



Joint Circular from the
Department of the Environment
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Sir

3rd May 1978

Trees and Forestry

1. This circular and the accompanying Memorandum consolidate advice on trees and forestry from earlier circulars and from the Memorandum on the Preservation of Trees and Woodlands (see paragraph 5) and other more recent information.
2. The Secretaries of State welcome the increasing public awareness of the value of trees both for timber and as an important element in the quality and enjoyment of the environment. Trees enhance the quality of the countryside, provide a habitat for wildlife and soften and add character to built up areas. The extent of tree cover over the centuries has varied. Over the last 50 years the area of woodland in England and Wales has increased but this is due largely to afforestation for commercial timber. On the other hand, much of our treescape is changing: the traditional hedgerows, clumps, copses, spinneys and woods are being displaced by various modern developments, including changes in agricultural practices. There has been a loss of quality and variety in our landscape as a result. Other factors, notably Dutch elm disease, have cost millions of trees. Many trees which remain (apart from those grown commercially) are mature or over-mature and, since the proportion of saplings is low, there is the prospect of further depletion in the future. If the tree stock is to be maintained for the future, the protection and re-generation of our tree cover, and especially the planting of new trees, is essential.
3. Planting needs to be planned with a specific purpose in mind and as a continuing exercise, since years elapse before a tree makes an appreciable contribution or becomes a full replacement for one that has been removed. Local authorities are asked to make full use of their powers to protect and plant trees in their area to maintain and improve the appearance of the countryside and built up areas; they are reminded that they also have a duty to ensure, when granting planning permission, that adequate provision is made for the preservation and planting of trees. In some areas, large scale planting involving a change of land use to forestry can be a sensitive environmental question of concern to local

planning authorities, but the arrangements that have been made for authorities to be consulted about such planting proposals should enable agreement to be reached at local level.

4. In the current economic situation there is a need to ensure that maximum value is obtained from money allocated to trees: planting—of appropriate species—should be where it will have the most beneficial effect; proper maintenance will avoid waste through losses. The Secretaries of State realise that, where an increase in—or indeed the maintenance of—current levels of expenditure or staff resources is implied, local authorities may not be able to act in the short term:

Cancellations

5. The following circulars are hereby cancelled:

MTCP 24

MHLG 36/56, 59/58, 53/67* (WO 48/67),

MHLG 44/68 (WO 37/68) (paragraphs 58–60),

MHLG 1/69 (WO 1/69), 49/70 (WO 55/70)

DOE 99/72 (WO 219/72), 6/74 (WO 15/74)

DOE 147/74* (WO 220/74 (paragraphs 36–42)), 17/75 (WO 24/75)

*Parts of these circulars were cancelled by DOE circular No 23/77.

The Memorandum on the Preservation of Trees and Woodlands, published in 1966 by the Ministry of Land and Natural Resources, has been out of print for some time and is also cancelled hereby.

We are, Sir, your obedient Servants,

MISS J E COLLINS, *Senior Principal*

B H EVANS, *Assistant Secretary*

[CRD3/197/11]

[WO P11/22/07]

The Chief Executive

County Councils

District Councils

} in England and Wales

London Borough Councils

The Town Clerk, City of London

The Director General, Greater London Council

New Town Development Corporations

Development Board for Rural Wales

MEMORANDUM ON TREES AND FORESTRY

This Memorandum is arranged in 10 Sections which are summarised below. Information and advice which has not previously appeared in a circular is identified in the summaries.

INTRODUCTION

i. Local authorities' interest in trees and forestry is wide ranging. They have a specific power to plant trees and to protect them by making preservation orders; and a duty to make provision for trees when granting planning permission. In addition, they have an interest in the role of trees and forestry in the landscape as part of their general planning responsibilities.

ii. The Secretaries of State for the Environment and for Wales are concerned with trees and tree planting in the context of their general responsibility for the enhancement and protection of the environment; this includes a specific responsibility for tree preservation orders. Tree planting is undertaken on new trunk roads by the Department of Transport in England, and by the Welsh Office. The Minister for Agriculture, Fisheries and Food (in Wales, the Secretary of State for Wales) has ministerial responsibility for forestry: the growing of trees for timber production, and the payment of grants for this purpose, is the responsibility of the Forestry Commission, who also administer felling licence control. The Countryside Commission are charged with keeping under review all matters relating to the conservation and enhancement of the countryside; with promoting action which furthers this objective; and with advising Ministers and other public bodies on these matters. They take an active interest in trees for their contribution to the landscape and have powers to grant-aid tree planting in the countryside for amenity purposes. The Nature Conservancy Council are concerned with planting and conservation of trees and woodland for their scientific value and as a habitat for wildlife.

SECTION I LOCAL AUTHORITY PLANS AND TREE PLANTING

Advice is given to authorities on how trees and forestry should be treated in development and other plans. Advice is also given on staffing and public involvement in proposals relating to trees, tree selection and maintenance and the planting of trees on roadsides. The content of paragraphs 1-8, 10 and 11 has not previously been covered in circulars and the opportunity has been taken to draw attention to the activities of the Tree Council.

- 1 Local Authorities' Planting Policies.
- 2 Trees and Forestry in Development Plans.
- 6 Structure Plans.
- 7 Local Plans.
- 8 National Park Plans.
- 9 Staffing and Training.
- 10 Tree Council.
- 11 Public Involvement.
- 12 Selection of Species and Sites.
- 13 Tree Planting and Maintenance.
- 15 Tree Planting on Roadsides.

SECTION II CENTRAL GOVERNMENT FINANCIAL ASSISTANCE AND TREE PLANTING

Information is provided on the current arrangements for tree planting by central government, principally the Forestry Commission; details are given of the financial assistance available for planting under the Forestry Commission's current dedication schemes (Basis III) and their new small woods scheme and from other sources. Attention is drawn to the provisions that now exist for authorities to be consulted on forestry matters. This information has not previously been notified to authorities by circular.

- 17 The Forestry Commission's Schemes.
- 18 Public Access and Recreational Facilities.
- 19 The Forestry Commission's Consultation Arrangements.
- 20 Consultation Arrangements for Dedication Proposals.
- 21 Consultation Arrangements on Small Woods Scheme.
- 22 The Forestry Commission's Regional Advisory Committees.
- 23 Other Government Grants.
- 24 Tree Planting and Trees on Land in Government Ownership.

SECTION III TREES IN THE COUNTRYSIDE

Virtually all of this section is new: attention is called in particular to the Countryside Commission's report "New Agricultural Landscapes" and their subsequent action.

- 25 New Agricultural Landscapes.
- 28 Trees and Upland Landscapes.
- 29 The Agricultural Development and Advisory Service.
- 30 Nature Conservation and the Countryside.
- 31 Hedgerow Trees and Hedges.
- 32 Damage to Trees from Controlled Burning.

SECTION IV DUTCH ELM AND OTHER TREE DISEASES AND DANGEROUS TREES

No advice has previously been issued on Dutch elm disease in circulars, but it is a serious problem both of direct and indirect concern to local authorities. This section outlines the action which can and should be taken.

- 33 Dutch Elm Disease.
- 35 Replacement of Elms.
- 36 Other Tree Diseases.
- 37 Powers for Authorities to fell Dangerous Trees.

SECTION V RESEARCH

New information is given on the research programme being undertaken for the Department of the Environment.

- 38 DOE-funded research.
- 39 Information and Advisory Service.

SECTION VI THE APPLICATION OF TREE PRESERVATION ORDERS

The powers to make orders and the circumstances in which they may be used are explained; cases where special considerations apply are noted.

- 40 Grounds for making Tree Preservation Orders.
- 42 Scope of Tree Preservation Orders.
- 44 Hedges, Bushes and Shrubs.
- 45 Crown Land.
- 46 Local Authority-owned Land.
- 47 Woodland Subject to Forestry Dedication Covenants and Forestry Grant Scheme.
- 48 Airfields.
- 49 Ancient Monuments.
- 50 Distribution of Powers Between Order Making Authorities.
- 51 Publicity.

SECTION VII TREE PRESERVATION ORDER PROCEDURES

This section explains the detailed procedure involved in making orders and in dealing with applications for consent thereunder.

- 52 Procedure for Making Orders.
- 54 Confirmation of Tree Preservation Orders.
- 55 Provisional Tree Preservation Orders.
- 56 Local Land Charges Register.
- 57 Modification, variation and revocation of orders.
- 58 Applications for Consent under a TPO.
- 59 Refusal of Consent and Appeals.
- 60 Replanting of Trees.
- 61 Replanting of Trees in Protected Woodland.
- 62 Compensation.
- 63 Penalties for non-compliance with a TPO.

SECTION VIII TREES IN CONSERVATION AREAS

This section replaces the advice already given to authorities on the provisions made for trees in conservation areas under the Town and Country Amenities Act 1974.

- 64 Provisions for Trees in Conservation Areas.
- 65 Publicity.

SECTION IX FELLING LICENCES

This section provides information on felling licence control and its implications for local planning authorities.

- 66 Scope of Felling Licences.
- 67 Consultation with Local Planning Authorities on Felling Licences.
- 68 Tree Preservation Orders and Felling Licences.

SECTION X TREES AND DEVELOPMENT

This section gives guidance on the frequent problems that arise with trees and new and existing development. Attention is drawn to the authorities' duty in relation to trees when considering development proposals, ways in which this duty may be fulfilled and the problems which authorities need to be aware of and to avoid.

- 71 Duty of Local Planning Authorities.
- 72 Protection of Trees during Development.
- 73 Tree Roots and Built Development.
- 74 Consideration of Applications.
- 75 Use of Conditions.
- 76 Tree Preservation Orders and Development.

Appendices

1. Bibliography on tree planting and maintenance.
2. Financial assistance available from central government sources outside the Forestry Commission.
3. Relevant addresses.
4. Model planning conditions relating to trees.

SECTION I. LOCAL AUTHORITY PLANS AND TREE PLANTING

Local authorities' planting policies

1. Local planning authorities have powers, under Section 89 of the National Parks and Access to the Countryside Act 1949, to plant trees on land in their area for the purpose of preserving or enhancing its natural beauty. Local authorities (including New Town Development Corporations and the Development Board for Rural Wales) should develop policies (within financial constraints) for their own planting and for the encouragement of planting by private owners; and for the preservation of trees and their orderly replacement. In developing such policies, an assessment of the existing tree cover is desirable in order to determine the present and potential need and areas of priority. This can be done in a variety of ways, including sample ground surveys and use of aerial photographs. The Forestry Commission, as national forest authority, maintains statistical information on woodlands; and information may be obtained from them on their own areas and those managed under the Dedication Schemes. In considering programmes for planting in the countryside, account should be taken of changes in the landscape resulting from modern farming practice (see paragraph 25). In the design and landscaping of highways and other developments for which authorities are responsible, thought should be given to the retention of existing trees, wherever possible, and to the extent of new planting needed, in the same way as for private development: authorities should, as far as possible, set a positive example to private owners. In urban areas, in particular, landscaping plans should allow for future planting and tree growth. Advice on trees and development is given in Section X. Authorities are encouraged to make the public—including tenants of their property—aware of their policies for trees and to endeavour to ensure that these are acceptable to public opinion. The Secretaries of State commend the practice of those authorities who give suitable publicity to proposals which may be of public interest. The 1977 Memorandum on Structure and Local Plans (see paragraph 2) gives advice on publicity for such plans.

Trees and forestry in development plans

2. The Town and Country Planning (Structure and Local Plans) Regulations 1974 provide for the policy and general proposals formulated in a structure plan to relate to conservation, townscape and landscape where the county planning authority think this appropriate. County planning authorities have been advised (paragraph 2.10 of the Memorandum accompanying DOE Circular 55/77: WO 82/77) to concentrate, when preparing structure plans, on issues of key structural importance and their inter-relationships. When the key issues involve the consideration of tree planting and preservation, it would be appropriate for policies and general proposals for the matters set out in paragraph 6 below to be formulated in the plan. Although they may not be significant to the key issues, county planning authorities may nevertheless wish to include their policies on this topic in the plan.

3. Where the implementation of policies will involve co-ordination with private landowners, the arrangements proposed should be referred to in the reasoned justification for the policies and proposals formulated in the plans. Where afforestation is proposed, the conditions under which such use would be acceptable to the planning authority may be indicated in the reasoned justification.

4. Where authorities think it necessary, or helpful to the public, to publish other advice on criteria or standards, this may be done in sup-

plementary planning guidance (see paragraph 4.6 of the Memorandum accompanying DOE Circular 55/77: WO 82/77).

5. As stated in paragraph 2.56 of that Memorandum, the Forestry Commission should be consulted on structure plan proposals wherever forestry is a feature of the plan either as an industry or a recreational resource, or for its effect on the environment or its implications for other land uses. Similarly, the Commission should be consulted on local plan proposals where forestry is a feature of those plan areas. Such consultation should be with the local Forestry Commission Conservator (see Appendix 3).

Structure plans

6. Among the matters for which it may be appropriate for policies and general proposals to be formulated in a structure plan are:

(a) the loss of trees and the loss or fragmentation of woodland through development and modern farming practice; and their replacement, as a means of preserving the character of the landscape or conserving scientifically significant sites or for other purposes;

(b) the general location of areas for planting and re-planting, whether for forestry use, for maintaining or enhancing the landscape, or in relation to development proposals;

(c) the management of woodland for recreation; and

(d) the general location of areas where afforestation is not acceptable, for example, where authorities wish to preserve the existing character of an area for amenity or other reasons, or where forestry would be inconsistent with other policies and proposals of the plan.

Local plans

7. Local plans develop the policy and general proposals of the structure plan and relate them to precise areas of land. They may also formulate proposals for planting and preservation which are of purely local significance, including, where appropriate, development control policies.

National Park Plans

8. Advice on the preparation, form and content of National Park Plans has been issued by the Countryside Commission and is reproduced in DOE Circular 65/74 (WO 103/74). A principal objective of the plans is landscape conservation and, within this context, co-ordinated policies for forestry and woodland are important. In developing such policies, National Park Authorities will wish to take account of the advice in this Memorandum on planting by the Forestry Commission and the financial assistance for planting available from them, from the Countryside Commission and other sources (Section II); on tree preservation orders (Sections VI and VII) and on felling licences (Section IX). An especially relevant consideration will be the maps ratified under the 1961 Voluntary Agreement on Afforestation, which show areas where afforestation is considered to be acceptable or otherwise. The preparation of National Park Plans is dependant on wide consultation and National Park Authorities are advised to consult at an early stage with the Forestry Commission's Conservator (see Appendix 3) in developing their forestry and woodland policies.

Staffing and training

9. It is important that local authorities have staff available with appropriate technical knowledge and training and that specialist staff are used to the best advantage. This may involve the sharing of staff between district councils or between a county council and several district councils. In the present economic situation, any increase in staff would be difficult

to justify but, in the long term and as economic conditions permit, there may well be a need for more trained officers. Some agricultural colleges have courses in arboriculture and tree surgery which have proved useful to local authorities in training their staff. Authorities may also like to note that short courses are run by the Forestry Commission, in conjunction with other Departments concerned, for the benefit of officers with planning experience who have arboricultural responsibilities. (Further information is available from the Forestry Commission Headquarters (see Appendix 3).)

The Tree Council

10. The Tree Council (see Appendix 3) was formed in 1974, following Tree Planting Year, from representatives of national bodies concerned with trees in order to promote a wider, general interest in trees and further encourage their planting and protection. They organise National Tree Week each year and promoted the Queen's Trees scheme for the Silver Jubilee. They also publish a newsletter, available through the local authority associations, which provides a means of publicising initiatives being taken not only by the Tree Council but also by local authorities and other bodies concerned with trees.

Public involvement

11. Authorities are encouraged to support the Tree Council's objectives by fostering local interest and participation in tree planting and protection through local voluntary groups and schools. When local authorities make proposals affecting trees, consultation with parish and community councils, where they exist, is recommended and also with local amenity and nature conservation societies.

Selection of species and sites

12. Species and sites for new planting should be selected with the benefit of qualified advice to secure the most beneficial effect. Species should be chosen which are suitable for their intended purpose, whether it be, for instance, for screening or space division or to provide shade, ornamentation, or landscape character, or as a wildlife habitat. The possible long term use of the trees for timber should also be borne in mind. Where the choice of species is not restricted by special factors (such as pollution), it is generally better to use species which harmonise with the existing landscape: special care is needed in selecting for planting for nature conservation purposes. For planting on new developments, provision for trees is best made as part of the overall design. Besides leaving space for individual trees, the advantages of setting aside sites for groups of trees should also be considered. It is important to select types of trees which will be successful in the soil and climatic conditions prevailing on the site and, in considering potential sites, to think of the future so as to provide for trees (or groups) to develop to their mature size and shape. A large-growing tree cannot be kept small satisfactorily by constant pruning. Attention is drawn to paragraph 73 which refers to the effect trees and nearby buildings may have on one another. Other factors may limit the choice of species: for example, in car parks trees which are associated with honey dew should be avoided. Authorities planning planting in the countryside are advised to refer to the advisory leaflet produced by the Countryside Commission.* Where planting is proposed in areas of scientific or archeological importance, special care is required: trees should not be planted on such sites so as to reduce or destroy that interest.

*Local Authority Tree Planting Programmes in the Countryside—Countryside Commission Advisory Publication No 1.

Tree planting and maintenance

13. The planting and maintenance of trees should be carried out by suitably trained and supervised staff. Adequate care and maintenance, particularly of young trees is very important, to avoid waste through losses. Unskilled pruning and lopping can do permanent damage to any tree. Competent inspection at reasonably frequent intervals helps to ensure that disease is noted and treated. There are a number of British Standards which are helpful both as a guide to workmen and as a basis for the preparation of specifications for planting and maintenance work (see Appendix 1). It may be found helpful to refer private owners to a list of reputable consultants and contractors, such as that held by the Arboricultural Association or the Institute of Foresters (see Appendix 3)—a number of authorities have their own local lists.

14. A short list of publications giving advice on the selection of species and techniques for planting and maintenance is given at Appendix 1. The DOE arboricultural advisory service at the Forestry Commission Research Station is also available to give advice to authorities (see paragraph 39).

Tree planting on roadsides

15. Section 82 of the Highways Act 1959, as amended by Section 5 of the Highways (Miscellaneous Provisions) Act 1961, empowers a highway authority to plant and maintain trees in or on certain land acquired in connection with a highway. A local authority other than the highway authority, or a parish council may exercise this power with the highway authority's consent. Trees must not be planted or allowed to remain where they may hinder the reasonable use of the highway or so as to become a nuisance or injurious to adjacent property and, if damage is caused to property, the authority who planted the trees may be liable for compensation. Sections 65(2) and 68(2) of the 1959 Act empower a highway authority to plant trees in central reservations, roundabouts and pedestrian refuges. Under Section 213(2) of the Town and Country Planning Act 1971, a highway authority or district council may also plant trees in highways to which access has been restricted by an order under Section 212 of the Act. Section 23(2) of the Land Compensation Act 1973 empowers a highway authority to plant trees on the highway or on other land in their ownership, including land acquired under Section 22 of the Act, for the purpose of mitigating any adverse effect which the construction, improvement, existence or use of a highway has or will have on its surroundings. Section 24 empowers highway authorities to make agreements with owners of land adjoining or in the vicinity of the highway for the planting and maintaining of trees on the land for this purpose. Highway authorities have powers under Section 43 of the Highways Act 1971 to permit by licence the planting of trees in highway land by the owners or occupiers of adjacent property. Under Section 123 of the 1959 Act, trees may not be planted within 15 feet from the centre of a made-up carriageway except in accordance with Sections 65 and 68 of the Act or Section 43 of the 1971 Act.

16. Advice on tree planting on roadsides has been given in DOE Circular 90/73 (in Wales WO 154/73 and also 222/74), some of which is reproduced here. Authorities' attention is nevertheless drawn to those circulars. Every encouragement should be given to the planting of roadside trees and hedges which make an important contribution in the urban and rural scene. They can be used to screen unsightly development and to improve the general appearance of roads: they can do much to relieve the monotony of long distance motoring and thereby maintain drivers' interest and alertness. Planting in urban streets can be particularly beneficial; in some places even a single tree can have a considerable

effect. Sites and species need to be chosen with care however: trees must be set back from the kerb to give traffic clearance without unduly obstructing the footpath and sited so as not to obstruct maintenance of the verge. In narrow streets, consideration might be given to arrangements for planting on private property fronting the highway. In considering planting proposals, safety should be a prime consideration and care must be taken that trees will not restrict road users' visibility, obstruct traffic signs and lights or be a potential danger where there is fast-moving traffic and vehicles may leave the carriageway accidentally. When choosing sites for trees, allowance should be made for future growth. Services under footways call for careful positioning of trees because roots are likely to cause physical damage to pipes and drains. As the trees grow, their roots can envelop such services, so that when the need to uncover them arises, the trees have to be felled or at least severely damaged. Where services prevent planting, it may be possible to use large plant containers. It is advisable to inspect roadside trees as regularly as practicable to ensure that they are safe and also to maintain horizontal and vertical visibility. Where inspections reveal a likely need to fell important specimens or numerous trees, expert advice should be taken.

**The Forestry
Commission's grant
schemes**

SECTION II CENTRAL GOVERNMENT FINANCIAL ASSISTANCE AND TREE PLANTING

17. Approved planting by private landowners for a timber crop may qualify for grant assistance through the Forestry Commission. For areas of 10 hectares (25 acres) or over, grants are available under the Commission's Basis III dedication scheme. In considering applications for entry to this scheme, the Forestry Commission must be satisfied that the land is suitable for forestry use, after consultation as necessary with the Ministry of Agriculture, Fisheries and Food, the local planning authority (including National Park Authorities) and other appropriate authorities. In return for grant aid, owners accept a continuing obligation by Deed of Covenant to manage all their woodlands within the scheme in accordance with plans of operations designed to secure good forestry practice, effective integration with agriculture, environmental safeguards and such opportunities for public recreation as may be appropriate. A larger grant is payable where broadleaved species are planted. The Forestry Commission will consider Basis III applications in respect of existing woodlands—and especially broadleaved woodlands—for rehabilitation by selective planting and natural regeneration aimed at bringing them into a productive state, without recourse to complete clearance. Details of the Basis III dedication scheme were notified to authorities when they were first announced in July 1974. The Government announced, on 30th March 1977, the introduction of a small woods scheme which covers approved planting from 0.25 hectares up to 10 hectares, the lower limit of the Basis III dedication scheme. The small woods scheme gives special emphasis to the planting of broadleaves where sites are suitable and where the existing landscape is essentially broadleaved in character. It follows, therefore, that, in many lowland areas, there will be a presumption in favour of grant aiding broadleaved planting under the scheme. Further details on the Commission's grant schemes are available in their leaflet "Advice for Woodland Owners".

**Public access and
recreational facilities**

18. The objectives of management incorporated in a deed or agreement of dedication include an obligation on the owner, if and when requested by the local planning authority, to enter into discussions with a view to

negotiating an access agreement and to providing any appropriate facilities for public recreation consistent with sound silviculture and nature conservation. Should a local planning authority find it necessary to make an access order under Section 65 of the National Parks and Access to the Countryside Act 1949, the appropriate Secretary of State will, in considering whether to confirm it, take into account this obligation and the steps taken by the owner to fulfil it. Grants towards authorities' expenditure on access are available from the Countryside Commission.*

The Forestry Commission's consultation arrangements

19. Provisions for consultation between the Forestry Commission and local authorities have been made for the dedication scheme and for the small woods scheme, and also on applications for felling licences (see paragraph 67). Where forestry has been covered in structure and local plans, an indication of the local authority's views on the principles to which planting should conform may reduce the need for consultation in individual cases. Authorities are recommended to consider whether they are prepared to dispense with consultation for certain parts of their area or for cases that fall into certain categories, such as the small woods scheme, for example, and inform the Conservator (see Appendix 3) accordingly. The aim should be to reach a full understanding with the Conservator on areas or categories of application which are to be subject of consultation. Where authorities wish to be consulted, it may be appropriate for consideration of proposals falling into certain categories to be delegated to officers.

Consultation arrangements for dedication proposals

20. Arrangements for local authorities to be consulted on dedication proposals were included in the July 1974 announcement (see paragraph 17). When he receives an application for entry to the dedication scheme in respect of land not already used for forestry, the Forestry Commission Conservator will invite the local planning authority and other interested statutory bodies to comment within 2 months on its acceptability for forestry use. In the event of a disagreement which cannot be resolved informally through further discussion, the Regional Advisory Committee for the Conservancy (see paragraph 22) will be invited to assist the Commission in reconciling views. Where differences of view still persist, the Commission will seek the views of the Forestry Minister (in England, the Minister for Agriculture, Fisheries and Food, who will consult the Secretary of State for the Environment if there is a planning or amenity interest; in Wales, the Secretary of State for Wales). In giving their decision on the application, the Forestry Commission will explain fully their reasons for reaching it to all the parties concerned. Irrespective of whether a change of land use is involved, local authorities will be given 3 months to comment, if they wish, on the 5-year plans of operations under the Basis III dedication scheme (where an initial plan of operations is concerned, the start of this 3 month period will coincide with the 2 months for consultation on the afforestation proposal). The Forestry Ministers and the Secretary of State for the Environment are confident that it will continue to prove possible to settle nearly every case at local level without reference to them. Where a local authority knows of local amenity societies who may wish to express a view, it will be for the local authority—and not the Forestry Commission—to consult them as they see fit. The Secretaries of State are in favour of such consultation

*Grants to Local Authorities and Other Public Bodies for Conservation and Recreation in the Countryside—Countryside Commission No. CCP 78.

and when any such bodies make comments on a proposal, authorities should inform the Forestry Commission of such comments and take them into account in making their own observations.

Consultation arrangements for small woods scheme

21. It is intended that the administration of the small woods scheme, including consultation arrangements, should be kept as simple as possible. It is expected that the scheme will prove welcome to local authorities and that proposals will normally be acceptable to them. The Conservator will consult the local authority about all proposals in National Parks and Areas of Outstanding Natural Beauty. Elsewhere, the Conservator will consult the local authority on individual cases as required by the understanding reached with them on consultation (see paragraph 20). Authorities will be consulted by being sent a copy of the application and map; if the Conservator has not had any response after 14 days, he will assume that the authority has no comment. If the authority do object to any aspect of the proposal, the Conservator will seek an agreed solution through negotiations with the applicant and the authority. If agreement cannot be reached, the proposal will be referred to the Regional Advisory Committee who will advise the Forestry Commission on the merits of the proposal. In all cases, whether consultation is required or not, the authority will be notified of all applications approved for grant.

Regional Advisory Committees

22. In accordance with Section 37 of the Forestry Act 1967, the Forestry Commission maintain a Regional Advisory Committee in each Conservancy to advise on the performance of their functions under Section 1(3) and Part II of the Act. In addition, they advise them on certain other matters. At present these are the social effect of any of the Commission's activities; the development of facilities for recreation and other social amenities; the effect of the Commission's activities on the countryside and on other land users, especially in agriculture and forestry, so as to ensure continued good relationships with all other regional bodies directly interested in the use of land, rural protection, nature conservation and the welfare of the countryside; regional strategies and structure and local plans; and assistance in reconciling differences of view arising on applications for grant aid or for felling licences (see paragraphs 20, 21 and 67). The Committees include representatives of forestry, agriculture, planning, environmental and trade union interests. This membership, coupled with the provisions for them to appoint ad hoc sub-committees and assessors, is intended to provide adequate opportunity for the planning and environmental points of view to be heard along with those of the other interests concerned. The bodies invited to suggest candidates from whom appointments will be made to the Committees include: forestry organisations, as required by the Forestry Act 1967; the Associations of County and District Councils; the Welsh Counties' Committee and the Council for the Principality; trade unions representing forestry workers; the National Farmers' Union and the Farmers' Union of Wales; the Countryside Commission; the Nature Conservancy Council; the Country Landowners' Association and the Councils for the Protection of Rural England and Wales. In appointing members, the Commission seeks to provide the widest possible representation of interests.

Other Government grants

23. Apart from the Forestry Commission's schemes, financial assistance for tree planting is available from the Countryside Commission, the Nature Conservancy Council, the Department of the Environment, the Welsh Office and the Ministry of Agriculture, Fisheries and Food. Assistance is available to encourage planting where it will enhance the

appearance of the countryside; or is on local authority housing estates, in a general improvement area or a housing action area or conservation area enhancement scheme, and for planting when it is an integral element in the reclamation of derelict land. There are other schemes for the provision of a shelter belt for agricultural or horticultural purposes; and for tree planting and maintenance in nature reserves. Details are given in Appendix 2. The Countryside Commission have reviewed their grant aid arrangements in order to complement the small woods scheme (see paragraph 17) and to provide incentives for the better management of existing landscape features. There is no limit to the size of scheme on public land which the Countryside Commission will consider for grant so long as the purpose is to conserve or enhance natural beauty, but an upper limit of 0.25 hectare planting blocks applies to schemes on private land unless, exceptionally, the scheme is specifically for amenity purposes and grant from the Forestry Commission would be inappropriate. The Countryside Commission believe that the most effective way of distributing grant is through local authorities, who may wish to give appropriate publicity to the availability of these grants. It is their intention to seek agreements with local authorities so that local authority planting programmes, or arrangements whereby local authorities advise the Countryside Commission on planting schemes prepared by private landowners which the Commission then grant aid directly, are available throughout England and Wales.

Tree planting and trees on land in Government ownership

24. It is the Forestry Commission's practice and intention to consult the local planning authorities (and, in national parks, the National Park Authorities) on its main operations, including the planting of new land and the clear felling and restocking of existing woodland in those areas of amenity importance where the local authorities have indicated that they wish to be so consulted. Where agreement on a particular proposal is not possible, the Commission may seek the advice of the Regional Advisory Committee (see paragraph 22); if agreement still cannot be reached the matter would be referred to Ministers. As in proposals by private owners, it is important to reach a full understanding with the Commission's Conservator about areas where consultation should take place. Arrangements have also been made whereby the local planning authority will be invited by Government Departments to comment on their proposals for a change of land use to forestry (or the acquisition of land for this purpose) or felling that would otherwise come within the scope of felling licence control (see Section IX).

New agricultural landscapes

SECTION III TREES IN THE COUNTRYSIDE

25. Recent years have seen considerable changes in the appearance of the farmed countryside in lowland England and Wales, and the loss of trees and hedgerows has been one of the most important of these. The Countryside Commission undertook a study of farming landscapes in the lowlands and their consultants' report, "New Agricultural Landscapes"* was published in 1974. This indicated that the loss of cover is widespread, that it is continuing rapidly and is leading to a deterioration in landscape quality. Initiatives that have been taken so far have done little to check this process, while pressure for further change may increase. After discussion and consideration of the issues in the consultants' report, the

*New Agricultural Landscapes—Countryside Commission No CCP 76 (£3.00).

Commission published a policy statement† in 1977 urging a positive approach to landscape conservation covering land in both private and public ownership and advocating new and bolder initiatives by public authorities, farmers and landowners.

26. Broadly, the Secretaries of State have accepted the report's analysis of the problems and the Commission's recommendations and are considering, with their colleagues and the Commission, specific proposals for action by central government, including the production of guidelines for landscape conservation. Similarly, local authorities have been invited to produce guidelines for conserving the landscape in their care. In a welcome response to the Commission's statement, the National Farmers' Union and the Country Landowners' Association have issued a joint statement of intent giving guidelines on conservation to farmers and landowners*. This statement also represents a response to the Nature Conservancy Council's paper "Nature Conservation and Agriculture" (paragraph 30).

27. Action by the Countryside Commission itself towards solving the problems identified by the New Agricultural Landscapes study include the demonstration on a series of 10 commercial farms of methods of reconciling conflicts between landscape, wildlife conservation and farming interests (the "Demonstration Farms Project") and the setting up, in association with local authorities and the Ministry for Agriculture, Fisheries and Food, of a number of "New Agricultural Landscapes Projects". These involve the planting of trees and woodland on public and private land over substantial tracts of countryside, and the conservation of existing landscape features. The Commission have also revised and expanded their scheme for grants for tree planting (see paragraph 23 and Appendix 2).

Trees and upland landscapes

28. Besides the developments described in "New Agricultural Landscapes", there have also been changes in the appearance of the upland landscape and in its tree cover but these have yet to be fully assessed. The Countryside Commission have commissioned a study, which will explore landscape changes in the uplands, the reasons for them and what action may be needed as a result to safeguard landscape conservation objectives. There has been an extensive conversion of land in the uplands to mainly coniferous forestry and some existing woodland has been brought into commercial production, including replanting with conifers. Predominantly, these developments have been undertaken by, or with grant from, the Forestry Commission. Full account is taken of landscape and amenity considerations by the Commission in preparing their planting programme and in considering applications for grant from the private sector. In addition, greater encouragement is now being given to the planting of broadleaves, where appropriate, and to rehabilitating existing woodlands through the Basis III dedication scheme and the small woods scheme (see Section II).

The Agricultural Development and Advisory Service

29. In addition to making direct contact with farmers and landowners, it is important that local authorities ensure that Agricultural Development and Advisory Service officers of the Ministry of Agriculture, Fisheries and Food are aware of their views on sites and species for planting so that they can take this into account when advising farmers.

†New Agricultural Landscapes: Issues, Objectives and Action—CCn No CCP 102.

*"Caring for the Countryside—A Statement of Intent for Farmers and Landowners"—NFU & CLA Nov 1977.

**Nature conservation
and the countryside**

30. Losses of trees and hedgerows since the war years represent an erosion not only of landscape quality, but also of important wildlife habitats. These provide the only permanent cover in areas of countryside which are regularly cropped and cleared. Wildlife flourishes in the small woods, hedgerows and shelterbelts whose structure and composition is similar to woodland edges. Where these are removed and the land used for other purposes, there is often no alternative shelter available. The attention of authorities is called to the work of the Nature Conservancy Council, especially their recent paper "Nature Conservation and Agriculture" and to their other publications on this subject, some of which are listed in Appendix I.

**Hedgerow trees and
hedges**

31. Where authorities undertake the maintenance of hedges and hedgerows in the countryside, they are encouraged, where possible, to adopt methods which will allow standard trees to develop. These should be marked with a stake to avoid damage. The use of flail mowers for trimming hedges results in torn and bruised stems which cause considerable die-back and give entry for disease, as well as looking ugly. Alternative methods, such as the use of cutter bar mowers or traditional techniques are therefore to be encouraged. The Ministry of Agriculture, Fisheries and Food and the Nature Conservancy Council have leaflets with advice on the maintenance of hedges*. In general, roadside hedges belong to the adjoining owners but some authorities have made agreements with owners to ensure that the owners properly maintain hedgerows and hedgerow trees.

**Damage to trees from
controlled burning**

32. Where proper precautions are not observed, straw and stubble burning can result in damage to farmland trees and hedges. District councils have the power to make byelaws to control straw and stubble burning. The Home Office has model byelaws applying the enforceable provisions of the National Farmers' Union Straw and Stubble Burning Code which, if observed, should prevent such damage occurring. Where no such byelaws are in force, farmers should nevertheless be advised to follow the procedures laid down in the NFU Code. In upland areas, where burning of heather and grass is carried out to improve herbage quality, there may be similar risks to trees and woodland. Landowners are required to comply with the Heather and Grass Burning (England and Wales) Regulations 1949 and to obtain a licence, if appropriate, from the Minister for Agriculture, Fisheries and Food.

SECTION IV DUTCH ELM AND OTHER TREE DISEASES AND DANGEROUS TREES

Dutch elm disease

33. Local authorities will wish to give consideration to the effect of Dutch elm disease on the tree population in their areas. The disease is now too widespread in many parts of England and Wales for its control to be considered a practical measure. In such areas, where trees have not been cleared for their timber value, efforts should be directed to ensuring the clearance of dead elms for reasons of safety and amenity. In other parts of the country where disease levels are very low, control by sanitation felling (ie, felling of diseased trees and the destruction of the bark) should be considered. Efforts should be concentrated in urban areas and elsewhere in specifically defined areas where the elm population

*Fixed equipment on the farm leaflet No 11—Farm and Estate Hedges (MAFF)—HMSO.
Hedges and Shelterbelts—NCC 19 Belgrave Sq London SW1X 8PY.

is geographically isolated from adjoining, more severely affected areas. Sanitation felling campaigns, if vigorously pursued on this basis, have demonstrated that the development of the disease can be slowed down, although not eradicated. Certain local authorities have powers intended to prevent the spread of infection and there are also restrictions in parts of the country on the movement of elm timber with bark attached. The areas covered by these provisions are listed in the Dutch Elm Disease (Local Authorities) Order 1977 (SI 1977 No 1074) and in the Dutch Elm Disease (Restriction on Movement) Order 1977 (SI 1977 No 1075). The Secretaries of State hope that where these provisions are available to abate the spread of the disease, local authorities will continue to use them as far as financial resources permit. In areas where there is a good chance of success, the Countryside Commission is prepared to consider application for grants for combined programmes of sanitation felling and replanting.

34. The Forestry Commission has produced a leaflet on the biology and control of Dutch elm disease* which will be useful to local authorities and others who require further information on the disease. It is acknowledged that, aside from efforts to control the spread of the disease, there is a widespread problem with the removal of dead elms especially on privately owned land. In these cases, the responsibility to carry out any necessary work, including felling, rests with the tree owner. The Government has reviewed the possibility of providing general assistance towards the cost of such work but has concluded that, having regard in particular to the current constraints on public expenditure, it is unable to do so.

Replacement of elms

35. Dutch elm disease has caused a very heavy loss of trees: the scenery has been altered wherever elms were a dominant feature and further loss is likely. In the short term, at least, it would be imprudent to replace this loss by planting new elms. Replacement with other trees which make a similar—or perhaps, in urban areas, a more suitable—contribution to the environment is advisable. Attention is drawn, in this connection, to the Forestry Commission's leaflet† on the replacement of elms, which contains notes on alternative species; and to the availability of grant. The Countryside Commission give priority to applications for grants from seriously affected areas in the countryside (see Appendix 2).

Other tree diseases

36. There are many other diseases and disorders of trees: some from time to time may be a cause for concern but none are likely to be as devastating as Dutch elm disease. Beech bark disease, for example, has caused serious damage locally to both specimen beech trees and beech in plantations. Recently, beech and some other species have been seriously affected by drought but such events are unlikely to recur frequently. Further information on a number of the more important tree diseases is contained in a series of leaflets published by the Forestry Commission.

Powers for authorities to fell dangerous trees

37. There are circumstances in which local authorities may require the owner of a dangerous tree to remove the danger. Sections 23 and 24 of the Local Government (Miscellaneous Provisions) Act 1976 enable district councils to take action in connection with a dangerous tree when asked to do so by the owner or occupier of land in which the tree

*Dutch Elm Disease—Forestry Commission Leaflet No 115 (HMSO) 1977.

†Replacement of Elm in the Countryside—Forestry Commission leaflet No 57 (HMSO) 1973.

stands or of land which is threatened by it. The Council may take action on their own initiative where persons or property on land in their ownership or occupation are threatened. The Act provides the power, which should be used only as a last resort, to enter privately owned land and make a tree safe. Councils are empowered by Section 24 to recover expenses from the owner or occupier of the land in which the tree stands; this is not mandatory but there should be a presumption in favour of recovery except in cases of exceptional hardship. When an authority is approached by a neighbour, they should be particularly careful to ensure that he has made a genuine effort to reach agreement with the tree owner before taking action. It is suggested that, in National Parks, the district council should consult the National Park Authority before exercising their power to fell trees under the Act. Councils which are highway authorities have powers under Section 10 of the Highways (Miscellaneous Provisions) Act 1961 to secure the removal of a tree where there is the likelihood of danger from it falling on to a highway. This power is an extension of the power under Section 134 of the Highways Act 1959 to secure the cutting back of vegetation which overhangs the highway.

SECTION V RESEARCH

38. The Forestry Commission is engaged in a wide range of research programmes. The Department of the Environment has also allocated funds for a programme of arboricultural research which is being undertaken by the Forestry Commission and by the Natural Environment Research Council's Institute of Terrestrial Ecology. Concern has been expressed over the heavy loss of newly planted trees and techniques will be investigated for the production of trees, site preparation, planting and subsequent maintenance. Work will also continue on the selection of suitable species for planting on difficult sites, in particular colliery spoil. Decay is another major problem, and research will be done on methods of detection of decay and assessment of its seriousness, on identification of the fungi involved, and on methods of prevention, including the treatment of wounds. Further funds have been allocated to research on the relationship between tree roots and buildings (see paragraph 73). One of the ways in which the results of this work will be made available will be through the publication of advisory arboricultural leaflets.

Information and advisory service

39. As part of the DOE-funded research programme, an information and advisory service on arboriculture has been established at the Forestry Commission Research Station. The range of services include answering enquiries and providing a digest of recent arboricultural publications. Authorities are invited to use this service and should contact the Forestry Commission Research Station, Alice Holt Lodge, Wrecclesham, Farnham, Surrey, GU10 3LH (042 04 2255).

SECTION VI THE APPLICATION OF TREE PRESERVATION ORDERS

Grounds for making tree preservation orders

40. Section 60 of the Town and Country Planning Act 1971 (as amended by Section 10 of the Town and Country Amenities Act 1974) empowers a local planning authority to protect trees in the interests of amenity by making tree preservation orders, which bring under the control of the authority the felling, lopping, etc of specified trees and woodlands. Authorities have a duty to make such orders, where appropriate, when

granting planning permission (see paragraph 75). More generally, orders should be used to protect selected trees and woodlands if their removal would have a significant impact on the environment and its enjoyment by the public. The Secretaries of State consider that authorities ought to be able to show that a reasonable degree of public benefit would accrue before orders are made or confirmed. The trees—or at least part of them—should therefore normally be visible from a public place (such as a road or footpath), although, exceptionally, the inclusion of other trees may be justified. The benefit may be present or future (for example, when proposed development has taken place). Trees may be worthy of preservation for their intrinsic beauty or for their contribution to the landscape; or because they serve to screen an eyesore or future development; the value of trees may be enhanced by their scarcity; and the value of a group of trees or woodland may be collective only. Other factors (such as importance as a wildlife habitat) may be taken into account which alone would not be sufficient to warrant an order. Although the loss of trees would need to be significant, the risk of felling need not be imminent before an order is made and trees may be regarded as at risk generally from development pressures: changes in property ownership and intentions to fell trees are not often known in advance and the preservation of selected trees by precautionary orders may therefore be considered to be expedient. In some cases an order may not be expedient; for example, there is little risk to trees owned by or managed under agreement with the National Trust. An order may not be appropriate where owners are known to manage their estates acceptably with proper regard for amenity where such management is expected to continue. It is considered that all tree preservation orders should be administered positively and authorities are advised to consider their approach to any applications for consent under the order when making the order and to make clear to the owner what it will be (see paragraph 58). They are also encouraged to offer, or direct owners of preserved trees to sources of advice on tree management.

41. While orders are appropriate to secure the protection of individual trees or small groups, an order on a woodland can render essential management work—which may include regular felling or thinning—difficult and cumbersome so that owners may be induced by an order to allow their woodland to run derelict. It is better, therefore, for authorities to seek agreements with landowners for the proper management of their woodlands using grants available from the Countryside Commission or the Forestry Commission's small woods scheme (see Section II), and to use orders as a last resort. Woodlands in respect of which grant has been paid under a Forestry Commission scheme are normally outside the scope of tree preservation order control (see paragraph 47): this includes grants under the small woods scheme and for the rehabilitation of existing woodland (see Section II). It is expected that many areas of woodland of 0.25 hectare and over will become subject to such a scheme. It is thought likely that felling licence control (including arrangements for consultation with local authorities (see Section II)) will often provide an adequate means of conserving amenity; and the Secretaries of State will expect authorities to show that this is not so before opposed orders in respect of woodland are confirmed. Orders may be justified, for example, where a woodland is being eroded outside felling licence control or where the Forestry Commission propose to grant a licence but are not proposing, for whatever reason, to impose re-planting conditions. There may also be exceptional cases of woodland of such high amenity value that felling, even though silviculturally justifiable, would not be acceptable.

Scope of tree preservation orders

42. The purpose of a tree preservation order is to protect trees and woodland from wilful damage and destruction and to prevent the felling, topping, lopping, or uprooting of such trees without the consent of the local planning authority. The term "tree" is not defined, even by means of a minimum girth of stem; nor is the term "woodland". Under Section 60(6) of the 1971 Act, consent is not required for the cutting down, uprooting, topping or lopping of trees that are dead, dying or dangerous; or the carrying out of work in compliance with an obligation under an Act of Parliament, or to prevent or abate a nuisance. Other exemptions from the requirement to obtain consent are included in the form of order prescribed in the Town and Country Planning (Tree Preservation Order) Regulations 1969*. These exemptions include specified work by or at the request of a statutory undertaker (where the tree is on operational land), an electricity board, a water authority or drainage board; work on trees which obstruct the safe and efficient use of an airfield or defence installation; work immediately required for the purpose of carrying out development (but see paragraph 77) and work on fruit trees, so long as they are cultivated for fruit production. Paragraph 68 explains the relationship between tree preservation orders and felling licences and the procedure agreed where an application for a licence relates to trees covered by an order.

43. Orders may be made in respect of individual trees, groups of trees and woodlands. The prescribed form of order makes provision in the 1st Schedule for trees to be specified by reference to an area. This classification is not meant for groups of trees or woodlands, but is only an alternative way of specifying scattered single trees for protection. Its drawbacks are, firstly, the possibility of including trees not worth protecting and secondly, since the order only protects trees growing at the time the order was made, the onus would be on the local planning authority in proceedings in respect of a contravention to prove that the tree was growing when the order was made: in time this might become difficult. This method of specification should therefore be used with the utmost discrimination: in the opinion of the Secretaries of State, it is quite inappropriate to make a blanket order with a view to maintaining general control over an extensive area.

Hedges, bushes and shrubs

44. The Secretaries of State consider that a tree preservation order may only be used to protect trees and cannot apply to bushes or shrubs, or to hedges as such. There is no bar to the use of orders to protect trees in hedges or indeed trees that constitute a hedge, provided that the trees are of a reasonable height and have not been regularly trimmed, but if an order were to be placed on hedgerows it is considered that only the trees in the hedge would be protected.

Crown Land

45. Under Section 266(2)(a) of the 1971 Act, trees on land in which the Crown has an interest cannot be included in a tree preservation order without the consent of the appropriate authority. This will normally be the Government Department holding the interest in the land. There is no objection in principle to the inclusion of such trees and consent will not be unreasonably withheld, although the order would not operate so as to require consent to be obtained by the Crown and would only constrain other interests, or a subsequent owner, if the Crown should sell its interest. Departments would, however, normally consult the authority informally before doing work which would otherwise require consent.

*SI 1969 No 17 (as amended by SI 1975 No 148).

Local authority-owned land

46. A local authority may make a tree preservation order for trees on land in its ownership. However, where this is done, or where an authority acquires land on which there are trees protected by an order it has made, and the authority wishes to do work for which consent is required under the order, the consent of the Secretary of State for the Environment or for Wales is necessary under Regulation 12 of the Town and Country Planning General Regulations 1976. In the view of the Secretaries of State, it would very rarely be appropriate for one local authority to make a tree preservation order for trees on land owned by another local authority in their area.

Woodland subject to forestry dedication covenants and forestry grant schemes

47. Section 60(7) of the 1971 Act provides that a tree preservation order may not be made where a forestry dedication covenant is in force or where the Forestry Commission have made advances under the Forestry Act 1967, unless there is no plan of operations in force and the Forestry Commission agree. Authorities should therefore find out from the Forestry Commission Conservator whether this would apply to any order they have in mind. The controls which the Forestry Commission exercise where there is a dedication or other grant scheme may be expected to have proper regard for amenity (see paragraph 17) and it is not intended that there should be parallel control by the local planning authority, who will where appropriate have been consulted on any dedication proposal under the current scheme (see Section II). In any such case where the Forestry Commission agree to an order being made, the prescribed form of order provides that consent shall not be required for work which may be carried out under an approved Forestry Commission scheme (see paragraphs 1 and 2 of the 2nd Schedule to the prescribed form of tree preservation order). Where it is proposed to dedicate woodlands or make a grant scheme and a tree preservation order is already in force, the Forestry Commission will consult the local planning authority (see Section II). Where the local authority would be likely to have made an order but for the provisions of Section 60(7) they may wish to ask the Forestry Commission to inform them if the woodland in question ceases to be subject to control by the Commission; the authority will then be in a position to review whether a tree preservation order is required.

Airfields

48. Before a tree preservation order is made for trees on land safeguarded under the Town and Country Planning (Aerodromes) Direction 1972 the local planning authority are advised to consult the appropriate safeguarding department or authority.

Ancient monuments

49. Paragraph 3 of DOE Circular 11/72 (WO 24/72) asks local authorities to consult the Ancient Monuments Secretariat of the Department of the Environment or the Welsh Office, as the case may be, where they propose to make orders that affect scheduled ancient monuments. Where either Department ask an authority to give consent to felling, etc, where damage to monuments would otherwise be caused, the Secretaries of State hope that consent will be readily granted.

Distribution of powers between order-making authorities

50. Since 1st April 1974, a tree preservation order can be made by both county and district planning authorities; agreed arrangements for carrying out these responsibilities will probably by now have been adopted. Authorities were given the opportunity to settle for themselves who should be responsible for orders made before 1st April 1974. In cases where agreement was not reached, the responsibility rests with the

relevant district council where orders were made by the previous county borough council or the previous district council acting under delegated powers; and with the relevant county council where orders were made by the previous county council. Where an order covers trees on land which straddles a new boundary, the respective authorities are responsible for that part of the order site which falls within their areas.

Publicity

51. It is suggested that, where a tree preservation order might affect the interests of neighbouring owners or where there is likely to be extensive public interest, consideration should be given to the display of a site notice or other suitable publicity, including notifying such owners. This also applies to applications in similar cases for consent (or proposals by a Government Department) to fell trees covered by an order; local authorities should inform any local amenity society or member of the public who may have originally proposed the making of the order. A question and answer leaflet has been produced which authorities may find useful to send out when serving orders and in dealing with queries about tree preservation orders from members of the public. A copy of this leaflet is enclosed for addressees and further copies are available from the Department of the Environment (Central), HQ Establishment, Information Division, Building No 3 Victoria Rd, South Ruislip, Middx HA4 0NX or the Welsh Office, Information Division, Oxford House, Hills St, Cardiff CF1 2XG.

SECTION VII TREE PRESERVATION ORDER PROCEDURES

Procedure for making orders

52. The procedure for making a tree preservation order is set out in the Regulations. Orders must be substantially in the form prescribed in the Schedule to the Regulations as amended by the Town and Country Planning (TPO) (Amendment) and (Trees in Conservation Areas) (Exempted Cases) Regulations 1975*. The order must define the position of the trees, groups of trees or woodlands to which it relates and, for that purpose, must include a map.

53. On making an order, an authority must place on deposit a certified copy of the order and map at a convenient place in the locality where the trees are and serve on the owners and occupiers of the land a copy of the order and map and a notice stating the grounds on which the order is made and the place where the certified copy may be inspected. It should also state that objections may be made to the appropriate Secretary of State (at the appropriate Regional Office of the Department of the Environment or the Welsh Office as the case may be) and should set out the form in which objections should be made. County planning authorities are asked to ensure that, for general convenience, the places of deposit for any orders they make include the places where orders made by the local district council would be deposited. A copy of the order and map and a list of persons upon whom notice has been served must be sent to the local Conservator of Forests (list at Appendix 2) and to the District Valuer.

Confirmation of tree preservation orders

54. If no objections are duly made, the order-making authority can confirm the order after 42 days provided no modifications are required. This must be stated in the notice (see paragraph 53). If there are

*SI 1975 No 148.

objections or representations, or if modifications are proposed, the order must be submitted to the appropriate Secretary of State. It is the practice of the Secretaries of State to provide an opportunity, wherever practicable, to resolve objections amicably and authorities should therefore pursue the invitation normally given to negotiate with objectors. Objections are normally considered on the basis of written representations and a site visit by an officer from the appropriate Department. The Secretaries of State may, at their discretion, arrange a public inquiry. If all objections and representations are withdrawn, the order is returned to the authority for confirmation.

Provisional tree preservation orders

55. Where a local planning authority considers that a tree preservation order should take effect immediately without previous confirmation, a direction under Section 61 of the 1971 Act may be included in the order whereby it becomes effective provisionally for a period of up to 6 months unless a decision is made on the order earlier. The inclusion of a direction must also be stated in the notice (see paragraph 53). Where a direction under Section 61 of the 1971 Act lapses, trees covered by an order cease to be protected until it is confirmed. It is therefore important that negotiations should be conducted expeditiously, having regard to the need for the Secretary of State to make a decision before the direction lapses. It may be necessary, in some cases, for him to arrange a site visit to enable him to come to a decision before negotiations have been completed. It should be borne in mind that, while the order is provisionally effective for not more than 6 months from the date the order is made, objections may be made up to 28 days from the date of the service of the notice. Notices should therefore be served as promptly as possible. It is considered that, if a decision has not been made and the Section 61 direction lapses, the direction cannot be renewed, for example by the making of a new order including a fresh direction.

Local land charges register

56. A tree preservation order is a planning charge, registrable in the local Land Charges Register for the London borough or district in which the trees stand. Orders should be registered as soon as possible after confirmation and whenever they are revoked or varied, the register should be amended. Provisional orders should also be registered.

Modification, variation and revocation of orders

57. It is very important that orders, including the Schedule and the map, should be accurate and that, unless there is extreme urgency and the Council have been satisfied that an order is justified, the trees should be surveyed beforehand. The Secretaries of State take the view that the scope for using their power to modify orders for the correction of errors is very limited. Thus, if an order mis-states the number of trees in a group, or wrongly identifies the species, or where the map wrongly identifies the site of a tree, it is likely that the error could only be corrected if it was decided not to confirm the order and a fresh order was made. An order cannot be modified after it has been confirmed, except by means of an order made under Section 287(3) of the 1971 Act (see also the 3rd Schedule to the prescribed form of order). The Secretaries of State consider that they have no power to extend the scope of an order by modification by including additional trees or to reclassify the trees concerned, for example from a group to individual trees.

Applications for consent under a tree preservation order

58. The form of a tree preservation order which appears as a Schedule to the Regulations (SI 1969 No 17) lays down the procedure for the granting of consent to cut down, uproot, top or lop a protected tree

required under an order. An authority may grant consent unconditionally, or subject to conditions including a condition to replant (see paragraph 60). It must be recognised that the mere preservation of existing trees would lead to their decay and ultimate loss. There are occasional examples where preservation far beyond maturity for timber purposes may be justified (for example, the old oak on a village green) but even in such cases, the need for felling and replanting will arise sooner or later. Management is important in all woodlands—not only productive ones—and, unless there are nature conservation reasons for leaving a completely undisturbed unit, trees must be felled from time to time and replaced. A tree preservation order should be used to ensure that these operations take place in an orderly fashion so as to maintain the amenity of the woodland as far as possible. The principles of good forestry do not generally conflict with the long term aim of an order. Consideration of applications will often require a balance to be struck between amenity and other factors, such as potential or actual damage to buildings or change of land use. Where proposals are not in conflict with the long term purpose of an order (such as suitable tree surgery or selective felling and replanting), the grant of consent should normally be straightforward: special considerations may justify the issue of a certificate under Article 5(b) of the Order (see paragraph 62). In respect of woodlands, the Regulations require authorities to grant consent so far as accords with the principles of good forestry, except where, in their opinion, it is necessary to maintain the special character of an area in the interests of amenity; they may not otherwise impose replacement conditions on consents in respect of woodlands. Article 4(2) of the prescribed form of order requires authorities to keep a register of all applications for consent under a tree preservation order and of their decisions, which should be available for public inspection at all reasonable times, preferably at the Town Hall or council offices. In the case of orders for which county planning authorities are responsible, the register should be kept in the district concerned at the place where registers relating to any order administered or made by the district planning authority are kept.

Refusal of consent and appeals

59. Under the 3rd Schedule to the prescribed form of order (which applies with modifications the procedure for appeals against planning conditions), where consent is refused or is granted subject to conditions, the applicant for consent may appeal to the appropriate Secretary of State, who may allow or dismiss the appeal or vary any part of the decision of the authority. Normally, appeals are settled on the basis of written representations but both the appellant and the authority have a right to a hearing.

Replanting of trees

60. Trees covered by an order may be required to be replanted either under the provision of Section 62 of the 1971 Act or as a condition of a consent to fell. Under Section 62, where a preserved tree is removed or destroyed in contravention of an order or when its cutting down is authorised only by virtue of its being dead, dying or dangerous, it is the landowner's duty, unless the local planning authority waive this requirement, to plant another tree of an appropriate size and species as soon as he reasonably can. (This provision was first included in the Civic Amenities Act 1967 but it applies, of course, to orders made prior to that Act.) Section 62 does not apply to trees covered as part of a woodland. Replanting cannot be required other than at the same place. The original tree preservation order applies to the new tree—even if it is of a different species—and a duty to replant transfers to the new owner

where the land in question changes hands. There is no right of appeal against an authority's decision to insist on replanting, except where the authority take steps to enforce the requirement (see below). Under Article 4(1) of the prescribed form of order, an authority may, in granting consent under a tree preservation order, include conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity as they see fit. Such a requirement can be effectively imposed only on the applicant who is an owner, as defined in the order, or who has a right of entry which will enable him to comply with the condition. This might result in liability for fulfilling the condition resting with the owner of land on which trees stand rather than a party to whom the timber may have been sold standing. A replanting condition may be enforced against a subsequent owner who has exercised the consent to which the condition attached. The 1971 Act does not provide for trees planted pursuant to a replanting condition or direction to be automatically protected by the order under which consent was given. Where the felled trees and their replacements comprise only part of a group or woodland, however, it is considered that the replacements would be protected provided the composition of the group or woodland, as given in the order, was preserved. In other cases, a fresh order may be required to protect replacements. Where the duty to replant under Section 62 or a replanting condition attached to a consent to fell has not been complied with, Section 103 of the 1971 Act empowers an authority to enforce the requirement to replace trees. An enforcement notice must be served within 4 years of the date of the failure to replant. The replanting of trees protected by a tree preservation order in the countryside may be eligible for grant-aid from Countryside Commission (see Appendix 2).

Replanting of trees in protected woodlands

61. Under Article 6 of the prescribed form of order, the replanting of woodlands, under a consent granted other than for silvicultural thinnings, is secured by a direction, which an authority is required to give on granting consent, unless the consent is to enable development to be carried out or if the appropriate Secretary of State agrees to this provision being waived.

Compensation

62. Where an authority refuse consent or impose conditions, any person who has suffered loss or damage as a result may claim compensation from the authority (Article 9 of the prescribed form of order). Such compensation is not payable where, under Article 5 of the prescribed form of order, an authority certifies that their decision is in the interests of good forestry or, except in woodlands, that the trees have an outstanding or special amenity value. The issue of such certificates, particularly in the latter case, should be undertaken discriminately and should not be used just to avoid compensation claims. If a direction is given for the replanting of a woodland and the Forestry Commission refuse to grant aid the planting, Section 175 of the 1971 Act provides that compensation shall be paid in respect of any loss or damage caused or incurred in consequence of compliance with the direction. The Countryside Commission may pay grants to authorities towards the cost of compensation in cases in the countryside (see Appendix 2).

Penalties for non-compliance with a tree preservation order

63. If anyone, in contravention of an order, cuts down, uproots or wilfully destroys a tree, or wilfully damages, tops or lops it in such a way that he is likely to destroy it, he is liable to a maximum fine of £1,000 or twice the sum which appears to the Court to be the value of the tree—whichever is the greater—on summary conviction—or an unlimited fine on indictment. Where there is a conviction on indictment,

the Court is required, in assessing the fine, to have regard to any financial benefit which may have accrued to the offender as a result of removing the tree. For lesser offences, the maximum penalty is £200 and, for continuing offences, £5 a day. The penalties are laid down by Section 10 of the Town and Country Amenities Act 1974, as amended by Section 28(2) of the Criminal Law Act 1977.

SECTION VIII TREES IN CONSERVATION AREAS

64. In addition to the availability of tree preservation orders for the protection of trees, further special provisions were made for trees in conservation areas by Section 8 of the Town and Country Amenities Act 1974 which added Section 61A to the Town and Country Planning Act 1971. Under Section 61A, anyone proposing to cut down, top, lop, or uproot or wilfully damage or destroy a tree in a conservation area is required to give 6 weeks' notice of their intention to the district (or London borough) council before the work is carried out. Except where the authority have given their consent, if work is begun without due notice, the person concerned becomes liable to penalties similar to those for contraventions of a tree preservation order and to a similar duty to replant. If the work is not completed within 2 years of giving notice, further notice is needed. The particulars of a notice must be recorded by the council in a register open to public inspection, preferably at the Town Hall. Pursuant to Section 61A(7) of the Act, the Secretaries of State have determined that the register should contain the following particulars:

- (a) the address of the land on which the tree stands and sufficient information to identify the tree;
- (b) details of the work proposed;
- (c) the date of the notice and who served it;
- (d) the decision (when made) of the authority in respect of the tree, the date of any decision and the name of the authority; and
- (e) an index for tracing entries.

The purpose of the requirement to give notice is to give the authority a final opportunity to make a tree preservation order where appropriate, before work is carried out. The provision does not apply where trees are already subject to a tree preservation order, nor in certain other cases, specified in Regulations made under the 1974 Act*: these cases are also excluded from the replanting requirement.

Publicity

65. Local authorities are not formally required to give notice of work on their own trees. The Secretaries of State consider, however, that (at least in cases where there is likely to be public interest) they should record particulars of such work in the register unless there are other opportunities for public participation (such as on development or road proposals). The Act provides for authorities to give consent to work on trees before the expiry of the notice period, but one of the purposes of the notice provision is to enable the public to make their views known to the authority. It is therefore suggested that authorities might normally

*The Town and Country Planning (TPO) (Amendment) and (Trees in Conservation Areas) (Exempted Cases) Regulations 1975 (SI 1975 No 148).

indicate their consent by simply allowing the 6 weeks to expire, without making a tree preservation order, so as to allow maximum opportunity for comments to be made. If an authority consider that an order is appropriate, however, it will need to be made well before the 6 weeks has expired.

SECTION IX FELLING LICENCES

66. Section 9 of the Forestry Act 1967 provides that, except in cases specified in that Section or in Regulations, a felling licence is required from the Forestry Commission for the felling of growing trees. Felling licence control does not apply in inner London boroughs and tree preservation orders will be needed to secure felling control. A licence need not be obtained where it is proposed to fell not more than 825 cu ft of timber in any calendar quarter and not more than 150 cu ft is to be sold. A licence is also not required for:

- (i) the felling of trees not exceeding 3" in diameter or, in the case of coppice or underwood, not exceeding 6"; or not exceeding 4" where this is to improve the growth of other trees;
- (ii) fruit trees or trees in orchards, trees in gardens, church yards or public open spaces;
- (iii) the topping or lopping of trees, or the trimming and laying of hedges.

There are other exemptions similar to those for a tree preservation order (see paragraph 42). Under Section 12 of the Act, a felling licence may be granted subject to conditions requiring replanting. Where a licence is refused or granted on conditions, a dissatisfied owner has a right under Section 16 to appeal against the decision to the Minister for Agriculture, Fisheries and Food or the Secretary of State for Wales as appropriate, who will, before deciding the appeal, seek the advice of selected members of the appeals panel set up under Section 27: the appeals panel includes a number of members with planning and environmental interests.

Consultation with local planning authorities

67. The felling of dedicated woodlands will be covered by plans of operation and thus be subject to the arrangements similar to those described in paragraph 20. The Forestry Commission will also consult the local planning authority in other cases, except in those areas where it has been mutually agreed that consultation is not required, before issuing any felling licence, in order to ensure that environmental issues are taken into account. Authorities are asked to comment on the licence application within 1 month (and their comments may cover the question of any replanting conditions to be attached to the licence). Every effort should be made to reach agreement on the application but, if this is not possible, there is provision for the case to be referred to the Regional Advisory Committee and, if necessary, to the Forestry Minister as for Basis III dedication proposals (see Section II). This will enable the views of local authorities on the timing or phasing of felling, or on the need for and nature of replanting, to be fully taken into account.

Tree preservation orders and felling licences

68. Section 15 of the Forestry Act 1967 provides that a felling licence granted after a tree preservation order has come into force is sufficient authority for the felling, notwithstanding anything in the order. However,

the Forestry Commission will, where a tree preservation order is in force, normally refer any application for a licence to the local authority who may decide to take it over as an application for consent under the order. Where a felling licence is granted in respect of trees covered by a tree preservation order, the authority will be notified by the Forestry Commission Conservator (see Appendix 3) and should enter the decision in the register of consents (see paragraph 58).

69. Paragraphs 40 and 66 make clear that there is a major distinction between tree preservation order and felling licence control. Authorities should not regard the latter as sufficient to protect amenity and they are encouraged to secure further protection, for example, of hedgerow trees—which may be quickly cleared in piecemeal lots of under 825 cu ft per calendar quarter—either by agreement with the landowner, or failing that by imposing a tree preservation order (see also paragraphs 31 and 44).

SECTION X TREES AND DEVELOPMENT

70. The relationship between trees and development is one which causes frequent difficulty. This section gives advice on how such difficulty may be resolved and on measures which authorities should take to protect trees and to ensure appropriate planting where development is being carried out. The impact of new building development is generally enhanced (or mitigated) where adequate landscaping proposals are implemented and this aspect should be given due consideration when applications for planning permission are submitted. Landscaping should be designed to complement the development without reducing the occupants' enjoyment: reasonable daylighting and other requirements need to be observed.

Duty of local planning authorities

71. Local planning authorities have a duty under Section 59 of the 1971 Act to ensure, whenever it is appropriate, that in granting planning permission for any development, adequate provision is made for the preservation and planting of trees and to make tree preservation orders as necessary. It will often be helpful to discuss with developers, many of whom realise the value of retaining and planting trees, the extent and form of the development, in advance of a formal application, with a view to ensuring that it is compatible with the authority's requirements. Section 29 of the 1971 Act requires authorities, in considering applications, to have regard to "material considerations". The effect of proposed development on trees protected by a preservation order ranks as such a consideration.

Protection of trees during development

72. Trees on development sites need to be properly protected to prevent damage during the period of development. This may be achieved by imposing conditions requiring adequate protective fencing of trees which are to be retained and which may be at risk during building work. Damage can easily occur directly or indirectly through soil compaction by vehicles or materials, fires, spillage of oil, the addition or removal of soil above the roots, or interference with the movement of water in the soil. It may often be difficult to prove that damage is intentional and unscrupulous developers may feel a strong temptation not to take sufficient precautions. Local authorities should take steps to ensure that, where there is a requirement to retain trees, infringements are detected. Conditions are more likely to be effective if the authority's concern to secure compliance is shown in the course of any routine inspections as work proceeds. Reports obtained in this way would provide a basis for considering whether further action, such as enforcement proceedings, needed to be taken.

Tree roots and built development

73. The relationship between tree roots and buildings is very complex; the Department of the Environment has commissioned research on this topic, the initial stage of which will be to review information that is already available. Authorities are reminded that buildings erected on shrinkable clay soil are at risk from damage arising from foundation movement caused by soil shrinkage unless they are constructed on the appropriate foundations. Soil shrinkage is greatly increased by periods of prolonged dry weather and by the action of the roots of nearby trees. Problems may also occur if buildings are erected where trees have been removed before construction starts or if trees are removed from the vicinity of existing buildings: where there are trees on a site—or trees are to be planted—appropriate good practice must be followed initially. Authorities are reminded that they are responsible for the enforcement of relevant building regulations governing the depth and type of foundations. Advice issued by the Building Research Establishment* and the National House Building Council† should be borne in mind in this connection. Besides the effect of tree roots and buildings on one another, authorities should also consider the impact of site layouts on the roots of new and existing trees. The application of impervious surfaces to areas previously covered with grass or gravel can lead to a lack of water for trees and affect them in other ways. This is a common problem on roadsides and near car parks and similar developments. On the other hand, if water is run off into the tree pit, the resulting waterlogging can cause damage.

Consideration of applications

74. To assist consideration of applications, authorities should obtain an accurate site plan from the applicant showing the proposed siting of structures with the existing contour of the ground and any proposed alterations in ground level. The map should plot all existing trees, indicating those to be retained and those to be felled and details of trees to be retained should be provided. Areas to be set aside for new planting should also be shown. In addition, particulars will be required of trees on land adjacent to the development site which might be affected by the development or, alternatively, might be useful for screening or other purposes. Before a decision is reached on an application, the authority should identify the trees on the site and adjacent to it which must be retained at all costs: those whose retention is very desirable; those whose retention is desirable but not essential and those not worthy of retention. This may depend on the age and health of the trees; their compatibility with the proposed development and work which may be needed to preserve them. Authorities should then be able to ensure that trees to be planted or existing trees to be retained accord with the development for which permission is granted. Trees may be affected by buildings in several ways and competent advice on the effect of the proposed development on trees to be retained should be obtained by the Council. Having decided on the trees to be retained, it is also necessary to consider how they may be protected (see paragraph 75). It may also be appropriate for an authority to make provision for the retention of trees or of land for planting when granting outline planning permission. Use of the model planning application form issued with DOE Circular 23/72 (WO 58/72) will assist in making information on trees available.

*BRE Digest Nos 63, 64, 67 and 75 (HMSO). BRE Technical Information Leaflet 43—Damage to Buildings on Shrinkable Clay Sites (HMSO).

†NHBC Practice Note 3 "Root Damage by Trees—Siting of Dwellings and Special Precautions".

Use of conditions

75. Provisions for the preservation and planting of trees may be made by the imposition of conditions on planning permissions, including those granted on appeal. Suggested conditions, which, of course, need tailoring to fit particular circumstances are set out at appendix 4. Where conditions are imposed, these may be enforced against the present or a subsequent owner of the property as for any other breach of planning control. Section 59 of the 1971 Act requires authorities to make tree preservation orders as necessary to give effect to such conditions. It is for authorities to decide in each case whether either a planning condition or a tree preservation order (or both) is the most appropriate form of protection. As indicated in MHLG Circular 5/68 (WO 5/68), the Secretaries of State consider that it is not reasonable to use conditions to secure permanent preservation of trees when tree preservation orders are available as a specific provision for this purpose. On the other hand a tree preservation order cannot secure the planting of new trees (other than as replacements), for which purpose planning conditions are therefore appropriate. An order may be made, however, to protect and secure replanting of trees which are to be planted pursuant to conditions (Section 60(3) of the 1971 Act). Alternatively, the retention or planting of trees may be ensured by agreements with developers for example under Section 111 of the Local Government Act 1972 or Section 52 of the 1971 Act and, for roadside trees, under Section 40 of the Highways Act 1959.

Tree preservation orders and development

76. Under paragraph 3(c) of the 2nd Schedule to the prescribed form of tree preservation order, the consent of an authority is not needed for the cutting down, topping or lopping of a tree protected by a tree preservation order where that work is immediately required for the purpose of carrying out development authorised by planning permission granted or deemed to be granted on an application made under Part III of the 1971 Act. Before giving planning permission, authorities should take account of the effect of the proposed development on any such trees. When giving detailed permission, they may find it prudent to tell the developer which trees they think may be felled without consent under paragraph 3(c) of the 2nd Schedule to the prescribed form of tree preservation order. Consideration of how proposed development will fit in with preserving these trees will usually mean more than merely deciding which trees are on the immediate site of buildings etc. Layouts may require careful adjustment to prevent trees which are to remain from causing unreasonable inconvenience to future occupiers; leading inevitably to a request for consent to fell.

77. If permission has only been given on an outline application under Article 5(2) of the Town and Country Planning General Development Order 1977 (SI 1977 No 289), the authority's approval of the details reserved on the permission is required before the development begins and felling, etc cannot properly be said to be "immediately" required for development affected by the reservations and the exemption under paragraph 3(c) of the 2nd Schedule to the prescribed form of tree preservation order will not apply. In the view of the Secretaries of State, this exemption will also not apply to felling, etc to make way for proposed development under the general permission given by Article 3 of the General Development Order (ie development for which express consent is not required).

PUBLICATIONS ON TREES

Appendix 1

Department of the Environment publications

Lanscaping for Flats—Design Bulletin No 5
Housing Development Note II—Pts 1 & 2
Background and Trees in Housing

HMSO 1969
Housing Development Directorate
Becket House
Lambeth Palace Road
London
SE1 7ER
HMSO 1958

Trees in Town and City

Arboricultural Advisory Series—
No 1 External Signs of Decay in Trees
No 2 Honey Fungus
Viruses and Virus-like Diseases of Trees (in preparation)
Sooty Bark Disease of Sycamore (in preparation)

HMSO

Forestry Commission publications

A complete list of publications is contained in HMSO Sectional List No 31, published annually. In addition, the Commission publishes a list of books and periodicals on forestry and allied subjects, which is available free of charge from them at 25 Savile Row, London W1X 2AY or from their Headquarters.

Nature Conservancy Council

Tree Planting and Wildlife Conservation
Hedges and Shelterbelts
Coppiced Woodland
Wildlife Conservation in Old Woodland
Oak Woods

Nature Conservancy Council
19 Belgrave Square
London
SW1X 8PY

Countryside Commission

Grants for Amenity Tree Planting and Management (CCP 103)
Local Authority Tree Planting Programmes in the Countryside (Advisory Publication No 1)

Countryside Commission
John Dower House
Crescent Place
Cheltenham
Glos, GL50 3RA

Ministry of Agriculture Fisheries and Food publications
British Standards

Fixed equipment on the Farm Leaflets
No 11 Farm and Estate Hedges
No 15 Shelterbelts for Farmland

HMSO

Specification for Nursery Stock—
Pt 1—Trees and Shrubs: BS 3936
(Pt 1): 1965
Recommendations for Tree Work:
BS 3998: 1966
Recommendations for Transplanting
Semi-Mature Trees: BS 4043: 1966
Recommendations for General Landscape Operations: BS 4428: 1969
Recommendations for Cultivation and Planting of Trees in the Advanced Nursery Stock Category: BS 5236: 1975
Trees in Relation to Construction Work and Subsequent Maintenance (in preparation)

British Standards Institute
Sales Department
101 Pentonville Road
London N1 9ND

Tel: 01-837 8801

Tree Council

A booklist, prepared by the Council, is available from them at 35 Belgrave Square, London, SW1X 8QN.

Arboricultural Association

A guide to Tree Pruning
The Care of Trees on Development Sites
Trees—Site Preparation and Planting
A Tree for Every Site

} Arboricultural Association
Brokerswood House
Brokerswood
Nr Westbury
Wiltshire BA13 4 EH

FINANCIAL ASSISTANCE AVAILABLE FROM CENTRAL GOVERNMENT SOURCES OUTSIDE THE FORESTRY COMMISSION (see Section II)

The following are the main existing sources of financial assistance from Government sources other than the Forestry Commission's Dedication and small woods schemes for tree planting and retention:

A. Countryside Commission

1. Under Section 9 of the Local Government Act 1974, the Commission are empowered to offer assistance towards expenditure conducive to the conservation of the countryside and its enjoyment for informal recreation. This assistance covers tree planting.
2. The Commission are concerned with the promotion of small scale tree planting in the countryside where the emphasis is primarily to conserve or enhance natural beauty and amenity, and with promotion better standards of landscape management. On private land, grant is available for planting individual sites not normally exceeding 0.25ha. in area and, exceptionally, larger sites where the planting scheme is specifically for amenity purposes; on public land there is no size restriction. Subject to the limit on the size of scheme on private land, grant is also available towards the cost of measures designed to prolong the life of important landscape features; for example, the fencing of small woods to encourage natural re-generation and, for exceptional features, tree surgery necessary to safeguard mature trees.
3. The Commission believe that, in order to obtain the most effective use of their resources, schemes should, in general, be promoted—or at least co-ordinated—by local authorities and priority will be given to comprehensive local authority programmes or to schemes submitted through local authorities. Grant assistance from the Commission is discretionary. For schemes promoted by local authorities and other public bodies on public land, grant will not exceed 50% of acceptable costs. For schemes promoted by local authorities on private land, the rate of grant or form of assistance to private individuals and bodies will be determined by the local authority. The costs of such schemes will be supported at up to 50% of acceptable gross costs including any financial contribution by the applicant. For schemes prepared by private individuals and bodies and accepted for grant-aid, grant will vary to reflect the merits of the particular proposal and, for any schemes over 0.25 ha, to take into account the potential value of the timber. Grant will normally be in the range of 40% to 60% of acceptable costs and will not exceed 75% of such costs. The Commission will give priority to schemes in areas blighted by Dutch elm disease, in areas of outstanding natural beauty, in heritage coasts, in green belts and in other priority areas for landscape conservative or improvement identified in structure and local plans. Cases where trees are protected by tree preservation orders are no longer excluded from grant.
4. The Countryside Commission's leaflet "Grants for Amenity Tree Planting and Management" (CCP 103) gives guidance as to how assistance may be obtained.
5. Local planning authorities may be liable for the payment of compensation for any loss or damage resulting from the refusal of consent for felling under a tree preservation order or from the requirement to replant woodland where the Forestry Commission are not prepared to pay grant

because the form of planting specified under the order does not meet their criteria for grant aid. Authorities' expenditure is eligible for grant from the Countryside Commission at the rate of not exceeding 50% in areas of outstanding natural beauty, heritage costs, and green belts; 33½% in other areas identified in structure and local plans as of special landscape significance; and 25% elsewhere.

B. Nature Conservancy Council

Grant may be given towards the establishment and maintenance of nature reserves and this can include new planting and tree management. Rates of grant are variable.

C. Ministry of Agriculture, Fisheries and Food

Grant may be given for shelterbeds and planting that directly benefits agriculture or horticulture under 3 schemes:

1. The Farm Capital Grant Scheme

Shelterbelts in less favoured areas only are eligible for grant: the current rate is 50%.

2. The Horticultural Capital Grant Scheme

Shelterbelts are eligible under this scheme. The current rate is 25%.

3. The Farm and Horticultural Development Scheme

Planting is eligible as part of a comprehensive development plan a holding. The current rate of grant is 10% (50% in less favoured areas) for agricultural and 30% for horticultural businesses.

Planting required as a condition of planning permission (or regarded by MAFF as appropriate where permission is not required for a building) which is approved for grant under any of these schemes attracts the same rate of grant as the building.

Notes

a. Rates of grant quoted apply at publication date. Current rates may be obtained from the local MAFF Divisional Office. In all cases written approval must be obtained from the Divisional Office before work is started.

b. Designated "less-favoured areas" (EEC Directive 1975/268) are in general those commonly referred to as hill areas.

**D. Department of the Environment/
Welsh Office**

Financial assistance is available for planting under various schemes, including:

1. Planting as part of a derelict land reclamation scheme where this is considered necessary for the purpose of soil conservation or where such planting would provide a satisfactory or economical form of treatment. In England, local authority expenditure is eligible for grant, the rates varying from 50% to 100% according to area (see DOE Circular 17/77). Similar arrangements exist in Wales under the aegis of the Welsh Development Agency.

2. Planting as part of a scheme to preserve or enhance an outstanding conservation area. Expenditure by a local authority (or by a sponsoring private body, etc) is eligible for grant (see DOE Circular 23/77). However, at the present time, the number of applications exceeds the funds available for distribution and priority is being given to work on buildings.

3. Planting in new local authority housing schemes, in housing action areas and in general improvement areas can attract subsidy as part of the cost of landscaping within the general controls of this category of expenditure which may be set from time to time.

4. Planting in outstanding historic gardens. Grants may be made at the discretion of the Secretaries of State for the Environment and for Wales towards the cost of the upkeep of such gardens or lands of outstanding historic interest (see DOE Circular 23/77). Proposals should be approved by the Department or the Welsh Office before planting takes place.

RELEVANT ADDRESSES

FORESTRY COMMISSION HEADQUARTERS

231 Corstorphine Road, Edinburgh EH12 7AT
Tel: 031 334 0303

FORESTRY COMMISSION CONSERVATORS

North West England Conservancy
Dee Hills Park, Chester CH3 5AT
Tel: 0244 24006

North East England² Conservancy
1a Grosvenor Terrace, York YO3 7BD
Tel: 0904 20221

East England Conservancy
Block D, Brooklands Avenue, Cambridge CB2 2DY
Tel: 0223 58911

South East England Conservancy
The Queen's House, Lyndhurst, Hampshire SO4 7NH
Tel: 042 128 2801

South West England Conservancy
Flowers Hill, Brislington, Bristol BS4 5JY
Tel: 0272 713471

North Wales Conservancy
Victoria House, Victoria Terrace, Aberystwyth, Dyfed SY23 2DA
Tel: 0970 612367

South Wales Conservancy
Churchill House, Churchill Way, Cardiff CF1 4TU
Tel: 0222 40661

COUNTRYSIDE COMMISSION

John Dower House, Crescent Place, Cheltenham, Glos GL50 3RA
Tel: 0242 21381

COUNTRYSIDE COMMISSION FOR WALES

8 Broad Street, Newton, Powys SY16 2LU
Tel: 0686 26799

COUNTRYSIDE COMMISSION'S REGIONAL OFFICES

Northern Office

Warwick House, Grantham Road, Newcastle-upon-Tyne NE2 1QJ
Tel: 0632 26801

North Western Office

2nd Floor, Arkwright House, Parsonage Gardens, Deansgate, Manchester M3 2LE
Tel: 061 832 8644

Yorkshire and Humberside Office

3rd Floor, Fairfax House, Merrion Street, Leeds LS2 8NR
Tel: 0532 460027/8

West Midlands Office

Auchinleck House, Broad Street, Birmingham B15 1DL
Tel: 021 632 6503/4

Eastern Office
Rm 105/7 Terrington House, 13/15 Hills Road, Cambridge CB2 1NL
Tel: 0223 54462/3

Southern Office
As for Headquarters

South Western Office
2nd Floor, Bridge House, Cion Place, Clifton Down, Bristol BS8 4AF
Tel: 0272 32231

London and South Eastern Office
25 Savile Row, London SW1X 2BT
Tel: 01 734 6010

NATURE CONSERVANCY COUNCIL
19/20 Belgrave Square, London SW1X 8PY
Tel: 01 235 3241

MINISTRY OF AGRICULTURE, FISHERIES AND FOOD REGIONAL OFFICES

Eastern Region
Block C, Government Buildings, Brooklands Avenue, Cambridge
CB2 2DR
Tel: 0223 58911

East Midland Region
Block 2, Government Buildings, Chalfont Drive, Nottingham NG8 3RH
Tel: 0602 292251

Northern Region
Government Buildings, Kenton Bar, Newcastle-upon-Tyne NE1 2YA
Tel: 0632 869811

South Eastern Region
Block A, Government Offices, Coley Park, Reading RG1 6DT
Tel: 0734 581222

South Western Region
Block 3, Government Buildings, Burghill Road, Westbury-on-Trym,
Bristol BS10 6NJ
Tel: 0272 500000

West Midland Region
Woodthorne, Wolverhampton WV6 8TQ
Tel: 0902 754190

Yorkshire/Lancashire Region
Block 2, Government Buildings, Lawnswood, Leeds LS16 5PY
Tel: 0532 674411

TREE COUNCIL
35 Belgrave Square, London, SW1X 8QN
Tel: 235 8854

ARBORICULTURAL ASSOCIATION
Brokerswood House, Brokerswood, Nr Westbury, Wiltshire, BA13 4 EH

INSTITUTE OF FORESTERS
7 Rutland Square, Edinburgh, EH1 2AV

MODEL PLANNING CONDITIONS RELATING TO TREES
(see paragraph 75)

CONDITIONS FOR OUTLINE PLANNING PERMISSIONS

1. Location of trees on development sites

The plans submitted in accordance with condition . . . of this permission shall indicate the location of all trees on the land, together with the species of each tree.

(This condition enables an authority to consider the layout of roads and the siting of the buildings in relation to the existing trees. If there are worthwhile trees on the site, consideration should be given to making a tree preservation order to hold the position in the meantime.)

2. Provision of amenity land

None of the building operations hereby permitted shall be carried out on the part of the application site shown . . . [on the submitted/attached plan] and the details of the landscaping of the site required to be submitted shall include details of a scheme for the preservation or laying out of this portion of the site as amenity land.

CONDITIONS FOR DETAILED PLANNING PERMISSIONS

3. Laying out of land allocated as amenity land

[Before] [Within 12 months* from the date when] [the change of use hereby permitted is carried out] [any of the building permitted is occupied/first used for the purpose of . . .] the land shown on the submitted plan as . . . shall be laid out in accordance with that plan as amenity land.

4. Provision for tree planting

[Before] [Within 12 months* from the date when] [the change of use hereby permitted is carried out] [any of the buildings hereby permitted is occupied/first used for the purpose of . . .] trees shall be planted on the land in such positions and of such species as may be agreed with the local planning authority. Any trees removed, dying, being severely damaged or becoming seriously diseased within [2]* years of planting shall be replaced with trees of similar size and species to those originally required to be planted.

5. Provision for the protection of trees during and immediately after development work

a. No trees† shall be wilfully damaged or destroyed or uprooted, felled, lopped or topped without the previous written consent of the local planning authority until [12]* calendar months after completion of the permitted development. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased before the end of that period shall be replaced with trees of such size and species as may be agreed with the local planning authority.

b. The existing trees† shall be [retained] [protected to the satisfaction of the local planning authority] for the duration of the development and shall not be wilfully damaged or destroyed, uprooted, felled, lopped or topped during that period without the previous written consent of the local planning authority. Any trees removed without such consent or dying or being severely damaged or becoming seriously diseased during that period shall be replaced with trees of such size and species as may be agreed with the local planning authority.

* It is not considered to be reasonable to use conditions to secure permanent protection of trees (see Memorandum paragraph 75).

† Where the condition is intended to apply only to selected trees on the site, these should be accurately defined.

NOTE

- DOE 98/77 (W.O. 158/77) Housing Act 1974 Improvement Contributions. Non Housing Revenue Account Dwellings.
- DOE 105/77 (W.O. 149/77) Index to Housing Circular and Publications.
- DOE 106/77 (W.O. 174/77) Rates of Interest on loans to Local Authorities by the Public Works Loan Commissioners.
- DOE 110/77 (W.O. 176/77) Rates of Interest on loans to Local Authorities by the Public Works Loan Commissioners.
- DOE 111/77 Recreation and Deprivation in Inner Urban Areas.
- DOE 112/77 (W.O. 171/77) Compulsory Acquisition of Land—Rate of Interest after Entry.
- DOE 114/77 (W.O. 180/77) Local Government Act 1972 Allowances to Members of Local Authorities. Local Government (Allowances) (Amendment) (No 2) Regulations 1977.
- DOE 120/77 (W.O. 190/77) Rates of Interest on loans to Local Authorities by the Public Works Loan Commissioners.
- DOE 126/77 (W.O. 196/77) Rates of Interest on loans to Local Authorities by the Public Works Loan Commissioners.
- DOE 127/77 (W.O. 204/77) Rates of Interest on loans to Local Authorities by the Public Works Loan Commissioners.
- DOE 129/77 (W.O. 206/77) Town and Country Planning General Development (Amendment) Order 1977.
- DOE 6/78 (W.O. 10/78) Rates of Interest on loans to Local Authorities by the Public Works Loan Commissioners.
- DOE 10/78 (W.O. 16/78) Rates of Interest on loans to Local Authorities by the Public Works Loan Commissioners.
- DOE 14/78 (W.O. 24/78) Rates of Interest on loans to Local Authorities by the Public Works Loan Commissioners.
- DOE 15/78 (W.O. 18/78) The National Coal Board (Rateable Values) Order 1977.
- DOE 16/78 (W.O. 30/78) Rates of Interest on loans to Local Authorities by the Public Works Loan Commissioners.
- DOE 18/78 (W.O. 38/78) Rates of Interest on loans to Local Authorities by the Public Works Loan Commissioners.
- DOE 20/78 (W.O. 33/78) River Pollution Survey of England and Wales—Updated 1975. River Quality and Discharges of Sewage and Industrial Effluents.
- DOE 22/78 (W.O. 37/78) Code of Procedures for Local Authority Housebuilding.
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