



Highways Asset Management Plan

Guidance - Highways Trees Causing Concern - July 2020

www.lancashire.gov.uk



Tree Nuisance Guidance

Chapter	Description	Page
1	Introduction	3
2	Highway Trees overhanging over other land	5
3	Highway Trees which may be dangerous	7
4	Highway Trees affecting Carriageway and Footways	10
5	Highway Trees affecting installation of a Dropped Kerb	12
6	Highway Trees affecting third party Property other than by over hanging	13
7	Highway Trees affecting Environment and Amenity	15

1 - Introduction

Throughout this document the term Highway Tree refers to trees and other vegetation growing within the publically maintainable vehicular highway boundary. The highway width may include footways and verges as well as the carriageway and the term "tree" includes tree roots, tree trunk and tree branches.

This guidance document has been drafted to provide guidance to county council officers and the public to understand: -

- What the county council will and will not do in relation to perceived Highway Tree problems.
- Courses of action are available in certain situations.

The following chapters look at the most common issues.

This is one of three related tree documents that gives help and advice in respect of various tree related issues. The Tree Safety Management Guidance and Third Party Tree Guidance documents can be found on the Highway Asset Management webpage [here](#)

Reporting Details

As a resident or road user, perceived problems relating to Highway Trees can be reported to the county council by contacting the Customer Service Centre on telephone 0300 123 6780, emailing highways@lancashire.gov.uk or using the 'Report-It' website which can be accessed at www.lancashire.gov.uk/roads. Whichever method is used to report a fault or a defect, the information is sent daily to the appropriate office dependent upon subject and location.

Where Highway Tree related reports raise an urgent safety matter these will be attended to in accordance with the procedures and timescales set out in the Tree Safety Management Guidance document. Where such reports are of a non-urgent matter, the county council aims to inspect and respond to all such enquiries within 30 working days from date of receipt. When customers report an issue, they will be given a reference number which can be used to monitor progress.

Throughout this document, various categories of tree are referred to and for clarity these are explained below:

- **Highway tree** – these are trees or shrubs or other vegetation (not grass) that we own or manage which grow within the extent of publically maintainable vehicular highways which are not consent trees (except those in Byways Open to All Traffic or Restricted Byways) and may have been;
 - planted by the highway authority in accordance with Section 96 of the Highways Act 1980

- planted as part of a highway scheme
- planted to replace a Highway Tree previously removed
- acquired on dedication or widening of a publically maintainable highway

Consent Tree – these are trees, shrubs, hedges or other vegetation growing within the highway boundary that have been planted by third parties, but with our consent in accordance with various sections of the Highway Act 1980. We do not own these trees and will not normally carry out any maintenance on them, apart from on urgent safety grounds.

Adjoining Tree – these are trees, shrubs, hedges or other vegetation that are growing on private property on land adjoining the highway. We do not own these trees and will not normally carry out any maintenance on them, apart from on urgent safety grounds.

Further information about Consent or Adjoining trees and how we deal with issues regarding these categories of tree are set out in the document 'Third Party Tree Guidance' which can be found on the Highway Asset Management webpage [here](#).

2 - Highway Trees overhanging over other land

Whilst trees are important for amenity, nature and the environment, they can at times be perceived as affecting neighbouring property.

Trees by their nature are dynamic living systems which evolve and change according to the seasonal cycle. During this annual cycle many trees produce blossom, fruit, nuts and berries and drop leaves. Unfortunately over time and at certain times of the year Highway Trees have the potential to cause perceived concerns to both road users and householders.

Common Law Rights

Under English Law householders have a have Common Law right to remove (abate) the nuisance associated with trees encroaching onto their property and falling blossom, leaves etc. and the following general advice is given if householders wish to exercise their Common Law right with respect to Highway Tree related perceived nuisances. Householders are also advised to obtain independent legal advice before acting.

Category of Tree Related Enquiry

Branches encroaching into private airspace

Response Timescale

The county council aims to inspect and respond to all customer enquiries within 20 working days from date of receipt. See Reporting Details in Section 1 Introduction.

Customer Advice

- Householders can only consider removing those parts of the Highway Tree from the point where they cross the boundary of their property and must not go beyond their property boundary without the permission of the highway authority. They have no legal right to cut or remove any part of a Highway Tree that does not overhang their property;
- Before commencing any works, householders are strongly advised to:
 - Consult a professional tree surgeon or arboriculture consultant for guidance on how best to prune back encroaching Highway Trees and whether such works will impact on nesting birds, bats, or other protected species, unless the works are trivial meaning works can be carried out with hand secateurs or similar
 - Inform the highway authority about what they plan to do prior to carrying out any works.
 - Find out if the Highway Tree is protected by a Tree Preservation Order (TPO) or located in a Conservation Area. If the tree is the subject of a TPO the order prohibits the cutting down, topping, lopping, uprooting, wilful damage, wilful destruction and cutting roots without consent of the local planning authority. In Lancashire the local planning authority is the relevant Borough/City council in whose area the tree is located.

- Further help and guidance in relation to TPO can be found on the Communities and Local Government website at [here](#)
- Legally householders do not own those parts of the Highway Tree that encroach over their property and in respect of an encroachment due to a Highway Tree, they should make arrangements with the county council for the removal of any material that they are not able to dispose of themselves.

If any actions carried out render a Highway Tree to be unsafe, the persons carrying out such works may be liable for any subsequent damage that results from tree failure. Where a Highway Tree(s) has to be removed as a result of works by a third party, the county council will seek to recover its costs and may seek compensation and/or reimbursement should a replacement Highway Tree(s) be planted.

We will not prune or fell a Highway Tree to alleviate the overhanging branches unless safety is an issue although the pruning of branches may be considered as part of our general tree-work programme, however this programme is prioritised and subject to the availability of funding.

3 - Highway Trees which may be dangerous

The information in this appendix details what we will do when we become aware that a Highway Tree may be in a dangerous condition and requires action.

Guidance: Dangerous Highway tree Requiring Immediate Action

Category of Tree Related Enquiry

A Highway Tree that is dead, dying or dangerous and requires immediate attention.

Response Timescale

An emergency is defined as a Highway Tree that is in immediate danger of collapse or is causing an obstruction requiring urgent attention.

Customer Advice

If a Highway Tree is in such a condition that it poses a very high risk to people or property and is considered to be an emergency situation, instructions will be given to the county councils Highways Team to make the area where the tree is located safe within 2 hours, wherever possible. Dependant on resources and location etc., making safe could entail closing the highway or installing traffic management until the situation and possible solutions can be assessed.

There may be occasions when our response will take longer than this, such as when Highway Tree defects are reported outside of normal office hours, or during periods of severe weather when our resources are stretched.

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

- tree is snapped or blown over
- tree is rocking - roots are damaged
- tree uprooted but held up by another tree or building
- a 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 has fallen onto a house or car

Signs to look out for which may mean that a Highway Tree is a risk to people or property, but the risk does not require an emergency response include:

- tree is dead
- the tree is dying - few leaves in summer or dieback in the crown
- bark is loose and falling off

- mushrooms or fungi growing on or near the tree
- old splits and cracks in the trunk or large branches
- smaller branches dead or dying and/or falling from tree
- major cavities within the trunk or large branches

Highway Trees which are dangerous may be made safe via pruning or felling. Typically the county council would employ the most cost-effective approach. But, for certain high value Highway Trees we would consider other options to reduce risk to an acceptable level including options to reduce the likelihood of the tree failing or the likelihood of persons being close to the tree if it did fail.

Guidance: Dangerous Highway Tree Requiring Action but No Imminent Danger

Category of Tree Related Enquiry

A Highway Tree may be dangerous but no imminent danger.

Response Timescale

If the risk to the public is not immediate then the tree will be made safe depending on the degree of risk identified at the time of inspection

Customer Advice

Signs to look out for which may mean that a Highway Tree is a risk to people or property, but the risk does not require an emergency response include:

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

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

- tree is snapped or blown over,
- tree is rocking - roots are damaged,
- tree uprooted but held up by another tree or building,
- a large branch has broken off or is hanging off the tree,
- tree or branch is blocking the road or pavement,
- tree or branch is blocking access to property,
- tree has fallen onto a house or car,

Highway Trees may be made safe via pruning or felling. The county council will employ the most cost-effective approach, but for certain high value trees we would consider other options to reduce risk to an acceptable level including options to reduce the likelihood of the tree failing or the likelihood of persons being close to the tree if it did fail.

Reports affecting Consent or Adjoining trees will be dealt with in accordance with the procedures outlined in the document entitled 'Third Party Tree Guidance' as published on the Highway Asset Management webpage [here](#).

4 - Highway Trees affecting Carriageways and Footways

The information in this chapter details what we will do when we become aware that a Highway Tree due to growth of branches, stems or leaves etc. causes:

- height or width of the highway being more difficult to use
- affects highway sight lines
- makes traffic signals, street lighting or highway signs more difficult to see
- a possible trip hazard in a footway due to the action of roots

Response Timescale

The county council aims to inspect and respond to all customer enquiries within 20 working days from date of receipt. See Reporting Details in Section 1 Introduction.

Customer Advice

We will undertake work as appropriate to a Highway Tree to address the above issues as outlined below:

- In relation to height obstruction issues, we will take action to seek to maintain a minimum of 5.5 metres height clearance over the carriageway.
We shall take action to maintain a minimum of 2.5 metres height clearance over a footway associated with a street, road or highway and where cycling rights exist, we shall seek to maintain a minimum height of 3 metres
- Any works necessary to resolve issues regarding the width of a footway associated with the highway due to the presence of a Highway Tree will be considered on a case-by case basis
- Where sight lines are obscured, we will undertake all necessary works to maintain sufficiently clear sight lines at junctions and access points associated with a vehicular highway however, standards for visibility vary according to the class and speed limit in force.
- Shoots that grow from the base of some variety of Highway trees, such as lime trees, are removed as part of our tree maintenance programme. This is usually done once a year for trees growing in the publically maintainable vehicular highway, but in some highways, this may need to be done more often. There is no active programme to remove basal shoots from trees in parks and green spaces, unless these interfere with footways or the sight line visibility at road junctions. Otherwise, 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 Highway Tree.
- A Highway Tree should not unduly obstruct the vision of an approaching driver, and we will undertake all necessary work to maintain sufficiently clear lines of sight for traffic signals and street signs associated with a vehicular highway
- we shall undertake necessary work to ensure that sufficient light from a streetlight is not unduly blocked by the presence of a Highway Tree

- We shall undertake reasonable measures to seek to reduce an unacceptable trip hazard in the footway of a vehicular highway caused by the growth of a Highway Tree. Footways (Pavements) are subject to a Highway Safety Inspection a minimum of once a year and dangerous trip hazards repaired as soon as practical under our intervention regime usually by 'building' up' the pavement surface or pruning isolated roots or other measures as considered appropriate. For higher value trees it may be appropriate to consider the installation of a root barrier which, although more expensive, tries to prevent the problem re-occurring. Removal of a Highway Tree is usually the last resort (accepting that in some circumstances where the tree is low value or easily replaced removal may be the most appropriate solution).

When we become aware of issues with Consent or Adjoining trees, we will contact the licensee or landowner and ask that they carry out the necessary redial works in line with the procedures contained in the 'Third Party Tree Guidance' as published on the Highway Asset Management webpage [here](#).

5 - Highway Trees affecting Installation of a Dropped Kerb

Category of Tree Related Enquiry

A Highway Tree affecting the proposed installation of a dropped kerb vehicle crossing under S184 Highways Act 1980 at a location able to be approved subject to the tree.

Customer Advice

The county council will not fell or prune the roots of a Highway Tree to allow the installation of a dropped kerb.

If householders want to provide off road parking at their property that requires the installation of a drop kerb they will need to make a request to the county council online at [here](#) following which the location will be assessed and if approved an estimate will be produced to carry out the necessary work at the customer's expense.

If the installation of a dropped kerb is likely to adversely affect a Highway Tree, this will be considered as part of the request.

6 - Highway Trees affecting third party Property other than by overhanging

The information in this chapter details what we will and will not do when we become aware that a Highway Tree is:

- Suspected of causing subsidence damage to property
- Touching a building
- Roots entering third party land
- Alleged damage to a drain on private land

For most of the issues above householders have a Common Law right to remove (abate) the nuisance associated with trees encroaching onto their property but legal advice should be sought to ensure your actions are lawful.

Response Timescale

The county council aims to inspect and respond to all customer enquiries within 20 working days from date of receipt. See Reporting Details in Section 1 Introduction.

Subsidence Damage to Property

Category of Tree Related Enquiry

- A Highway Tree is allegedly causing subsidence damage to a property in private ownership,
- Or concern that a Highway Tree may cause subsidence damage to a property in private ownership.

Customer Advice

The county council will rigorously identify and defend any claims which are presumed to be either bogus or fake.

If property owners believe their property is suffering subsidence damage due to the action of a Highway tree or are concerned about potential damage, they are advised to contact their property insurer (private ownership) in the first instance so that they may discuss their concerns and agree an appropriate course of action. Should they, or those acting on their behalf, wish to make a claim for damages against the county council, alleging that a Highway Tree is causing subsidence damage, they should contact the county council on Highways.Claims@lancashire.gov.uk and the claim will be investigated.

Highway Trees Touching a Building

Category of Tree Related Enquiry

Highway Tree is touching a building due to the growth of the stem, branches or roots.

Customer Advice

If a Highway Tree is touching private property (dwelling house, boundary wall, garage etc.) we will assess and if necessary, take action to resolve the issue. In many cases the solution may be for us 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 all such works necessary to stop the problem re-occurring again within a three-year period.

Highway Tree roots encroaching onto a Property

Category of Tree Related Enquiry

Highway Tree encroaching onto private property due to the growth of the roots.

Customer Advice

The county council is unable to prevent the roots of Highway Trees spreading into adjacent gardens and will not therefore undertake root removal where this has occurred.

Highway Tree roots and Drains

Category of Tree Related Enquiry

Highway Tree roots allegedly causing damage to a drain on private land

Customer Advice

The county council is unable to prevent the roots of Highway Trees spreading into adjacent gardens and will not therefore undertake root removal where this has occurred. We will not prune, fell or cut the roots of a Highway Tree to prevent roots entering a drain that is already broken or damaged.

Tree roots typically invade drains that are broken or damaged. Tree roots 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 householders are concerned about the condition of their drains, they are advised to contact their water and sewerage company. Householders are usually responsible for the maintenance of the drains within their property boundary.

If drain repairs are undertaken, please inform us of the proposed works if roots are to be cut

7 - Highway Trees affecting Environment and Amenity

The information in this chapter details what we will and will not do when we become aware that a Highway Tree:

- Is considered to be restricting light in a private property
- Is considered to be restricting the view from a private property
- Is shedding leaves over private property or causes a problem of leaves on public footpaths or other public space,
- Has a sticky residue which drips from its foliage,
- Sheds blossom over private property or causes a problem of blossom on public footpaths or other public space
- Harbours birds leading to nuisance from bird droppings
- Sheds fruit, berries or nuts on private land or a problem of fruit berries or nuts on private land
- Is known to contain poisonous berries or foliage on public land and/or overhangs private land
- Harbours wild animals and inspect pests
- Allegedly interferes with TV or Satellite Reception
- Allegedly interferes with the efficient operation of solar panels
- Allegedly interferes with telephone wires
- Are considered too big or too tall
- Causes personal medical complaints

For most of the issues above householders have a Common Law right to remove (abate) the issue within their property boundary.

Response Timescale

The county council aims to inspect and respond to all customer enquiries within 20 working days from date of receipt. See Reporting Details in Section 1 Introduction.

Highway Trees and Light

Category of Tree Related Enquiry

Highway Tree restricting light in private property

Customer Advice

We will not prune or fell a Highway Tree to improve natural light in a property.

If natural light is blocked by the growth of a Highway Tree, residents may take action under the relevant legislation. Further information is available on the government websites [here](#) and [here](#).

Highway Trees and View

Category of Tree Related Enquiry

Highway Tree considered to be restricting view from a private property

Customer Advice

We will not prune or fell a Highway Tree to improve the view from a private property

Highway Trees and Leaves

Category of Tree Related Enquiry

A Highway Tree shedding leaves over private property

Customer Advice

We will not prune or fell a Highway Tree to remove or reduce leaf fall or remove fallen leaves from private property. In respect of this;

- Liability for leaves, fruit and pollen falling into neighbouring properties does not lie with the owner of the tree as they are natural process,
- The loss of leaves from trees in autumn is part of the natural cycle and cannot be avoided by pruning,
- For highways extra teams are working in the autumn to clear fallen leaves.

Highway Trees and Honeydew (fall of Sticky 'Sap')

Category of Tree Related Enquiry

Highway tree that has a sticky honeydew residue which drips from its foliage.

Customer Advice

We will not prune or fell a Highway Tree to remove or reduce honeydew or other sticky residue from trees.

Honeydew is caused by greenfly (aphids) feeding on the sap from leaves and excreting their sugary, sticky waste. Often more likely to be colonised by a mould which causes it to go black. 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 and 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 Highway trees are planted the county council will 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 the cars are washed as soon as possible.

Highway Trees and Blossom

Category of Tree Related Enquiry

A Highway Tree shedding blossom over private property

Customer Advice

We will not prune or fell a Highway Tree to remove or reduce blossom from trees or remove fallen blossom from private land. In respect of this;

- Liability for leaves, fruit and pollen falling into neighbouring properties does not lie with the owner of the tree as these are natural processes.
- Tree blossom usually heralds the start of spring and is a natural occurrence that cannot be avoided by pruning.
- Highway carriageways are swept of excessive blossom as necessary.

Highway Trees and Bird Droppings

Category of Tree Related Enquiry

Highway Trees harbouring birds leading to bird droppings

Customer Advice

We will not prune or fell a Highway Tree to remove or reduce bird droppings from trees, or to remove bird droppings from private land.

Bird droppings may be a nuisance but the problem is not considered 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.

Highway Trees and Fruit, Berries and Nuts

Category of Tree Related Enquiry

Highway Tree shedding fruit, berries or nuts on private land

Customer Advice

We will not prune or fell a Highway tree to remove or reduce the nuisance from fallen fruit on driveways or private lanes. However, where fallen fruit is leading to significant anti-social behaviour problems we will consider measures to reduce the problem.

Fruit trees such as apple, cherry and pear are welcomed in many locations with the added benefit of providing free food (collected at collector's risk). But there are some locations where fruit trees are less desirable, for example where soft fruit would make the footway (pavement) slippery or where the anti-social behaviour could encourage fruit being thrown at houses or cars. 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 we may consider phased removal and replacement if considered reasonable and affordable.

Highway Trees and Poisonous Berries

Category of Tree Related Enquiry

Highway Tree known to contain poisonous berries or foliage.

Customer Advice

We would not normally prune or fell a Highway Tree that bears poisonous fruit / foliage (such as yew trees). However, where it is claimed or known that unsupervised young children are likely to be exposed to poisonous berries or foliage, such cases will be investigated on a case by case basis and take action, where appropriate.

Highway Trees and Wild Animal and Insect Pest

Category of Tree Related Enquiry

Highway Tree harbouring bees or wasps or other nuisance animals

Customer Advice

We will not prune or fell a Highway Tree to remove or reduce incidence of bees, wasps or wild animals. Bees are a protected species and advice should be taken before considering their removal.

Householders may be able to dispose of individual wasps using an aerosol insect-repellent spray, but this will not control or eliminate the nest itself. The whole nest may need to be destroyed. This can be achieved with great caution but it is far safer to use pest control experts. Residents/pest control officers should seek permission from the county council prior to such works taking place. All works carried out by residents/pest control experts are at their own risk who will be liable for any damage or claim arising out of such work.

Highway Trees and TV or Satellite Reception

Category of Tree Related Enquiry

Highway Tree interfering with TV and/or Satellite reception.

Customer Advice

We will not prune or fell a Highway Tree to prevent interference with TV / satellite installation / reception

It maybe 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.

Highway Trees and Solar Panels

Category of Tree Related Enquiry

Highway Tree restricting light to a solar panel.

Customer Advice

We will not prune or fell a Highway Tree to improve or increase the amount of natural light falling onto to a solar panel.

Whilst the county council appreciates that there is a need to provide renewable energy resources, Highway 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 and their expected growth must be fully appreciated when considering a suitable location for the placement of solar panels.

Highway Trees and Telephone Wires

Category of Tree Related Enquiry

Highway Tree interfering with telephone wires.

Customer Advice

We will not fell a Highway Tree to remove or reduce interference with telephone wires. There may be instances where the county council will undertake works to prune trees and reduce interference where pruning will be an effective measure. The telephone service provider may be able to suggest an alternative solution to the problem.

Highway Trees Considered Too Big or Too Tall

Category of Tree Related Enquiry

Highway tree considered to be excessive in size.

Customer Advice

We will not prune or fell a Highway tree because it is considered to be 'too big' or 'too tall'. A tree is not dangerous just because it may be considered too big for its surroundings. Other problems would need to be shown such, as those described in chapter 3 for the county council to consider it to be dangerous

Highway Trees and Personal Medical Complaint

Category of Tree Related Enquiry

Highway Tree considered to be causing personal medical problems.

Customer Advice

We will not prune or fell a Highway Tree where a request has been made to do so because of a personal medical condition. Such trees may result in exposure to a claim of Statutory Nuisance but there is no case law to require tree owners to consider personal health impacts.

Where it can be established that the presence of a tree is causing a detriment to the health of a resident further consideration may be given to the management approach to the tree.