

# **TREE WORKS ON COUNCIL OWNED TREES**

## **GUIDANCE DOCUMENT** Revised and Adopted July 2020

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# 1. Introduction

Kirklees Council is responsible for the management of all trees growing on its land including street trees, trees on public open spaces and in woodlands. By law, the Council has duty of care with respect to tree related risk and is also required to manage and undertake work to any tree which constitutes a statutory nuisance. In order to discharge these duties a programme of inspection and maintenance works is in place aimed at keeping staff and the public safe from harm and preserving the health and future wellbeing of the Council's tree stock.

Trees are a hugely important component of the landscape in both the urban and rural parts of the Kirklees district. Trees, whether appearing as individuals, groups or as woodlands, have a very significant effect on our quality of life by providing a range of ecological, aesthetic, social and health benefits. As such the Council is committed to maintaining – and where possible increasing – the level of tree cover across Kirklees. There are, however, a number of conflicts which may arise where the Council's trees are located close to neighbouring properties and the aim of this guide is to set out the Council's policies in dealing with these conflicts and to clarify the Council's legal obligations in relation to such issues.

This guidance document is intended for both staff and the general public. It complements and is intended to be read in conjunction with Kirklees' *Council Owned Tree and Woodland Management Policy* and the *Kirklees Council Tree Risk Management Framework*. This document will be reviewed on a biennial basis by the forestry team within the Greenspace department.

**To contact Kirklees Council forestry team call 01484 414700 or email [forestry@kirklees.gov.uk](mailto:forestry@kirklees.gov.uk) with details of the issues in question together with photographs where possible.** The forestry team works in an advisory capacity to a number of Council Services and any decisions relating to trees will be made by the team in conjunction with the relevant Service.

## 2. Common Law Rights

In the English legal system, Common Law (or civil 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, a property owner has a right to remove (abate) the nuisance associated with trees encroaching onto his/her property. The following advice with respect to encroaching trees is given for general guidance only and property owners would always be advised to obtain independent legal advice before acting.

- a) It is not the responsibility of the Council to prune back branches or foliage from its trees where they overhang another person's property, however as a landowner you are entitled to undertake such pruning yourself. The Council is not obliged to accept the return of any pruned materials and they should only be left on Council land if prior written consent has been given.
- b) 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 tree owner. You have no legal right to cut or remove any part of a tree that does not overhang your property. Any work which you do carry out must be done at your own expense and without unauthorised access to Council land. Kirklees Council has no liability to reimburse any associated costs. If your actions render a tree to be unsafe you may be liable for any subsequent damage that results from tree failure.
- c) You are strongly advised to consult a professional tree surgeon for guidance on how best to prune back encroaching trees, unless the works are trivial meaning you could do the works with hand secateurs or similar.
- d) You are strongly advised to tell the owner of the trees what you plan to do. You can find out if the trees are owned by the Council by telephoning Kirklees Direct on 01484 414700.
- e) Before you consider doing any works to the trees you should find out if they are protected by a Tree Preservation Order or if they are in a Conservation Area. If trees are protected, then you will need to gain consent by making an application / give notice to the Council. For guidance on how to check if the trees are

protected and how to make an application please contact the Council's Planning department on [trees.planning@kirklees.gov.uk](mailto:trees.planning@kirklees.gov.uk) or (01484) 221000.

**Any works to Council owned trees or parts of trees on Council land (not private land) require prior written consent from the Council as detailed in Section 5.**

### **3. Maintenance of Council Trees**

Trees are maintained in order to reduce the risk of harm to people and property to an acceptable level and to discharge the Council's duties under law in dealing with a statutory nuisance. Tree maintenance may on occasion be undertaken for other reasons but this is at the discretion of the Council's Greenspace Department. The Council is committed to increasing tree cover across the district and as such the retention of trees will always be the preferred course of action unless there is a clear justification otherwise. Further information on the Council's policies relating to maintenance and management of its trees and woodlands can be found in the *Council Owned Tree and Woodland Management Policy* and the *Kirklees Council Tree Risk Management Framework*.

#### **3.1 Street trees**

Street (highway) trees are defined as trees planted and growing in pavements and road verges along the district's highway network. Such trees are a valuable part of our urban landscape, and the Council will maintain and enhance this urban forest for the benefit of present and future generations.

The Council will endeavour to protect street trees from threats such as loss of and damage to verges, the activities of statutory undertakers and other excavations, and damage from use of road de-icing salt bins or piles being placed around tree root areas. Where utility works are being undertaken within close proximity to highway trees, contractors will be obliged to undertake works in accordance with NJUG 10 v.4 or any amendments to that document.

The Council will not support the removal of trees for vehicle drop crossings unless the tree is of limited life expectancy or a suitable mitigation scheme is agreed. All trees removed will be replaced with suitable specimens and all costs for removal and replacement will be borne by the person applying for the drop crossing according to Capital Asset Valuation of Amenity Trees (CAVAT) methodology.

Many of our street trees are now mature and as such it is inevitable that some are removed each year due to age or condition, with other removals unavoidable due to necessary highway and infrastructure improvements. Where street tree felling is required for highways works this will not be undertaken without consultation with all elected ward members and residents on the street will be consulted as appropriate. Where practicable the Council will always seek to replant new trees to reverse the decline of our urban tree population – more often in grassed verges which are more suited to tree growth. Careful consideration will be given to the species selected and to the placement of trees so as to minimise conflict with other uses of the highway.

#### **3.2 Parks and public open spaces**

Trees in parks and public open spaces are managed to reflect the context of the site and their type, age and condition. Trees in parks generally have more room to grow compared to street trees and usually grow to their full height and spread.

Ongoing maintenance includes removing dead wood, formative pruning (to remove problems in tree form when the tree is young, thus avoiding expensive problems later), removing low branches from pathways and removing trees when they come to the end of their safe and useful life.

Available resources will be used to plant new trees where a need has been identified. Where management plans do not exist, trees will be selected and sited to complement and enhance the park or green space and to maintain tree cover in these areas.

### **3.3 Cemeteries and closed churchyards**

There are approximately 20,000 cemeteries and churchyards in England, encompassing approximately 10,000 ha of land, representing an extremely valuable ecological resource. Many cemeteries and churchyards contain large specimen trees, the product of a framework of planting undertaken when the cemetery sites were first laid out. Many trees in cemeteries and churchyards have religious associations, and are also considered to be valuable places that can offer a sense of calm and relaxation, and even exercise, for those persons who choose to access them. In order to protect these trees the Council will ensure that the placement of new graves near trees will be in accordance with the guidance set out in BS 5837:2012 *Trees in relation to design, demolition and construction - Recommendations*.

### **3.4 Kirklees Neighbourhood Housing (KNH) managed areas**

A high number of KNH managed Council properties have trees within their gardens and throughout the district there are large numbers of trees on KNH managed estates, many of which are growing in close proximity to residential premises.

Tree works are carried out by the Council's Greenspace Department on behalf of KNH. The Council's Tenancy Agreement sets out the rights and responsibilities of the tenant and also the Council's rights as landlord which states: "*You must cultivate and look after the garden and keep any trees, bushes, hedges or grass at a reasonable size or height*".

The Council does not, however, reasonably expect all tenants to take responsibility for managing large trees within their gardens. All tree related requests will be considered on their own merits and where appropriate a consultation will be arranged between KNH and Greenspace Services before a decision is taken. The final decision will rest with KNH but will be subject to compliance with this Guidance Document, the *Council Owned Tree and Woodland Management Policy* and any relevant planning or legal rules or restrictions.

In order to increase tree planting across Kirklees the Council will, where possible, endeavour to incorporate new trees into its housing sites. Careful consideration will be given to the species and placement of trees to minimise conflict with reasonable tenants' requirements and other site uses. Where appropriate we will consult with tenants and residents on such schemes.

### **3.5 Tree felling**

Tree removal is regrettable but necessary under a number of circumstances. The decision to remove a tree is not taken lightly. Trees are usually felled because it is the best option to reduce the risk of harm to an acceptable level (e.g. dead, dying or diseased trees). Such decisions will always be made with reference to the *Kirklees Council Tree Risk Management Framework*.

There are other circumstances where trees may be felled and these are mostly at the discretion of the Council's Greenspace Department, such as where:

- A tree has been proven to be causing subsidence;
- The removal of a tree would benefit surrounding trees; or
- It is the requirement of a management plan to enhance the development of neighbouring trees.

### **3.6 Tree pruning**

Substantial pruning of a tree can allow decay organisms to enter exposed and vulnerable tissues and can also often weaken the structure of the tree. Pruning of a healthy tree will usually cause it to respond by producing vigorous new growth. Older trees do not tolerate pruning as well as younger ones and any substantial pruning can pose significant risk to the survival of a tree particularly in species which are not naturally tolerant of cutting. Pruning should therefore be avoided for reasons other than reducing risk of harm to people or property. Pruning for any other reasons would be exceptional and at the discretion of the Council's Greenspace Department. Further guidance relating to particular circumstances is given in section 4.

### **3.7 Use of green waste**

Unless otherwise agreed, all debris that fits through the Council's wood-chipper will be chipped on site and the resulting woodchip used by the Council. When woodland works are undertaken, all resulting debris, where appropriate, would be left on site either in mulch form or stored as habitat piles within appropriate woodland areas and removal of this would be seen as theft unless written permission is sought from Greenspace.

### **3.8 Tree planting**

In line with the *Council Owned Tree and Woodland Management Policy* the Council supports tree and woodland planting wherever practicable and appropriate. Many problems associated with trees can be avoided by careful, considered design of planting schemes. The principle of "the right tree in the right location" is pivotal in ensuring trees on Council land exist and can grow and mature in harmony with the needs of residents including neighbouring property owners. The appropriate use of trees can transform the visual, amenity, economic and ecological value of an area. Tree planting schemes will always be undertaken with careful consideration of placement, species choice, species diversity and provenance to ensure we create high quality, sustainable landscapes for the future. Careful consideration will also be given to the best means of protecting newly planted trees in each situation.

Procurement of trees and associated materials will be undertaken in line with Council procurement policies and procedures, with the aim of maximising efficiency and quality, and also in accordance with BS 8545:2014 *Trees: from nursery to independence in the landscape - recommendations* or any amendments to that document. Approved and reputable suppliers will be used to ensure quality specimens free from contamination.

Where trees are planted as part of the Council's forward planning to mitigate against future planned or anticipated removal the Council will where practicable wait until the new tree(s) are established before considering removal of the mature tree(s) in question. In practice this is usually approximately two years after the new tree's stake has been removed.

### **3.9 Wildlife legislation**

Work to trees has the potential to affect wildlife that receives specific legal protection. Species protection is provided through the Wildlife and Countryside Act 1981, Protection of Badgers Act 1992 and the Conservation of Habitats and Species Regulations 2017. Other legislation relevant to tree work and wildlife includes the Hedgerows Regulations 1997 and the Natural Environment and Rural Communities Act 2006. The Council will adhere to the requirements of all wildlife legislation in the course of undertaking tree works.

Within Kirklees, bats and birds are the species groups most likely to be affected by tree works and as such measures to avoid impacts to these groups are described below. Where those working on trees have reason to suspect other protected species may be affected specialist ecological advice will be sought.

Bats are European Protected Species and in England bats and their roosts are protected through the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2017. In undertaking any tree work, the Council will follow the survey protocol described in *British Standard 8596:2015 Surveying for bats in trees and woodland – Guide*, and will, as described in the British Standard, employ the services of a bat specialist where necessary. The specialist will be named on an appropriate bat survey license issued by Natural England. Where a roost or roosts are identified, whether or not bats are present at the time, no works will be undertaken to the tree until such time as a bat mitigation license has been obtained from Natural England.

It is an offence under Section 1 of the Wildlife and Countryside Act of 1981 to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. As such tree and hedgerow work will be undertaken outside of the bird breeding season (inclusive of March-August) or where this is not possible trees will be inspected for bird's nests prior to work commencing. If active bird's nests are present, no works

will be undertaken until all young have fledged, which will be determined through the advice of a suitably qualified ecologist.

## **4. Unsafe Trees**

### ***4.1 Unsafe trees - requiring immediate action***

If a Council owned tree is in such a condition that it (or part of it) is at risk of imminent failure in the vicinity of people or property, the Council will attend the site as an emergency as soon as is reasonably practicable in line with its *Tree Risk Management Framework*. If work cannot be completed, areas at risk will be cordoned off until resources are available.

**Any matters of concern in relation to trees should be reported to forestry on 01484 414700 or email [forestry@kirklees.gov.uk](mailto:forestry@kirklees.gov.uk)**

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

- a) tree is snapped or blown over
- b) tree uprooted but held up by another tree or building
- c) a large branch has broken off or is hanging off the tree
- d) tree or branch is blocking the road or footpath
- e) tree or branch is blocking access to property
- f) tree may, or has already, fallen onto house or car

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:

- a) tree is dead
- b) tree is dying - few leaves in summer or dieback in the crown
- c) bark is loose and falling off
- d) mushrooms or fungi growing on or near the tree
- e) old splits and cracks in the trunk or large branches
- f) smaller branches or twigs falling from the tree

Trees can be made safe via pruning or felling. Typically we would employ the most cost effective approach. For certain high value trees, however, we would consider other options to reduce risk to an acceptable level whilst retaining the tree, including options to reduce the likelihood of the tree failing or the likelihood of persons being close to the tree if it did fail.

### ***4.2 Trees - not requiring immediate action***

Trees that are perceived as at risk of failure but presenting no immediate risk to the public (e.g. in areas of low/no public access) will be inspected and appropriate work undertaken depending on the level of risk identified at the time of inspection.

### ***4.3 Unsafe trees in private ownership***

#### ***Trees NOT within falling distance of the public highway***

Danger posed by trees owned by private parties is principally a matter for such parties to resolve. Private parties should take care of their own responsibilities and hence the Council should not be considered as the first point of contact in attempting to resolve concerns about the danger posed by trees in private ownership. Local Authorities do, however, have the power to require a private individual to make safe a tree which poses an imminent danger via the Local Government (Miscellaneous Provisions) Act 1976. The Council may, therefore, intervene according to the powers given in the Act if an owner of such trees fails to act in a reasonable timescale (timescales depend upon the degree of risk presented) and may recover from the tree owner the expenses reasonably incurred by it in so doing.

## ***Trees WITHIN falling distance of the public highway***

If a tree in private ownership is reported to the Council and assessed as posing a danger to the highway it will be scheduled for work to make it reasonably safe. The land owner will in the first instance be contacted and instructed to make the tree safe under the Highways Act 1980. The Council may intervene according to the powers given in the Act if an owner of such trees fails to act in a reasonable timescale (timescales depend upon the degree of risk presented) and may recover from the tree owner the expenses reasonably incurred by it in so doing.

## **5. General Works to Council Trees Not Required by Law**

Kirklees Council will refer to the following guidelines when considering requests for work which it is not required to undertake by law. The Council will adopt a common sense approach with regards to requests it receives for relevant, justifiable and necessary tree works; all requests will be considered individually and the circumstances of the request will be balanced against any environmental impacts before a decision is made. Where the decision is not to the satisfaction of the customer, the customer has the right to appeal against the action or decision, to which the Council will respond in writing. Requests received in the form of complaints will be dealt with in accordance with the Council's complaints procedures which can be viewed at <https://www.kirklees.gov.uk/beta/contact-the-council/complaints-procedure.aspx>.

**In some situations the Council may agree to third parties/volunteer groups undertaking works to trees on its land in order for them to help resolve their own specific issue or as part of a management plan, provided that those works do not compromise the structural integrity of the tree in question.** In such situations all works would need to have prior agreement in writing from the Council and all such works would need to be funded by the third party in question. In the first instance such requests should be directed to [forestry@kirklees.gov.uk](mailto:forestry@kirklees.gov.uk) or 01484 414700 with a proposal of works and justification, and photographs if possible. Details would also need to be provided of the contractor to undertake the work including:

- An up to date copy of their public liability insurance;
- A copy of qualifications relevant to the work proposed - if climbing two operatives trained for rescue and LOLER; if the proposal is a reduction we would need a pruning qualification and if lowering is involved we would need lowering qualification; and
- Risk assessments and method statements for the work.

**Work should not take place until written consent is granted in response to the request.** Any works completed without prior written consent may result in the Council seeking compensation from those responsible in the form of remedial work to rectify the damage and/or full replacement cost values as calculated by the Capital Asset Valuation of Amenity Trees (CAVAT) methodology. Under this valuation system, fines for cutting of a medium-sized tree can amount to approximately £20,000 and a 4 inch branch approximately £200 or more.

### ***5.1 Tree touching a building***

If a tree that is owned or managed by the Council is touching private property (dwelling, house, garage etc.) the Council will take action to remove the nuisance by the most appropriate means.

In many cases the solution will be for the Council to prune the tree, but in some circumstances it may be more appropriate to fell the tree. If pruning is appropriate we will endeavour to undertake works to stop the problem recurring within three years.

### ***5.2 Tree overhanging property***

Kirklees Council will not prune or fell a tree that is owned or managed by the Council to alleviate the nuisance of branches overhanging private property (see section 2).

Non-statutory nuisance caused by overhanging branches may be considered as part of our general tree work programme. However, this programme is discretionary and subject to the availability of funding.

### **5.3 Tree roots and drains**

Kirklees Council will not prune, fell or cut the roots of a tree that is owned or managed by the Council to prevent roots entering private drains.

Tree roots typically enter drains that are already broken or damaged. Trees themselves very rarely break or damage the drain in the first place. Tree roots found in a drain are usually symptomatic of an underlying problem requiring repair of the broken pipe. If you are concerned about the condition of your drains then you are advised to contact your water and sewerage company. Householders are often responsible for the maintenance of the drains within or on their property.

### **5.4 Trees blocking natural light**

Kirklees Council will not prune or fell a tree owned or managed by the Council to improve natural light to private property unless it is required by a court order to do so.

Where trees growing naturally within the environment are blocking light into a property there is no legal "right to light". The tree owner is not by law obliged or required to carry out work to the tree(s) for the benefit of level of light to a third party, unless the third party has brought a successful action through the courts demonstrating that a "right to light" exists.

If natural light is being blocked by the growth of a predominantly evergreen hedge then action may be taken to reduce the problem under the High Hedges Act, Part 8 of the Antisocial Behaviour Act, 2003.

Further information should be sought through the Council's Planning department at [trees.planning@kirklees.gov.uk](mailto:trees.planning@kirklees.gov.uk)

### **5.5 Trees blocking views**

Kirklees Council will not prune or fell a tree, or group of trees, owned or managed by the Council to improve the view from private property (including properties managed by Kirklees Neighbourhood Housing).

### **5.6 Leaf fall from trees**

Kirklees Council will not prune or fell a tree owned or managed by the Council to remove or reduce leaf fall or remove fallen leaves from private property.

The loss of leaves from trees in the autumn is part of the natural cycle and cannot be avoided by pruning. The falling of leaves onto a neighbouring property is not regarded in law as a statutory nuisance.

### **5.7 Sap from trees**

Kirklees Council will not prune or fell a tree owned or managed by the Council to prevent or reduce honeydew or other sticky residue falling onto private property.

Honeydew is caused by greenfly (aphids) feeding on the sap from the leaves and excreting their sugary, sticky waste. Unfortunately there is little that can be done to remove the aphid which causes the problem and pruning the tree may only offer temporary relief; any re-growth is often more likely to be colonised by greenfly, thereby potentially increasing the problem. Some trees, such as Limes, are more prone to attack by greenfly and in some years greenfly are more common especially following a mild winter. Honeydew is a natural and seasonal problem. Where new trees are planted we try to choose trees that are less likely to have this problem. Where honeydew affects cars, warm soapy water will remove the substance, particularly if you wash the car as soon as possible.

### **5.8 Blossom from trees**

Kirklees Council will not prune or fell any tree owned or managed by the Council to remove or reduce blossom fall from trees or remove fallen blossom from private land.

Tree blossom usually heralds the start of Spring. Blossom is a natural occurrence, which cannot be avoided by pruning, and is not regarded in law as a statutory nuisance.

### **5.9 Bird droppings from trees**

Kirklees Council will not prune or fell any tree owned or managed by the Council to remove or reduce bird droppings from the tree, or remove bird droppings from private land or property.

Bird droppings may be a seasonal nuisance but the problem is not considered to be a sufficient reason to prune or remove a tree. Nesting birds are protected under the Wildlife and Countryside Act 1981 (and other related wildlife law). Warm soapy water will usually be sufficient to remove the bird droppings.

### **5.10 Fruit, berries & nuts from trees**

Kirklees Council will not prune or fell any tree owned or managed by the Council to remove or reduce the occurrence of fruit, berries or nuts falling onto footways or private land.

Fruit trees such as apple, cherry and pear are welcomed in many locations with the added benefit of providing free food. When considering what tree to plant we do take account of the likelihood of such problems. Equally, where fruit trees are established but there is a significant anti-social behaviour problem caused by the throwing of fruit or nuts we may consider phased removal and replacement with more suitable species.

### **5.11 Wildlife and insects in trees**

Kirklees Council will not prune or fell any tree owned or managed by the Council to remove or reduce incidence of bees, wasps and other insects or wild animals.

Bees are protected species and advice should be taken before considering their removal. You may be able to dispose of individual wasps using an aerosol insect-repellent spray, but this will not control or eliminate the nest itself. Ideally the whole nest should be destroyed. This can be achieved with great caution but it is far safer to use pest control experts. The Council provides a charged service for removing certain pest species. Please telephone Kirklees Direct on 01484 414700 to talk to Environmental Health.

### **5.12 Satellite, television and other communications reception blocked by trees**

Kirklees Council will not prune or fell any tree owned or managed by the Council to enable or ease installation or improve reception of satellite or television receivers.

It may be that your satellite or TV provider will be able to suggest an alternative solution to the problem, for example relocating the aerial/dish or means to boost the signal. Please note that Kirklees Council will not reimburse costs associated with relocating a TV aerial or satellite dish.

### **5.13 Security cameras/sensors blocked by trees**

Kirklees Council will not prune or fell any tree owned or managed by the Council 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.

Security of premises is the responsibility of the owner and any system should be installed in such a way as to avoid interference from or with adjoining trees.

### **5.14 Solar collectors and panels obscured by trees**

Kirklees Council will not prune or fell any tree owned or managed by the Council to improve the performance of solar water heating collectors or solar panels such as photovoltaic cells.

Whilst the Council appreciates that there is a need to provide renewable energy resources, trees have an important role in maintaining and improving local amenity, in addition to contributing to local and national targets in tackling climate change. The presence of trees must be fully considered when selecting a suitable location for the placement of solar collectors and panels.

### **5.15 Telephone wires and trees**

Kirklees Council will not fell any tree owned or managed by the Council to remove or reduce interference with telephone wires. However, there may be instances where the Council will undertake works to prune trees and reduce interference where pruning would be an effective measure.

Your telephone service provider may be able to suggest an alternative solution to the problem. However, wires do and can run through trees with little or no effect. Service providers will often install the wires after the tree has been planted.

### **5.16 Tree considered too large**

Kirklees Council will not prune or fell any tree owned or managed by the Council because it is considered to be 'too big' or 'too tall'.

A tree is not dangerous simply because it may be considered too big for its surroundings. Other problems would need to be present, such as those described in earlier sections, in order for the Council to consider it to be dangerous. Kirklees Council does not recognise "crown reduction", "lopping", "topping" or "pollarding" as a general form of management of its trees. Such work can be detrimental to the health and future safety of trees and will only be undertaken in exceptional cases.

### **5.17 Vandalism to trees**

Kirklees Council will investigate any reports of vandalism to any tree owned or managed by the Council and use enforcement and legal action to bring about the prosecution of offenders.

Vandalism includes wanton damage of newly planted trees and any unauthorised pruning, felling or similar work to mature trees.

You are not allowed to remove living material from Council land without consent and unauthorised persons are not allowed to use a chainsaw of any type in parks, public open spaces or on other Council land. If you see someone who may be removing living material without consent (i.e. a person not associated with a relevant sign written vehicle and / or without clothing that clearly identifies who they are) or they are using a chainsaw, please telephone Kirklees Direct on 01484 414700.

### **5.18 Anti-social behaviour and trees**

Where any tree owned or managed by the Council is associated with criminal activity or anti-social behaviour, measures to reduce the problem will be considered on a site by site basis.

Where a tree is associated with criminal activity and/or anti-social behaviour, steps to reduce the problem will typically require the coordination of a number of agencies including the police. Just pruning or felling a tree is not always the answer to the problem. Neglected spaces with overgrown trees and untidy areas can, on occasion, encourage criminal activity and/or anti-social behaviour and the Council's tree and grounds maintenance programme tries to improve these areas by making the local environment cleaner, greener and safer.

## **5.19 Claims of subsidence caused by trees**

Kirklees Council will rigorously identify and defend any claims which are presumed to be false.

If you believe that your property is legitimately suffering subsidence damage due to the action of trees owned or managed by the Council (or that you are concerned about potential damage) you are advised to contact your property insurer (private ownership) or Kirklees Neighbourhood Housing (Council Tenants) in the first instance so that you may 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/managed tree is causing subsidence damage, then you will be required to submit an independent report to the Council's Insurance Department.

## **5.20 Tree swings and tree houses on Council owned land**

Kirklees Council recognises the value of all green spaces, including woodland, for adventurous play and the vital contribution this makes to children's physical, mental and emotional well-being and development. As such the Council supports the responsible use of its woodlands for such activities and recognises that at times this may include the construction of tree swings and tree houses. The guidance below relates to tree swings and to tree houses constructed in trees; it does not apply to dens constructed at ground level from solely natural collected materials which are considered to be of minimal risk.

Tree swings and tree houses encountered in Council woodlands by officers during the course of their work, or reported to the Council by third parties, will be inspected within 3 working days of a report and a risk assessment carried out taking account of the following risk factors with reference to guidance in the Forestry Commission's publication *Rope swings, dens, treehouses and fires* (Harrop, 2006):

- Location and use
  - o Location within the woodland - proximity to major roads, neighbours etc.
  - o Evidence of antisocial behaviour
  - o Fall height
  - o Hard/sharp objects in the fall/swing zone
  - o Water bodies within the immediate vicinity
- Construction
  - o Strength of rope used for swings and quality of knots
  - o Strength of tree branches used to support the structure
  - o Hazardous materials and tools that may have been brought in for construction
  - o Possibility of collapse
  - o Associated excavations

If considered dangerous or inappropriate they will be removed within one working day of this decision being made. Structures will only be left in situ if they are considered to pose an acceptable level of risk until the next scheduled inspection of that area in the forestry team's tree inspection programme, as the Council is not able to allocate additional resources to more frequent monitoring of such items. Any decisions made will be documented in the Council's tree management software, Ezytreev.

## **6. Trees Affecting the Public Highway**

### **6.1 Tree obstructing the highway**

Kirklees Council will undertake work to trees owned or managed by the Council to maintain a minimum 5.2 metres height clearance over the carriageway (associated with a street, road or highway) or at a height deemed suitable by the Highway Authority for the road conditions.

If a privately owned tree is causing an obstruction to a road, powers exist under the Highways Act to make the owner of the tree remove the obstruction. If they do not, the Council could enforce this work and recharge the owner.

## **6.2 Pavement obstructed or damaged by tree**

Kirklees Council will undertake work to trees owned or managed by the Council to maintain a minimum 2.5 metres height clearance over a pavement associated with a street, road or highway, and 3 metres where there are cycling rights, as per statutory requirements. Any works necessary to prevent an obstruction to the width of a pavement associated with the highway due to the presence of a Council owned tree will be considered on a case-by-case basis. Where a pavement is deformed or damaged owing to a tree or trees the preferred course of action will be remedial works to the pavement to enable the tree(s) to be retained, unless the tree needs to be removed owing to age or condition.

If a privately owned tree is causing an obstruction to a footpath associated with the highway, powers exist under the Highways Act to make the owner of the tree remove the obstruction. If they do not, the Council will do this work and recharge the owner. The majority of trees alongside public rights of way (PROW) will be on private land; where there is a bridleway the clearance required is 4m.

## **6.3 Line of sight obscured by trees**

Kirklees Council will undertake work to trees owned or managed by the Council to maintain clear lines of sight for traffic and pedestrians at junctions and access points (associated with a street, road or highway).

Standards for visibility vary according to the class of the road and the speed limit in force. If a privately owned tree is causing an obstruction to visibility at a road junction (sight line), powers exist under the Highways Act to make the owner of the tree remove the obstruction. If they do not, the Council may undertake this work and may subsequently recharge the owner of the tree.

The shoots that grow from the base of some trees in Council ownership such as lime trees are removed as part of our tree maintenance programme. The removal of basal shoots for aesthetic reasons is done as and when funds allow or when it is necessary to inspect the base of a tree.

## **6.4 Signal and signage obscured by trees**

Kirklees Council will undertake work to trees owned or managed by the Council to maintain clear lines of sight for traffic signals and street signage (associated with a street, road or highway).

A tree should not obstruct the vision of an approaching driver. If a privately owned tree is causing an obstruction to a traffic signal or street sign, powers exist under the Highways Act to make the owner remove the obstruction. If they do not, the Council will do the work and recharge the owner.

## **6.5 Street light obscured by trees**

Kirklees Council will undertake work to trees owned or managed by the Council to ensure that street lights are not substantially blocked by the presence of trees.

If a privately owned tree is causing an obstruction to street light, powers exist under the Highways Act to make them remove the obstruction. If they do not, the Council will do the work and recharge the owner.

## **7. Woodland Management**

Kirklees Council owns a significant area – approximately 600 hectares - of woodland estate that comprises ancient woodland, designated local nature reserves and newly planted woodlands.

This woodland provides a number of extremely important functions for the local area including helping to absorb carbon dioxide from the atmosphere as well as reduce the harmful effects of climate change, providing habitats for a wide range of wildlife, providing venues for exercise and recreation and as places where local groups and the general public can engage with the natural environment. As a result the priority for the sustainable management of our woodlands is for their environmental and social benefits rather than purely commercial gains.

To help us achieve sustainable management of our woodlands we will follow specific woodland management guidance provided by **The UK Forestry Standard** and where applicable follow other guidance and best practice recommendations from other nature conservation organisations.

UK Forestry Standard: <https://www.forestresearch.gov.uk/research/the-uk-forestry-standard/>

Following this guidance will ensure that we both meet legal requirements and adhere to good forestry practice, encompassing the following elements: biodiversity, climate change, historic landscape, people, soil and water.

In addition we will ensure our work adheres to both our local biodiversity action plan and the UK Post-2010 Biodiversity Framework, ensuring that priority species and habitats are protected in Kirklees.

<https://www.kirklees.gov.uk/beta/delivering-services/policies-and-strategies.aspx>