

TREE MANAGEMENT POLICY

INTRODUCTION

The overall aims of this Tree Policy are to ensure the safety of Medway Council's trees, maintain and encourage biodiversity, improve the quality of the landscape and through these elements improve the quality of life of Medway's residents and visitors now and in the future. We will achieve this by:

- Effectively communicating and engaging with the local community over trees, providing clarity over why decisions and actions are taken.
- Encouraging the conservation, positive management and the appropriate planting of trees.
- Ensuring that the management of trees in Medway contributes toward making our environment safe, attractive, sustainable and healthy.

THE IMPORTANCE OF TREES

Trees are of vital importance in maintaining and improving the quality of life of those who live and work in Medway. Trees are amongst the most significant features in the landscape, but they do not last forever and are vulnerable to changes in their surroundings.

Trees can significantly enhance the appearance of an area. Prominent trees can become accepted as landmarks and are held in high regard by local residents.

Parks, open spaces and woodlands that contain trees provide essential space for quiet, informal recreation activities such as walking, jogging and cycling.

Trees improve local air quality and help reduce the 'Greenhouse' effect by absorbing carbon dioxide and releasing oxygen.

Trees help to enhance property values and attract people to live locally. The CABE (Commission for Architecture and the Built Environment) publication: 'Does money grow on trees?' (March

05) looks at how well planned and managed parks and gardens can have a positive impact on the value of nearby properties and can attract inward investment and people to an area. The results showed that people were willing to pay a substantial premium to live in a leafy neighbourhood, as much as 34% in one area.



Catalpa outside Rochester Cathedral

POLICY 1 - Medway Council recognises the contribution trees make to the environment and is committed to the responsible and sustainable upkeep of this resource on all land it owns or influences.

TREE MANAGEMENT

The benefits of trees are well documented. However many urban trees show signs of stress, grow slowly, are prone to disease and can be easily damaged or develop natural defects that make them unsafe. Trees can also be a nuisance in some situations and become the subject of complaints from nearby residents.

Under common law and legislation, a high level of expertise is expected in the management of trees in public places.

POLICY 2 - Medway Council will manage its own trees in a sustainable manner that takes into account relevant British Standards, industry best practice, safety and amenity

issues. In addition it will encourage other landowners to do likewise.

The ways that mature trees are managed and the amount and type of attention they require depends considerably on their situation. Medway Council is responsible for many trees within urban and rural areas. By acting on the technical advice from qualified arboriculturists (people with an expertise in looking after trees), regularly inspecting trees, keeping records and carrying out recommended tree work, the Council can maintain a healthier tree population and be best placed to demonstrate that it is fulfilling its duty of care.

POLICY 3 - Medway Council will aim to monitor the trees it is responsible for by ensuring a competent arboriculturist undertakes regular inspections following the Visual Tree Assessment system and industry best practice. Relevant information about these trees, including records of past inspections, will be stored so that they can be used to manage them in a planned and efficient way. This allows for the development and implementation of long term management plans.



A tree on a pavement showing signs of decay

While Medway Council seeks to avoid the unnecessary pruning or felling of trees, hedgerows or woodlands, it may be necessary to remove or prune trees from time to time because they have recognised structural defects, cause physical obstructions that need to be remedied or are dead, dying or dangerous. Any pruning should not be detrimental to the general health, shape and character of the tree concerned.

POLICY 4 – Medway Council will maintain a high standard of tree maintenance ensuring management decisions are made in the

context of the wider benefit of the trees to everyone. All works will be undertaken in accordance with British Standard 3998, industry best practice and all relevant health and safety regulations.

POLICY 5 – Medway Council will carry out all tree work giving value for money. Priority will be given to any work deemed necessary for safety reasons.

Some locations in Medway contain trees that have been managed as pollards for a number of years. This involves cutting the head of branches back to the main stem or pollard point to promote a more bushy growth of foliage. In many instances pollarding is still considered the most appropriate form of management.

The best time for pollarding trees is in winter when food reserves are high and the tree is not under drought stress.

POLICY 6 - Medway Council will repollard trees on a regular cycle where considered necessary on arboricultural grounds.

The urban expansion into what was previously a wooded landscape has created a situation where residents are living in close proximity to small, isolated, but ecologically valuable woodlands. In these cases many trees have to be pruned through methods such as coppicing, which can cause local issues. However, both the thinning of groups of trees and coppicing are important for the future of our landscapes.

POLICY 7 – Medway Council aims to manage its own woodlands in a sustainable manner which takes into account landscape, arboricultural, recreational and nature conservation issues in accordance with best practice. It also encourages private landowners to do likewise.

POLICY 8 - There will be a presumption to re-coppice trees that traditionally have been coppiced. Medway Council will aim to undertake this work on a suitable cycle depending upon the requirements of individual sites and the species and health of trees.

Trees growing on the highway are usually the ones that face the most stressful growing conditions. Roots have to function in poor and compacted soils, often beneath hard surfacing

and have to share this space with various services that need to be maintained, such as water and gas pipes. Additionally, in some places trees can cause damage to the surface of pavements through the growth of roots and stems.

Utility firms such as gas, electric and telecommunications suppliers regularly excavate close to trees to install new pipes or cables or to maintain existing ones. There is also an ongoing need to ensure the highway is maintained in a safe condition by resurfacing pavements and road surfaces close to trees. In some instances this will lead to root pruning or alterations to the existing surface level.

British Standard 5837 "Trees in Relation to Construction, British Standard 3998 "Tree Works" and the National Joint Utilities Group (NJUG) provide guidance on working methods to be adopted when carrying out excavation or other similar works close to trees.

POLICY 9 – Medway Council will require all utility companies to carry out work close to trees in accordance with British Standard 5837, British Standard 3998 and relevant NJUG guidelines/code of practice.

POLICY 10 - Medway Council will, when planning or undertaking its own surfacing or other engineering work close to trees, carry it out in accordance with British Standard 5837, British Standard 3998 and relevant NJUG guidelines/code of practice.

POLICY 11 – The Council aims to avoid the removal of trees where they are causing damage to services, pavements, roads or other surfaces.

Many households have one or more cars and there is often an expectation for these cars to be parked near to their homes. This frequently results in applications for new vehicle crossings. In some instances, installation of the vehicle crossing cannot be achieved without damaging or removing a street tree.

POLICY 12 – There will be a presumption to retain significant street trees unless there is a sound arboricultural reason for their removal when assessing the suitability of any application for a vehicle crossing. Assessment of the impact of construction work on any tree will adhere to British Standard 5837.

The installation and maintenance of infrastructure such as pavement surfaces, street lighting, lay-bys or underground pipes can cause direct damage to trees and result in future problems. In some instances, this may result in pressure to remove or inappropriately prune valuable trees causing damage. British Standard 5837 provides guidance for those whose job it is to install infrastructure close to trees.

POLICY 13 – Medway Council will ensure the installation and maintenance of infrastructure such as CCTV, street lighting, overhead cables, signs, car parking, bus lay-bys and vehicle crossovers takes full account of existing trees and their potential to grow. Works shall be undertaken in accordance with British Standard 5837.

TREE PLANTING

Where individual trees owned by Medway Council are felled, appropriate replacement planting should be carried out in the closest practical location and ideally within the ward boundary. This need not necessarily be of the same species in the same location as conditions may not be suitable but it should be the intention to at least maintain, or preferably increase, the number of trees in the area.



Turkish hazel near Rochester Castle

In all planting schemes, the choice of species and the size of tree planted is important. Planting trees of large ultimate size in confined spaces can only be of short-term benefit. The right balance of immediate impact achieved through the planting of larger trees and the need to maximise the ease

of establishment brought about through the planting of smaller trees is clearly important.

POLICY 14 - To help maintain a continuity of tree cover Medway Council will undertake the planting of new trees on land it manages when suitable. Where the Council removes trees it will plant replacements when appropriate to do so and it will carry out a programme of maintenance to ensure that these trees are given the best start possible.

POLICY 15 – Medway Council will ensure tree planting schemes enhance the character of the locality and contribute to an attractive and easily maintainable environment using trees of a size, scale and form appropriate to the location.

CUSTOMER ENQUIRIES

Medway Council regularly receives letters and telephone calls complaining about its trees. However, the positive benefits of any tree should always be weighed against any problems that have arisen. In most instances, Medway Council will not undertake work to trees to deal with the following:

Impact of shade and light loss

A common complaint about trees is that they block light from properties, shade residential gardens, cause mosses etc to grow on roofs and drives or kill lawns. The seriousness of this effect can vary as much as a person's perception of it. Usually, acceptable levels of pruning will have little or no effect on the amount of sunlight reaching a house or garden. In addition, there is no natural right to light in law as a right to light must be granted or acquired by long use and therefore in many cases there will be no legal right to light.

Interference with mobile telephone, television and satellite reception

Trees that interfere with mobile telephone, television or satellite reception can be a cause for complaint. There has been an increase in these complaints in recent years but, in essence, nobody has a legal right to reception.

In many cases television or satellite reception can be significantly improved by relocating an aerial or dish, or by considering an alternative provider. Boosters are also available which can improve reception.

Branches interfering with telephone wires.

Telephone wires frequently pass through trees, but rarely cause a problem that requires action. Where there is a real problem, such as wires breaking repeatedly or interrupted signal, this can usually be resolved through acceptable levels of pruning, or by moving the wires.

Views obstructed by trees.

Clearly trees will obstruct views and no amount of acceptable pruning work will resolve this.

Mess or nuisance associated with insects, birds or squirrels

Issues relating to honeydew, bird droppings on cars or squirrels getting onto a roof are common. Whilst the mess or nuisance caused by insects, birds or squirrels may be annoying and inconvenient to some people, they are all natural consequences of having trees and wildlife in the urban environment.

Problems associated with leaf fall, blossom, fruit and seeds

Issues relating to leaves and fruit/seeds such as fruit being thrown, blocked gutters, slippery footpaths, mess falling onto gardens that need to be cleared, seeds or pollen blowing into the house are commonplace. Whilst these issues may be annoying and inconvenient, they are all natural and seasonal consequences of having trees in an urban environment.



Flowering cherry tree in Twydall

A perception that a tree is too large to be safe.

Large trees can be a cause of concern for occupiers of nearby buildings. The absence of significant pruning can also lead some people to believe that a tree is not being managed properly.

In nearly all instances, sound arboricultural practice dictates that trees are pruned to deal with specific defects or to suit site-specific circumstances. In most instances this means that trees will not be heavily pruned.

Requests to remove and replace a tree where they are willing to pay for the work.

In some instances, for example when someone wants a vehicle crossing and there is a tree in the way, an offer to pay for the removal and replacement of the existing tree may be made. As the original tree may have taken decades to reach its current size these requests are treated with care and will normally be refused unless there are sound arboricultural reasons to approve them. For example, if the original tree has a limited life expectancy.

Allergies to tree pollen or insects associated with trees.

Tree pollen, like grass pollens, can cause allergic reactions. As pollens are dispersed over a wide area the removal or pruning of individual trees would have little effect on an individual's symptoms and does not provide a remedy.

Branches or roots that grow over a property's boundary.

A large number of trees in Medway overhang a neighbouring property boundary or have roots that grow into someone's garden. This can, in some instances, cause people to complain about them. If the branches of a tree encroach on to neighbouring land the person whose property is overhung has the common law right to cut them back to the boundary unless the trees are protected by a tree preservation order, planning condition or are growing in a conservation area as designated by the Council.

POLICY 16 – Medway Council will not prune or remove trees to deal with the minor nuisances listed above unless there are sound arboricultural reasons to do so.

POLICY 17 – Medway Council will treat all communications about trees courteously and in compliance with the published standards of the Council. However, it will only undertake tree works where considered necessary on arboricultural grounds.

POLICY 18 – Medway Council will act as a responsible tree owner and neighbour and prune or remove trees if there is evidence to show that, on the balance of probabilities, they

are causing structural damage to property or are deemed unsafe following the identification of recognised defects.

TREE PRESERVATION ORDERS AND CONSERVATION AREAS

Medway Council has a duty to protect trees and woodlands by making tree preservation orders (TPOs) and to control any work carried out on those trees. Special provisions also apply to trees within conservation areas.

TPOs protect trees that make a significant impact on their local surroundings. Any species can be protected, but no species is automatically protected by a TPO.

Although a tree may merit protection on amenity grounds it may not be expedient to make it the subject of a TPO.



Contractor pruning a protected tree

POLICY 19 - Medway Council will ensure that all new tree preservation orders, applications/notifications for works to protected trees, TPO appeals and reviews of TPOs are assessed by a competent arboriculturalist.

POLICY 20 – Medway Council will make tree preservation orders to protect healthy trees that are of significant amenity value where it is considered expedient to do so.

POLICY 21 - Medway Council will ensure its tree preservation orders are appropriate, relevant, up to date and enforceable.

It may be expedient to make a TPO if the Council believes there is a risk of trees or woodlands

being cut down or pruned in ways that would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate and, in some cases, the Council may believe that certain trees are at risk generally.

Following receipt of a notice to prune or remove a tree growing in a conservation area, the Council will only consider serving a tree preservation order where it is expedient to do so and where the proposed work would have a significantly adverse impact on the character of a conservation area.

POLICY 22 – Medway Council will follow Government guidance and assess the amenity value of trees before confirming any new tree preservation orders.



Protected ash tree in flower

Medway Council is required to make a copy of the TPO available at their offices and let members of the public know whether or not particular trees are protected by a TPO or conservation area.

POLICY 23 – Medway Council will maintain good records of TPOs, make them available at their offices and let people know if particular trees are protected within two working days.

Anyone wishing to prune or fell a protected tree should first consider seeking the advice of a competent arboriculturist or, where appropriate, discuss their proposals informally with a tree officer at Medway Council.

POLICY 24 - Medway Council will provide verbal advice on the general management of protected trees, but it is unable to provide a full advisory service to private individuals. The use of suitable competent consultants and tree contractors is encouraged.

In most circumstances, anyone wanting to work on a protected tree or trees will need to seek permission from Medway Council. The application will need to specify clearly the work to be carried out and provide adequate information to support the case, such as professional advice on the health of the tree or, in cases of alleged subsidence, professional evidence on the soil, the structure affected and the tree.

Medway Council recognises the need to conserve trees, but there will be occasions where the pruning or removal of protected trees is justified. When reaching a decision, the Council will take into account the reasons put forward by the applicant (including supporting information), the amenity value of the tree or trees and other issues relating to where a tree or trees are situated. The species, size, age and condition of trees will also be taken into account as will strong cultural, historical, biodiversity or rarity value.

POLICY 25 – Consideration will be given to the future health and appearance of trees and woodlands when considering applications for work. There will be a presumption against granting consent to fell or prune protected trees without good justification.

POLICY 26 – Medway Council will aim to issue a decision notice on all tree preservation order applications within eight weeks of validation and all conservation area notices within six weeks of receipt.

POLICY 27 – Medway Council will condition any consent to work on protected trees requiring them to be completed by a competent person in accordance with best practice and within a specified timescale.

Anyone intending to cut down a protected tree, which is dying, dead or dangerous, is advised to give Medway Council at least five days' notice before doing so except in an emergency.

POLICY 28 – Medway Council will aim to respond to all notices advising that protected trees are to be removed because they are dying, dead or dangerous within five days.

A tree preservation order makes it an offence to prune, remove, uproot, damage or destroy a tree without Medway Council's permission. In the case of conservation areas it is an offence to prune, remove, uproot, damage or destroy a tree without

serving a section 211 notice or otherwise complying with section 211 of the Act.

Anyone who contravenes the provisions of a tree preservation order could be convicted and fined in the magistrates' court. Failure to give the required notice or to comply with section 211 of the Act when carrying out work on a tree within a conservation area could also result in penalties similar to those for contravening a TPO.

POLICY 29 – Medway Council will investigate all unauthorised work on protected trees and, if there is sufficient evidence and it is considered expedient, take appropriate enforcement action.

Medway Council has legal powers to ensure that replacement trees are planted in certain circumstances. Anyone who removes a protected tree may have to plant a replacement if it is cut down or destroyed in breach of a tree preservation order, or if the tree is dying, dead or dangerous (except in woodlands). It will also be necessary to plant a replacement if the Council gives permission to cut a tree down, but makes replanting a condition of its consent.

POLICY 30 – Medway Council will follow Government guidelines and ensure landowners comply with their duty to replace protected trees wherever considered appropriate.

TREES ON DEVELOPMENT SITES

As a general rule trees, especially those growing in prominent locations, are valued by people visiting and living in Medway. Therefore, it is not surprising that they can become the subject of controversy when threatened by a development proposal. Trees frequently occupy a substantial part of a development site and because of their potential size and vulnerability can have a major influence on the planning and use of such sites.

Trees of good quality and value can greatly enhance new development by providing an immediate appearance of maturity and adding value to the development.

POLICY 31 – Medway Council will, through the development control process, seek to retain and protect healthy trees, hedgerows and woodlands of high amenity value, to replace

any trees that are unavoidably lost, and seek additional tree planting.

The effect of a proposed development on trees and other landscape features is a material consideration. The Town and Country Planning Act 1990 places a duty on Medway Council, where appropriate, to ensure there is adequate provision for the preservation of existing trees and the planting of new trees when granting planning permission by imposing conditions and making tree preservation orders.

POLICY 32 - Medway Council will use a competent arboriculturalist to assess the impact of development on existing trees and proposed tree planting.

British Standard 5837 "Trees in Relation to Construction" is an essential reference tool for anyone concerned with the development of sites where trees are present. Using the methodology set out in the Standard should help ensure that development is suitably integrated with trees and that potential conflicts are avoided.

POLICY 33 - Whenever the opportunity arises, Medway Council encourages pre-application discussions with developers about the importance of existing trees, the retention of suitable trees and the opportunities for tree planting.



Tree house in Wigmore

In most circumstances where trees are present, developers should prepare a survey and detailed report about the arboricultural implications of the development. This survey should also list any special methods of working which need to be applied to ensure that important trees are retained

in a healthy condition. Such a commitment will usually be necessary at the planning application validation stage to show that all factors relating to trees have been properly considered and that the granting of planning permission will not result in the loss of valued healthy trees, hedgerows or woodlands of high amenity value.

POLICY 34 - Medway Council will, in most circumstances, require developers to comply with the Council's validation checklist for trees on development sites. This will include a clear demonstration that the principles of BS 5837 'Trees in Relation to Construction' are being followed during the planning process. Failure to comply with this policy may result in a planning application not being validated or planning permission being delayed or refused.

The impact of new development is generally enhanced (or mitigated) through tree planting and this should be given due consideration when applications for planning permission are submitted. Tree planting should be designed to complement the development, replace any trees that are unavoidably lost and, where practicable, increase the number and quality of trees in Medway.

POLICY 35 – Medway Council will ensure tree planting schemes enhance the character of the locality and contribute to an attractive and easily maintainable environment. Trees shall be of a size, scale and form appropriate to the location and the standard of maintenance shall adhere to best practice.



Trees retained on site in Parkwood

It is vitally important that developers adhere to planning conditions relating to the protection of existing trees and the establishment of new trees.

Medway Council has an extensive and flexible range of enforcement powers to restrain or deal with breaches of planning control such as enforcement notices, stop notices, planning contravention notices, breach of condition notices and provision for obtaining injunctions.

POLICY 36 – Medway Council will ensure relevant and enforceable tree protection and planting conditions are used when granting planning consents.

POLICY 37 – Medway Council require developers to adhere to the approved details and relevant conditions of consent during the course of development to ensure the protection of existing trees and the establishment of new trees and will monitor their progress where necessary. Where this does not happen the Council will take appropriate enforcement action, where it is expedient to do so.

Under certain circumstances, trees can cause structural damage to new and extended buildings with inadequate foundations. To minimise this threat the National House Building Council (NHBC) has produced guidelines for determining the appropriate depth and type of foundation when building near to existing trees or where tree planting is proposed. These standards should be applied to all new building operations.

POLICY 38 – Medway Council will seek to ensure that developers take full account of NHBC Standards, Chapter 4.2 when designing and constructing foundations for new buildings, which could be influenced by trees now or in the future.

STRUCTURAL DAMAGE TO PROPERTY

Trees can cause damage to property either directly or indirectly and this can result in third party insurance claims.

Direct damage can occur when an expanding trunk or root is in contact with a path or lightly loaded garden wall, or where branches are in contact with a building or other structure. This type of damage is relatively common but remedial pruning work is usually straightforward and can frequently be carried out without removing or disfiguring a tree.

Indirect damage, usually referred to as subsidence or “heave”, is a complex interaction between the soil, building, climate and vegetation that occurs on some clay soils.

Subsidence is a common, but frequently misunderstood, cause for concern to homeowners. The opposite of subsidence is a process called “heave” and this can occur as a shrinkable clay soil re-hydrates and begins to increase in volume exerting upward pressure. These types of damage only occurs in areas where the soil contains shrinkable clay, which is prone to fluctuations in volume caused by changing soil moisture content. Much of the concern about tree roots and foundations is unsubstantiated and the incidence of proven tree root related claims in the Medway area remains low.

Trees are not the only factors that can cause building movement. For example, natural seasonal soil moisture changes, localised geological variations, over loading of internal or external walls, internal alterations, settlement and land slip etc can all cause building movement with or without the presence of trees.

Medway Council’s risk management team coordinates third party claims relating to direct and indirect damage where trees belonging to the Council are cited as a factor. Unwarranted claims based on poorly investigated or inaccurate evidence will be challenged.

POLICY 39 - Medway Council recognises its responsibilities for the trees it manages. The Council will expect any claim involving its own trees to be supported by sufficient evidence to show that the tree in question, on the balance of probabilities, is an influencing cause of the damage. The Council will follow industry best practice when considering any third party insurance claim involving trees. Where it can be demonstrated on the balance of probabilities that a tree is an influencing cause, the Council will undertake appropriate works.

POLICY 40 - Where an application to work on a tree protected by a tree preservation order is received Medway Council will require sufficient evidence to show that the tree in question is, on the balance of probabilities, an influencing cause of any damage cited in the application. Medway Council will follow industry best practice when considering any

request to remove a tree based upon it allegedly causing damage. Where it can be demonstrated on the balance of probabilities that a tree is an influencing cause, permission to remove or prune the tree will not unreasonably be withheld.

DANGEROUS TREES IN PRIVATE OWNERSHIP

Medway Council has discretionary powers under the Local Government (Miscellaneous Provisions) Act 1976 to deal with trees in private ownership that are imminently dangerous. This legislation only allows the Council to become involved with trees that pose an imminent threat to people or property. This Act should be used with discretion and only when absolutely necessary to make sure that action is taken to deal with imminently dangerous trees.



Tree with decayed root system

The Local Government (Miscellaneous Provisions) Act 1976 does not enable Medway Council to become involved with private trees causing a nuisance to a neighbouring property through shade, blocked views or dropping leaves, flowers or fruit etc.

POLICY 41 – Medway Council will only use its powers contained in the Local Government (Miscellaneous Provisions) Act 1976 as a last resort to deal with trees deemed to be imminently dangerous to people or property on arboricultural grounds. Neighbouring landowners will need to demonstrate that they have exhausted all other means of dealing with the matter available to them before the Council will consider using their powers under this Act.

Medway Council has powers under section 154 of the Highways Act to serve notice either on the owner of the hedge, tree or shrub or on the occupier of the land on which it is growing, requiring them to remove the cause of a danger, obstruction or interference to the highway. This power applies where a hedge, tree or shrub overhangs a highway or any other road or footpath to which the public has access.

This Act should be used with discretion and only when absolutely necessary to make sure that action is taken following informal advice and a request to complete the works in the first instance.

POLICY 42 – Medway Council will ensure that any danger, obstruction or interference to the highway caused by a hedge, tree or shrub is dealt with using its powers under section 154 of the Highways Act 1980 where necessary.

ADVICE ON PRIVATELY OWNED TREES

In most instances, responsibility for the care and management of trees remains with the owner of the land on which they are growing. Medway Council can only influence the management of privately owned trees by giving advice when requested or by using legislation when appropriate.

The Council recognises the need to raise awareness of tree issues, improve the quality of tree care and to answer frequently asked questions. This may be achieved through verbal advice, the production of a range of material and by encouraging the use of competent consultants and contractors. In addition to producing its own material, the Council will make available relevant information and advice from other organisations.

POLICY 43 - Medway Council will provide verbal arboricultural advice, but is unable to provide a full advisory service to private individuals. The use of suitable competent consultants and tree contractors will be encouraged.

POLICY 44 – Medway Council will aim to develop and improve the range of material it offers and will ensure that the advice reflects current government advice and best practice.

HEDGEROWS

Hedgerows are a traditional form of field boundary in the local countryside and are important for historical, landscape and nature conservation reasons. They form distinctive visual features, which contribute positively to the rural landscape. They often contain a great diversity of plant and wildlife species in their own right and also provide links between habitats.

Planning Policy Guidance Note 9 (Nature Conservation, 1994) encourages management policies for hedgerows. The Hedgerows Regulations 1997 enable local planning authorities to protect important hedgerows in the countryside by controlling their removal through a notification system.

Anyone wishing to remove part or all of a hedgerow that meets the criteria set out in the Regulations must, unless it needs to be removed to implement a development for which planning permission has been granted, first notify the Council. The Regulations do not apply to garden hedgerows in, or marking the boundary of, a residential property.

POLICY 45 – Medway Council will administer and enforce the Hedgerows Regulations 1997 and will ensure that the procedures used are in accordance with the current legislation.



Traditionally laid hedgerow

Removing a hedgerow in contravention of the Regulations is a criminal offence punishable by a fine. In most cases the unlawful removal of part or all of an important hedge will result in the offender planting a replacement hedge.

POLICY 46 – Medway Council will be prepared to use its enforcement powers under the Hedgerows Regulations 1997, for the retention of hedges to their full potential, where it is appropriate.

HIGH HEDGES

In residential areas, evergreen hedges, which have been allowed to grow unchecked, can reach excessive heights and become a source of annoyance to neighbours.

Where people cannot agree a solution, the complainant may, upon payment of a fee, ask Medway Council to review their case. The role of the Council is not to mediate or negotiate between the complainant and the hedge owner, but to adjudicate on whether (in the words of the Anti-Social Behaviour Act 2003) the hedge is adversely affecting the complainant's reasonable enjoyment of their property. In doing so, the Council will take account of all relevant factors, striking a balance between the competing interests of the complainant and hedge owner, as well as the interests of the wider community.

POLICY 47 – Medway Council will use its powers under the Anti Social Behaviour Act 2003 to deal with High Hedge complaints issuing remedial notices where appropriate.



A potentially problematic hedge

Failure to comply with Medway Council's decision is an offence punishable in the Magistrates Court to a fine not exceeding level 3 (at the date of the adoption of this policy £1000). As an alternative, or in addition, the Council has powers to enter the

land to carry out the work and recover the costs from the landowner.

POLICY 48 – Medway Council will consider using its powers under the Anti Social Behaviour Act 2003, to ensure that works to comply with remedial notices are carried out.

It is quite clear from Government guidance that Medway Council cannot mediate in hedge disputes. Literature on the subject of hedges, which can be sent to interested parties, is available from the Government.

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