

Common law rights of the Council's neighbours over trees owned by the Council

The City Council's Trees Service manages trees on council land to prevent injury and damage to property and to be as neighbourly as possible with the resources it has available. The council will address situations where our trees cause actionable nuisances such as branches damaging roofs or gutters by direct contact.

Other types of damage caused indirectly by leaf fall, fruit fall, aphid honey dew or other such nuisances, are not required by law to be managed by the tree owner and in most of these instances the Council cannot afford to follow a pruning regime to remove these nuisances. In some situations, such as protected, valuable or historic trees, the Council may not wish to prune its trees.

There although are some situations where a property owner may 'abate' such a nuisance by legally pruning back vegetation and branches back to their boundary of their property.

You may have a right to remove the overhanging parts of a council tree but:

- i) You cannot cut further back than your property boundary without our express written permission. Following discussion with the Tree Officer, we may agree to branches being cut at points beyond your boundary where this is beneficial for tree health, aesthetics or future maintenance.
- ii) You cannot alter the height of a tree growing on neighbouring land. Your common law rights only allow you to carry out the minimum amount of work to abate the nuisance of branches growing across your boundary.
- iii) You must not cause undue harm or damage to the tree through for instance, poor quality work. It is expected that work will be undertaken to BS3998 by a competent and insured tree professional. Unauthorised works that lead to death or failure of a tree can be criminal damage and lead to potential prosecution.
- iv) You are not allowed to trespass on to land where the tree is growing or access the tree to undertake any works without our express written consent. You will need to show that this can be done safely, and any works will be undertaken in a competent manner; be covered by appropriate insurances; and you have any necessary permits and permissions, such as a Streetworks Permit or license. You will need to contact us if your tree work professional wishes to climb into the tree to undertake works;
- v) You must not disturb any bats or bat roosts whether in-use or not and you must not destroy any bird's nest that is either in use or being built (The Wildlife and Countryside Act 1981). Contravention can lead to criminal prosecution;
- vi) You will need to appropriately dispose of any material that is created from the pruning. It would be an offence to leave any arising material on a public highway;

- vii) You will need to verify that the tree is not subject to
 - a. a Tree Preservation Order; or
 - b. situated in a Conservation Area.

Both of these can be verified by contacting the Council's Development Control Team at <https://www.nottinghamcity.gov.uk/information-for-business/planning-and-building-control/planning-applications/apply-for-planning-permission/tree-preservation-orders-trees-in-conservation-areas/>

Before considering works to a council-owned tree, a property owner should seek their own legal advice on the matter ideally from a solicitor.

If you are planning any such work, it is recommended you consult a professional and competent arboriculturalist as you will become liable for any works that lead the tree to become unsafe, unstable or for any excessive damage.

The City Council wishes to support good quality work to our trees and therefore, if requested, a City Council Tree Officer can meet you to discuss what works are possible. We can help agree a specification of works that the Council would support you undertaking to abate some of the issues or concerns the Council's tree presents you.

If you have an enquiry regarding a tree, then go to the following link and complete the requested information to ensure your enquiry is dealt with:

https://myaccount.nottinghamcity.gov.uk/service/tree_enquiries

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