumstances justifying the proposals.

The Borough Council has produced Supplementary Planning Guidance on Trees and Development, in order to provide more detailed advice on both the protection of existing landscape features and the provision of new landscaping, in conjunction with development proposals. This will need to be reviewed and updated as part of the Local Development Framework”.

Local Policy EN8 states :

"Planning permission will not be granted for development that would damage or destroy significant trees, woodlands, hedgerows, dry stone walls or other landscape features, unless exceptional circumstances can be demonstrated to justify the proposals "

Local Policy EN13 concerns the protection of wildlife and notes that planning will not be allowed where the protection of wildlife is not being made. That of course affects trees, especially in this area where the bat population is so high.

It is important to note that if there are significant problems with badger habitat, there is a possibility to apply for works to be done to a sett and advice can be sought via Natural England.

Local Policy EN14 – concerns flood and the effect upon any existing watercourses that may affect either trees or housing development plans.

The full local Borough Council plans can be viewed here:

http://www.cartogold.co.uk/AmberValley/text/06_en_environment.htm

Dethick Lea and Holloway Conservation Character statement:

The full policy for our local area, produced by Amber Valley in 1996 and adopted from the local plan for Derbyshire County Council in 1985 can be seen on our own website:

<https://dlhpc.files.wordpress.com/2015/11/conservation-area-statement-for-dlh.pdf>

The policy includes protection of the vistas and shows a map of those existing and protected. Trees, as part of the landscape are to be preserved in order to enhance the landscape, unless, of course the time has come for the removal of a tree for reasons that can be applied for.

National Policies:

Conservation Areas

This is covered under the Town and Country Planning Act 1990. Consideration of the character contribution of the tree to the conservation area is what matters. English species have greater value.

Please note: it is an offence under Section 211 of the Town and Country Planning Act 1990

“to cut down, top, lop, uproot or willfully damage or destroy trees in a Conservation Area”,

without prior written consent or within the 6 week period of decision making.

Heavy fines and even imprisonment can be imposed over illegal willful damage. It is best to check first! Reporting of such damage can also be made to the tree officer at AVC.

National Planning Policy Framework provides the whole framework for trees and planning more generally. More specific to trees is section 118:

http://planningguidance.communities.gov.uk/blog/policy/achieving-sustainable-development/delivering-sustainable-development/11-conserving-and-enhancing-the-natural-environment/#paragraph_118

National policy guidelines section, section 11 paragraph 109 states that the local plan should enhance the local environment by protecting local landscapes:

<http://planningguidance.communities.gov.uk/blog/policy/achieving-sustainable-development/delivering-sustainable-development/11-conserving-and-enhancing-the-natural-environment/>

<https://www.gov.uk/guidance/construction-near-protected-areas-and-wildlife>

<https://www.gov.uk/government/publications/high-hedges-complaining-to-the-council>

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/9411/highhedgescomplaining.pdf

Relevant Legislation:

2008 Heritage Protection Bill (draft publication to become law in process)

Town and Country Planning Act 2015 <http://www.gardenlaw.co.uk/trees.html>

Protection of Badgers Act 1992: <http://www.legislation.gov.uk/ukpga/1992/51/contents>

Wildlife and Countryside Act 1981

Conservation of Habitats and Species Regulations 2010

Countryside and Rights of Way Act 2000

Hedgerow Regulations 1997.

Anti-social Behaviour Act 2003

Links to Useful Organisations:

Woodland Trust <http://www.woodlandtrust.org.uk/>

Derbyshire Wildlife <http://www.derbyshirewildlifetrust.org.uk/>

English Heritage <http://www.english-heritage.org.uk/>

Natural England <https://www.gov.uk/government/organisations/natural-england>

Forestry Commission - <http://www.forestry.gov.uk>

Historic England <https://historicengland.org.uk/>

Arboricultural Association - <http://www.trees.org.uk/publications>

Royal Society for Protection of Birds: <http://www.rspb.org.uk/>