

Trees in Private Ownership

Newcastle-under-Lyme Borough Council receives a great many requests concerning trees on privately-owned land. We have a very limited remit in these matters and are rarely able to offer more than basic advice over the telephone in these cases.

Residents should note the following:

- A land-owner can plant trees anywhere on their land. There is no legal restriction
- A land-owner cannot be compelled to manage their trees to improve the views for others, or to increase sunlight penetration etc.
- A land-owner is responsible for the safety of their trees and could be taken to court if a tree causes injury, and if negligence can be proved
- A land-owner can be liable should trees be shown to have contributed to damage to other property
- Anyone who owns a tree should have it inspected periodically to assess its safety
- It is, therefore, sensible for anyone who owns a tree to manage it with due respect to others who may come into, or live in, close contact with the tree. This would frequently involve commissioning advice or service from suitably-qualified people.

Dangerous Trees

Should a tree in private ownership be suspected of being unsafe, and if the owner has been approached and has either refused to act or simply ignored the request, we would be pleased to advise. It should be noted that a tree is normally considered unsafe if there is a reason to believe it will fall, or drop branches. A tree is not regarded as unsafe simply because it is tall, or that it sways in the wind. Swaying is to be expected during windy conditions.

If there is concern that a tree could affect the safety of the public highway, Staffordshire County Council should be informed. If the concern is that the tree may affect another private property, then Newcastle-under-Lyme Borough Council has a right (but not a duty) to become involved under the Miscellaneous Provisions Act. The Arboricultural Officer in our Streetscene section would inspect the tree and if we agree that there is a problem we would liaise with the owner. A legal notice can be served, failing which; we may take direct action, being the minimal amount of work necessary to make a tree safe. We would then seek to recover costs from the owner.

Please note that we are unable to offer a free advisory service to the owners of trees.

Overhanging branches

There are certain rights under common law that permit the cutting of branches that overhang from a neighbour's land. Branches that overhang your property are trespassing over your airspace. If you are troubled by such branches you should approach the owner, asking for trees to be pruned, preferably putting this in writing. If such a request goes ignored, or work is refused, then there is an established legal right to undertake limited works yourself. In this circumstance a tree can only be cut back to the legal boundary, as cutting any further, over reaching the boundary, will

amount to trespass and unauthorised damage to the tree that could be acted upon. If the tree is climbed, or a ladder placed against it then the person doing the cutting is trespassing and will have exceeded their established right. Once cut, branch wood and any other arisings should be offered back to the tree-owner. If they do not want them then the neighbour who cut the trees should dispose of the branches in a legal manner.

It should be noted also that the person who cuts the tree could be held liable should they damage the tree and make it potentially unsafe.

If the tree concerned is in a Conservation Area or has a Tree Preservation Order on it, then permission must first be sought under the Town & Country Planning Act, before any branches are cut.

High Hedges

Under the High Hedges Act, Newcastle-under-Lyme Borough Council can assist residents who are suffering the effects of oppressive hedges adjacent to their property.

Tree Protection

In Conservation Areas all trees with a stem diameter over 75mm are protected. Some trees and Woodlands may be protected with specific Tree Preservation Orders. Please follow the links for more information on tree protection issues.

Tree Surgery Contractors

Tree surgery is an unregulated occupation. In theory anyone could buy a chainsaw and call themselves a tree surgeon. Yet tree surgery is a highly skilled and very dangerous undertaking. Residents should beware of advertising as poor contractors could produce professional-looking advertisements. It is recommended that approaches from contractors, particularly in door-to-door sales, should be avoided. There are frequent reports of works being half-done, tree debris being left in the garden or fly-tipped on public land, and some extreme over-charging. Please note that you can also be liable for the actions of your contractor.

Tree-owners are advised always to seek written quotations, preferably more than one. You should ask for evidence of the Contractor's public liability insurance cover, and seek information on qualifications and training. You should also ensure that if you want logs, woodchip etc. to be taken away, that this is included in the price for the job.

We are unable to recommend specific contractors, but can advise that the Arboricultural Association maintains a register of Approved Contractors, who have all been vetted and assessed by them as meeting the high professional standards of the association. This list can be accessed at: www.trees.org.uk.