Havering Local Development Framework

Protection of Trees during Development Supplementary Planning Document

Adopted April 2009
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1. **Purpose and scope**

1.1 Living Ambition is Havering Council’s 20 year vision. The Council wants to provide its residents with the highest quality of life in London. In 20 years time Havering will be a new model suburb – a more successful and energised gateway to London, but still flavoured and shaped by its attractive natural environment, unique history and vibrant culture. Havering's standing as one of London's greenest boroughs - including the town centres and the built-up suburban fabric - will be enhanced. The vision and objectives of Havering’s Core Strategy and the policies in Havering’s Local Development Framework, including Development Control Policy DC60 (Trees and Woodlands) which seeks to protect and improve the amenity and biodiversity value afforded by trees and woodland, will be a key means of realising this vision.

1.2 Consequently, the importance of trees and woodland is recognised in a number of objectives in Havering’s Core Strategy including:

- **EN (A)** Ensure Havering reduces its impact on the environment (land, air quality, water and flooding) and minimises its impact on the causes of climate change, whilst planning for adaptation and mitigation of its effects.

- **EN (B)** Maintain and enhance the Borough's biodiversity and geodiversity, in particular the priority species and habitats identified in the London, UK and Havering Biodiversity Action Plans and the sites identified by the GLA Ecological Survey.

- **HE (A)** Preserve and enhance sites, buildings, areas and landscapes of special architectural or historic importance.

1.3 Trees are of considerable value to the built and natural environment and make a significant contribution to the quality of life in Havering. They can soften the visual impact of buildings, form valuable habitats for wildlife and also play an increasingly important role in improving air quality and reducing the harmful effects of climate change. Given their importance to the community and the environment, the Council seeks to ensure their retention wherever this is possible on development sites.

1.4 This Supplementary Planning Document (SPD) has been prepared to provide further detail on how Development Control Policy DC60 (Trees and Woodlands) is implemented. It draws upon planning policy and guidance with the aim of providing advice that ensures that the amenity and biodiversity value afforded by trees and woodland will be protected and improved. In particular, it will ensure that adequate measures are put in place when granting planning permission to protect trees during construction works. Where appropriate, planning conditions will be
imposed on planning permissions to ensure the protection of trees of amenity value while development takes place.

2. **Status**

2.1 The Statutory Development Plan is the starting point in determining planning applications for the development or use of land. The Development Plan consists of the London Plan and Havering’s Development Plan Documents (DPDs). This SPD provides further detail on the implementation of Development Control Policy DC60 that applicants must follow to ensure they meet the policy requirements.

3. **How does it fit in with the Local Development Framework (LDF)?**

3.1 This SPD is one of the local development documents that comprise Havering’s Local Development Framework (LDF). It provides further detail on the implementation of DC60 (Trees and Woodlands) which seeks to protect and improve the amenity and biodiversity value afforded by trees and woodland, including ensuring that adequate measures are put in place when granting planning permission to protect trees during construction works. It also complements other LDF documents such as the Protecting the Borough’s Biodiversity and Sustainable Design and Construction SPDs.

4. **SPD Context**

4.1 This SPD, based on the Development Control Policies of the Local Development Framework, takes account of the latest national and regional planning policy and guidance relating to biodiversity. However, in time this SPD will date, so developers will need to be aware of the latest national and regional planning policy and guidance as this can take precedence or be a material consideration in the planning process where it is more up to date than the policies and guidance in Havering’s LDF.

4.2 The table below sets out the key issues that this SPD addresses and the relevant planning policy and guidance informing this document.

<table>
<thead>
<tr>
<th>Key issue</th>
<th>Information</th>
<th>Source</th>
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| Protection of existing trees / Tree preservation orders | - Aged or ‘veteran’ trees found outside ancient woodland are particularly valuable for biodiversity and their loss should be avoided. The conservation of such trees should be encouraged as part of development proposals.  
- Protect maintain and enhance trees and |  
  - PPS9: Biodiversity and Geological Conservation  
  - The London Plan (Consolidated with Alterations since 2004)  
  - Connecting Londoners with Trees and Woodlands: A Tree and Woodland Framework for London  
  - British Standard 5837: |
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<td>woodland in support of</td>
<td>woodland in support of the London Tree and Woodland Framework.</td>
<td>2005</td>
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<td>New and replacement planting</td>
<td>• Important to ensure the planting of the right trees in the right places.</td>
<td>• The London Plan (Consolidated with Alterations since 2004)</td>
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<td></td>
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<td>• Connecting Londoners with Trees and Woodlands: A Tree and Woodland Framework for London</td>
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<td>Effects on wildlife</td>
<td>• Potential development sites may be important habitats for protected species, i.e. birds, bats and water voles.</td>
<td>• UK Biodiversity Action Plan</td>
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<td>• London Biodiversity Action Plan</td>
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<td>• Havering Biodiversity Action Plan</td>
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5. **The Guidance**

5.1 The provisions of this SPD will be implemented primarily through the Development Control process and the determination of planning applications.

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A) Introduction  
B) The tree survey  
C) Considerations for layout design  
D) Protection of existing trees during site clearance, preparation and construction  
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G) Effects on wildlife

A) **Introduction**

5.2 Trees make a valuable contribution to the quality of life in Havering. They do this in a number of ways including by softening the visual impact of buildings, by helping to define urban spaces and by framing and consolidating views. Trees and woodlands form valuable habitats for a wide range of wildlife and they also play an increasingly important role of improving air quality and reducing the harmful effects of climate change.

5.3 Because trees are so important to the community and the environment the Council seeks to ensure their retention whenever this is possible on development sites. Our objective is to seek the retention of good quality trees which are suitable for their setting and have adequate space in which they can grow to maturity.

B) **The tree survey**

5.4 The Council requires that a detailed tree survey is carried out and submitted with every planning application (except householder applications and applications for change of use) where trees exist on, or immediately adjacent to, the application site. In the case of householder applications a full tree survey of the whole site is not required but trees must be indicated where they are on land affected by a proposed development, such as within the same garden as a proposed extension.

5.5 The survey will need to take into account the existence of any tree preservation orders (TPOs) that affect trees on site and clearly identify such trees, ideally by the tree preservation order’s reference numbers.
5.6 The survey will help ensure that existing trees are allowed enough space to develop without causing problems for neighbouring properties or becoming a nuisance to their future occupants of new dwellings. The survey information will also help to identify potential areas for new tree planting and landscaping.

5.7 Subsequent to the survey a plan drawn to scale accompanied by a schedule of the tree’s details must be submitted to the Council containing, as a minimum, the following information:

- the location of all existing trees (reference numbers to be given and recorded on the tree survey plan) over 75mm in diameter measured at 1.5m above ground level which are:
  - within the site;
  - overhanging the site;
  - within a distance of the boundary of the site which is less than half the height of the tree; or
  - located on land adjacent to the development site that might influence the site or might be important as part of the local landscape character, including conservation areas.

- the tree’s species
- the tree’s condition
- the number of trees which comprise groups of trees
- present height
- stem diameter when measured at 1.5 m above ground level
- canopy spread of each tree for all four cardinal compass points
- height in metres of crown clearance above ground level
- the height of ground level at the base of each tree and the ground levels around the edge of groups of trees or woodland
- remaining estimated number of years of life of tree
- category grading in schedule i.e. R to be considered for removal and then A – C depending on degree of considered quality and life expectancy, A being the highest, C the lowest. E indicating dead.

5.8 Trees or groups of trees which are less than 75mm diameter at 1.5m above ground need not be surveyed and plotted unless they are the subject of a tree preservation order.

5.9 Because the survey should provide details of the branch spread, age and vigour of the trees within the site, its information can be used to determine the position of protective fencing around trees in accordance with British Standard 5837: 2005. Development will not normally be allowed within this protected area.

5.10 British Standard 5837: 2005 (or any subsequent updates to it) provides extensive advice on planning for trees and development. It contains guidance on the identification of trees suitable for retention, their
protection during construction and on the successful integration of existing and newly planted trees within the development. It also provides detailed information on the potential impact of development on trees, and of trees on buildings, and gives guidance on how to minimise that impact. British Standard 5837:2005 (or any subsequent updates to this standard) should be seen as the minimum standard for tree protection measures in Havering.

5.11 If the necessary tree survey as detailed above is not received an application is likely to be refused on the grounds of insufficient information in order for the application to be determined.

C) Considerations for layout design

5.12 The following factors should be considered (as a minimum) when proposing new development:

5.13 **Plant the right tree.** Havering contains a diversity of landscapes and new tree planting needs to reflect this. In urban areas the planting of smaller growing ornamental, non-native trees may be appropriate in some settings. However in rural settings, or on land adjacent to the metropolitan green-belt, native species will be expected to be planted in order to complement the trees and woodlands indigenous to the area. In suburban areas a combination of tree species and types is likely to be acceptable to the Council.

5.14 **Avoid overshadowing.** In order to avoid excessive overshadowing, the location of proposed private gardens and living rooms should take account of the location of existing and proposed trees and their potential growth. Trees should not reduce the adequacy of street lighting or highway warning signs due to overhanging branches and should not obstruct visibility splays and site lines.

5.15 **Underground services.** Trees should not be planted over underground services or drains due to possible future disruption to such services as the tree’s size and weight increases. Similarly, the routing of underground services through the root protection area (RPA) should be avoided; trenching will sever any roots present and may also affect local soil hydrology. Services should be kept together and trench-less techniques used wherever possible. Where it is not possible to avoid services passing through the RPA, the developer should provide a method statement and detailed plans demonstrating how damage to roots will be minimised and managed on site. It is advisable that early consideration should be given to the location of such services and any such services (notably water and gas supplies) which require trenching must be identified on proposal drawings at the earliest possible stage. It will not be acceptable to the Council to omit such information from any submission and then to carry out works at a later date which would result in tree’s roots being severed and to seek to justify this on the basis that the direct implementation of planning permission supersedes
the requirements of a tree preservation order, the protection afforded by planning conditions or by a legal agreements. Guidance on planning, installation and maintenance of utility services in proximity to trees can be obtained from the National Joint Utilities Group (NJUG): www.njug.org.uk.

5.16 **Protection of the Root Protection Area.** While it would almost always be preferable for such areas to be free of construction, consideration can be given to the use of suitable "non-dig" design in order avoid root loss and prevent compaction. Guidance can be found in the British Standard document BS 5837:2005 (Trees in relation to construction. Recommendations) and any future replacement for this standard. Visit the British Standard website for more information at: http://www.bsigroup.com/en-GB/

5.17 **Ground levels.** Ground levels within root protection areas must not be raised or lowered without the Council’s consent. Any changes to ground levels must be indicated clearly in any planning application with any trees accurately plotted.

5.18 **Damage to drains and foundations.** In shrinkable clay soil this is most likely to be caused by trees with high water demand (e.g. poplar, willow and eucalyptus) and so use of these trees should be avoided near to buildings and their drainage systems.

5.19 **Leaf and fruit fall.** The planting of heavy leaf and fruit fall trees (such as horse chestnuts, crab apples and cherries) should be avoided near roads, car parks and footpaths where accumulations of plant debris could be produce slip hazards for pedestrians. Conifers with high levels of needle fall (e.g., pines and cedar trees) should be planted well away from gutters and drains. Species with poisonous fruit (e.g. laburnum and yew) should not be planted near to where children can be expected to play or animals graze.

5.20 **Conifer trees.** There is a general recognition that conifer trees, especially when planted as hedges, often become the subject of neighbour disputes. Evergreen hedges over 2 metres in height can become the subject of complaints made under the Anti-Social Behaviour Act 2003. There is, therefore, a presumption against planting trees such as cupressus leylandii in landscaping schemes in Havering. Where boundary planting for screening purposes is needed trees with a lesser mature size and vigorous habit than leylandii (or similar conifers) should be considered.

D) **Protection of existing trees during site clearance, preparation and construction**

5.21 **Existing planning conditions.** It should be noted that conditions attached to an existing planning permission may already protect trees on development sites.
5.22 **Excavations.** On newly proposed developments in cases where excavation works within the a tree’s root protection area are proposed the developer will be required to provide a detailed Arboricultural Method Statement to show how the work will be carried out to minimize the damage to the tree and its roots system. Any exploratory work will need to be carried out manually so as to minimise the disturbance and damage to the root system.

5.23 **Fires.** Trees can easily be damaged by fires. As these often occur during demolition and site clearances special attention needs to paid to this potential problem by developers at an early stage. Extreme care needs to be taken in lighting fires anywhere near to trees as radiated heat can cause significant damage even though no obvious burning or scorching takes place. At least 5 metres clearance is needed from any part of the tree. Large fires will need an even greater safe distance.

5.24 **Signage and trees.** Cables, signs, boards, timbers or other materials must not be nailed or screwed to tree as the puncture wounds caused allow disease organisms to penetrate into the tree’s heartwood increasing the likelihood of decay and premature death.

5.25 **Winching.** No tree should tree be used as an anchor point for winching; such action causes compression damage beneath the tree’s bark and to the bark itself and can also tear and weaken the tree’s supportive roots system.

5.26 **General precautions.** In order to avoid damage to existing trees, the following precautions should be taken from the earliest opportunity:

**i) Fencing.** Before construction commences, trees should be fenced around the Root Protection Area or the extent of the canopy, whichever is greatest. This is to prevent the storage of materials, lighting of fires or excavations, erection of site accommodation, deposition of waste due to tipping or leakage, ground compaction by traffic or any other actions likely to affect the health of the tree. The fencing must be to the standard set out in British Standard Document BS 3587:2005 or any subsequent updates. This means that the protective fencing will normally be a minimum of 2m high metal mesh panel fencing braced by scaffold poles to the standard set out in British Standard Document BS 5837:2005. All protective fencing must be properly maintained during construction to provide adequate protection. The protective fencing may only be removed when development is complete. In exceptional circumstances the fencing may be removed or its position altered as temporary measure if express permission is obtained from the Council beforehand.

**ii) Bracing of fencing.** Bracing by scaffold poles (or similar) makes unauthorised movement of the fencing less likely and also more robust and therefore less prone to collapse and impact damage. It should be
noted that trees of particularly high amenity value, trees in areas close to construction activity, or trees particularly sensitive to damage may require even more substantial fencing or protective measures. Marking out 'keep off areas' with warning tape, or plastic barricade alone will not be acceptable.

iii) Warning signs. The protected area will also need to have signs in place informing staff on site of the nature of the protected area as set out in the above British Standard or any subsequent updates.

E) Special constraints afforded by tree preservation orders

5.27 Many trees in Havering are protected by Tree Preservation Orders (TPOs). Details of which trees are protected can be obtained from the Council’s Planning and Building Control Service, Floor 7, Mercury House, Mercury Gardens, Romford, RM1 3SL. Telephone (01708) 432725 or visit the Planning section of the Havering website at: www.havering.gov.uk/planning

5.28 Once a TPO has been made, the consent of the Council is required before a tree may be pruned or felled except in cases where a tree is directly in the way of a development which has full planning permission, in which case separate permission is not needed. Trees which are simply close to a new development are not exempt from the provision of a TPO so it is very much in an applicant’s interest to both be very accurate with any surveying when trees may be affected and to show trees which will be affected by proposed development. Proper consideration can then be given to their retention, or their removal and replacement, at an early stage. The removal of a tree may not be allowed as a result of a surveying error with the result that the construction of a building is not possible as a result.

5.29 If a tree protected by a TPO is cut down, uprooted or wilfully destroyed, or is deliberately damaged or pruned in a manner likely to destroy it in contravention of a TPO, the responsible person may be prosecuted and, subject to conviction is liable to pay a substantial fine and have to replace any tree which has been removed. Failure to plant a replacement may result in the council planting the tree(s) in question and recovering its costs.

5.30 Although the protection afforded by a Tree Preservation Order does not apply to a tree, or part of a tree which is dying, dead or imminently dangerous, it is important to note that anyone proposing to cut down a tree under this exemption should, except in an emergency, give the Council at least five days’ notice before carrying out such work.

5.31 Anyone who is not sure whether the tree falls within the exemption is advised to obtain the advice of a qualified arboriculturist. If work is carried out to a protected tree under this exemption, the burden of proof to show, on the balance of probabilities, that the tree (or part of
the tree) was dying, dead or dangerous rests with those responsible for its removal. If the Council cannot be informed before work is carried out (for example, in instances where a tree needs to be felled because it is an immediate danger to persons or property), the Council should be informed as soon as possible afterwards.

5.32 Given that the onus is on the person(s) responsible for the tree to be felled to prove that it was exempt from statutory protection, it would be advisable to retain the affected parts of the tree’s remains for subsequent inspection by the Council’s arboricultural staff.

F) New and replacement tree planting

5.33 Provision for new and replacement tree planting should be made at the earliest stages of design. The layout plan must provide adequate space for the full future growth of trees. The future use of the development, the choice of species and the location of planting are influenced by physical and technical restrictions, for example consideration will need to be given to the positioning of trees to ensure that they do not assist unauthorised access over walls or fences, by obscuring security lighting or restricting the field of view of CCTV cameras.

5.34 The Council will require, wherever practicable, the new and / or replacement tree planting to be made on the basis of at least one new tree for each tree lost, however the loss of large mature specimens are likely to require more than one replacement tree. The size, species and number of new and / or replacement trees shall be agreed with, and confirmed in writing by the Council prior to planting. Replacement TPO’d trees will become protected by the original order or may become the subject of new orders as may any new trees so as to ensure their continued long term protection and ongoing replacement.

G) Effects on wildlife

5.35 **Birds.** Potential development sites may be important habitats for bird species protected by the Wildlife and Countryside Act 1981, and by European legislation. All UK wild birds, their nests and their eggs are protected by law; in England, Scotland and Wales by the Wildlife and Countryside Act 1981 (amended in England and Wales by the Countryside and Rights of Way Act 2000). As a consequence, carrying out works to trees, shrubs and hedges on development sites should be avoided between the beginning of March and the end of August.

5.36 **Bats.** In England, all bat species are protected under schedule 5 of the Wildlife & Countryside Act 1981. All bats are also included in Schedule 2 of the Conservation (Natural Habitats &c) Regulations 1994, which defines "European protected species of animals". Taken together the Act and Regulations make it illegal to:

- intentionally or deliberately kill, injure or capture (take) bats;
• deliberately disturb bats (whether in a roost or not);
• damage, destroy or obstruct access to bat roosts (Bats do not have to be present in their roost(s) for this protection to apply);
• possess or transport a bat or part of a bat, unless acquired legally.

These restrictions on disturbing moving and handling bats means that it would be prudent to investigate any potential roosts very early on during the site’s development and if roots are found, professional advice and help should be obtained. Natural England must be consulted about any work that may result in the disturbance of bats or their roosts.

5.37 **Water Voles.** Tree roots add stability to riverbanks, and can also provide a valuable habitat for fish and other wildlife such as water voles. The damage, destruction or obstruction of places of shelter or protection of water voles is an offence under the Wildlife and Countryside Act 1981. Any proposed development close to water courses which require the removal of trees would have to demonstrate that there would be no impact upon the places of shelter or protection for this species.