

## Tree Protection Legislation

Trees are a vital element of our landscape. They are also important in terms of biodiversity and for cultural reasons. In order to protect the valuable contribution that trees make, there are certain laws in place that restrict the work that can be carried out. These laws may affect individual trees, groups of trees or woodlands, and penalties can be imposed for unauthorised work. The following list provides an overview of the different forms of protection.

### **a) Tree Preservation Orders (TPO)**

These are made by Local Planning Authorities to prohibit the cutting down, uprooting, topping, lopping, willful damage or destruction of trees without the authority's consent. They can be placed on trees deemed to be of high amenity value within the local landscape, ranging in location from public open spaces, to roadsides and private residential gardens. Further information on TPOs can be found in the leaflet *Protected Trees: A Guide to Tree Preservation Procedures*, available from <http://www.communities.gov.uk/publications/planningandbuilding/protectedtrees>, or from the Malvern Hills Customer Contact Centre.

### **b) Trees within Conservation Areas**

The Town and Country Planning Act 1990 protects trees within Conservation Areas that are not already subject to TPO protection. Conservation Areas are defined as “areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance”. Although Conservation Areas are primarily designated due to the built environment, trees also contribute to the character of these areas.

Trees with a diameter in excess of 7.5cm (3 inches) measured 1.5 metres (5 feet) above ground level are protected by law, and 6 weeks' written notice must be given before any tree work, not just felling, is undertaken. For trees being felled to aid the growth of others (*i.e.* thinning operations), the threshold diameter is 10cm (4 inches).



The diameter of a tree trunk can be measured by using a *forestry diameter tape*, or using a *standard flexible measuring tape* to measure the circumference, and then divide by 3.14 to determine the diameter.

**c) Trees referred to in Planning Conditions**

Planning permission for new developments may come with conditions that certain trees are to be retained. You can contact us to confirm whether any trees are to be retained under these conditions. If so, you will need our written consent to carry out works to the trees. You should send us a letter giving details of the work that you propose, with a plan showing the location of the trees.

**d) Trees (live, dead or uprooted) that are located within a Site of Special Scientific Interest (SSSI)**

You will require permission from Natural England for any works to trees within or adjacent to a SSSI. You may contact Natural England for further advice, by email to [enquiries.westmidlands@naturalengland.org.uk](mailto:enquiries.westmidlands@naturalengland.org.uk) or at the following address:

**Natural England**  
Block B, Government Buildings  
Whittington Road,  
Worcester WR5 2LQ

Tel: 01905 763355  
Fax: 01905 764973

**e) Trees (live, dead or uprooted) that contain species protected under the Wildlife and Countryside Act 1981**

Certain species and their associated habitats are legally protected under this Act. Where protected species may be affected by works to trees, you must consult Natural England

(see above contact details) for further advice to avoid committing an offence.

For example:

- All nesting birds are protected under this Act, including the period when nests are being built. Therefore tree work should be avoided (including ivy removal) between February and August when nests may be in use.
- All bats and their roosts are protected under Schedule 5 of the Act as well as The Conservation (Natural Habitats & c.) Regulations 1994. Any trees with holes, cracks or crevices are potential bat roosts and so it is recommended that you employ a consultant to carry out a bat survey if there is a possibility of bats being present.

**f) Trees located within or adjacent to a Scheduled Ancient Monument**

If you want to carry out work that may affect a Scheduled Ancient Monument you must contact English Heritage by email to [customer@english-heritage.org.uk](mailto:customer@english-heritage.org.uk) or at the following address:

**English Heritage**  
Customer Services Department  
PO Box 569  
Swindon  
SN2 2YP

Tel: 08703 331181  
Fax: 01793 414926

A letter of consent may be required from them before any felling is carried out.

**g) The need for a Felling Licence from the Forestry Commission**

When you propose to fell more than 5 cubic metres of timber (equivalent to 30 oil drums) in a calendar quarter (three months) you may require a Felling Licence from the Forestry Commission and should contact them for further advice by email to [fcengland@forestry.gsi.gov.uk](mailto:fcengland@forestry.gsi.gov.uk) or at the following address:

**Forestry Commission**  
Worcester Area Office, Block B  
Government Buildings  
Whittington Road  
Worcester  
WR5 2FR

Tel: 01905 532200

If a felling licence is required and the trees to be felled are protected by a Tree Preservation Order or Conservation Area designation, before seeking Local Planning Authority consent for their removal you must obtain the felling licence. If you propose to fell any part of an Ancient Semi-Natural Woodland you will require a Felling Licence from the Forestry Commission. The Forestry Commission should also be consulted on any works that include or are within 500m of an area of Ancient Semi-Natural Woodland. You will not need to apply for a Felling Licence where the trees are growing in a garden, churchyard or designated public open space.

## Making an application to work on a tree subject to a TPO or within a Conservation Area:

In order to gain consent to carry out any work on a tree that is protected by a TPO or within a Conservation Area, the national standard application form called *Application for Tree Works* (1App form number 26) should be completed, this is available from:

- <http://malvern.whub.org.uk/home/mhc-planning-app-form26.pdf>  
(A direct link to the electronic version of the relevant 1App form)

For advice about obtaining this form and other queries regarding the application process, please contact:

### **Malvern Hills Customer Contact Centre**

The Library, Graham Road, Malvern WR14 2HU.

Tel: 01684 862151

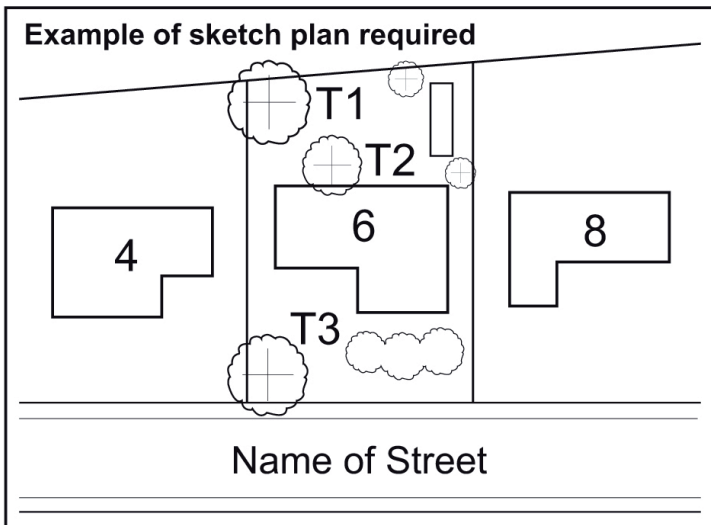
Email: [worcestershirehub@malvernhills.gov.uk](mailto:worcestershirehub@malvernhills.gov.uk)

### Please note

In order to complete the application form correctly it is necessary to follow the guidelines given in the accompanying guidance note. This note, along with the application form itself, explains what level of detail and supporting evidence is required (such as an arboricultural consultant's report for example).

The guidance note is also available from the Malvern Hills Customer Contact Centre, or online at: [http://malvern.whub.org.uk/home/mhc-27\\_works\\_to\\_trees.pdf](http://malvern.whub.org.uk/home/mhc-27_works_to_trees.pdf)

It is important to include a detailed sketch plan to clearly identify the tree(s) in question, with other trees in the vicinity also shown, and the location of buildings, property boundaries and roads. The following diagram provides a good example of how to draw such a plan:



Once the completed application form is received, the application will be registered and an acknowledgement sent to you or your agent. This will specify the date by which a decision should be reached.

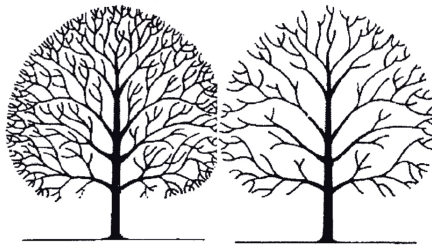
The Council's Landscape Officer will then make a site visit to inspect the tree(s) in question. It will not be necessary for you to be at home when the officer calls, but if you wish to discuss the matter, or if the officer is unable to access the tree, this should be noted on the application form and a mutually convenient time will be arranged.

Following the site visit, and consideration of the reasons given for your application, a decision will be made. A Decision Notice will then be issued.

## Basic Arboricultural Terms:

To help you complete the application form, the following drawings illustrate basic tree work terminology.

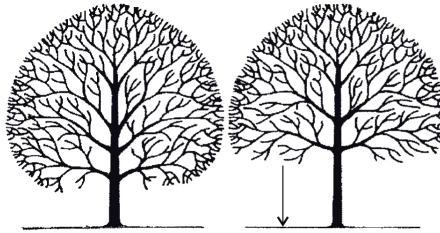
### Crown Thinning



Mainly undertaken to allow more light through the crown without altering the overall size and shape of the tree. The removal of dead and diseased wood (cleaning) followed by crossing and rubbing branches should be carried out prior to thinning to the required density.



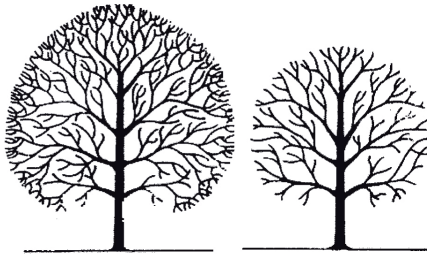
## **Crown Lifting**



This may be carried out to increase the clearance between ground level and the lower branches to:

- Allow access below the tree
- To improve light

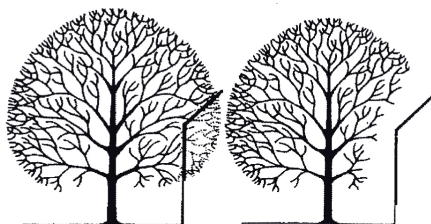
## **Crown Reduction and Shaping**



This drastic form of pruning, which is allowed in special circumstances only, on certain species of tree, may become necessary for the following reasons:

- To reduce weight on potentially dangerous branches
- To balance a misshapen tree
- To prevent trees obstructing or damaging buildings and property

## **Removal of Overhanging Branches**



In cases where branches overhang gardens, buildings/ structures or neighbouring property, the complete removal of all branches that overhang is usually not acceptable.

## **Trees within Neighbouring Properties**

In common law a property owner can cut back branches or roots to the boundary of their property. This is permitted as long as:

- There are no other legal restrictions on the tree, as described earlier in this leaflet under *Tree Protection Legislation*.
- Access is not gained onto the neighbouring land or into a tree within that land.
- Any work done to a tree is not detrimental to its health or stability.

If work is planned on trees belonging to a neighbour, you are strongly advised to inform the owners of the tree. Malvern Hills District Council cannot be held responsible if work is carried

out on trees without the owner's consent. Cut branches and roots remain the property of the owner of the tree and should be offered back.

When planting new trees in your garden you should consider positioning the tree so that its eventual size can be wholly accommodated on your land. If trees are planted right next to an adjacent property boundary you risk lawful pruning by your neighbour affecting the tree's shape, and the tree's stability if roots are pruned back to your boundary.

## Tree Surgeons

Many tree surgeons will give advice prior to an application being submitted. It is advisable to confirm the contractor's public liability insurance cover prior to any commencement of work. Obtaining several quotations is also recommended, especially on larger works as prices for the same work can vary.

All tree works are expected to be carried out by a suitably experienced tree surgeon and comply with current arboricultural best practice.

## Further Information

If you are unhappy with the decision regarding your application for tree work, you may appeal to the Planning Inspectorate. Information about this process is available from:

**The Planning Inspectorate**

The Environment Team  
Room 4/04 Kite Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN

**Tel:** 01173 726 382 / 01173 728 812S

**Email:** [environment.appeal@pins.gsi.gov.uk](mailto:environment.appeal@pins.gsi.gov.uk)

We value your comments about the service we provide. If you have any suggestions regarding possible improvements please write to the Head of Planning and Housing or the Landscape Officer at Malvern Hills District Council, The Council House, Avenue Road, Malvern WR14 3AF.