



HORNDEAN PARISH COUNCIL

TREE POLICY

This policy is designed to be a policy framework for the management of trees owned and managed by Horndean Parish Council.

Duty of Care

A principle of English Common and Statute Law is that land and tree owners have a duty of care to visitors, residents, passers by and indeed trespassers when on their land.

Abatement of Nuisance

Tree owners including local authorities have an obligation under common law to abate nuisance. The definition of nuisance includes the following:

- Dangerous trees or parts of trees
- Actual damage to property – direct damage by branches or roots.

Inspection of Trees

On a two year cycle an independent survey report is undertaken in order to assess tree safety. This will identify hazardous trees and provides the time scale within which work must be completed.

Pruning Requests

We receive many tree-pruning requests each week, for a variety of reasons. The following issues which are often the subject of such requests are not considered a legal nuisance and therefore we do not prune tree for the following reasons:

- Loss of light – reduced light to properties
- Effects on TV reception

- Obstruction of views
- Seasonal inconvenience:
- Bird droppings
- Leaf fall

When we receive a request to carry out tree works we will record and consider individual merits and prioritise. Our first consideration is public safety, our legal obligations and then the impact on the community.

We will carry out tree works under the general guidance of dead, dying, diseased or dangerous and specifically where:

- There is significant risk of harm; or
- Damage (subsidence or physical impact from branches).

Removal of Council owned trees

Horndean Parish Council will not remove trees unless one of the following reasons exists:

Trees that are considered dead, dying or dangerous. Trees deemed to be within this category having been professionally assessed and present within the following definitions:

- Dead Tree – Tree that has no or minimal live growth present within the crown.
- Dying Tree – Tree that is in the process of irreversible decline
- Dangerous Tree – Serious defects have been noted and the risk to person/property is deemed high.
- Removal of trees to benefit adjacent trees, for example self-sown trees.
- Trees that are proven (balance of probabilities) to be the cause of subsidence.

Adjacent Building

Where Council trees are adjacent to buildings we will normally maintain a branch clearance of up to 1.5 – 2.0m to prevent the tree branches from damaging the building – dislodging roof tiles. Branches outside this 1.5 – 2.0m distance will usually be retained (this includes branches which overhang a property – above the roof).

Tree touching building

If a tree in Council ownership is touching your property (dwelling, boundary wall, garage etc.) we will take action to remove the nuisance. A site inspection will be undertaken within 4 weeks of receipt of the complaint and the complainant will be notified of what action is considered appropriate.

Subsidence

We recognise our responsibilities for the trees we own and manage. We expect any request for removal of our trees to be supported by sufficient evidence to show that the tree in question, on the balance of probabilities, is an influencing cause in the subsidence. The level of evidence required will differ on a case by case basis but the Council will normally require an engineers report, including an accurate survey, history of damage and precise level monitoring information to demonstrate that the tree is responsible for the damage. If this evidence is not sufficient, the Council may require further information including crack monitoring, soil analysis, foundation details, root analysis and drain surveys to be submitted. The person/body providing the evidence will bear the cost of the same.

Common Law rights to carry out tree works

Adjacent property owners can exercise their common law right and remove overhanging branches (where they extend across their boundary) with the **exception** of the following:

- trees subject to a Tree Preservation Order,
- within a Conservation Area,

- cause significant damage to the tree or leave the tree in an un-safe condition.

Private individuals should always make their intentions known to the tree owner so that any proposed work is mutually agreed. No work should be carried out which could prove detrimental to the long-term health of the tree or any damage or harm that occurs because of unauthorised work.

- You can only consider removing those parts of the tree from the point where they cross the boundary of your property. You have no legal right to cut or remove any part of a tree that does not overhang your property. You or your Contractors should dispose of all removed branches and they should not be left on Council land.
- You are strongly advised to consult a professional tree surgeon for guidance on how best to prune back encroaching trees, unless the works are trivial – being defined as the work could be undertaken with hand secateurs or similar.

Our response to a tree-related enquiry

If an emergency situation (Very High Risk) our Countryside Team will be instructed to attend the site within 1 hour to make the situation safe. An emergency is defined as a tree that is in immediate danger of collapse or a tree that is causing an obstruction requiring urgent attention, or

If not an emergency situation (High Risk) a site inspection will be undertaken within 10 working days of receipt and the customer notified of what action is appropriate. All tree work will normally be completed within 4 weeks of inspection, or

If deemed to be a Medium risk – defined as a tree showing signs of dying (few leaves in summer or dieback in the crown), bark loose/falling off, mushrooms/fungi growing on or near the tree, old splits/cracks in the trunk/large branches, smaller branches falling from the tree. All tree work will normally be completed within 6 months

Frequently Asked Questions

The tree adjacent to my property is too tall and needs to be pruned.

Horndean Parish Council does not reduce the height of trees as a matter of course, as this can stimulate rapid regrowth and/or cause significant defects in the trees' structure.

Tree branches are growing across my boundary.

There is no requirement in law to prevent trees spreading over a boundary. However, whilst there is no obligation to prune trees, if the branches or roots encroach on to neighbouring land they are legally regarded as a nuisance. Under the terms of law the tree owner is not obliged to cut back the branches overhanging their neighbours garden. The owner of the adjacent property has the legal right to 'abate the nuisance' by cutting the encroaching branches or roots. As a general policy, the Council will only undertake work whereby a trees' branches touch or are very close to a building. Where the overhang of the boundary is relatively minor or at a considerable height, the Council may decide not to undertake any works but may reinspect the trees within a two year period depending on the size, type and growth of the trees concerned.

Trees in Private Ownership.

The Council will not undertake works to trees in private ownership.