

## Appendix F - Legal

### National Planning Policy Framework 2021

National Planning Policy is currently defined by the National Planning Policy Framework (NPPF). This provides the most current and up to date planning guidance.

At the heart of the NPPF is a presumption in favour of sustainable development, and specifically states that for decision making, the LPA should be approving development proposals that accord with the development plan without delay.

Section 12 of the NPPF recognises the importance of integrating trees into urban environments as part of achieving well-designed places. While the primary focus is on new tree planting, the importance of retaining existing trees and incorporation into proposals is a driving factor, stating that:

“Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.” (Paragraph 131)

In addition, Section 15 of the NPPF recognises the importance of conserving and enhancing the natural environment, and specifically acknowledges the role of trees and woodland in the provision of natural capital and ecosystem services.

- a) “Planning policies and decisions should contribute to and enhance the natural and local environment by:
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;” (Paragraph 174)

It further acknowledges the importance of ancient woodlands and veteran trees for habitats and biodiversity and requires that planning consent should be refused where development schemes require the removal of such features unless there are wholly exceptional reasons, stating that:

“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.” (Paragraph 180, c)

## **Statutory Considerations**

The site is located within the boundary of the Local Planning Authority (LPA). The LPA has a statutory obligation to ensure that provision is made for the protection of trees, through section 197 of the Town and Country Planning Act (1990). The principal form of protection comes through trees being subject to a Tree Preservation Order or being located in a conservation area. A search has been undertaken on the CDC website to determine the presence or otherwise of TPO or Conservation Areas.

## **Non-statutory considerations**

An online search has also been undertaken to determine any non-statutory designations at the site that may be a consideration in relation to trees. This has revealed that the site has no Ancient Semi-Natural Woodland or Woodland Priority Habitat areas within the redline boundary.

## **Tree Preservation Orders & Conservation Area Designations**

Local authorities reserve the right to create Tree Preservation Orders (TPO) to protect the amenity value conferred to a location by a tree or group of trees. Where a TPO is in place the lopping, topping, felling, uprooting or wilful damage is prohibited. Failure to comply may lead to prosecution or large fines. Work on a TPO'd tree requires permission from the local authority.

Section 211 of The Town and Country Planning Act 1990 (TCPA) relates to the preservation of trees in Conservation Areas. Under Section 211 anyone proposing to remove, uproot or destroy any tree within a Conservation Area is required to give the local planning authority six weeks' prior notice (a "section 211 notice"). During this period the Council may consider serving a Tree Preservation Order to prevent the proposed work from being undertaken.

## **Bats as a Protected Species**

It is not uncommon for a mature tree with cavities or hollows to be a habitat for roosting bats. Bats are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended), as well as under Schedule 2 of the Conservation of Species and Habitats Regulations 2010 and it is therefore an offence to cause damage to a bat roost.

## **Birds as a Protected Species**

Nesting birds frequently use trees for nesting. They are protected under the Wildlife and Countryside Act 1981 (as amended). This makes it an offence to intentionally or recklessly damage or destroy an active bird nest.

It is recommended that all tree work is carried out outside the bird nesting season which is March to August. If this is not possible then a detailed inspection of each tree should be undertaken by a suitably qualified ecologist prior to any tree work. Should an active nest be found then any work likely to affect the nest must be halted until the nest becomes inactive.