

Operations Note 023

Date: 31 January 2022

# Processing felling licence applications subject to *p.ramorum* moratorium

## Purpose

This Operations Note explains the process for handling felling licence applications which include operations for the felling or thinning of species susceptible to infection by *Phytophthora ramorum*, and the policy on new planting or restocking using larch species.

## Context

*Phytophthora ramorum* (*P. ramorum*) is a fungus-like pathogen of plants and shrubs that is found in a number of European countries, most especially on rhododendron, viburnum and camellia, and which has caused significant damage and mortality to many trees and other plants in parts of the United Kingdom.

Infection rates in the UK were low until 2009, when *P. ramorum* was found infecting and killing large numbers of Japanese larch trees in South West England. Then, in 2010, it was found on Japanese larch in Wales, Northern Ireland and the Republic of Ireland. This sudden change in the pathogen's behaviour was the first time in the world that *P. ramorum* had infected and sporulated (reproduced) on large numbers of a commercially important conifer tree species.

A strategy was developed in 2010 to control the spread of this disease. This included dividing England into three Risk Zones which are based on a combination of climatic zones and current larch distribution. The Forestry Commission (FC) will manage decision-making on supporting felling licence applications and the support for larch planting and replanting, dependant on which Risk Zone a particular application sits within.

The strategy includes the use Statutory Plant Health Notices (SPHN) to enforce felling of suspected infected stands. The requirement for timber movement controls and the licensing of sawmills [who process timber from infected stands]. Improved advice on biosecurity measures and the management of co-products from infected material (bark in particular) are processed in a way that prevents the infection entering the horticultural trade through bark based composts.

The FC has an ongoing programme of felling trees in infected stands on the public forest estate throughout the UK. For privately owned woodland in England, the FC has repeated its surveillance programme each year since 2010. The findings from annual surveys now show, with confidence, that new infections are often found close to previously identified sites. As a result, the boundary between Risk Zones 1 and 2 has not been adjusted.

## Current position

There have been no major changes to the disease's distribution ([see Appendix 1](#)).

During the winter months, applications for felling licences in Risk Zone 1 (high risk) will continue to be subject to restricted processing, whereas felling licence applications in Risk Zones 2 (medium risk) and 3 (Low Risk) will continue to be processed as normal.

### **Larch species Risk Zone 1 (high risk)**

Once larch trees have dropped their needles in the autumn it is not possible to easily identify if a stand is infected or not. If defoliated larch is felled and transported off site it increases the risk that infected material could circumvent biosecurity measures and spread *P. ramorum*, undermining the current controls.

Therefore, the processing of felling licence applications within Risk Zone 1 will be delayed until such a time as we can establish whether the standing timber proposed for felling is infected or not.

This moratorium applies from 1 October each year until 30 June the following year, after which it should be possible to determine the health of the larch stand and confirm the felling licence application can be approved, or if a Statutory Plant Health Notice will need to be issued instead.

The principal of withholding approval of felling licences in Risk Zone 1 between 1st October and 30<sup>th</sup> June has been embedded into the FCs regulatory decision making and will continue for the foreseeable future.

### **Other species Risk Zone 1 (high risk)**

As more evidence and understanding of the evolution of the pathogen emerges, this operation note will be updated to provide further advice on expanding the strategy to include other species susceptible to *P. ramorum*.

## Processing felling licence applications that include larch

We will accept and process felling licence applications for the felling of larch species in Risk Zones 2 and 3, as normal, throughout the year.

In Risk Zone 1, we will accept and register all felling applications for the felling of larch species, but the following process will apply to all felling licence applications received after 1 October of each year.

- When an application that contains larch is received we will send a letter to the applicant requesting that they agree to an extension of the processing times (as required under the Forestry Act) until 30 June the following year. The letter will explain why the delay is necessary, and the applicant will be asked to sign and return letter, agreeing to the extension.
- The felling licence will not be issued until after 30 June. This is to allow larch sufficient time to flush in the spring and for FC to survey the area in order to establish if the stand is infected or not.

- If the stand of trees is declared uninfected an approved licence will be issued as soon as possible and the harvested larch can be sent to any licensed or unlicensed mill or premises.
- In the event that the larch shows symptoms of infection, we will issue a Statutory Plant Health Notice (SPHN). This will require trees within an identified treatment zone to be felled within the prescribed timescale. The area of felling (the treatment zone) and the length of time available to comply with the Notice will be discussed and agreed between the woodland officer and applicant before the SPHN is served.
- The SPHN will require any felled timber to be transported under a movement licence and processed at licensed mills or premises.

## Failing to agree an extension to your application

In the event that a felling licence applicant refuses to agree to an extension to the application processing time, they have three options to consider:

- Withdraw the felling licence application in its entirety, resubmitting at a later date. The FC will close the file.
- Where other species (*not under suspicion of infection*) are included in the felling licence application, amend it to remove all species not subject to the moratorium. FC will continue to process the felling licence application with the omitted species (see section 3 below).
- They may insist that FC continue to process the application. If the applicant insists that we continue to process the application, we will have no option but to refuse the application.
  - The refusal of a felling licence application would be on the basis that granting a felling licence would be contrary to the Commissioner's general duty of promoting the interests of forestry, the development of afforestation and the production and supply of timber. The refusal would avoid the risk of spreading *P. ramorum* to new areas of woodland and the wider environment through the timber supply chain, and in particular, via co-products such as bark.
  - When the FC advises the applicant of our decision to refuse a felling licence, we will advise the applicant when we would be prepared to issue one, assuming that the application is acceptable in all other respects. For larch, this would normally be the following spring, provided that the standing trees are found to be disease free.
  - Applicants have a right to appeal against FC's refusal to issue a felling licence, but only following a second application and refusal for the same trees. For example, if your first application is refused, you must apply for a licence a second time and if that is refused, only then an appeal can be heard. The reason for this is to allow the applicant to address the reasons for refusal and avoid the second refusal.
    - Appeals must be made within three months of the date of refusal (of the licence that they are appealing). An appeal application form can be provided by the FC upon request.

- If a previous appeal has been heard by a reference committee, and therefore not rejected by the Minister as being a frivolous application, an application may only be made three years after the date an appeal was heard on the same trees.

## Compensation

When refusing a felling licence (even for the first time), the applicant has the right to seek compensation from the FC for the deterioration in quality of the timber.

They can ask for permission to fell a few trees in order to establish quality. The quantity of timber felled will be expected to be less than five cubic metres and must not be sold.

However, given that it is likely to be only a few months between the refusal stage of a felling licence application and FC being in a position to be able to issue a licence (or a SPHN), it is extremely unlikely that timber quality would display any noticeable deterioration.

Infection of the foliage by Phytophthora would not be considered as affecting timber quality. Timber quality is not the same as timber value.

## Dealing with intimate mixtures

Where a felling licence application involves two or more tree species, one of which is subject to the moratorium, an applicant will have two options:

- Agree to an extension to the processing time, as described above, leaving the felling licence application unaltered. The FC will continue to process the application during the moratorium period and, once we have had the opportunity to survey the area of the application, we will approve the licence or issue an SPHN.
- Remove the tree species subject to the moratorium from the application. FC will continue to process the licence for the remaining species as normal.

We will contact the applicant to discuss this, but unless instructed otherwise, will follow the first option of treating the application in its entirety and waiting for survey results.

## Woodland Management Plans

The FC will continue to review draft woodland management plans to Approved-in-Principle status, at which point any felling proposals will be administered to create the relevant felling licence application and processed as normal.

Because woodland management plan felling licences last for 10 years and tend to contain a large amount of speculative felling proposals, woodland plan related felling licences will not be delayed by this moratorium.

## Existing felling permissions

For woodland owners with existing felling licences, they must inform either their local Woodland Officer or the FC Plant Health team if they suspect, or they have evidence that their trees are infected. This is a requirement under the Plant Health Order (Forestry) Order 2005 as *P. ramorum* is a pest 'not normally present in Great Britain'.

This is to allow the FC tree health team to undertake the necessary testing and analysis, as required by Plant Health legislation. Where a *P. ramorum* infection is found the FC will issue a SPHN to control the 'destruction' and removal of the infected material. Even with an existing felling licence in place.

The SPHN will require that the felled timber only goes to a premises licensed to process infected wood.

## Planting and replanting of larch

Using larch to create new areas of woodland or to replant felled areas creates risks in respect of potential *P. ramorum* infection. The Risk Zones are used to identify where it is appropriate to continue to use larch as a tree species in planting schemes, and where FC will continue to fund larch through eligible grant schemes.

### Zone 1

#### *New schemes*

The FC has not approved any new agreements grant aiding larch planting in Zone 1 since the 2012/13 planting season due to the high risk of infection occurring in the future and this acting as a reservoir for further spread of the disease.

#### *Existing schemes*

The FC announced it would also stop grant aiding any previously approved agreements containing planting or replanting of larch in Zone 1 during the 2012/13 planting season.

In such agreements, where the owner has decided to continue with planting of larch up to and during the 2012/13 season, or since, they will not be permitted to invoke *force majeure* against that grant agreement in the event of *P. ramorum* infection. The FC will continue to reclaim grant where appropriate.

### Zone 2

#### *New schemes*

The FC has not approved any new agreements for grant aiding larch planting in Zone 2 since the 2012/13 planting season.

#### *Existing schemes*

The FC announced it would also stop grant aiding any previously approved agreements containing planting or replanting of larch in Zone 2 at the end of the 2012/13 planting season.

In such agreements, where the owner has decided to continue with planting of larch up to and during the 2012/13 season, or since, they will not be permitted to invoke *force majeure* in the event of *P. ramorum* infection. The FC will continue to reclaim grant where appropriate.

## Zone 3

### *All schemes*

The FC continues to provide grant aid support for the planting of larch in Zone 3, either as part of new woodland creation or for replanting existing woodland as a result of tree health issues.

However, there is no grant aid support for replanting larch in existing woodland following normal tree felling activity.

## Versions

Version 5 issued 6 October 2014

Version 6 issued 26 October 2016

Version 7 issued 20 October 2017

Version 8 issued 3 August 2018

Version 9 issued 12 September 2019

Version 10 issued 1 January 2022

## Appendix 1 P ramorum and larch risk zones

Please note: The boundaries on the zone map will be reviewed from time to time, which may result in some woodland areas moving from a lower to a higher risk zone. Click [here](#) for a pdf version that will allow you to zoom in or visits the FCs [Land Information Search](#) map browser.

