



## GREAT ALNE PARISH COUNCIL

### TREE MANAGEMENT PROTOCOL

#### **Introduction**

Great Alne Parish Council ('the Council') is responsible for approximately 2.1 acres of land at the Recreation Ground where there are approximately 40 trees plus hedgerows. Trees are dynamic structures, constantly growing and changing to adapt to environmental conditions.

This document is intended to act as a single point of reference for the public, councillors and professionally interested people to establish a clear, consistent and structured approach to the issues affecting Council owned trees.

The Protocol has been designed for the following purposes:

- To establish the responsibility of the Council in relation to its tree stock;
- To ensure that resources are correctly allocated from a risk perspective and that the management of trees is fulfilling what is considered to be reasonably practicable; and
- To provide guidance on the Council's policy in relation to requested remedial tree works.

The Council recognises that it has a 'Duty of Care' under the Occupiers Liability Acts 1957 and 1984 to ensure that all of the trees on its land remain in a safe condition as far as it is reasonably practicable.

The Council will manage the condition of trees and the risk that they pose to nearby people and property through an annual inspection system.

#### **Inspection Regime**

The inspection will consist of an initial ground-level, visual assessment looking at the exterior of each tree for any evidence of structural defects. The recommendations arising from this survey will specify remedial tree works to reduce or minimise any hazard identified.

Following severe gales or unexpected/ prolonged bad weather conditions, councillors will look for and report on any unsafe trees and branches during their routine informal observations. 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 will be in accordance with British Standard 3998:2010 'Tree work – Recommendations'.

#### **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 arrange for a contractor to 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 an emergency response 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 fall or has fallen onto a house or vehicle

The Local Government (Miscellaneous Provisions) Act 1976 gives the Council powers to deal with dangerous trees not owned by the Council. It is normally used as a last resort if the land owner appears not to be doing anything about a dangerous tree, which may cause harm to people or property.

## **Tree Related Issues**

The most common issues associated with trees and how the Council will deal with these issues in relation to Council-owned 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 perceived nuisance associated with any trees encroaching onto your property. If you feel that a council-owned tree is encroaching on your property, you should have regard to the following advice which is provided for general guidance only. You are strongly advised to obtain independent legal and arboricultural advice before acting:

- Before you consider carrying out any works to the tree, you should check to see whether it is protected by a Tree Preservation Order (TPO) or is located 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 located 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](mailto:planning.applications@stratford-dc.gov.uk). Carrying out work to a tree which is in a Conservation Area or subject to a TPO without first applying to SDC can constitute a criminal offence.
- You can only consider removing those parts of the tree from the point where they cross the boundary of your property. You must not leave the tree in a declining or dangerous condition. 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 Contractors list 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.

- **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 soil, 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 tree has caused damage to your property, you will be required to submit an independent report to the Council to support your claim.

- **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; but they may exploit an 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.

- **Right to light**

A common complaint about 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 trees just 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 the size 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 legal proceedings.

- **Television/satellite and radio reception**

Interference with television/satellite and radio 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 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 legal proceedings.

- **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 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 legal proceedings.

- **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. Western Power Distribution may be able to suggest an alternative solution, but it should be noted that power cables often run through trees with little or no effect. Any unauthorised works to a tree may result in prosecution or civil legal proceedings.

- **Debris from the lifecycle of trees**

Blossom, leaves, fruit, berries, nuts, seeds; honeydew (sap exudation) and bird droppings are considered a natural act, outside of the control of tree owners. Where leaves end up on private land, they should not be swept or blown onto Council owned land, public roads and pathways.

- **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 or wild animals.

If you wish to destroy a common wasp nest, exercise great caution and seek the aid of a pest control expert. In recent years tree bumblebees have become increasingly common throughout the UK. Unlike common wasps this species only inhabits existing holes in trees and occasionally loft voids, and do not chew wood or have any detrimental effect to the structure of the tree or building. It is therefore current advice to leave these nests alone, however if you feel that they are becoming a problem contact your local Bee Keeping Association.

Wild birds are afforded protection under the Wildlife and Countryside Act 1981 (as amended), and it is illegal to (amongst other offences):

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

Further protection is afforded to birds listed on Schedule 1 of the Wildlife and Countryside Act 1981 (as amended) against disturbance during nest building, or at a nest containing dependant young, or of the dependant young of a Schedule 1 bird species.

Bats (*Chiroptera* spp.) are legally protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations (2017) against the following offences (amongst others):

- Deliberate taking, injuring or killing of a wild bat;
- Intentional or reckless disturbance of a bat in its roost;

- Damage or destruction to a place used by bats for breeding or resting (even if bats are not occupying the roost at the time); or
- Intentional or reckless obstruction of 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 an obligation on public authorities in exercising their functions to have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.

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

Any unauthorised works to a tree which results in a breach of the aforementioned legislation may result in prosecution or civil legal proceedings.

- **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/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 legal proceedings.

- **Obstruction of street lighting and road signs**

The Council will seek to ensure that Council owned 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 legal proceedings.

Approved by Councillors at Parish Council Meeting 21 May 2024