Operations Note 024 Date: 1st December 2012

Supplementary Guidance for sites felled due to Phytophthora

1 Purpose, scope and application

The following supplementary guidance is provided for owners and foresters managing sites felled due to Phytophthora. Such felling will usually be under a Statutory Plant Health Order.

The purpose of the guidance is:

- To help prevent spread or re-infection from the disease.
- To give advice on the restocking of the woodland.
- To state the legal position if considering change of land use after tree felling (Annex 1).
- To help conserve the environmental value and heritage interest of the sites.

This supplementary guidance sits within the overall framework of the UK Forestry Standard and associated UK Guidelines which still apply. Sites in England that are ancient or native woodland should also be managed in accordance with the Practice Guide for Ancient and Native Woodland[1] (ANWPG). This supplementary guidance is designed to complement the ANWPG, and is focused on those operations where deviations may be appropriate.

Supplementary payments are being made available under the English Woodland Grant Scheme (EWGS). Where owners have taken these up then they will be obliged to comply with this supplementary guidance, and where relevant, the ANWPG. This is the case irrespective of whether or not they are restoring a plantation on an ancient woodland site (PAWS) or continuing with conifers.

2 Legal obligations, permissions and information

[1] 'Managing ancient and native woodland in England'. Practice Guide 201, Forestry Commission England. Available from: http://www.forestry.gov.uk/pdf/FCPG201.pdf/$file/FCPG201.pdf

- **Statutory Plant Health Orders:** Irrespective of this guidance, the conditions set in the Statutory Plant Health Notice must be fulfilled, unless modifications have been agreed in writing.
- **Obtaining other permission:** Owners and managers must be aware that whilst there is a legal obligation to fulfil a Statutory Plant Health Notice, this does NOT override other statutory protection. Managers must still fulfil other legal obligations, and must still seek the usual permissions from the relevant authority, and/or comply with any previously agreed management agreements. Some of the legal protection measures that might commonly be relevant are listed in Box 1.
- **Reconciling conflicting needs:** If there appears to be a conflict, and both sets of obligations cannot readily be met, managers will need to contact the relevant authority. The Forestry Commission will assist in trying to negotiate an appropriate reconciliation.
- **Information signs:** Where there is public access to a site, a simple notice is recommended, explaining the reason for the felling, and the authority secured; this will help prevent alarm and reduce any local concerns.

Felling

- **Coupe size and shape:** the need to fell all infected larch may mean coupes are larger than normally considered desirable, Conversely, there may be situations where to avoid a 'moth-eaten' appearance it may be necessary to bring forward felling of adjoining areas of other crops in order to create a well designed coupe. Such additional felling may also be desirable to ensure a windfirm edge is reached. Where reasonable, these fellings will be included within the issue of a Statutory Notice. Significant additional fellings will NOT be covered by the Notice and will need separate permission or licenses from the Forestry Commission.
- **Other felling plans:** Other planned fellings in the woodland may need to be deferred in order to reduce the rate of change in the woodland and to ensure a diverse age structure into the future (i.e. avoid excessive open areas and a subsequent peak of one age class).
- **Retentions:** If possible, unaffected and resistant trees within the stand should be kept, particularly native species. However, stems that are drawn up so that they will not remain standing should be cut.
- **Nesting season:** All reasonable steps should be taken to avoid disturbance of nesting birds (see ANWPG, page 22, paragraph 16).
- **Ring barking:** Where this is not possible, ring barking the trees is recommended to avoid felling during the nesting season; felling and extraction can then follow later in the summer. This may be particularly useful for sites containing birds or animals protected under the Wildlife & Countryside Act or Habitats Directive (see Box 1).

- **Understorey:** If felling during the nesting season cannot be avoided, cutting of the understorey prior to this period will significantly reduce the risk of disturbing nesting birds.
- **Extraction:** Avoiding extraction of timber during wet conditions will be even more important, partly because spores can be spread in mud and partly because soil compaction by machines can subsequently cause water logging.

Treatment of brash

- **Scarification:** This is not generally recommended on ancient woodland sites, but if done should be as light as possible and not done during the bird nesting season.
- **Brash:** The brash should generally be treated as per the practice guide (see ANWPG page 24, para 28) cut up and spread across the site or concentrated in areas with least flora. Cutting the brash through so that it lies closer to the ground will help it break down during any fallow period. Whole tree harvesting is the ideal (whether as brash or as chips), but chipping and distributing across the site is not recommended as it usually smothers the ground flora.
- **Burning:** This is not specifically required for plant health purposes, and represents a loss of an important deadwood habitat. However, it may be the only practicable method of establishing a clear site, which may be essential where subsequent control of susceptible regrowth and regeneration is needed. If burning is done, some brash piles should still be retained as habitat.

Fallow period

- **Control of sporulating hosts:** An additional period of 3 years may be specified in the Notice beyond the felling date when further regrowth of host plants must be controlled to prevent further sporulation. Species that potentially act as a sporulating host must be cut or killed during this period; this will include larch, rhododendron and possibly other species.
- **Restocking site:** From both silvicultural and ecological points of view, it is desirable to keep the fallow period to the minimum and to restock the site as soon as possible. To achieve this, the site should be actively managed during the fallow period to avoid it becoming an impenetrable mix of brash and rank vegetation.
- **Controlling regrowth:** A clearing saw or spot applications of herbicide are the preferred method for controlling regrowth or colonisation by larch and rhododendron. Mechanical swiping should only be used where the vast majority of the regrowth has to be removed. Boom or overall applications of herbicide should not be used on ancient or native woodland sites.
- **Other regrowth:** Other species can be allowed to regenerate, even if these are eventually reduced or replaced once the site can be restocked. This can help to keep the site manageable (since ‘nature abhors a vacuum’), and will also help protect soils and give better continuity of woodland conditions.

- **Deer control:** Control of deer, or even deer fencing, may therefore still be necessary during this fallow period.

Restocking

- **Restocking plans:** Initial plans should be reconsidered as the end of any fallow period is approaching. The vegetation, regrowth and tree regeneration that has developed should be carefully assessed; changes to plans for species and site treatment may need to be changed, but will need to be agreed with the FC.
- **Restoration:** Restoring ancient woodland sites to native species is still the preferred option, particularly for the sites where there is richest survival of ancient woodland wildlife and features. But owners may choose to restock with other conifers. Even in these situations owners are encouraged to retain at least some of the regeneration or regrowth of native species where this is suited to the site and does not significantly increase the risk of future infection.
- **Mixtures:** Whatever the species used, mixed stands are recommended in order to reduce vulnerability in the future. Similarly, mixtures of provenances may also help increase resilience. Avoiding any one species occupying more than two thirds of the canopy is a useful rule of thumb.
- **Restocking with conifers:** Replanting with conifers is still possible. Changing to another, evergreen conifer species will be acceptable if the silvicultural regime will avoid deeply shaded conditions. This means using the least shading species, early and regular thinnings, including some native species, and safeguarding natural regeneration of natives (see ANWPG page 29, paragraph 16).
- **Rapid restocking:** Once restocking can proceed, a more 'interventionist' approach than usual should be adopted. Greater use of planting and less reliance on natural regeneration is recommended in order to avoid extending the open phase any longer.
- **Open space:** It may still be appropriate to keep some parts of the site not restocked, as open space for landscape reasons, as open habitats or to protect historic features.

Species choice

- **Latest guidance:** Our knowledge and experience of this disease is growing all the time; the latest advice on restocking species should be sought, particularly as this depends on the level of inoculums on the site and in surrounding areas (see: www.forestry.gov.uk/pramorum).
- **Species to remove and control:** The Notice will specify the species which act as sporulating hosts and which must be felled and prevented from re-growing on the site for a period of 3 years. Rhododendron and Japanese larch are by far the most vulnerable and should not be planted. European and hybrid larch are currently under investigation but at present it is recommended they are not planted.

- **Species to use with caution:** The following common tree species can potentially become infected but if spore levels are low then there is a good chance they won't be seriously affected. Where such species are used, it is recommended they are in mixture with other more fully resistant species:
  - ***Native or near native:*** beech, ash, sweet chestnut and holm oak, white willow;
  - ***Non-native:*** Douglas fir, western hemlock.

- **Other species:** All other common tree and shrub species currently appear to be fairly resistant and can be used, but this situation may change.

Box 1: Statutory protection measures that may apply to sites affected by Phytophthora.

'Designated sites': Permission will be required from Natural England for SSSIs; agreement with English Heritage for woods containing Scheduled Monuments and sites within Registered Parks and Gardens; and permission from Local Planning Authority for woods covered by a Tree Preservation Order.

European protected species: The following species are given strict protection under the Habitats Regulations: bats, dormice, great crested newts, otters, sand lizard, and smooth snake. FC/NE guidance on 'European Protected Species' should be followed, or a licence sought from Natural England.

Protected animals: Animals listed in Schedule 5 of the Wildlife and Countryside Act (WC&A) must not be disturbed and places they use for 'shelter' must not be damaged. This list includes most amphibians and reptiles, red squirrels and over 30 species of rarer butterfly and moth. Similar protection exists for badgers and their setts.

Protected birds: Rare birds listed under Schedule 1 of the W&C Act are given special protection (e.g. goshawks, red kite, hobby, crossbills, crested tits and black redstart). They must not be disturbed once they have started nesting, and if there is a risk advice should be sought from Natural England.

Planning notification or permission: If any 'construction, excavation or building' is involved (e.g. building tracks, roads, loading areas and culverts) the planning authority must be notified under Permitted Development Rights, and in some cases planning permission may be needed.

Environmental Impact Assessment: Consent may be required if considering a change of land use following felling, see Annex 1.

Sources of further advice

The Grants and Regulations website contains all the information you need to apply for grant support. Alternatively, you can request this information from your local Forestry Commission office.

Versions

Version 1.0 issued 13th May 2011

Version 2.0 issued 16th August 2011

Annex 1: Change of land use

Statutory Plant Health Notices do not place a legal obligation to replant trees. However, this does not mean that there is an automatic right to change land use.

Environmental Impact Assessment (EIA) Regulations

Deforestation for the purposes of conversion to another type of land use is subject to the EIA regulations. We will regard any attempt to actively change land-use following felling as a potentially relevant project under these regulations – this would include for example introduction of grazing that prevents the natural regeneration of trees, or destumping and conversion to agricultural land. To confirm whether consent is required for these activities you should complete and return to us a determination enquiry form. Further information and a determination form is available at http://www.forestry.gov.uk/england-eia.

Cross Compliance

Good Agricultural and Environmental Condition (GAEC) 5 requires you to comply with the EIA Regulations. If you start a project without our consent, or do not comply with an enforcement notice, you will be regarded as in breach of Cross Compliance. Non compliance may result in a whole farm inspection or a penalty being applied to any EU payments you receive from bodies such as the RPA (Single Payment Scheme), Natural England or the Forestry Commission. Further information is at http://www.rpa.gov.uk/crosscompliance .