



Tree Management Policies

Management of Trees on Council Owned and Maintained Land

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1.0 Introduction

This policy sets out how Devizes Town Council manages trees on council-owned or -maintained land. The Council recognises that trees are an important feature of our urban and rural landscape, providing a whole range of multi-functional contributions to environmental, social and economic sustainability.

How do we define a tree, and what does this policy cover?

In 2009 a High Court ruling concluded that with tree preservation orders there are no limitations in terms of size for what is to be treated as a tree; in other words, saplings are trees. However, other than that there is no legal definition of what constitutes a tree for more general purposes. In line with Wiltshire Council's tree policy, the following definitions have been adopted to provide the boundaries within which this policy operates.

Tree:

A tree typically has a single trunk growing in excess of 6m tall and bearing lateral branches. It has a more or less permanent shoot system supported by a single woody trunk. For the purposes of this Tree Policy, saplings will NOT generally be regarded as trees. In woodland a tree has a trunk of over seven inches, 180mm, in diameter.

Shrub:

A shrub is a woody plant smaller than a tree and distinguished from a tree by its multiple stems arising at or near the ground (rather than a single trunk); a shrub is usually less than 6m tall.

2.0 Tree Management Policy

Devizes Town Council will generally only undertake remedial works to trees where the trees pose an unacceptable level of risk to public safety or property i.e. if a tree is dead or dangerous or if the tree is causing damage to property. It is not reasonable to prune or remove healthy trees simply because of their size and proximity to buildings, roads or other infrastructure. Devizes Town Council will manage any risk through tree inspections and undertake any necessary works to abate hazards due to mechanical faults within the tree's structure, diseases or fungal infections and other conditions relating to tree health.

3.0 Common Law Right on Encroaching Trees

A resident has a Common Law right to remove (abate) the nuisance associated with trees encroaching onto your property. The following advice is given if you wish to exercise your Common Law right with respect to encroaching trees:

- a) Those parts of the tree from the point where they cross a boundary of a property can be removed. There is no legal right to cut or remove any part of a tree that does not overhang a property;
- b) Anyone considering work to a tree is strongly advised to consult a professional tree surgeon for guidance on how best to prune back encroaching trees, unless the works are such that you could do the works with hand secateurs or similar;

- c) Before anyone considers doing any works to a tree / trees they should find out who owns them and if they are protected by a Tree Preservation Order or are within a Conservation Area. If the trees are protected, consent will need to be gained by making an application through Wiltshire Council's planning department. To find out if the trees are protected and guidance on how to apply for works if they are protected contact Wiltshire Council on the following number:

Telephone: 0300 456 0114

The link [Trees and hedges | Wiltshire Council will provided advice if work is to be carried out on a tree.](#)

Anyone considering pruning encroaching branches is advised to discuss their intention with the tree owner. Legally, if the person seeking to carry out the work removes any encroaching branches, they should first offer them to the tree owner and only if the owner does not want the cuttings can other appropriate arrangements be made to dispose of them.

If the encroachment relates to a council-owned tree, any cuttings must be disposed of appropriately; the council does not require nor expect to have these returned.

4.0 Dangerous Trees Requiring Urgent Action

Policy: If a tree owned or managed by the Town Council is in such a condition that it poses a very high risk to people or property and is considered to be an emergency situation, urgent action will be taken to make the tree safe.

Our response to this tree-related enquiry: If an emergency situation arises, urgent action will be taken to make the situation safe. An emergency is defined as a tree that is in immediate danger of collapse or causing an obstruction requiring urgent attention, as outlined below.

1. If a tree poses an immediate and present danger urgent action will be taken to make the tree safe.
2. If a tree's condition could be described as any of the following, it may warrant urgent attention:
 - a) Snapped or blown over
 - b) Rocking at its base - roots are damaged
 - c) Uprooted but held up by another tree or building
 - d) Large branch has broken off, is hanging off or hung up within the tree
 - e) Completely blocking road, footpath, access to property
 - f) Fallen onto house or car
3. 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 include a tree which is:
 - g) Dead
 - h) Dying - few leaves in summer or dieback in the crown
 - i) Losing bark
 - j) Affected by mushrooms or other fungi growing on or near the tree
 - k) Affected by old splits and cracks in the trunk or large branches
 - l) Losing smaller branches which are falling from the tree

4. Trees can be made safe by pruning or felling. We employ the most cost-effective approach. However, for certain High Value and Ancient / Veteran trees we would consider other options to reduce risk to an acceptable level including those which would reduce the likelihood;
 - a) Of the tree or parts of the tree failing
 - b) Of persons being close to the tree if it did fail.

5.0 Dangerous Tree Requiring Action but not an Imminent Danger

Policy: If a tree owned or managed by the Town Council is identified as dangerous, but the risk to the public is not high, then the tree will be made safe depending on the degree of risk identified at the time of inspection.

Our response to this tree-related enquiry: If not an emergency situation a site inspection will be undertaken and within 14 days the customer notified of what action is considered appropriate.

6.0 Town Council trees Overhanging or Touching Buildings

Policy: We will not prune or fell a tree in Council ownership to alleviate overhanging branches. Where branches are causing damage by touching a building a site inspection will be made and the affected property owner will be notified within 14 days of appropriate action.

Our response to this tree-related enquiry: site inspection is not required unless damage has been caused.

There is a Common Law right to remove (abate) the nuisance associated with encroaching trees which can be found above at point 3.0.

7.0 Tree Too Big / Tall

Policy: Devizes Town Council will not prune or fell a council owned or maintained tree merely because it is considered to be 'too big' or 'too tall'.

Our response to this tree-related enquiry: site inspection not required.

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 the [Dangerous Tree](#) policies (4.0) for the Town Council to consider it to be dangerous.

8.0 Tree Protection - Tree Preservation Orders and Conservation Areas

Tree Preservation Orders and protection of trees in a Conservation Area are enforced by Wiltshire Council's Planning Team. Before any works to a Town Council-owned or maintained trees they should be checked to determine if they are protected by a Tree Preservation Order or are within a Conservation Area.

If the trees are protected, consent will need to be gained by making an application to Wiltshire Council. To determine if trees are protected contact must be made with Wiltshire Council 0300 456 0114.

This link [Trees and hedges | Wiltshire Council provides helpful advice.](#)

8.1 Tree Protection - Tree Preservation Orders

A tree preservation order (TPO) is an order made by Wiltshire Council's planning department in respect of trees or woodlands. The principal effect of a TPO is to prohibit the:

- 1) Cutting down,
- 2) Uprooting,
- 3) Topping,
- 4) Lopping,
- 5) Wilful damage, or
- 6) Wilful destruction

of trees without planning consent. The cutting of roots, although not expressly covered in 1 - 4 above, is potentially damaging and so, in the Secretary of State's view, requires planning authority consent.

Penalties for undertaking works to a Protected Tree without consent

Anyone who, in contravention of a Tree Preservation Order:

- 1) Cuts down, uproots or wilfully destroys a tree, or
- 2) Tops, lops or wilfully damages a tree in a way that is likely to destroy it is guilty of an offence. Anyone found guilty of this offence is liable, if convicted in the Magistrates' Court, to a fine of up to £20,000. In serious cases a person may be committed for trial in the Crown Court and, if convicted, be liable to an unlimited fine.

It is also an offence for anyone to contravene the provisions of a TPO otherwise than as mentioned above. For example, anyone who lops a tree in contravention of a TPO, but in a way that the tree is not likely to be destroyed would be guilty of this offence. In this case, the Magistrates' Court can impose a fine in the Magistrates' Court of up to £2,500.

8.2 Tree Protection - Trees in Conservation Areas

Under section 211 of the Town and Country Planning Act 1990, anyone proposing to cut down or carry out work on a tree in a conservation area is required to give the Local Planning Authority six weeks' prior notice (a 'section 211 notice').

Penalties for undertaking works to a Tree within a Conservation Area without consent

Anyone who cuts down, uproots, tops, lops, wilfully destroys or wilfully damages a tree in a conservation area without giving a section 211 notice (or otherwise in contravention of section 211) is guilty of an offence. The same penalties as those for contravening a Tree Preservation Order apply.

9.0 View

Policy: Devizes Town Council will not prune or fell a council-owned or maintained tree to improve the view from a private property.

Our response to this tree-related enquiry: site inspection not required.

It should be noted that there is no legal right to a 'view'.

10.0 Light

Policy: Devizes Town Council will not prune or fell a council owned or maintained tree to improve natural light in a property.

Our response to this tree-related enquiry: site inspection not required.

In law there is no general right to light with regard to vegetation. Any right to light would need to be established under the Prescription Act 1832, provided the light has been uninterrupted for at least 20 years. A legal right to light can be enjoyed only in relation to a specific opening (such as a window) in a building; there is no right to light in connection with open land, such as a garden.

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

11.0 Carriageway Obstruction Due to Trees

Policy: Carriageways on minor or estate roads and on major routes including double-deck bus routes requires a minimum clearance of 6m over the carriageway - where reasonably feasible Devizes Town Council will seek to achieve this for the trees it owns or manages.

Our response to this tree-related enquiry: Site inspection to assess

It should be noted If a privately-owned tree is causing an obstruction to a road, Wiltshire Council have the powers under the Highways Act 1980 to make the owner of the tree remove the obstruction. If they do not, Wiltshire Council will do this work and recharge the owner.

12.0 Danger to Highway (private tree)

This falls under the responsibility of Wiltshire Council.

13.0 Danger to Land Other Than Highway (private tree)

A tree in private ownership that is shown to be an imminent danger to non-highway land falls within the responsibility of Wiltshire Council.

14.0 Pavement - Obstruction

Policy: Devizes Town Council will undertake work to a Council-owned and maintained trees to maintain a minimum (where reasonably feasible) 2.5 metres height clearance over a footpath associated with a street, road or highway (3 metres where there are cycling rights). Any works necessary to prevent an obstruction in the width of a footpath associated with the highway due to the presence of a Council-owned tree would be considered on a case-by-case basis.

Our response to this tree-related enquiry: site visit within 14 days

If a privately owned tree is causing an obstruction to a footpath associated with the highway, Wiltshire Council has powers under the Highways Act 1980 to make the owner of the tree remove the obstruction.

15.0 Trip Hazard

Policy: Devizes Town Council will undertake measures to make safe an unacceptable trip hazard in a street, road or highway and other council owned or maintained land caused by the growth of a Council owned and maintained trees.

Our response to this tree-related enquiry:

- a) Trip hazards in a footway measured at an up stand greater than 20mm is classed as a priority 1 repair and shall be attended to within 24 hours.
- b) A site inspection will be undertaken and the customer notified within 14 days of what action is considered appropriate.

The Removal of the tree is the last resort (although in some circumstances, where the tree is of low-value or easily replaced, removal may be the most appropriate solution).

16.0 Road - Sightlines Obstruction

Policy: Devizes Town Council will undertake work to Council owned and managed trees to maintain clear sightlines (where reasonably feasible) at junctions and access points (associated with a street, road or other highway).

Our response to this tree-related enquiry: a site inspection will be undertaken and the customer notified of what action is considered appropriate within 14 days.

It should be noted that standards for visibility vary according to the class and speed limit in force. If a privately owned tree is causing an obstruction to the visibility at a road junction (sight line), Wiltshire Council has the powers under the Highways Act 1980 to make the owner of the tree remove the obstruction. If they do not, the council will do the work and recharge the owner.

17.0 Traffic Signal / Street Sign Obstruction

Policy: Devizes Town Council will undertake work to Council owned and managed trees to maintain clear sightlines (where reasonably feasible) for traffic signals and street signs (associated with a street, road or other highway).

Our response to this tree-related enquiry: a site inspection will be undertaken within 14 working days of receipt and the customer notified of what action is considered appropriate.

It should be noted that if a privately owned tree is causing an obstruction to a traffic signal or street sign, Wiltshire Council has the powers under the Highways Act 1980 to make the owner remove the obstruction. If they do not, the council will do the work and recharge the owner.

18.0 Street Light - Obstruction

Policy: Devizes Town Council will undertake work to a tree in council ownership to ensure that trees do not unduly obstruct street lights.

Our response to this tree-related enquiry: That a site inspection will be undertaken within 14 working days of receipt and the customer notified of what action is considered appropriate.

It should be noted that if a tree in private ownership is shown to be causing an obstruction to street lights, the landowner will be contacted and instructed to remove the obstruction under the Highways Act 1980. If it is necessary that the council undertakes this work then the owner will be charged in full for the council's costs.

19.0 Drains

Policy: Devizes Town Council will not prune, fell a tree or cut the roots of a council owned tree to prevent roots entering a drain that is already broken or damaged.

Our response to this tree-related enquiry: site inspection not required.

It should be noted that tree roots typically only invade drains that are already broken or damaged. 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.

20.0 Crime and Anti-Social Behaviour

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

Our response to this tree-related enquiry: site inspection will be undertaken. Customers will be informed that a site inspection will be undertaken and the customer notified within 14 days of what action is considered appropriate.

It should be noted that where a tree is associated with criminal activity and/or anti-social behaviour, the Police should be contacted in the first instance.

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.

21.0 Vandalism / Felling Council Trees Without Consent

Policy: Devizes Town Council will look into reports of vandalism or felling of a Council-owned and maintained tree and address any damage wherever possible.

Our response to this tree-related enquiry: site inspection will be undertaken. Customers will be informed that a site inspection is required and notified within 14 days of what action is considered appropriate.

1. The town Council encourages members of our local community to report incidents of vandalism or illegal felling of council trees
2. The Police should be contacted on their non-emergency number: 101 and then reported to the council's customer services team on 0300 456 0100.

22.0 Theft of Timber / Wood

Policy: Devizes Town Council will look into reports of theft of Council-owned timber / wood and prosecute wherever possible.

Our response to this tree-related enquiry: site inspection will be undertaken. Customers will be informed that a site inspection is required and notified within 14 days of what action is considered appropriate.

The Town Council encourages the local community to report incidents theft of wood from council trees and will consider taking legal action where witnesses have been prepared to come forward.

1. The Police should be contacted on their non-emergency number: 101 and the matter should be reported to the council's customer services team on 0300 456 0100.
2. The Council will not allow the remove wood (or other parts of a tree) from parks or public open spaces without consent. The Council should either remove cut timber from site or leave it in place as a wildlife habitat.
3. Unauthorised persons are not allowed to use a chainsaw or other tools and equipment in parks or public open spaces.

23.0 Bird Droppings

Policy: Devizes Town Council will not generally prune or fell a Council owned tree to remove or reduce bird droppings from trees, or remove bird droppings from private land.

Our response to this tree-related enquiry: site inspection not required.

It should be noted that bird droppings may be a nuisance, but the problem is not considered a sufficient reason to prune or remove a tree. Warm soapy water will usually be sufficient to remove the bird droppings as long as this is done promptly.

Nesting birds are protected under the Wildlife and Countryside Act 1981 (and other related wildlife law).

24.0 Blossom

Policy: Devizes Town Council will not prune or fell a Council owned or maintained trees to remove or reduce blossom from trees or remove fallen blossom from private land.

Our response to this tree-related enquiry: site inspection not required.

Customer Advice:

It should be noted that tree blossom usually heralds the start of spring. Blossom is a natural occurrence, which cannot be avoided by pruning.

25.0 Fruit, Berries, Nuts

Policy: Devizes Town Council will not prune or fell a Council owned or maintained trees to remove or reduce the nuisance of fruit, berries or nuts, or remove fallen fruit from private land. However, where fallen fruit is leading to significant anti-social behaviour problems, we will consider measures to reduce the problem including whether a phased removal and replacement with alternative species is reasonable.

Our response to this tree-related enquiry: site inspection not required.

It should be noted that fruit trees such as apple, cherry and pear have the double benefit of spring blossom and autumn fruit. This makes fruit trees good for wildlife and a source of free food. Equally, where fruit trees are established but there is a significant anti-social behaviour problem, we may consider phased removal and replacement.

26.0 Poisonous berries

Policy: Devizes Town Council has no general policy to remove trees bearing poisonous fruit or foliage (such as Yew trees), however where it is claimed or known that unsupervised young children or livestock are likely to be exposed to poisonous berries or foliage, such cases will be investigated and appropriate action considered.

27.0 Pollen

Policy: Devizes Town Council will not prune or fell a council owned or maintained trees to remove or reduce the release of pollen.

Our response to this tree-related enquiry: site inspection not required.

28.0 Ivy and Climbing Plants

Policy: Devizes Town Council will not prune or remove Ivy (*Hedera helix*) or any other species of climbing plant from a tree to abate a nuisance e.g. bird nesting, pollen, fruit or for the purposes of light. The control of plants climbing on or over trees is not a routine aspect of crown maintenance.

Our response to this tree-related enquiry: site inspection not required, unless for safety purposes.

It should be noted that the control of plants climbing on or over trees is not a routine aspect of crown maintenance. They may, however, be removed or cut back if this is considered necessary in the light of any of the following circumstances:

1. The plant is hindering visual inspection of a tree that could be posing a risk to people or property because of suspected presence of weakened tree structures in areas of high footfall.
2. The plant is growing high into the crown of a tree, so as to increase its resistance to wind;
3. The plant is significantly weighing down a branch or a leaning tree;
4. The tree is otherwise likely to be smothered (e.g. by Clematis, Russian Vine or, occasionally ivy) especially if it is old and therefore unlikely to outgrow the climbing plant;
5. There is potential for dead stems of the plant to become a hazard.

29.0 Leaves / Foliage

Policy: Devizes Town Council will not prune or fell a council owned or maintained trees to remove or reduce leaf / foliage fall or remove fallen leaves / foliage from private property.

Our response to this tree-related enquiry: site inspection not required.

It should be noted that the loss of leaves / foliage from trees in the autumn is part of the natural cycle and cannot be avoided by pruning.

The maintenance of gutters is the responsibility of the owner/occupier and the council is not obliged to remove leaves that may have fallen from council owned trees. Where gutters are regularly blocked by fallen leaves owners/occupiers may wish to fit gutter guards to provide a low-maintenance solution.

30.0 Sap

Policy: Devizes Town Council will not prune or fell a council owned tree to remove or reduce honeydew or other sticky residue from trees.

Our response to this tree-related enquiry: site inspection not required.

It should be noted that honeydew is caused by greenfly (aphids) feeding on the tree, which excrete a sugary sap. Often the honeydew is colonised by a mould, which causes it to go black. Where honeydew affects cars, warm soapy water will remove the substance, as long as this is done promptly.

Unfortunately, there is little that can be done to remove the aphids which cause the problem and pruning the tree may only offer temporary relief. 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 which are less likely to cause this problem.

31.0 Wildlife - Wild Animal / Insect Pest

Policy: Devizes Town Council will not prune or fell a council-owned tree to remove or reduce incidence of perceived pests such as bees, wasps, or wild animals.

Our response to this tree-related enquiry: site inspection not required.

32.0 Utility Cables - Overhead Lines

Policy: Devizes Town Council will undertake work to a council owned and maintained tree to prevent damage to overhead lines/telephone wires.

Our response to this tree-related enquiry: Site inspection required.

33.0 Tree and TV/Satellite/Telephone/Broadband Reception

Policy: Devizes Town Council will not prune or fell a council owned or maintained tree to prevent interference with TV or satellite, telephone or broadband reception as there is no legal right to TV, satellite, telephone or broadband reception.

Our response to this tree-related enquiry: site inspection not required.

Customer Advice:

It should be noted that It maybe that your service provider would be able to suggest an alternative solution to the problem, for example relocating the aerial/dish or a means to boost the signal.

34.0 Ancient, Veteran and High Value Specimen Trees

Policy: Devizes Town Council will seek to help prolong the life of council owned and maintained Ancient, Veteran and High Value trees through inspection, protection and as a last resort remedial works.

Our response to this tree-related enquiry: There are a number of threats to Ancient/Veteran trees; these shall be identified through an inspection if required.

35.0 Subsidence damage to property (tree-related)

Policy: Devizes Town Council will prune or remove a Council owned and maintained tree only where damage has been caused to buildings and other structures as a result of the action of Council-owned or maintained trees. We vigorously defend claims of tree-related subsidence damage and require that the claimant and/or their representative supplies sufficient evidence to establish that the vegetation is responsible.

Our response rate to this tree-related enquiry:

- All concerns about tree-related subsidence damage involving a Council owned tree will be acknowledged. In our response, we will advise that you need to notify your home insurer. In addition, we will advise you that the burden of proof lies with the

claimant and should you wish to make a formal claim for damages or to formally notify us of your concerns about future damage you will have to supply supporting evidence.

- All claims or notice of claims against the Council relating to a Council-owned tree will be acknowledged within 14 working days of receipt. In our response, we will tell you what evidence we require so that we may assess your claim.

It should be noted that if it is believed that property is suffering subsidence damage due to the action of trees in council ownership (or that there could be potential damage) then your property's insurer should be the first contact.

36.0 Direct Damage Caused By Trees

Policy: Devizes Town Council will prune or fell a tree maintained or owned by the Council to resolve a direct damage issue.

Our response to this tree-related enquiry: A site inspection will be made and the customer notified within 14 days of appropriate action.

37.0 Why Was a Tree Pruned / Felled?

Policy: Wherever possible Devizes Town Council will respond to a question of why trees have been felled..

Our response to this tree-related enquiry: Clarification of why a tree is to be or has been felled will be provided as necessary.

Customer Advice:

It should be noted that tree removal is regrettable but necessary in some circumstances. The decision to remove a tree is not taken lightly; most trees that need to be are felled because the tree has become unsafe and there is no cost-effective solution to otherwise retain it.

2. Trees are pruned for a variety of reasons including the removal of damaged or poorly-formed branches, to reduce the likelihood of failure by taking 'weight' out of the tree and generally to keep a tree as healthy and attractive as possible.
3. Where tree works are undertaken we use the services of fully qualified, insured and experienced arboricultural contractors who are all Arboricultural Association Approved Contractors.

38.0 Reporting Tree Matters

Customers are advised to report tree related matters via the My Wiltshire App

Register for the App: <http://wiltshire.mycouncilservices.com/register>

Or email: mydevizes@devizes-tc.gov.uk

