

# Review of SG Safeguarding3: Protection and Conservation of Trees and Woodland

## 1. Introduction

- 1.1 This paper will review the Aberdeenshire Local Development Plan SG Safeguarding3: Protection and Conservation of Trees and Woodlands and assess whether any changes are required in light of amendments to national policy and changes in the local context. It will also assess whether the guidance forms a sound basis for protecting trees and woodlands in Aberdeenshire.
- 1.2 SG Safeguarding3: Protection and Conservation of Trees and Woodlands aims to secure protection of individual/ groups of trees and woodlands, which have significant ecological, historical, recreational or shelter value.

## 2. Policy Approach

- 2.1 Safeguarding3 will only approve development that would cause the loss of, or serious damage to trees or woodlands which are covered by a Tree Preservation Order, or are of significant value, if:
- it would achieve significant and clearly defined public benefits that outweigh any potential loss; AND
  - the minimum damage occurs to existing trees and woodland as a result of the development, and there is no unnecessary fragmentation of existing or potential woodland networks; AND
  - appropriate mitigation is proposed, i.e. compensatory planting
  - Where possible, opportunities for woodland creation and/or enhancement are promoted.
- 2.2 Safeguarding3 is supported by Planning Advice 3/2005: Trees and Development and 1/2007: Biodiversity and Development.

## 3. Background

### 3.1 National context

- 3.2 The term “Trees” is widely defined as ‘individual specimens or small groups’, while the UK Forestry Standard and the National Inventory of Woodlands and Trees defines woodland as “*the part of woods and forests where the ecological condition is, or will be, strongly influenced by the tree canopy. This embraces land under stands of trees with a canopy cover of at least 20%, or having the potential to achieve this. The minimum area is 0.1 ha.*”
- 3.3 Scotland contains different types of woodland cover, including large-scale commercial plantations, farm-scale woods, shelterbelts and semi-natural and ancient woodlands.
- 3.4 The Scottish Forestry Strategy 2006 (SFS) covers public and private woodlands and provides a “*vision and a process for realising the potential of forestry through the 21<sup>st</sup> century*”. The core principles of the strategy are sustainability related, i.e. sustainable forest management and social inclusion. The Strategy includes an aspiration for woodland cover in Scotland to increase from the current 17.1% to 25% by the second half of this century. The strategy also highlights the multi-faceted role of woodlands and associated benefits. For example, trees/woodlands can help create attractive places where people want to live and work, while

accessible woodland areas provide health and well-being benefits and the opportunity for community development through woodland management projects. In addition, trees and woodlands protect soil and water quality and support sustainable flood management, while “*native, and especially ancient, semi-natural, woodlands have high biodiversity and historic value*”. Woodlands also form a key part of landscape character and can make a significant contribution to economic growth, particularly in rural areas. Finally, trees/woodlands contribute to climate change mitigation through sequestration and the generation of renewable energy from woody biomass, while the creation of forest habitat networks supports climate change adaptation. The SFS contains a number of broad objectives, which aim to promote the role of woodlands in these areas.

- 3.5 The Forestry Commission Scotland report, *The Right Tree in the Right Place*, provides Scottish Government advice on how planning authorities can contribute to the SFS. The report directly supports the need for Safeguarding<sup>3</sup> by stating that planning authorities should “*identify and protect high biodiversity value woodlands, as well as opportunities for expansion, restoration or enhancement of native or biologically diverse woodlands*”. The guidance also points out that development plans should consider how to promote the role of woodlands in tackling the wide range of issues identified in the SFS, i.e. climate change mitigation and adaptation.
- 3.6 The Forestry Commission’s ‘Policy on Control of Woodland Removal’ (PCWR) is of particular relevance to Safeguarding<sup>3</sup> as it provides clear guidelines on when woodland removal will be acceptable. While the Forestry Act (1967) requires landowners to apply for a ‘licence’ to fell growing trees, subject to exemptions, tree removal can also be authorised by planning permission, under the Town and Country Planning Act 1990. The PCWR adopts a presumption in favour of protecting all woodland resources and a strong presumption against the removal of “*woodland: ancient semi-natural woodland; woodland integral to the value of (international/national) designated sites, areas supporting priority habitats and species listed in the UK Biodiversity Action Plan; Scheduled Monuments ... woodlands listed within the Inventory of Gardens and Designed Landscapes; woodlands critical to water catchment management or erosion control; or woodlands listed as ‘Plantations on Ancient Woodland Sites*”. The policy also adopts a strong presumption against woodland removal if it would have a significant negative impact on the connectivity of important forest habitat networks.
- 3.7 The PCWR states that “*woodland removal.(is) allowed only where it would achieve significant and clearly defined additional public benefits*”. It should be noted that assessment of public benefit must take account of the “*current and future benefits/disbenefits of the existing woodland.. (including).. where possible, a broad assessment of the impact on carbon and relevant greenhouse gases*”. Where woodland removal is acceptable, compensatory planting may be required. The PCWR provides a default definition of compensatory planting, which requires an “*equivalent woodland area, on appropriate site types and with at least the equivalent woodland-related net public benefits (to) take place in Scotland*”. However, the PCWR also points out that when the requirement for compensatory planting is part of planning permission, it should be determined by the planning authority. Finally, the PCWR encourages the use of planning agreements and conditions to mitigate woodland removal.
- 3.8 The Nature Conservation (Scotland) Act 2000 introduced a duty on all public bodies to further the conservation of biodiversity. The Act directly supports the need for Safeguarding<sup>3</sup> as woodlands, particularly ancient and semi natural woodlands, have significant biodiversity value.

- 3.9 The Town & Country Planning (Scotland) Act 1997 places two main duties on planning authorities to protect trees and woodland. Firstly, *“to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees”*. Secondly, to use ‘tree preservation orders’ (TPO) to protect trees and woodlands considered important for their amenity, cultural or historic interest.
- 3.10 As outlined above, trees and woodlands can make a significant contribution to sustainable development, i.e. through climate change mitigation. The Planning etc. (Scotland) Act 2006, which requires planning to contribute to sustainable development, therefore supports the need for supplementary guidance to protect and conserve this resource.
- 3.11 Scottish Planning Policy 2010 (SPP) reflects the aspirations of the Scottish Forestry Strategy and adopts the general approach detailed in the Forestry Commission’s Right Tree, Right Place guidance. SPP directly supports the need for Safeguarding<sup>3</sup>, stating that *“woodland of high nature conservation value should be identified in development plans along with relevant policies for its protection and enhancement”*. In addition, SPP supports the range of trees/woodlands covered by Safeguarding<sup>3</sup> by requiring protection for ancient and semi natural woodlands and *“other woodlands, hedgerows and individual trees”*, which have significant value, i.e. biodiversity. The criteria for tree removal and compensatory planting set out in the PCWR and adopted by Safeguarding<sup>3</sup>, is also supported by SPP. With regard to woodland expansion/enhancement, SPP supports Safeguarding<sup>3</sup> by stating that planning authorities should *“seek opportunities for new woodland creation and planting of native species in connection with development schemes”*. By promoting the protection and expansion of woodlands, Safeguarding<sup>3</sup> is also contributing to a number of SPP’s wider requirements, including climate change mitigation and the protection of cultural heritage.
- 3.12 The National Planning Framework<sup>2</sup> (NPF2) supports the aspirations and general approach of the SFS. The framework highlights that local authorities have a key role to play in delivering woodland expansion and promoting the wide range of benefits associated with woodlands, i.e. climate change adaptation through woodland networks. NPF2 directly supports Safeguarding<sup>3</sup> by incorporating the PCWR’s criteria for woodland removal and compensatory planting.
- 3.13 British Standard 5857:2012 Trees in Relation to Design, Demolition and Construction is relevant to Safeguarding<sup>3</sup> as it provides ‘best practice’ guidance for the protection and management of established trees near to new development, and for the protection of structures near trees. It includes information on when tree surveys are required, which existing trees should be retained, how the presence of trees may effect design considerations and how best to protect trees and roots during construction.
- 3.14 Strategic/Regional Context
- 3.15 The proposed Aberdeen City and Shire Strategic Development Plan supports Safeguarding<sup>3</sup> by promoting woodland expansion.
- 3.16 The Aberdeenshire and Aberdeen City Forest and Woodland Strategy (2005) aims to ensure the sustainable management of woodlands in the area by providing a framework for woodland development and management. The Strategy directly supports the need for Safeguarding<sup>3</sup> by stating that *“safeguarding existing native woodlands and buffering and extending semi-natural habitats...to connect isolated patches is increasingly important”*. The Strategy points out that

14% of the total land area in Aberdeenshire and Aberdeen City is woodland. In terms of forest type, 71% is conifer, 11% broadleaved, 9% open space and 6% mixed. Just over 3% is identified as ancient or semi-natural woodland.

- 3.17 Aberdeenshire Council is currently working in partnership with Aberdeen City to identify opportunities for new and improved woodland areas around settlements, in line with the Woodlands In and Around Towns initiative. Recent years have seen the creation of new woodlands in Ellon, Peterhead and Huntly.
- 3.18 The North East Scotland Biodiversity Action Plan supports the need for Safeguarding<sup>3</sup> by pointing out that there is housing development pressure on wood pastures and parklands, which are defined as “*historic man made landscapes that typically consist of patches of wooded areas separated by grazed or mown grassland*”. One of the objectives of the Action Plan is to “*maintain the current extent and distribution of the total resource of wood-pasture and parkland*”.
- 3.19 The policy SG Safeguarding<sup>3</sup> contributes to the above objectives and requirements in the following ways. The first paragraph of the policy aligns with the tree/woodland types identified for protection in SPP.
- 3.20 Criterion 1 of the policy accords with the criteria for woodland removal identified in the PCWR and reflected in SPP.
- 3.21 Criterion 2 enables a full assessment of woodland related public benefits, as required by the PCWR and SPP.
- 3.22 Criterion 3 addresses the requirement for impacts on woodland networks to be taken into account.
- 3.23 Criterion 4 accords with the requirement for compensatory planting, as set out in the PCWR and SPP.
- 3.24 The last paragraph of the policy aligns with the SFS requirement for woodland expansion.
- 3.25 Paragraphs 2 and 3 of the justification text reflect the multi-faceted role and associated benefits of woodlands, as identified in the SFS.
- 3.26 Paragraph 5 of the justification text aligns with the PCWR recommendation for planning conditions/agreements to be used to secure compensatory planting.
- 3.27 Paragraph 6 of the justification text accords with the approach of SPP, which allows TPO's to be used to protect trees which are considered important.
- 3.28 In general, by protecting existing trees/woodlands and encouraging woodland expansion, Safeguarding<sup>3</sup> contributes directly to several of the SFS objectives, including climate change mitigation. However, it should be noted that the SFS is also supported by other SG's. For example, NE2: Wider Biodiversity points out the need for woodlands with biodiversity value to be retained, while HE2: Conservation Areas requires protection for any trees which contribute to the setting and character of a conservation area.

#### **4. Drivers of Change**

- 4.1 There have not been any significant changes to national policy/legislation since Safeguarding<sup>3</sup> was written.
- 4.2 While Aberdeenshire Council was in the process of developing a new Forest Strategy, as recommended in SPP, this is now to be included within the Land Use Strategy for Aberdeenshire. The Scottish Government states that the strategy will “*inform decisions between different land uses.... in a way that*

*optimises the use of the land for the benefit of the environment and society... (and)... how land is and can be used in an integrated manner*". It can be expected that the Land Use Strategy will examine how the LDP can further align with, and contribute to the developing Local Forest Strategy and the wider SFS, particularly on the issue of woodland expansion. In light of this, there is a need for Safeguarding<sup>3</sup> and the wider LDP to take account of the developing Land Use Strategy and any relevant issues raised.

- 4.3 The Policy on Control of Woodland Removal includes a presumption in favour of protecting woodland resources, which is considered to mean all woodlands. The PCWR also includes a strong presumption in favour of protecting specific types of woodland as outlined in... , i.e. *ancient semi-natural woodland*. In light of this, paragraph 1 of the policy should be amended to make it clear that the policy applies to all woodland, not just those with significant ecological, historical, recreational or shelter value. The justification text should also highlight that there is a strong presumption against removal of the woodland types outlined above.
- 4.4 SPP makes specific reference to the protection of 'woodlands, hedgerows and trees'. Paragraph 1 of the policy should be amended to include hedgerows.
- 4.4 The Right Tree, Right Place guidance states that planning authorities "*should consider how development plans might support the role of woodlands, as part of green networks, in creating attractive, healthy, sustainable place*". While this is not within the remit of Safeguarding<sup>3</sup>, it should be considered in the Position Paper: Green Networks. In addition, the proposed new SG on Flood Resilience could be used to promote the role of woodlands in climate change adaptation.
- 4.5 The Environment Team are sometimes asked, at an early stage, to consult on firm layout designs which do not take full account of the sites trees/woodlands. With the significant costs associated with re-design, it can be difficult to achieve a layout which complies with Safeguarding 3. In light of this, it would be prudent to use the settlement statements to identify and protect significant trees/ woodland areas within allocated sites perhaps to be developed as part of the open space requirement of the site. This approach is supported by SPP, which states "*woodland of high nature conservation value should be identified in development plans*".
- 4.6 Trees can be removed through a felling license or planning approval .On occasion, woodland is illegally removed from a site prior to submission of a planning application. While a case of illegal felling case can be pursued and brought before the procurator fiscal, the planning application is often approved before a decision is made. This planning approval is often seen by the procurator fiscal as permitting the felling, when in fact the removal of the woodland was not considered at the planning stage. While this is a significant issue, it is difficult to argue that a policy for protection of trees and woodlands should be applied after the woodland has been removed, particularly when all definitions of 'woodland' currently relate to tree cover. Currently, it must be left with the courts as to whether compensatory planting will be required. The Policy on the Control of Woodland Removal is in the final stages of redrafting and it is expected that the new version may enable the next LDP to address this issue, as it will move away from discussing "woodland removal" towards "land use change". While consideration should be given to the new PCWR, it is not clear when it will be published.
- 4.7 The Policy on Woodland Removal points out that where woodland removal is acceptable, compensatory planting will be required unless the development will contribute significantly to environmental enhancement, i.e. enhancing priority habitats and their connectivity. Paragraph 5 of the justification text should be amended to reflect this. The Environment Team will advise on whether more

detailed information on the requirements of compensatory planting should be provided within the Planning Advice on Trees and Development.

- 4.8 Following on from the above, there are times when compensatory planting cannot be provided within some development sites because there is either insufficient space, or the site is not appropriate for replanting. Where the removal of woodland on an allocated site cannot be avoided and compensatory planting on site may be difficult, a requirement should be added to the settlement statements warning developers of the need to 'offset' the removal of woodland by providing compensatory planting off site. The justification text should also make it clear that any requirement for off site compensatory planting is the responsibility of the developer. The amount, type and location of any compensatory planting should be discussed and agreed with the Environment Team. The Environment Team will advise on whether more detailed information on the requirements of compensatory planting should be provided within the Planning Advice on Trees and Development.
- 4.9 SPP states that mitigation measures should be implemented where "*a development would result in the severing or impairment of connectivity between important woodland habitats*". Criterion 4 should be amended to reflect this.
- 4.10 SPP states points out that "*where appropriate, planning authorities should seek opportunities for new woodland creation and planting of native species in connection with development schemes*". In light of this, the final paragraph of the policy should be amended to encourage woodland creation in connection with new development.
- 4.11 The PCWR states that, where possible, the public benefit assessment of woodlands should "*include a broad assessment of the impact on carbon and relevant greenhouse gases*". Criterion 2 of the policy should be amended to reflect this.
- 4.12 Standard 5857:2012 Trees in Relation to Design, Demolition and Construction supports the provision of 'buffer zones' between new development and existing woodlands, where appropriate. The Environment Team have also advised that 'buffer zones' are sometimes required to ensure that trees/woodlands can be retained over the lifetime of the development. In light of this, a new criterion requiring the provision of buffer zones, where appropriate, should be added to the policy, along with an explanatory paragraph in the justification text. The Planning Advice 3/2005: Trees and Development should also be amended to provide guidance on buffer strips.
- 4.13 The Planning Advice: Trees and Development should be updated to provide a minimum standard for the width of woodland strip which will be considered part of a habitat network. Also, more information on the requirement for compensatory planting, including the standards to be applied, should be provided.
- 4.14 Consideration should be given to whether the planning advice needs to be updated to reflect The British Standard 5857:Trees in Relation to Design, Demolition and Construction (2012).

## **5. Recommendations**

- There is a need for Safeguarding<sup>3</sup> and the wider LDP to take account of the developing Land Use Strategy for Aberdeenshire.
- The Position Paper: Supplementary Guidance on Green Networks should consider how green networks might support the role of woodlands in creating attractive, healthy and sustainable places. In addition, consideration should be

given to how the proposed new SG on Flood Resilience could be used to promote the role of woodlands in climate change adaptation.

- Settlement statement maps should identify and protect significant trees/woodlands within allocated sites, and identify whether offset tree planting will likely be required.
- Paragraph 1 of the policy should be amended to make it clear that the policy applies to all woodland. Reference should also be made to the protection of hedgerows. The justification text should highlight that there is a strong presumption against removal of the woodland types identified in the PCWR.
- Criterion 1 should be amended to read 'if the development would achieve significant and clearly defined public benefits which outweigh the current and future benefits of any habitat/woodland loss'.
- Criterion 2 of the policy should be amended to read 'when required, an evaluation of the biodiversity, amenity and carbon value....' In addition, the following explanatory sentence should be added to Paragraph 4 of the justification text, 'The Forestry Commission's Policy on Woodland Removal requires that, where possible, the public benefit assessment of woodlands should include a broad assessment of the impact on carbon and relevant greenhouse gases'.
- Criterion 1 and 2 should be swapped over in order to improve clarity.
- Criterion 4 should be amended to read 'the removal of trees and woodland, including impacts on the character or amenity of the area and the connectivity of important woodland habitats, should be mitigated by appropriate compensatory planning, to an agreed standard'.
- The following criterion should be added, 'when required, appropriate buffer zones are provided between new development and existing woodlands and/or areas safeguarded for future planting'. A new paragraph outlining the need for 'buffer zones' should also be added to the justification text. Planning Advice: Trees and Development should be amended to provide further guidance on buffer zones.
- The final paragraph of the policy should be amended to read 'where appropriate, the Council will seek opportunities for new woodland creation, restoration and/or enhancement, in connection with new development. The protection of sensitively designed and managed forests and woodlands will also be supported. The creation and protection of woodlands should accord with the Forest and Woodland Strategy and landscape character supplementary guidance'.
- Amend paragraph 1 of the justification text to read 'The aim of this policy is to secure the protection and conservation of trees, hedgerows and woodlands which have significant ecological, historical, recreational or shelter value. The policy also aims, where possible, to retain all woodland and promote woodland expansion and/or enhancement'.
- Amend paragraph 5 to read 'The mitigation of tree removal through compensatory planting is required by the Forestry Commission's Policy on Woodland Removal. Compensatory planting will be to a standard agreed by the Council and detailed in a planning condition. Further information on compensatory planting is provided in Planning Advice: Trees and Development'.
- Paragraph 6 of the justification text should be amended to read 'When protecting trees and woodland, the Council will have regard for adopted standards. Where required, tree surveys should accord with the British Standard 5837: Trees in Relation to Design, Demolition and Construction. Further guidance on site assessment, tree survey and other protection requirements is provided in

Planning Advice 3/2005 Trees and Development. Applicants are encouraged to engage in pre-application discussions with the Planning Service, so that any significant issues can be identified and addressed at an early stage'. The sentence beginning 'where necessary, we may serve...' should form a new paragraph.

- The following sentence should be added to paragraph 7 of the justification text 'Further information on appropriate tree/woodland planting is provided in Planning Advice 1/2007 Biodiversity and Development.
- The Planning Advice: Trees and Development should be amended to provide guidance on the creation of woodland/habitat networks, i.e. the minimum standard for the width of woodland strip. The planning advice should also provide more information on the requirement for compensatory planting, including the standards to be applied.
- Consideration should be given to whether the element of Planning Advice relating to buffer zones needs to be updated in light of recent changes to the BS 5837 "Trees in Relation to Design, Demolition and Construction".

## **6. Summary of Main Points**

6.1 Current national legislation and planning policy/advice supports the need for Safeguarding<sup>3</sup>. While the guidance forms a sound basis for protecting trees and woodlands, a number of amendments are required. Settlement Statement maps should be used to identify and protect significant trees/woodland areas, and a requirement for buffer zones, where appropriate, should be added. In addition, there is a need to expand the policy to provide protection for hedgerows, seek opportunities for woodland expansion/enhancement in connection with new development, provide further guidance on compensatory planting and update the Planning Advice on Trees and Development.

## **References**

- Aberdeen City and Shire *Proposed Strategic Development Plan* (2013)
- Aberdeenshire Council (2012) *Aberdeenshire Local Development Plan 2012*
- Aberdeenshire Council (2005) *Aberdeenshire and Aberdeen City Forest and Woodland Strategy*
- Aberdeenshire Council (2005) *Planning Advice: Trees and Development*
- Aberdeenshire Council (2007) *Planning Advice: Biodiversity and Development*
- British Standards Institution (2012) *British Standard 5857: Trees in Relation to Design, Demolition and Construction*
- Forestry Commission Scotland: *Policy on Control of Woodland Removal*
- Forestry Commission Scotland: *Right Tree, Right Place (Planning for Forestry and Woodlands)*
- Forestry Commission Scotland: 2006 *Scottish Forestry Strategy*
- Scottish Government (2009) *National Planning Framework for Scotland 2*
- Scottish Government (2010) *Scottish Planning Policy*
- Scottish Government (1997) *Town and Country Planning Act 1997*



The North East Local Biodiversity Partnership: *The North East Scotland Biodiversity Action Plan*

