

# Cheshire West and Chester Borough Council

## Tree Policy

### 1. Introduction

Cheshire West and Chester Council have an estimated 330,000 trees within their ownership. These trees are managed as an asset that helps to create a quality of place and life that attracts people to live, study, visit and work in the area.

Trees and woodlands set the scene for economic development. They help underpin property prices, adding between 8 and 15% to house prices. The borough's trees and woodlands are part of our ecological networks, a vital recreational resource, helping to reduce air pollution, and are a valuable asset for improving health and wellbeing. They contribute to reduce flood risk and are a carbon sink, a sustainable fuel resource for local use. There has been a great deal of research into how trees help fight climate change, improve our environment and our wellbeing. For more information from The Woodland Trust on the benefits of trees please follow this link: [The Benefits of Trees - Woodland Trust - Woodland Trust](#).

This tree policy is intended to supplement the existing [Cheshire West and Chester Tree and Woodland Strategy](#) ([tree-and-woodland-strategy \(cheshirewestandchester.gov.uk\)](#)) by setting out the Council's approach to management of trees within its ownership and provide information to residents, Councillors and other stakeholders on what to do if they have a query about trees which affect their property or appear to pose a risk to the public.

Policy objectives:

1. To explain Cheshire West and Chester (CWAC) Council's tree management objectives, including the management of risk from trees.
2. To clarify the Council's legal obligations as a landowner.
3. To ensure the Council's Tree Team have a framework to work to.

4. To ensure that trees within the Council's ownership are managed in line with current legal requirements and best practice <sup>1</sup> to maintain our tree assets as an amenity for all stakeholders in the borough.

## **2. Tree Team**

The tree team consists of a Senior Tree Officer, two Tree Officers, and two Tree Surveyors. All members of the tree team have several years' experience as Arborists and hold Higher Education qualifications in Arboriculture. The team are qualified in Quantitative Tree Risk Assessment (QTRA), a recognised system of tree risk assessment, which can be used to inform decision making regarding what tree work needs to be undertaken to ensure that tree risk is at an acceptable level. HSE guidance states that an acceptable level of risk to be placed on members of the public is <1/10,000.

The tree team are part of the Climate Adaptation Team, which is based in the Highways Department of the Council. The team are responsible for managing all Council owned trees, with the exception of those in cemeteries and those in schools. As part of the Highways Authority for the borough, the team are also responsible for maintaining the safety of the highways from tree risk.

The tree team have responsibility for assessing planning applications received by the Council. These applications include those for work to trees protected by Tree Preservation Orders (TPOs) and within Conservation Areas, and applications for development.

As part of the Council's duties as Local Planning Authority, under The Town and Country Planning (Tree Preservation) (England) Regulations 2012, the tree team have the power to create TPOs to protect trees in private ownership that are considered to be an asset to their local area. Generally, a tree would only need to be protected by a TPO when it is under threat e.g. from a nearby development. Only trees that are high quality examples of their species, form part of a significant landscape feature, or are valuable as part of an ecosystem e.g. veteran trees, are suitable for protection by a

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<sup>1</sup> National Tree Safety Group 'Common sense risk management of trees – Guidance on trees and public safety in the UK for owners, managers and advisers' <https://ntsgroup.org.uk/wp-content/uploads/2016/06/FCMS024.pdf>

TPO. Members of the public can contact the tree team to request a TPO on trees they believe to be worthy of protection. The tree team will then assess the trees and place a TPO if the trees meet the criteria.

If a tree is protected by a TPO this does not prevent the tree from being managed by its owners, or removal of dangerous trees. The TPO just means that the owners must apply to the local authority for permission to undertake work to the tree. This allows the authority to ensure that work to protected trees conforms to BS3998:2010 'Tree work – Recommendations' so that the aesthetic value and health of the trees is not affected.

If work is undertaken to a TPO protected tree without the consent of the local authority the tree owner and the person who undertakes the work are liable for prosecution under the TPO regulations. Offences can be punishable by a fine of up to £20,000 by conviction of a Magistrates Court, or an unlimited fine in the Crown Court in severe cases.

### **3. Management of risk from trees**

In terms of health and safety, trees are a “low risk/high impact” asset. The chance of any one tree causing a fatality is 150 million to 1, whereas the risk from a car is 17,000 to 1.

As both a landowner and the Highway Authority for the area, the Council has a legal duty of care to ensure that the risk to the public from trees is managed to be ‘as low as reasonably practicable (ALARP).’ The definition of the Tolerability of Risk (ToR) is based on the framework produced by the HSE (2001). The Council’s management strategy is also informed by guidance produced by the National Tree Safety Group (NTSG) ‘Common Sense Risk Management of Trees.’

To fulfil this duty of care the Council undertake regular inspections of trees within their ownership and those in private ownership which may pose a risk to the highway or public open spaces. As part of our role as Highway Authority, the Council also need to

ensure that road visibility is not obscured, and signs and signals are not blocked by overhanging trees.

Inspection frequency is based on the level of occupancy by members of the public of each area, with areas with the highest occupancy being inspected more often than those with low occupancy. These inspections are recorded using specialist tree management software.

Work to Council owned trees will be prioritised based on the level of risk they present, with those which present the highest risk being dealt with first. In the case of privately owned trees, unless they present an immediate risk to life, the Council will notify the owner of the trees of what works are required to make them safe. Where privately owned trees present a risk to the public, the Council have the power, under Section 154 of the Highways Act 1980 and Section 23 of the Local Government (Miscellaneous Provisions) Act 1976, to undertake work to make the trees safe and recover costs from the owner.

Ash Dieback Disease, which is caused by the pathogen *Hymenoscyphus fraxineus*, has the potential to cause significant damage to the UK's ash population, and is likely to kill the majority of trees it infects. This wide scale death of trees has the potential to add to the burden of the Council in managing risk to the public. However, current advice from Forest Research, the research department of the Forestry Commission, is to avoid removing live ash trees, whether infected or not, as a small proportion of the trees will be able to tolerate infection, and some may recover. Therefore, the Council will only remove infected trees if they have been assessed as presenting a risk to public safety. A separate Ash Dieback Plan is currently being drafted to clarify the Council's approach to managing Ash Dieback Disease.

#### **4. Enquiries about Council owned trees**

Trees are naturally self-optimising biological entities, meaning that they respond to the forces they experience by adding strength where needed. This means that they do not normally need to be 'managed' by people. Therefore, to make best use of current resources, the Council usually undertake management of trees only when they present

a risk to the public, for example, from deadwood which may fall, dead trees, or those which are affecting the visibility of road signs and street lights.

Tree issues can be reported [Via the website](#), [Via Cheshire West and Chester reporting app](#) or via the call centre on 0300 123 8123. The tree team can also be contacted directly by email using this email address [tpoenquiries@cheshirewest.gov.uk](mailto:tpoenquiries@cheshirewest.gov.uk).

Tree issues that should be reported to the Council are as follows:

	<b>Enquiry Type</b>	<b>Policy</b>	<b>Response</b>
4.1	Trees which appear to be dangerous	If you believe a tree is an immediate risk to people or property, please ring the call centre on 0300 123 8123.	The Council will attend within 3 hours to make the tree safe.
4.2	Trees that are dead or dangerous (but not an immediate risk)	<ul style="list-style-type: none"> <li>○ Trees which are dead</li> <li>○ Trees which have deadwood in the canopy</li> <li>○ Trees with hanging branches</li> <li>○ Sparse foliage</li> <li>○ Fungal brackets</li> <li>○ Cracked stems or branches</li> <li>○ Branches falling from the tree</li> <li>○ Visible movement of the ground around the base of the tree</li> </ul> <p>Please report the tree via the website, web app or call centre.</p> <p>Trees which move in the wind are not usually more dangerous – please only contact the Council if the ground at the base of the tree has visibly moved recently.</p>	A tree officer will visit to assess the tree and, if the tree is considered dangerous, they will arrange for work to be undertaken to make the tree safe. The timescale for this will depend on the level of risk. High priority work will be undertaken within 10 days, medium priority within 3 months, routine work will be undertaken within 1 year.
4.3	Council trees that are considered to be too big/tall	<p>The Council do not prune or remove trees due to their size.</p> <p>Trees are naturally self-optimising and are not more dangerous just because they are large.</p>	Please refer to policy column to the left.
4.4	Council trees overhanging private property	<p>The Council do not prune or remove trees that overhang private property to manage non-actionable nuisance.</p> <p>Customers have a Common Law Right to prune overhanging vegetation</p>	Please refer to policy column to the left..

		<p>back to their boundary – the Council do not require the return of the cuttings.</p> <p>You must check whether the trees are protected by Tree Preservation Order or within a Conservation Area before undertaking any pruning. If they are protected, you must make an application for work via the planning portal at this link:  <a href="#">Make an application   Cheshire West and Chester Council</a></p> <p>The Council recommend using a professional tree surgeon/arborist to undertake tree pruning work.</p>	
4.5	Council trees blocking light	The Council do not prune or remove trees to allow natural light to a property.	Please refer to policy column to the left
4.6	Council tree touching a building	If a council tree is touching a private property, the Council will prune or remove the tree to alleviate the nuisance.	The tree will be inspected, and a job raised. This type of work is usually routine rather than urgent so may take up to 3 months to be completed.
4.7	Council tree blocking a view	The council do not prune or remove trees to improve the view from private property.	Please refer to policy column to the left
4.8	Fruit, seeds, nuts, berries, blossom, sap, and leaves	<p>The Council do not prune or remove trees due to the fall of fruit, seeds, nuts, berries, blossom, sap, or leaves, nor do we remove these items from private property.</p> <p>The natural fall of these items is part of the life cycle of trees. The benefits of trees to the public greatly outweigh the nuisance caused by these issues.</p> <p>If footpaths or roads are being made slippery by blossom, leaves or nuts they will be cleaned as part of routine cleaning cycles.</p>	Please refer to policy column to the left
4.9	Bird droppings	The Council will not prune or remove trees to alleviate the nuisance of bird droppings.	Please refer to policy column to the left
4.10	Animals or insects in trees	The Council will not prune or remove a tree due to the presence of bees, wasps, or animals.	The Council's pest control department may

			be able to remove wasp or bees' nests. A report can be made to them via the website, the app, or the call centre. The department will usually respond within 10 working days.
4.11	Poisonous berries	<p>In most cases the risk from poisonous berries on Council owned trees in public spaces or overhanging private land is very low.</p> <p>If there is a chance that unsupervised young children may come into contact with poisonous berries the Council will undertake a risk assessment and take action where necessary.</p>	Instances where young children may be affected by poisonous tree parts can be reported via the website, the app, or the call centre. We will usually respond and begin the investigation within 10 working days.
4.12	Allergies/medical issues	If a resident claims that a Council owned tree may be affecting their health the case will be risk assessed and action will be taken where it is considered appropriate.	Please report your issue via the website, the app, or the call centre. We will usually respond and begin the investigation within 10 working days.
4.13	Private drains	<p>The Council will not prune the branches or roots of a tree, or remove it, to prevent roots entering a drain which is broken or damaged.</p> <p>Tree roots seek water. They do not generally break drains to enter them, they enter through pre-existing cracks or damaged parts where water is escaping. The presence of roots in a drain usually indicates that it requires repair. Drains on private land are the responsibility of the property owner, you may contact your water or sewage company for advice.</p>	Please refer to policy column to the left
4.14	Telephone wires, TV, or Satellite signal	The Council will not prune or remove trees to prevent interference with TV or satellite signal or telephone wires.	Please refer to policy column to the left
4.15	Vandalism to Council owned trees	<p>Reports of vandalism to Council owned trees will be investigated and perpetrators may be prosecuted.</p> <p>Remedial work to save the trees will be undertaken if possible.</p>	Please report vandalism to trees via the website, the app, or the call centre. We will usually respond and begin the investigation within 10 working days.

4.16	Anti-social behaviour or crime	Reports of anti-social behaviour or crime associated with Council owned trees will be investigated. Advice will be taken from the Council's community safety department and the police, if necessary. Pruning or removal of trees will only be undertaken if we are advised that this is required to alleviate the issue.	Please report your concerns via the website, the app, or the call centre. We will usually respond and begin the investigation within 10 working days.
4.17	Requests from individuals or groups wishing to undertake work to Council owned trees at their own expense	<p>The Council will only approve requests to undertake work to their trees at residents' own expense in cases where the work is necessary for safety or is of benefit to the public.</p> <p>Private individuals do not have the right to undertake tree work on Council owned land without permission. Any unapproved work to Council owned trees will be considered as vandalism.</p>	Please make your request via the website, the app, or the call centre. We will usually respond within 10 working days.
4.18	Trees affecting minor structures such as garden walls or fences	<p>The Council will not normally remove or prune a tree if it is causing cracking or movement of garden walls or fences.</p> <p>It is usually possible to rebuild the affected section of wall to include a lintel to bridge over roots and allow for future growth. Fences can usually be constructed around the buttresses and roots of trees to accommodate their shape.</p> <p>Depending on the distance from the tree it is sometimes possible to prune the tree's roots to the property boundary (under common law rights) and install a root barrier to prevent further encroachment of roots. TPO and Conservation Area protections include the underground parts of a tree, so an application for work may be necessary. The Council will not contribute to the cost of installing such barriers or to wall or fence repairs.</p>	Please refer to policy column to the left.
4.19	Subsidence damage	If you believe a Council owned tree is implicated in causing subsidence damage to your property, in the first instance, you should contact your insurer. They will advise you on the process of investigating, and, if	Claims will be acknowledged by the Council's insurance team within 60 working days of receipt.



		necessary, proving the cause of subsidence. Valid claims should be submitted to <a href="mailto:tpc@cheshirewestandchester.gov.uk">tpc@cheshirewestandchester.gov.uk</a>	
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## 5. Trees and the highway

As the Highway Authority in the borough, the Council is responsible for ensuring that the nearly 2300km of highway and 2348km of footway in the borough are safe from the risk trees pose. To discharge our duty of care to users of the highways and footways the Council undertake cyclical inspections of all trees alongside them. As a result of these inspections, we will arrange work to Council owned trees, as necessary. The Highways Act 1980 empowers the Council to request that private landowners or occupiers undertake work to their trees to ensure the highway is safe. If landowners or occupiers do not undertake the necessary work in the required timeframe, the Council may do the work on their behalf and recover the costs from them.

Highway tree issues must be reported to the Council as follows:

	<b>Enquiry Type / Issue</b>	<b>Policy</b>	<b>Response</b>
5.1	Trees which are an immediate risk to the highway or footway	Please contact call the call centre on 0300 123 8123 if you believe a tree is an immediate risk to the highway or a footpath.  If the Council undertakes emergency work to make safe a privately owned tree, the cost will be recovered from the tree's owner.	The Council will attend within 3 hours to make the tree safe.
5.2	Trees affecting height and width clearance of road or footway	Trees in Council ownership will be maintained as part of our regular maintenance cycle to provide the statutory minimum of 5.2m clearance over highways and 2.5m clearance over footways and cycleways. Work to provide	Please refer to policy column to the left

		<p>necessary width clearance will be noted as part of our highways inspection regime and undertaken as required.</p> <p>Owners of private trees will be notified when we require them to undertake work to provide the necessary clearance for highways and footways. If no response is received from the owner of the trees within the required timeframe the Council will undertake the work and recover the cost from the owner.</p>	
5.3	Tree roots lifting footway and causing a trip hazard	<p>Pavements alongside highways and on residential streets are inspected regularly and defects are measured. Where defects meet the threshold for remediation the Council will undertake work to make them safe. There are various techniques that can be used to repair pavements affected by tree roots and removal of the tree or pruning of its roots will only be considered as a last resort.</p> <p>Where privately owned trees are causing a trip hazard the tree owner may be asked to undertake work to their tree to remedy the issue and may be charged for the cost of the repairs to the pavement.</p>	Please refer to policy column to the left
5.4	Trees obstructing visibility when exiting junctions / access points	<p>Visibility splay requirements vary depending on the road class and speed limit of the road.</p> <p>The Council will arrange for trees in its ownership to be pruned to provide visibility to legal requirements.</p>	Please refer to policy column to the left

		<p>Owners of private trees which are affecting visibility at junctions will be notified that they need to undertake work to remedy the issue. If the work is not undertaken within the required timeframe the Council will arrange the work and recover its costs from the owner of the trees.</p> <p>Basal shoots (epicormic growth) on some species of trees, particularly lime trees, can sometimes affect visibility at junctions. These shoots will normally be pruned as part of the Council's routine maintenance regime.</p>	
5.5	Trees obstructing traffic signals	<p>Obstructions to traffic signals, street lights and signs are identified as part of our routine inspection cycle. Council owned trees will be pruned to clear the obstruction.</p> <p>Owners of private trees which are affecting visibility of signals, street lights or signs will be notified that they need to undertake work to remedy the issue. If the work is not undertaken within the required timeframe the Council will arrange the work and recover its costs from the owner of the trees.</p>	Please refer to policy column to the left.
5.6	Requests to install dropped kerbs close to Council owned trees	Where residents wish to install a dropped kerb close to a Council owned tree the Council will consider the possible impact to the tree. No tree removals will be allowed. If the installation is a sufficient distance from the tree, then pruning of minor roots may be acceptable. If root pruning is not possible then above	Applications for drop kerb installation can be made at this link <a href="#">Vehicle crossings and dropped kerbs   Cheshire West and Chester Council</a>

		<p>ground construction methods may be considered if engineer designed drawings are provided.</p> <p>If the installation is likely to be detrimental to the tree, then permission will be refused.</p>	
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## 6. Management of Council owned trees

The Council is currently in the process of creating an inventory of all trees in its ownership. This will simplify the scheduling of routine maintenance such as crown lifting for clearance over roads and footpaths, and re-pollarding. It will also make it easier to identify trees that are the subject of reports from residents.

Trees in Council ownership are surveyed as part of a regular cycle of inspection. The frequency of these inspections is based on the level of occupation of the area around them. To make best use of current resources, tree work is mainly undertaken for safety i.e. to remove dead trees, deadwood within the crown of trees, or excessive pollard regrowth. Remaining budget is used for routine maintenance such as crown lifting for highway and footway height clearance, and clearance of traffic signals and signs.

Many street trees in the borough are large canopy species such as maple and lime. Where possible these trees are managed as pollards to prevent excessive growth. In some cases, these trees have reached maturity without being pollarded. Unfortunately, it is not good arboricultural practice to introduce a pollard to a mature tree, so in the long term the Council will be introducing a scheme to plant 'succession' trees close to them. Once the new trees have reached a reasonable size the mature trees can be removed, and the successors will function as a replacement for them.

The Council wish to plant replacement trees where trees have been removed. However, newly planted trees require 50 litres of water per week during the summer for their first few years of life. Limited resources mean that the Council do not have the capacity to undertake this regular watering, so we are seeking collaboration with local resident's groups and parish councils, where they undertake the necessary watering to ensure that new trees survive.

The Council's planning policy, which relates to new developments, requires replacement planting for removed trees to be at a 2:1 ratio. However, TPO legislation only requires replacement planting at a 1:1 ratio. In most locations where trees are removed by the Council space will only allow for 1:1 replacement planting, but in locations where it is possible to plant more trees the Council will endeavour to do so. Requests from members of the public to plant trees on Council owned land will be considered on a case-by-case basis.

## **7. Duty to consult on the felling of street trees**

A recent amendment to the Environment Act 2021, Section 115, means that the Council must now consult members of the public before felling a tree on an urban road i.e. a street tree on a road with a speed limit of 40 miles per hour or lower that is not a trunk road. Trees in parks and on un-adopted roads and footpaths are not included within this duty. Exemptions to this duty include the felling of trees considered to be dead or dangerous. Since the majority of tree removals undertaken by the Council are of trees which fall into this category a consultation will not normally be necessary.

We are currently in the process of setting up a system for consultation when required. This will include the posting of notices on trees that are scheduled for felling with details of how to make comments to the Council.

Wherever possible the Council seeks to avoid tree removal by exploring alternative methods of abating any issues caused by the tree. For example, when tree roots are lifting pavements, we will aim to install ramped paving or flexible paving which will allow space for additional root growth without further pavement deformation.