



TREE MANAGEMENT PROTOCOL

1. Introduction

Bidford-on-Avon Parish Council ('the Council') is responsible for large areas of land, ranging from the Big Meadow Recreational Park, to Public Open Spaces and play areas all of which contain trees. Trees are dynamic structures, constantly growing and changing to adapt to environmental conditions.

The Council manages the condition of trees and the risk that they pose to people using Council owned or managed land through a zonal inspection system (see Table 1) to prioritise areas of high usage and make the best use of limited resources to safeguard the public.

Table 1: Zonal Inspection System

Category	Typical Land Type	Survey Frequency	Re-inspection Frequency
Zone One (High risk)	Ornamental and formal recreation areas, including play areas and high usage walkways	Every 3-5 years	Annual (minimum)
Zone Two (Medium risk)	Public open spaces in residential areas.		Biennial (minimum)

The survey consists of a visual assessment of the trees from ground level. Any individual trees identified as requiring 'very high' priority works will be undertaken within one month; and those trees requiring 'high' priority works will be undertaken within one year. Following high winds or unexpected/prolonged bad weather conditions, a walk-through assessment of trees is undertaken. This is to ensure that any damage to trees is identified and the appropriate remedial action occurs.

All tree works carried out on Council owned land is in accordance with British Standard 3998:2010 'Tree work – Recommendations'.

2. Tree-Related Issues

The most common issues associated with trees and how the Council deals with these issues in relation to Council owned or managed trees are as follows:

- **Common Law Rights**

In the English legal system, 'Common Law' refers to laws that have been developed through precedent set by similar cases as opposed to being created through legislative statutes. Under English Common Law Rights, you have a right to remove (abate) the nuisance associated with trees encroaching onto your property. The following advice with respect to encroaching Council owned or managed trees is provided for general guidance only. You are strongly advised to obtain independent legal advice before acting:

- You can only consider removing those parts of the tree from the point where they cross the boundary of your property. You must not go beyond your property boundary without the permission of the Council. You have no legal right to cut or remove any part of a tree that does not overhang your property. Any work that you carry out must be done at your own expense and at your own risk without unauthorised access to Council owned land. The Council has no liability to reimburse any associated costs. Any cuttings removed from these works should be disposed of appropriately at your own expense. If your actions render a tree to be unsafe, you may be liable for any subsequent damage that results from tree failure.
- You are strongly advised to consult an Arboricultural Association approved tree surgeon for guidance on how best to prune back an encroaching tree, unless the works are minor meaning that you could carry out the works with hand secateurs or similar.
- Before you consider carrying out any works to the tree, you should check whether it is protected by a Tree Preservation Order or in a conservation area. If the tree is protected, then you will need to gain consent by making an application to Stratford on Avon District Council (SDC). If the tree is in a conservation area, SDC must be given details of the works and six weeks' notice for standard works. For guidance on how to check if a tree is protected and how to make an application, please contact **01789 260304** or email planning.applications@stratford-dc.gov.uk. Carrying out work to a tree which is in a conservation area or subject to a Tree Preservation Order without first applying to the Council can constitute a criminal offence.

- **Damage to Property**

A common concern is that the roots of trees are undermining a property. It is rare for the direct action of roots to damage a house. However, they may affect lighter structures such as garden walls or paving. Trees may cause damage if they are growing on shrinkable clay, where the roots can remove the moisture from the soil and cause movement as the ground dries out; although the effect is variable and depends on the type of clay soil, foundation design, species of tree, rainfall, and distance between the tree and the property. Tree related subsidence is a complex issue and each case will need to be considered on an individual basis to ensure that it is the tree that is causing the problem and not some other factor.

You are advised to contact your insurance company in the first instance so that you can discuss your concerns and agree an appropriate course of action. Should you, or those acting on your behalf, wish to make a claim for damages against the Council, alleging that a Council owned or managed tree has caused damage to your property, you will be required to submit an independent report to the Council to support your claim.

- **Right to Light**

A common complaint about urban trees is that they block natural light from properties or shade gardens. There is no general 'right to light' under UK law and the Council has no legal obligation to implement works to address this perceived nuisance. This also covers light obstruction to solar panels. However, although the Council will not look to reduce the height of trees, the Council may be able to implement minor works to allow more light through the tree canopy in the following circumstances:

- where the distance between the base of the tree and the window of the nearest habitable room* is less than 6 metres (for trees with a height of over 12 metres); or
- where the distance between the base of the tree and the window of the nearest habitable room* is less than half the height of the tree (for trees with a height of less than 12 metres); or
- where the distance between the edge of the tree canopy and the window of the nearest habitable room* is less than 2 metres.

* A 'habitable room' means a dining room, lounge, kitchen, study or bedroom but specifically excludes WCs, bathrooms, utility rooms, landings and hallways.

You will be required to submit an independent report to the Council to support your request.

- **Tree Size**

The Council will not carry out any works to Council owned or managed trees because they are considered to be "too big" or "too tall". A tree is not dangerous simply because it may be considered too big or too tall for its surroundings. In addition, the unfounded fear of a tree will not normally result in action to prune the tree. Any unauthorised works to a tree may result in prosecution or civil action.

- **Television and Satellite Reception**

Interference with television or satellite reception causes frequent complaints, and this can be worse when the leaves are on the trees and in strong winds or heavy rain. Many instances of poor signal arise from less obvious obstructions such as nearby hills or new constructions some distance from the receiver. In most cases, the situation can be either significantly improved or solved by the relocation of the aerial or an engineering solution. Boosters may also be available which can improve the reception. These options are far less destructive than the felling or pruning of a tree. The Council will not carry out any works to Council owned or managed trees to address this issue and will not give permission for others to do such work to our trees. Any unauthorised works to a tree may result in prosecution or civil action.

- **Security Cameras/Sensors**

The Council will not carry out any works to Council owned or managed trees to improve the range or vision of security cameras or similar sensor equipment unless requested to do so by an appropriate statutory authority (e.g. the Police, on the grounds of public safety). The security of premises is the responsibility of the land owner and any system should be installed in such a way as to avoid interference from or with an adjoining tree(s). Any unauthorised works to a tree may result in prosecution or civil action.

- **Telephone Wires**

The Council will not carry out any works to Council owned or managed trees to remove or reduce interference with telephone wires. The telephone service provider may be able to suggest an alternative solution, however, it should be noted that telephone wires often run through trees with little or no effect. Any unauthorised works to a tree may result in prosecution or civil action.

- **Debris from the Lifecycle of Trees**

Blossom, leaves, fruit, berries, nuts, seeds, detritus; honeydew (sap exudation) and bird droppings are considered a natural act, outside of the control of tree owners. Where leaves from Council owned or managed trees accumulate on public roads and pathways, they will be removed as part of the Council's footpath clearing routine work. Where leaves end up on private land, they should not be swept or blown onto Council owned or managed land, public roads and pathways.

- **Insects and Wildlife**

The Council will not carry out any works to Council owned or managed trees to reduce incidence of bees, wasps, flies or other insects or wild animals. Bees are a protected species and professional advice should be taken before considering their removal. You may be able to dispose of individual wasps using an aerosol insect-repellent spray; however, this will not control or eliminate the nest itself. Ideally the whole nest should be destroyed. This can be achieved with great caution; however, it is far safer to use pest control experts. Nesting birds are protected under the Wildlife and Countryside Act 1981 (and other related wildlife law). Any unauthorised works to a tree may result in prosecution or civil action.

- **Obstruction to the Highway/Adjoining Property**

One of the requirements of the Highways Act 1980 is that a public highway should be kept clear of obstructions. Where branches from Council owned or managed trees are causing obstruction/impediment over the highway or are in contact with an adjoining property, the Council will carry out the minimal works necessary to remove or reduce any obstruction. Such works will also take into account their effect on the long-term implications for the health of the tree. Any unauthorised works to a tree may result in prosecution or civil action.

- **Obstruction of Street Lighting and Road Signs**

The Council will seek to ensure that Council owned or managed trees do not obscure road signs or prevent street lamps from illuminating the public highway. The Council will not normally take action to improve the levels of illumination of private property. Any unauthorised works to a tree may result in prosecution or civil action.

- **Direct Root Damage**

Cases of direct root damage will be considered on an individual basis. Where roots are contributing to a trip hazard, the Council will seek to reduce any risk using "no dig" solutions where possible.

- **Drain Blockage**

Trees do not normally have the capacity to break into a sound drain; however, they will ruthlessly exploit any existing fault. The removal of one tree will not prevent

other vegetation from exploiting the same opportunity. The most appropriate way to deal with tree root blockage of drains is to ensure that the drains are watertight.

- **Tree Maintenance**

Tree maintenance will be carried out as considered appropriate on Council owned or managed trees whereby pruning, canopy reductions or pollarding will be carried out to manage the amenity value and health of the trees.

3. Unsafe Trees

If a Council owned or managed tree is in such a condition that it poses a very high risk to people or property, the Council will attend the site as an emergency as soon as it is reasonably practicable. If works cannot be carried out immediately, the Council will seek to cordon off areas at risk until resources are available.

The signs to look out for which may mean that a tree is in such condition to warrant immediate emergency action include:

- tree is snapped or blown over
- tree is uprooted but held up by another tree or building
- large branch has broken off or is hanging off the tree
- tree or branch is blocking the road or footpath
- tree or branch is blocking access to property
- tree may, or has, fallen onto a house or vehicle.

The signs to look out for which may mean that a tree is a risk to people or property but the risk does **not** require an emergency response include:

- tree is dead
- tree is dying – loss of a few leaves in the summer or dieback in the crown
- bark is loose and falling off
- mushrooms or fungi growing on or near the tree
- old splits and cracks in the trunk or large branches
- smaller branches or twigs falling from the tree.

Approved by Bidford-on-Avon Parish Council on 29th October 2018