



Tree Guidance

Internal Consultation
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1. INTRODUCTION

Trees are the often unacknowledged backdrop to the landscape of the County of Herefordshire, not only in the countryside but also in its towns and villages, where they form important local landmarks and landscape features, creating the 'sense of place' that helps to characterise the county. They enhance the setting of important buildings, of village greens and open spaces and there are many individual trees across the county that possess special cultural or historical associations. Trees are an essential habitat for wildlife and help ameliorate climate change and improve air quality.

2. THE ROLE OF THE COUNCIL

In order to maintain and improve that quality of life, both for residents and for visitors to the county, Herefordshire Council is committed to promoting good management of trees. The Council has both a managerial and a regulatory role, with legal responsibilities not only to maintain its own trees but also to fulfil its other legislative obligations.

The management of its own trees is underpinned by ongoing monitoring through regular tree surveys of land under its management. These inspections ensure that Council-owned trees are in a satisfactory condition by identifying potential problems so they can be remedied in a timely, appropriate and cost-effective manner.

The Council will also act in response to significant hazards identified within its tree stock by members of the public.

Herefordshire Council is not able to provide general advice on trees, nor can it advise on individual trees other than those growing on Council land.

The Council advises that general tree advice should be obtained from suitably qualified arboriculturists – details of these can found through the Arboricultural Association.

In addition to maintaining its own tree stock, the Council also has a regulatory role with regard to the protection of trees on private and commercial sites through the implementation of Tree Preservation Orders (TPOs) and controlling works to trees within designated conservation areas. It also has a duty to ensure that trees are fully recognised as material considerations within the planning process and that trees on development sites are adequately protected from harm during construction.

3. THIS TREE GUIDANCE

In furtherance of the principles outlined above, this Tree Guidance has been produced, to acknowledge the Council's recognition of the significance of trees to the visual, social, ecological and economic well-being of the county; and to bring together and update existing disparate tree advice and guidance from around the Council in order to set out a framework whereby their management can be effectively achieved in a coherent and consistent manner. The primary function of this Tree Guidance can be summarised as follows:

- To outline standards for the management of Council owned trees
- Setting out in broad terms how trees shall be regarded with respect to tree protection, highways and development
- Offering suggested best practice for tree planting projects

4. THE MANAGEMENT OF COUNCIL-OWNED TREES

In common with all owners and managers of land on which a tree grows, the Council has a duty of care to take all reasonable care to avoid all acts or omissions that give rise to a foreseeable risk of injury to persons or harm to property.

4.1 TREE SURVEYS

The intention of the tree survey is to establish a proactive program of tree management, to minimise risks from defective trees by identifying potential hazards before they become serious thereby raising the overall quality of the tree stock across the county.

However tree failures cannot always be predicted and there will always be a requirement for reactive work in response to problems that may arise between a tree survey and which may be reported by members of the public.

- ***The condition and safety of the Council's tree stock will be monitored through normal, regular maintenance operations; and from specific reports received.***
- ***The frequency of inspection shall be determined using a 'risk based approach' based around the nature and frequency of use of the area in which the trees are situated.***
- ***Trees identified in the tree survey as being in need of remedial or preventative work will be scheduled according to the priority given to them by the assessor and available resources.***

Where a need for a formal tree survey is identified the council, or one of its managing contractors will employ a qualified, independent arboricultural consultant. Any works recommended in the survey report will be prioritised on the basis of the degree of risk posed, taking into consideration the location of the tree and the likelihood that a failure will result in actual harm as well as the nature and severity of the defect.

4.2 HOW THE COUNCIL WILL RESPOND TO REPORTS OF DEFECTIVE TREES

The council has no powers to become involved with trees under private ownership except where they cause an immediate hazard to users of Council owned open space, buildings or highways.

4.2.1 HOW TO REPORT AN ISSUE WITH A COUNCIL OWNED TREE

Anytime: via Herefordshire Council Website: www.herefordshire.gov.uk/contactus (select "Highways" from drop down subject menu)

Normal office hours, all reports, call: **01432 2601800**

Emergency reports out of office hours, call: **01432 261800 or 1432 260000**

Many schools manage their own grounds and tree maintenance and all initial reports should wherever possible be made directly to the school or college.

4.2.2 HAZARDOUS TREES:

When a tree is reported to represent a serious danger such as to demand emergency attention, the Council will attend within 2 hours in order to make the situation safe.

An 'emergency' may be a tree in **imminent** danger of collapse, a substantial branch broken and suspended or some other clearly defective feature in a tree growing in an area where its failure could result in serious harm to the public.

Examples of defects likely to be regarded as requiring urgent attention include the following:

- Severe and extensive decay visible in the trunk with evidence of imminent failure
- Evidence of extensive root decay with signs of fracture
- Major root damage (e.g. where a substantial proportion of the structural root system has been removed by trenching or excavation)
- Root plate moving and evidence of whole tree instability
- Evidence of failure of a major fork (e.g. a split in the trunk or a major limb)
- A defect such as a crack or cavity in a major branch (over 150 mm in diameter) with indications of imminent failure.

Only where there is a clear and foreseeable threat to the personal safety of residents, visitors or to property which is directly related to the condition of a tree will action be taken to minimise that risk. In determining whether and at what priority a tree requires pruning or other attention, due account must be taken of the risk posed, based upon assessing the nature of the 'defect', the likelihood that it will actually lead to failure and, importantly, the probability that someone or something will be present at the moment the failure occurs and that significant harm is likely to be caused. The mere presence of a 'defect' does not necessarily mean the tree is 'dangerous'.

Concern that a tree might fail, but where there are no specific indications of factors predisposing it to failure, will not normally result in action to prune or fell.

Trees reported as potentially dangerous but not posing an imminent, major threat to person or property will be inspected within 10 working days and appropriate action taken.

Reports of problems that do not give rise to any immediate risk to person or property, including reports of nuisance caused by trees, will initially be referred to the stated Council

policy on such matters; where these policies do not fully address the problem the matter will be looked into and an acknowledgement given with 10 working days.

When tree works are required they shall be proportionate, taking account not only of the risks involved but also the value of the tree.

Whereas a defective tree which is unsightly or insignificant might be felled, even if the defect is potentially remediable, a more prominent and important tree will be treated to the minimum degree necessary to reduce the level of risk to an acceptable level without causing unnecessary diminution of its amenity or other value. Where felling is found to be expedient, consideration will be given to planting a replacement.

4.3 DANGEROUS TREES ON PRIVATE LAND

Defective or potentially hazardous trees under private ownership are the responsibility of the owners and must be dealt with by the parties concerned. There is provision under The Local Government (Miscellaneous Provisions) Act 1976 for the council to take action in respect of privately owned trees where there is imminent danger or where there is an unreasonably high risk to persons or property. These powers are discretionary and only used as a last resort in cases where all other options for resolving the problem have been exhausted.

Similarly, issues of nuisance such as private trees causing shade, blocking views or dropping leaves, flowers or fruit etc. are private matters that must be resolved between the parties involved. Where technical arboricultural or legal advice is required the Council suggest it is obtained from qualified practitioners in the private sector – details of these can found through the Arboricultural Association.

5. GUIDANCE ON REQUESTS FOR TREE WORK

The following guidance (TGN1 to TGN14) set out the Council's default position on a range of concerns and issues where they relate to Council owned trees. Variation will only be considered under exceptional circumstances

These guidance notes will also inform and guide responses to applications for work on trees protected by Tree Preservation Order and notifications of intention to work on trees in conservation areas

TGN1: Where trees owned or managed by the Council are directly in contact with a property (dwelling, garage, boundary wall etc.) we will carry out work insofar as it is necessary to remove the nuisance.

Trees reported as touching private property will be assessed by an approved contractor and an appropriate course of action decided upon. This will generally take the form of pruning to create clearances sufficient to ensure that the nuisance will not recur for a period of at least three years. Trees causing such nuisance will only be felled if they are of poor quality and/or negligible public amenity value or are otherwise defective.

TGN2: Requests to prune back overhanging branches from Council owned trees will not normally be dealt with as a matter of routine management.

The Council has no legal obligation to prune branches overhanging boundaries and, given that many thousands of council trees overhang boundaries, it is not an effective use of resources to prune every overhanging limb.

Common law rights enable property owners to prune branches back to a boundary, although it must be noted that this common law right does not extend to trees protected by tree preservation orders or growing within a conservation area.

Where property owners exercise their common law rights by undertaking or commissioning the pruning of council owned trees that overhang their properties it is expected that all such work will be carried out in accordance with the current edition of BS3998, "Tree Work- Recommendations" by a suitably qualified arboriculturalist – details of these can found through the Arboricultural Association. The property owner may be required by the Council to provide evidence of the qualifications and insurance idemnities of their contractor.

All material removed must be disposed of by the resident or their contractors and should not normally be left on the council land.

TGN3: The Council will not fell or prune trees solely on grounds of their size.

A tree will not be regarded as dangerous or in need of removal or reduction simply because it is regarded as being 'too tall' or 'too big'.

TGN4: It is not normally the Council's policy to remove or prune trees to improve the natural light to a property.

There is no legal 'right to light' with regard to trees and the Council will not routinely prune trees to improve light access to a property.

Note that in cases where light is being blocked or restricted by a hedge consisting of evergreen or semi-evergreen trees, action to reduce the height of the hedge may be taken under the High Hedges legislation. This legislation is managed by the Council's Environmental Health and Trading Standards Service. See the Council's website for contact details.

TGN5: Trees owned or managed by the Council will not be pruned or felled in order to improve a view from a private property

There is no legal right to a 'view'.

TGN6: Trees owned or managed by the Council will not be felled or pruned to reduce or remove leaf fall onto private properties, neither will fallen leaves be removed from private properties.

The shedding of leaves in the autumn is a natural function of trees and cannot be prevented by pruning.

Keeping their property clear of such debris is considered to be part of the routine maintenance that must be undertaken by a responsible owner.

Based on an assessed risk basis the Council will as appropriate clear fallen leaves to prevent any excessive build up on streets and pavements. In parks, green spaces and other areas of open ground leaves may only be cleared once after the majority have fallen.

TGN7 Trees owned or managed by the Council will not be felled or pruned to reduce or remove issues arising from the deposition of honeydew or other residues

Honeydew is a sticky, sugar-rich liquid excreted by aphids (greenfly) as a by-product from feeding on the leaves of certain trees (especially limes and sycamores). It is seasonal problem and will vary from year to year, depending on the aphid population. The sticky deposit may subsequently be colonised by a fungus which gives it a black appearance. There is little that can be done to control the aphids - pruning a tree will often result in the production of new young leaves which may actually cause aphid numbers to increase.

Cars affected by the problem can be washed clean with warm soapy water, preferably fairly soon after the honeydew has been deposited and before it has dried on.

TGN8 Trees owned or managed by the Council will not be pruned or felled to remove or reduce bird droppings from trees.

The Council does not consider the nuisance of bird droppings to be a sufficient reason to prune or fell a tree.

It should be noted that nesting birds are protected under the Wildlife & Countryside Act and it is a criminal offence to disturb them.

TGN9: Trees owned or managed by the Council will not be pruned or felled to remove nuisance caused by the shedding of berries, fruits or nuts, nor will we remove such material from private land.

Fruit trees such as cherry, apple and pear are valuable ornamental trees, providing both attractive blossom in spring and fruit in the autumn; they also provide food for birds and other wildlife. However proportionate action may be

considered following local consultation where it can be shown that such issues give rise to significant anti-social activity or where special circumstances lead to unacceptable levels of risk.

TGN10:Trees owned or managed by the Council that bear poisonous fruit and/or foliage (e.g. Yew, Laburnum) will not be removed unless they pose an exceptional risk, such as where unsupervised children are likely to be exposed: in such cases the issue will be investigated and appropriate action taken.

Accidental poisoning as a result of ingesting leaves or berries is a very rare event and understandably, most of the recorded cases of accidental poisoning have involved children and by far the majority involved substances other than plants.

TGN11:Trees owned or managed by the Council will not be pruned or felled for the purpose of improving signals to television aerials or satellite receivers

The influence of trees can be seasonal, and evergreen trees affect television signals more than deciduous trees. Rain and wind can vary the effects of trees on reception, by causing ghosting and signal strength fluctuations. In areas where television signals are strong, it is often possible to accept some attenuation from trees and still obtain a satisfactory picture. If this is not the case it is recommended that your satellite or television supplier be consulted: re-siting the aerial or the fitting of a signal amplifier may alleviate the problem.

TGN12:Trees owned or managed by the Council will not be pruned or felled in order to improve light access to a solar panel.

While encouraging the widespread adoption of renewable energy technology, including the installation of solar heat collectors and photovoltaic generators, the importance of trees in local amenity must be recognised, as must their importance in offsetting the problems of climate change and air quality.

TGN13:Where trees owned or managed by the Council are associated with criminal or serious anti-social behaviour, each case will be assessed individually and measures to reduce any problems will be considered.

Criminal activity and/or anti-social behaviour will generally involve other agencies, including the police, along with the local community and a co-ordinated approach will be adopted. Felling or pruning trees will only be considered if it can be demonstrated to be an effective solution.

TGN14: While the Council recognises its responsibilities for the trees it manages or protects, it will expect any claim against its own trees or an application to work on a protected tree to be supported by strong, robust evidence that the tree in question is, on the balance of probabilities, likely to be a significant contributory cause to damage to a building. Requests to fell or prune trees as a preventative measure in the absence of any clear evidence of damage will not be accepted.

Tree related subsidence & heave are dependent upon the type of soil present, specifically on its capacity to shrink on drying and to swell on re-wetting. Tree related subsidence and heave are the results of complex interactions between the building and the soil on which it is constructed, mediated by nearby vegetation but also dependent upon factors such as building foundation depth and design, local drainage patterns and climatic conditions.

Much of Herefordshire is on Old Red Sandstone and the soils produced are relatively free-draining silty loams; and the majority are classified by the Building Research Establishment as falling into the 'Low shrinkage potential' category. 'High shrinkable potential' clays are not commonly found in the county; therefore significant damage resulting from tree-related subsidence/heave events is uncommon.

6. PROTECTED TREES

(Tree Preservation Orders and trees in conservation areas)

Under the provisions of the Town and Country Planning Act and under the Town and Country (Tree Preservation) (England) Regulations 2012, the council has a duty to protect selected trees and woodlands in the interests of amenity through the creation of Tree Preservation Orders (TPOs) and the designation of conservation areas.

To find out more about TPOs, how to make an application to work on a tree protected by TPO and to apply to get a tree, group of trees or an orchard protected, how to apply for works to trees in conservation areas, or information on hedgerow protection please visit www.herefordshire.gov.uk/conservation.

7. TREES & DEVELOPMENT

TGN15 In assessing planning applications and providing pre-application advice consideration will be given both to the retention of existing trees on development sites and to the establishment of appropriate new planting.

TGN16 The Council will require planning applications to take into account the advice and guidance contained in the current version of BS 5837 (Trees in relation to design, demolition and construction).

This document provides recommendations as to how trees should be considered and managed from the feasibility study stage, through design and planning to the protection of retained trees within the construction site and on to completion. Its guidance should be followed throughout.

TGN17 Due consideration will be given to the future growth of trees, both retained and those proposed in landscaping schemes.

In order to ensure that trees proposed for retention do not give rise to problems or complaints post-construction, the Council will consider the spatial relationship between buildings and other structures and all trees, both existing and proposed, taking into account the ultimate mature size of those trees so that layouts and planting and tree management techniques can be designed to avoid issues arising in the future.

8. TREES & HIGHWAYS

Landowners have a general duty of care to ensure that trees and shrubs on their property do not endanger third parties, including road users, but it is also one of the requirements of the Highways Act 1980 ('the Act') that a public highway should be kept clear of obstructions, including those caused by the growth of trees and shrubs. Complaints about low branches will be assessed and dealt with appropriately.

TGN18 Herefordshire Council will manage trees and shrubs under its ownership in order to maintain adequate clearance for the traffic generally using the highway in question.

While no specific guidance is given in the Act, it is generally accepted that the minimum clearance should be 2.4m (7' 10') over a footpath and 5.05m (16' 6') over a road (as measured from the centre line).

TGN19 Herefordshire Council will endeavour to ensure that trees under its ownership do not obscure road signs or prevent street lamps from illuminating the highway.

TGN20 The Council will not normally take action to improve the levels of illumination of private property from streetlights.

TGN21 Section 154 of the Highways Act (1980) gives the highway authority powers to require the removal or cutting back of trees, shrubs and hedges that are in private ownership and which obstruct or endanger highway users.

The Council as the Highway Authority can serve a notice under Section 154 on the owners of overhanging hedges and trees requiring that they are cut back to abate any nuisance and to provide the necessary clearance and to remove obstructions that might otherwise prevent or impede the legitimate use of the public highway or be a potential safety hazard for road users.

9. TREE PLANTING

TGN22 The Council will seek to maintain its own tree stock in good condition and endeavour to increase tree canopy cover within our towns through replacement planting and, where appropriate and practicable, through new planting.

To achieve this it may be necessary to remove trees which, while still essentially healthy, are nearing the end of their safe, useful lives in order to make space for other existing trees or make space to establish new specimens.

TGN23 In electing to plant trees the Council will follow the principle of ‘Right Tree, Right Place’.

Thus planting location and species selection must take into account factors such as:

- *The landscape and nature of the locality and the nature and type of existing tree cover*
- *Soil type and condition*
- *Amount of available sun*
- *The availability of space, both above and below ground, into which the tree can grow and develop throughout its anticipated life*
- *The proximity, size and type of nearby buildings*
- *The need to maintain appropriate clearances along highways and around streetlights & signs*
- *The presence of overhead cables*
- *The presence or underground services especially where they are likely to require maintenance*
- *The degree of shading likely to be caused and whether this will be a positive or a negative factor*
- *Other factors that may render a particular variety of tree unsuitable for a specific planting site, for instance by virtue of its propensity to shed fruit, seeds, pollen, honeydew etc.*

- *Disease resistance*
- *Climate change adaptations*

The council acknowledges that to be successful, tree planting must be supported by the local community and must accord with long-term management and maintenance capacity.

TGN24 Native tree species will be strongly favoured for planting in the countryside and in situations where attracting wildlife and increasing biodiversity is a priority; however non-native species will often be acceptable and may be preferable in towns and parks.

The conservation benefits of native trees are fully recognised and their use will be regarded as essential in certain circumstances such as replanting trees in ancient woodland. However exotic species can make a major contribution in certain environments, for example as street trees, where they may outperform native species.

Through the Council's planning process pre-application advice on appropriate species is available; alternatively advice should be sought from a qualified landscape designer or arboricultural consultant.

TGN25 The Council will use available information and professional advice to ensure that the management of the current tree stock and any new planting undertaken takes in to account currently available best practice and advice on tree pests, diseases (pathogens). As far as possible all new trees will be of historical or local provenance and/or locally grown

There are numerous current and potential threats to tree health and the Council will refer to advice from the statutory bodies – DEFRA and Forestry Commission on the state and impact of these pathogens. To obtain current best practice and advice visit www.forestry.gov.uk/pestsanddiseases. Native trees of local provenance are likely to be better suited to growing conditions in the county.

10. USEFUL CONTACTS

- Herefordshire Council: www.herefordshire.gov.uk
- Arboricultural Association: www.trees.org.uk
- Forestry Commission: www.forestry.gov.uk
- Natural England: www.naturalengland.org.uk
- Tree Council: www.treecouncil.org.uk
- Trees and Design Action Group: www.tdag.org.uk
- Woodland Trust: www.woodlandtrust.org.uk
- Landscape Institute: www.landscapeinstitute.org.uk