

Leylandii

Another problem area has been neighbour disputes over the height of Leylandii (Leyland Cypress) and other high garden hedges. At present, local authorities have no specific powers to take action, although the Government is considering whether new legislation is necessary. For most people, the first step is to talk to your neighbour and ask them to deal with it by cutting the hedge to a reasonable height. Otherwise, the only established remedy is to resolve the dispute through the courts.

Overhanging trees

If tree branches overhang an adjoining property, subject to the other conditions described previously, the owner of the land has a right to cut them back to the boundary, but the cut branches remain the property of the owners of the tree. If your neighbour's trees are causing you a problem, it is always advisable to discuss the situation with them before roots or branches are removed. In this way disputes can be avoided.

Other legal provisions regarding trees

Restrictive Covenants: Trees may be protected from damage or cutting down by conditions in your property deeds or lease agreement.

Planning applications and protection of Trees

When considering applications for new developments, the authority will very carefully assess the risk to any already protected trees and only give permission for felling as a last resort. Replacement planting would be a normal condition of permission. If other valuable trees are thought to be under threat and are unprotected at the time of application, their protection by Tree Preservation Orders or planning conditions will also be considered. The authority will particularly wish to protect trees of visual importance at entrances to a site, at focal points such as the end of a cul-de-sac, as screens on the boundaries or those that can be viewed over the tops of houses.

References and acknowledgements

Tree Preservation Orders – A Guide to the Law and Good Practice – *Department of the Environment*
Trees in relation to construction – *British Standard*

Further information

Broxbourne Borough Council is eager to encourage public co-operation in its efforts to protect trees. The Council's Tree Officer will be willing to provide general advice, but it is advised to have your tree/trees inspected by a qualified Tree Surgeon before contacting the Council. A list can be found on the Council's website

Borough Offices

Bishops' College, Churchgate,
Cheshunt, Hertfordshire EN8 9XE
Telephone: 01992 785508
Fax: 1992 350386
Minicom: 01992 785581
Email: leisure@broxbourne.gov.uk
Website: www.broxbourne.gov.uk

One Stop Shops

123 High Street, Waltham Cross
Monday, Wednesday and Friday, 9am-5.30pm.

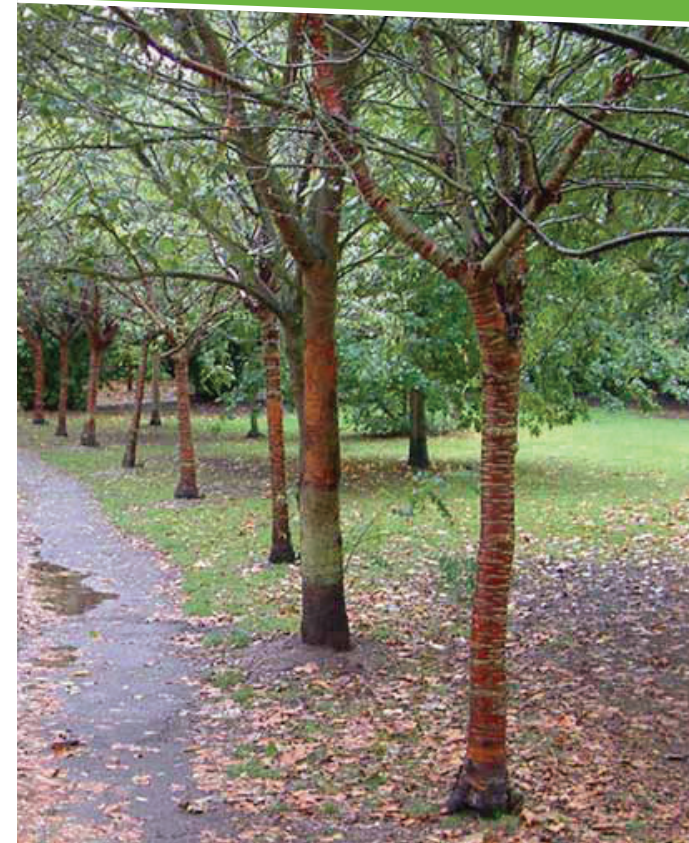
Hoddesdon Library, 98a High Street, Hoddesdon
Tuesday and Thursday, 9am-5.30pm
Closes at 3.30pm on the last Thursday of every month.

To receive relevant e-communications from the Council, please register at www.broxbourne.gov.uk/emailalerts. E-communications are emails that provide information about Council services and events. All information supplied will be processed and held in accordance with Data Protection Regulations.

TREES

THE LAW AND YOU

Trees are a valuable asset to all of us. This leaflet explains some of the Council's powers to protect trees and how they affect you.



Tree Preservation Orders (TPO)

The Council can make a Tree Preservation Order (TPO) if it considers that a single tree, group of trees or a woodland makes an important contribution to the amenity of the area and is under threat. The TPO makes it an offence to wilfully damage, destroy, fell or uproot trees specified in the Order without the written permission of the Council. The provisions of Part VIII of the Town and Country Planning Act 1990 and the Planning and Compensation Act 1991 are the legal basis for this.

There are over 260 TPOs in force throughout the Borough. A statutory register of all protected trees and a map showing their location is available for public inspection in the Planning and Development Services section. The Council's website has an interactive map where addresses can be checked. The Council is happy to consider suggestions from the public for TPOs, especially where trees of high quality are found to be under threat.

Making an Order: A recommendation for an Order can be authorised by the Chairman of the Council's Planning & Development Committee. An Order can be made immediately effective for up to six months. The Order is served on the owner who has 28 days in which to make any objections. The Council will then determine whether or not to confirm the Order. The Order is recorded in the Council's Land Charges Register and with the District Land Registry. If you buy or sell a property with a TPO this will appear in the local search.

Responsibility for care of trees: The owners of the land on which the tree(s) are situated remains responsible for the trees. The owner must carry any financial cost involved in the management of the trees. However, the Council's consent must be sought before any works to protected trees are carried out.

Applying for consent for works to the trees: An application should be made in writing to the Local Authority specifying the trees affected and the nature of the works proposed. Consent is not required for removing dead, dying or dangerous trees, but the Local Authority should be given 5 days' notice. Planting of replacement specimens will normally be required when consent is given to remove protected trees. In carrying out works to trees, specialist advice should always be sought. The Council's Tree Officer will be happy to indicate what is likely to be acceptable. If the Council refuses permission to carry out works, an appeal can be made to the Secretary of State for the Environment within 28 days of receipt of the decision.

Penalties

It is an offence to cut down, uproot or destroy a protected tree or damage a tree in a way that is likely to destroy it. Anyone convicted of this offence can face a fine of up to £20,000. An unlimited fine can also be imposed equal to the rise in land value resulting from tree clearance. Undertaking work on protected trees without permission or damaging a tree without destroying it is also an offence carrying a fine of up to £2,500. Liability for prosecution can involve not just an individual or company which does the work but anyone who permits or engages a tree contractor.

Woodland Tree Preservation Orders

A whole wood can be protected by a Tree Preservation Order (TPO). Consent for felling is required from the Local Authority unless a felling licence has already been granted. The Council may make a woodland TPO as a first step towards negotiating a management agreement with the owner.

Special protection

The Borough has six Conservation Areas - Churchgate, Wormley, Wentworth Cottages, Broxbourne New River, Hoddesdon and Broxbourne. If you wish to fell, lop or uproot trees in a conservation area, other than those already covered by a TPO, you must give the Local Authority six weeks' notice in writing of your intention. You may not do work to trees in this period without consent as the notice period is to give the Council the opportunity of making a TPO if this is considered necessary. Exemption from this regulation, however, is given for trees of less than 3" diameter at chest height, or less than 4" in diameter where the felling, lopping or removal is required to help the growth of other trees.

Trees protected by Planning Permission conditions

On many new developments a condition of planning permission is the protection of trees and shrubs on site, both existing planting and new landscape planting. The Planning Authority may also impose conditions relating to the protection of trees on construction sites. The Council has the power to enforce these conditions if developers do not comply.

Trees on Council property

There are many trees on Council-owned land. If you live in a Council property, you should request the Council's permission, in writing, before removing or carrying out works to trees.

Felling Licences

Under the Forestry Act 1967 an owner wishing to fell more than 825 cu ft in any calendar quarter must apply to the Forestry Commission for a felling licence. Such an application will often be referred to the Local Authority for consideration of the necessary amenity implications. If these cannot be resolved by negotiation with the owner, the Authority may impose a Tree Preservation Order on the trees. Once an Order is in force, the Commission will usually consider any application for felling as applications for consent under the Order.

Maintenance of trees

The owner of a tree has a responsibility to ensure that it does not become a danger to other parties, including neighbours. Regular inspections are advisable to identify the appearance of rot, fungus or disease which can render a tree dangerous. An owner who is negligent in these responsibilities may be held liable if a falling tree causes damage. This is particularly important when branches overhang the public highway. An owner may be formally requested to remove dangerous branches by the Highway Authority. Utility companies such as Electricity, Gas, Water and Telecoms also have some powers to remove trees or branches which interfere with their services.

Check the health of your trees regularly, you could be liable for them.

Trees on boundaries

Disputes can arise as to the ownership of trees on boundaries. It is important to find the position of boundaries from deed plans. Usually a tree will belong to the owner of the land on which the major part is growing, although there may be difficulties with hedge and ditch boundaries. Trees growing exactly on the boundary between two properties are normally considered to be the joint property of the two owners concerned.