

Frequent questions regarding trees

Trees are an important part of our local environment and provide us with a variety of benefits that improve our quality of life. Most people agree that trees are a good thing when it is the right tree in the right place. However a tree of the wrong species in the wrong place can sometimes create problems such as overhang boundaries, blocking sunlight or street lighting and in extreme cases cause damage to property. Often disputes arise because trees grow!!

The benefits often cited for planting and maintaining trees are that they:

- Screen unsightly/undesirable features, softening the harsh outlines of buildings
- Provide variation emphasising seasonal change throughout the year
- Relieve the monotony of extended paved and built up areas
- Convert carbon dioxide to oxygen improving air quality
- Ameliorate temperatures by shading buildings
- Add to the value of property

In contrast the disadvantages include:

- Loss of scarce habitat such as heathland or chalk downland to woodland succession
- Large leaves block drains and gutters, and cause slippery surfaces in autumn
- Root action causes damage to kerbs and footways creating uneven, hazardous surfaces
- Tree root growth can contribute to structural damage to walls and subsidence to buildings
- “Honeydew” associated with aphid infestation drops on cars and surrounding surfaces
- Excessive stem and basal growth associated particularly with lime trees obstructs footway/carriageway
- Unsuitable trees planted in inappropriate situations cast excessive shade to property and/or obstruct street lighting

Below is a short guide on some of the common issues.

Overhanging Branches

Subject to Planning constraint's such as Tree Preservation Orders (TPOs) or Conservation Area Orders, a property owner can under common law right cut overhanging branches back to their property boundary but no further. However the owner of the tree is not usually obliged to cut back overhanging limbs. It should be noted that this common law (Lemmon vs Webb 1874) does not take in account the current British Standard Recommendations for Tree Works (BS3998:2010) which encourages good arboricultural practice by cutting back to a growth point such as a side branch or to the branch collar on the trunk.

The practice of leaving stubs or flush cutting to the trunk can be unsightly as well as encouraging pathogens or structural defects.

The branches and any fruit on them which you may have cut down on your side, still belong to the tree owner, so they can ask you to return them. Alternatively, you have every right to return them and ask your neighbour to dispose of them themselves should you wish to do so.

It is always best to discuss any proposed work with your neighbour first to avoid any later claims of damage – you might even manage to get their help or agreement to remove more (past the boundary line) than you're entitled to.

It must be noted however, that it is against the law to cut down, top, lop, uproot, wilfully damage or wilfully destroy a tree that is either protected by a Tree Preservation Order (TPO) or in a Conservation Area – if you are not sure, always contact the Council to check before you arrange to do any work to trees. (See below for further details)

Falling Leaves/ Fruit/ Flowers / Small Debris

Although they can cause a lot of inconvenience, falling leaves & debris such as cones or twigs are not regarded as a 'nuisance' in the legal sense and a tree owner has no obligation to clear them. Nature does not respect human defined boundaries and leaf fall is a seasonal occurrence over which a tree owner has no control. Therefore, leaves, flowers or fruits covering a neighbour's lawn or filling their gutters may be a nuisance, but clearing them from their property is part of general maintenance, the same as, for example, removing moss from the gutters.

Tree Preservation Orders (TPO's)

A Local Planning Authority (LPA) may decide to protect individual trees, groups of trees and woodlands which make a significant contribution to the surrounding area by means of a Tree Preservation Order (TPO). In general it makes it an offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy specific trees without the written permission of the Local Planning Authority. In the borough of Reigate & Banstead TPO and Conservation Areas are administered by the Planning department. Residents and tree work contractors are strongly advised to clarify that if a Tree(s) is covered by a Tree Protection Order or, Conservation Area before commencing works.

Unauthorised works to formally protected trees can result in legal action being taken against the owner by the Local Authority, leading to a criminal prosecution. The maximum penalty for carrying out works to TPO trees without consent is £20,000.

Further details:

http://www.reigate-banstead.gov.uk/planning/planning_advice_and_guidance/planning_application_for_ms_to_download/conservation_and_heritage_forms/application_for_tree_works/index.asp

Customer Service line Tel 01737 276000

Loss of Light

There is no absolute right to light or to a view, therefore you would normally need to negotiate with your neighbour about managing their trees. A tree owner is not duty bound to maintain light to a neighbouring property nor are they required by law to maintain a view. There is also no specific law on how tall trees are allowed to grow and cases for loss of light normally only apply to windows in buildings not gardens (see also 'high hedges' below).

TV and satellite signal

The TV license is a permit to operate a television receiver; it does not guarantee any reception. Therefore it follows that there is no legal right to reception and furthermore and a tree owner is not legally obliged to maintain a signal to your set.

Dangerous Trees

Every tree owner must ensure their trees do not pose an unacceptable risk to other people on or adjacent to their land. They will however only be liable for injury or damage caused by trees if they are found to be negligent in some way e.g. by not taking reasonable care to inspect them or undertake essential work such as removing deadwood that could easily be seen to be hazardous etc.

High Hedges / Conifers (Leylandii)

This relates to evergreen or semi evergreen hedges only, not ordinary deciduous trees. It is sometimes possible to apply for enforcement action from the Council to restrict the growth of a neighbour's hedge if it exceeds a certain height in relation to its distance from a property. There are specific criteria for doing this and also a cost.

For further details contact Reigate & Banstead Borough Council's Planning Department.

http://www.reigate-banstead.gov.uk/planning/planning_enforcement/high_hedges/index.asp

Tree Roots & Damage to Property

Tree roots like branches do not respect human defined boundaries – they are opportunistic and grow where ever the soil conditions are suitable. If a tree is found to be causing damage to a neighbouring property it is classed as a legal nuisance. Again subject to TPO's and Conservation areas, tree roots can be pruned in the same way as branches (back to growth points). However the cutting of roots may adversely affect the trees stability and its ability to up take nutrients and water. In simplistic terms, the nearer to the trunk that root pruning occurs the greater the risk of destabilising or impacting the trees health. In the event of any form of damage it is advised that you notify your neighbour and also contact your property insurers for further advice – they can often investigate and deal with the issue on your behalf.