



Tree Management Protocol

1. Introduction

Stratford-on-Avon District Council ('the Council') is responsible for approximately 250 hectares (618 acres) of land, ranging from car parks to public open spaces and play areas to local nature reserves, upon which are around 5,000 trees. Trees are dynamic, living organisms that continuously grow and adapt to their local environment; and whose health, condition and structure can change quickly and without warning.

The Council recognises that it has a legal 'Duty of Care' under the Occupiers' Liability Acts 1957 and 1984 to ensure all trees on its land remain in a safe condition as far as it is reasonably practicable. The Council also follows guidance issued by the National Tree Safety Group (NTSG) on trees and public safety in the UK.

The Council manages the condition of trees and the risk they pose to nearby people and property through a zonal inspection system (see Table 1 below), to prioritise areas of high usage and make the best use of limited resources to safeguard the public.

This document is intended to act as a single point of reference for the public, Councillors, Parish and Town Councils, officers and professionally interested people.

The Protocol has been designed for the following purposes:

- to establish the responsibility of the Council in relation to its tree stock;
- to take a clear, balanced, consistent and proportionate approach to tree risk management;
- to ensure resources are correctly allocated from a risk based perspective and the management of trees on any particular site is fulfilling what is considered to be reasonably practicable; and
- to provide advice and guidance in relation to requested tree works.

2. Inspection Regime

Table 1: Zonal Inspection System

| Category | Typical Land Type | Survey Frequency |
|--------------------------------|--|--|
| Zone One (High risk) | Ornamental and formal recreation areas, including play areas, high usage footpaths and car parks, main roads and high usage/residential buildings. | As defined by existing survey <i>or</i> every 1-2 years |
| Zone Two (Medium risk) | Public open spaces in residential areas, including medium usage car parks and access points where the public are likely to congregate. | |
| Zone Three (Low risk) | Designated local nature reserves and open parkland, including any areas of low usage. | As defined by existing survey <i>or</i> every 3-5 years |
| Zone Four (Negligible risk) | Remote or inaccessible areas, including areas with minimal or no public usage. | |

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The Council has adopted 'ISO 31000 – Risk Management' and the 'Tolerability of Risk (ToR) Framework' to tree risk-benefit management and assessment. Any individual trees identified as being 'Not Acceptable' (the highest risk rating category) will have the recommended works carried out within one month to reduce risks to an 'Acceptable' level. Those individual trees identified as being 'Not Tolerable' will have the recommended works carried out within 6-12 months to again reduce risks to an 'Acceptable' level.

3. Inspection Process

The Council's tree inspections include an initial ground-level, visual assessment looking at the exterior of the tree for any evidence of structural defects. The recommendations contained within the survey provide remedial tree works to reduce or minimise a hazard on a tree posing a risk to the associated target area.

The re-inspection frequency is assessed on a tree-by-tree basis and is determined by the species, age, condition and location of the tree. Any intervention works will take into consideration the significant risks that may arise until the time of the next scheduled visit.

Following high winds or unexpected/prolonged bad weather conditions, an informal walk-over assessment is carried out by Council officers to identify any damage to trees and ensure the appropriate remedial action is taken.

4. Tree Works

All tree works carried out on Council owned land is in accordance with British Standard 3998:2010 'Tree work – Recommendations' and all relevant health and safety legislation, including the Health and Safety at Work etc. Act 1974.

On undertaking tree works, any defects observed while climbing or working on the tree(s) will be reported immediately to enable the appropriate remedial action to be taken.

Any unauthorised tree works may result in prosecution or civil action.

5. Unsafe Trees

If a Council owned 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 tree works cannot be carried out immediately, the Council will seek to cordon off the areas at risk until resources are available.

The signs which may mean that a tree poses a very high risk to people or property include:

- snapped or blown over;
- rocking at its base – roots are damaged;
- uprooted but held up by another tree or building;
- large branch has broken off or is hanging off the tree;
- blocking the road, footpath or access to property;
- fallen onto a property or vehicle.

Section 23 of the Local Government (Miscellaneous Provisions) Act 1976 gives the Council discretionary powers to deal with dangerous trees in private ownership. It is normally used as a last resort if the landowner appears not to be doing anything about a dangerous tree, which may cause harm to people or property. The landowner will be charged for the cost of any tree works.

6. Tree Related Issues

➤ Common Law Rights

Under English Common Law Rights, residents have a right to remove (abate) the perceived nuisance associated with trees encroaching on their property.

The following advice with respect to encroaching Council owned trees is provided for general guidance only. Residents are strongly advised to obtain independent legal and arboricultural advice before carrying out any tree works.

Residents should check to see whether the tree is protected by a Tree Preservation Order (TPO) or is located in a conservation area. For guidance on how to check whether a tree is protected and how to make an application, please call 01789 260303/4 or email planningtrees@stratford-dc.gov.uk. Carrying out work to a tree in a conservation area or subject to a TPO without first applying to the Council can constitute a criminal offence. Specific, written consent must be obtained from the Council for any works on a tree protected by a TPO. The Council must be given at least six weeks' notice for tree works in a conservation area.

Residents may only remove those parts of the tree from the point where they cross the boundary line of their property. Residents must not leave the tree in a declining or dangerous condition, or go beyond their property boundary without the Council's permission. Residents have no legal right to cut or remove any part of a tree that does not overhang their property. Any tree works carried out must be done at the residents' own expense and at their own risk without unauthorised access to Council owned land. The Council has no liability to reimburse any associated costs. Any arisings removed from these tree works should be disposed of appropriately and at the residents' own expense. If residents' actions render a tree to be unsafe, then they may be liable for any subsequent damage that results from tree failure.

Residents are strongly advised to consult an Arboricultural (ARB) Association Approved Contractor – www.trees.org.uk, for guidance on how best to prune back an encroaching tree on their property.

➤ **Damage to Property**

Tree-related subsidence is a complex issue and each case will be considered on an individual basis to ensure that it is the tree that is causing the problem and not another factor(s). Residents are advised to contact their insurance company in the first instance so that they can discuss their concerns and agree an appropriate course of action. Should residents, or those acting on their behalf, wish to make a claim for damages against the Council, alleging that a Council owned tree has caused damage to their property, they will be required to submit an independent report to the Council to support their claim. Any requests that are based on the possibility of damage occurring at an unknown point in the future will not be considered by the Council.

➤ **Drain Blockage**

Trees do not normally have the capacity to break into a sound drain; however, they may exploit an existing fault. The removal of one tree will not prevent other vegetation from doing the same. The best way to deal with tree root blockage of drains is to ensure they are watertight. If residents are concerned about the condition of any drain, they are advised to contact their wastewater service provider or a drainage surveyor.

➤ **Right to Light**

A common complaint about trees is 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 tree works to address this perceived nuisance. This also covers light obstruction to solar panels.

The Council may implement minor tree works 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

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- 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 a vertical line through 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.

➤ **Tree Size**

The Council will not carry out any works to Council owned 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 Council owned tree will not normally result in action to prune back the tree.

➤ **Television/Satellite and Radio Reception**

The Council will not carry out any works to Council owned trees to address interference with television/satellite and radio reception. This issue 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/satellite dish 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 back of a tree.

➤ **Security Cameras/Sensors**

The Council will not carry out any works to Council owned 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 landowner and any system should be installed in such a way as to avoid interference from or with an adjoining tree(s).

➤ **Overhead Power Cables**

The Council will provide clearance and remove obstructions for overhead power cables but will not carry out any works to Council owned trees to remove or reduce interference with them. The electricity supplier may be able to suggest an alternative solution; however, it should be noted that overhead power cables often run through trees with little or no effect.

Residents are advised to call 105 (UK Power Networks) where power lines are hanging low, damaged or grounded, or in contact with trees or vegetation. If residents believe that they are causing significant risk to the public, they should call 999 immediately.

➤ **Telecommunications Cables ('Dropwire')**

The Council will not carry out any works to Council owned trees to prevent contact with telecommunications cables. Residents are advised to contact Openreach – who maintain and repair the physical network of phone and broadband lines in the UK – to report damaged, loose or dangling cables.

➤ **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 trees are causing obstruction over the highway, or are in contact with an adjoining property, the Council will carry out the minimal tree works necessary to remove or reduce the obstruction. Such works will also take into consideration their effect on the long-term implications for the health of the tree.

➤ **Obstruction of Street Lighting and Road/Traffic Signs**

The Council will seek to ensure that Council owned trees do not obscure road/traffic signs or prevent street lights from illuminating the public highway. The Council will not normally take action to improve the levels of illumination of private property.

➤ **Debris from the Lifecycle of Trees**

Falling leaves, blossom, fruit, berries, nuts, seeds; honeydew (sap exudation), bird droppings and sucker growth are considered a natural or seasonal act, outside of the control of the Council. Where leaves and blossom from Council owned trees accumulate on public roads and footpaths, they will be removed as part of the Council's core street cleansing services. Where leaves and/or blossom end up on private land, they must not be swept or blown onto Council owned land, public roads and footpaths.

➤ **Ecology and Wildlife**

The Council will not carry out any works to Council owned trees to reduce incidence of native bees, wasps, flies or other insects; birds, bats or wild animals.

The Wildlife and Countryside Act 1981 (as amended), the Countryside and Rights of Way Act 2000 and the Conservation of Habitats and Species Regulations 2017 provides statutory protection of birds, bats and other protected species that can inhabit trees.

It is a criminal offence to:

- intentionally kill, injure or take any wild bird;
- intentionally take, damage or destroy the nest of any wild bird while it is in use or being built; or
- intentionally take or destroy an egg of any wild bird.

Further protection is afforded to those birds species listed in Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) against disturbance whilst it is nest building, at (or near) a nest containing eggs or dependant young, or disturb the dependant young of such a bird.

It is also a criminal offence to:

- deliberately capture, injure or kill a bat;
- deliberately disturb a bat (whether in a roost or not); or
- damage, destroy or obstruct access to a bat roost.

Bats and other species that may live in trees are also listed as "species of principal importance" under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. This places a duty on public bodies in exercising their functions, to have regard, as far as is consistent with the proper exercise of those functions, to the conservation of biodiversity.

The Council understands its legal obligations in respect of birds, bats and other protected species, and the potential presence of protected species will always be considered prior to undertaking tree works. Should the presence of protected species be suspected, or be found within a tree due for management, an ecological consultant and/or Natural England will be contacted for advice in advance of the tree works.