

Dismantling a dangerous tree

Pruning a neighbours tree

Under common law, a person may cut back any branch (or root) from a neighbour's tree that overhangs or encroaches onto their property. In cutting back any overhanging branches (or encroaching roots).

The following points must be observed:

- You must not trespass onto the land on which the trees are growing
- Branches or roots must not be cut back beyond the boundary in anticipation of them overhanging
- Any branches, fruit, leaves or roots that are removed must be disposed off by you, they must not be left or dumped on council land or the owners land.
- All work must be carried out carefully. For example you should avoid damaging property or carrying out work that would leave the tree unsafe or dangerous to avoid any comeback against yourself
- You cannot alter the height of trees or hedges on neighbouring land

While not required under common law, it would be courteous to notify the tree owner of your intentions to help allay any misunderstanding.

Please be aware that your common law rights are intended to allow you to carry out the minimum amount of work. If you carry out extensive works and in so doing you make the tree unsafe, the tree owner may have a case against you for criminal damage. You should be especially careful if you are pruning roots.

You may wish to obtain qualified arboricultural advice before carrying out any work.

If the tree owner agrees to works that are in addition to your common law rights, or if they give you permission to enter their land to undertake the work, it would be prudent to obtain their written consent.

Any unauthorised tree works which takes place to trees or the dumping of arisings on council land may result in prosecution. Under Section 33 of the Environmental Protection Act 1990, the unauthorised disposal of waste on land is a criminal offence, which on summary conviction renders the offender liable to imprisonment for a term not exceeding six months or a fine not exceeding £50,000 or both.

If the trees in question are subject to a tree preservation order or are growing in a conservation area then an application (in the case of tree preservation orders) or 'Notice of Intent' (in the case of trees growing in a conservation area) may be required and the following points will apply:

- The person intending to submit an application or notice must inform the owner of the land on which the trees are growing that an application or notice is to be made.
- The granting of consent in the case of a tree preservation order or the raising of no objection in the case of trees in a conservation area means that the tree work applied for is acceptable in arboricultural and planning terms only. It does not give the person submitting the application or notice an automatic legal right to carry out the work. The question of ownership is a civil rather than a planning issue and the landowner's permission must be obtained in addition to any planning approval.
- Any application or notice relates to the land and the landowner may also carry out the approved works if they so wish.

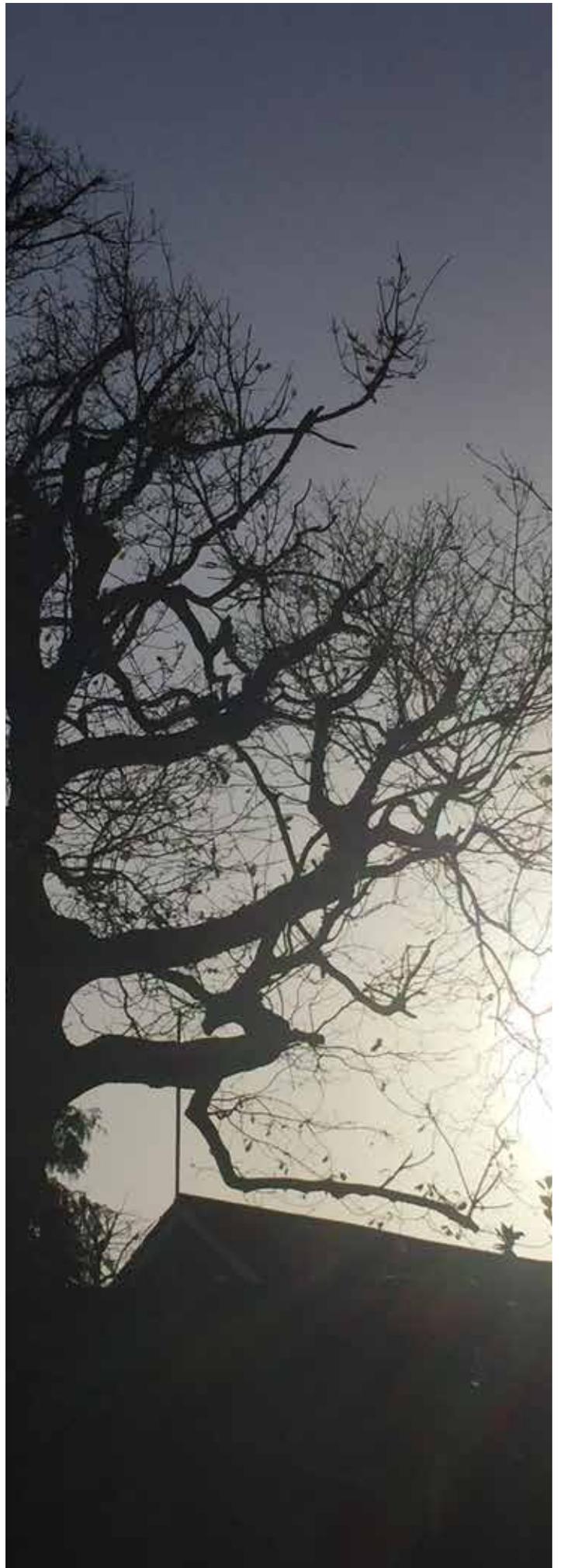
Please be aware that any applications or notices received are judged on their own merits. If work is proposed that is in excess of what would normally be permitted under common law, consent may not be granted if the pruning of over-hanging branches is considered unacceptable in arboricultural or planning terms, for example, if pruning branches back to the boundary would leave large pruning stubs or unbalance the tree.

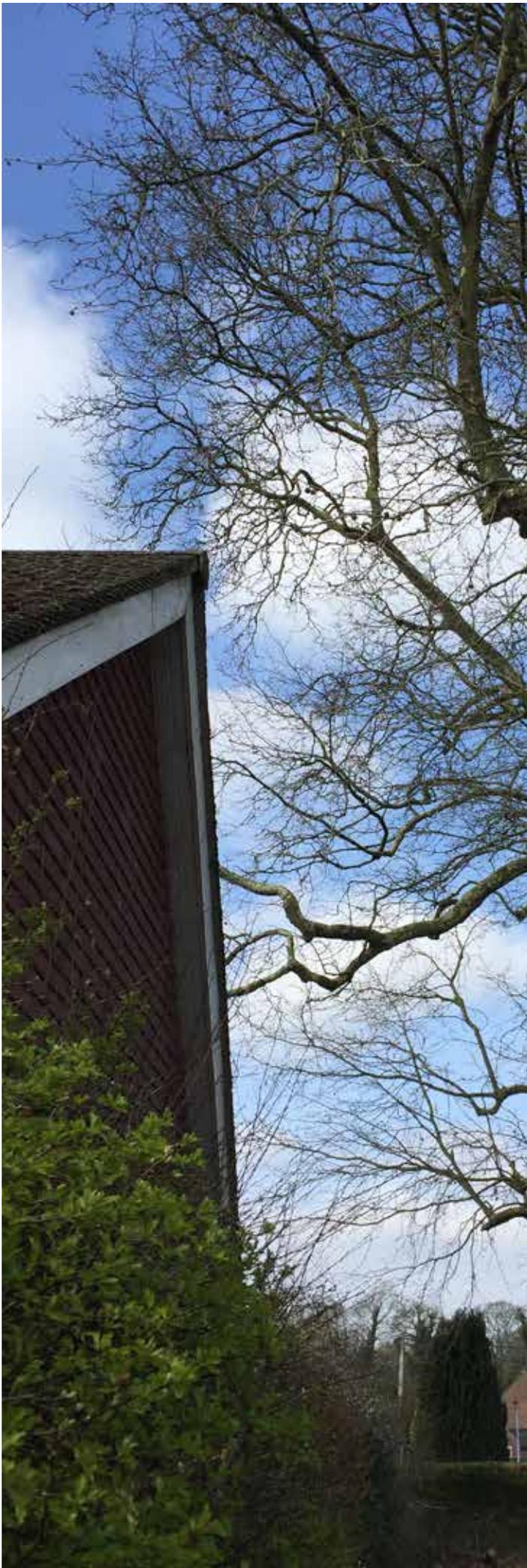
Trees growing on borough council land

If the tree that overhangs your garden is growing on land managed by the Test Valley Borough council, you are advised to contact one of the Tree Officers through Customer Services and their number can be found on the last page of this leaflet.

High hedges and trees blocking light

The High Hedges Regulations 2005 apply to evergreen or semi-evergreen hedges. No maximum height is given; each case is assessed on its merits. Before making a complaint about a high hedge to the council, you need to be able to show that you have taken





reasonable steps to resolve the situation yourself. The Department of Communities and Local Government has produced a free leaflet entitled 'Over the Garden Hedge' that gives advice on how to resolve an issue with a high hedge. It can be downloaded from the publications section on <https://www.gov.uk/government/publications/over-the-garden-hedge>.

Currently there is no legislation that governs what deciduous trees can be planted in domestic gardens and how high they can be allowed to grow.

Dangerous Trees

If you feel that a tree on your neighbours land represents a danger to you and/or your property you are advised in the first instance to approach your neighbour direct. Test Valley Borough Council does have some limited powers under the Local Government (Miscellaneous Provisions) Act 1976 to deal with private trees that represent an imminent danger to people or property. These powers are dealt with by the Tree Officers and you are advised to contact them direct if you do not receive a favourable response from the tree owner.

If you are in doubt about any of these issues, you should seek independent legal advice.



Useful contacts and references:

If you have any concerns regarding trees managed by Test Valley Borough Council - often land in public open spaces and parks - please contact Customer Services who will firstly confirm whether the land is indeed managed by the council.

Telephone 01264 368000 or 01794 527700

Minicom 01264 368052

Test Valley Borough Council, Beech Hurst, Weyhill Road, Andover, Hampshire, SP10 3AJ.

www.testvalley.gov.uk

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For additional advice on trees:

Tree Health Diagnostic and Advisory Service Forest Research, Alice Holt Lodge, Farnham, Surrey, GU10 4LH, England.

Tel. 01420 23000 e-mail ddas.ah@forestry.gsi.gov.uk

www.forestry.gov.uk/fr/INFD-5UWEY6

The Arboricultural Association

Arboricultural Association

The Malthouse, Stroud Green, Standish, Stonehouse, Gloucestershire, GL10 3DL. Tel: 01242 522152

www.trees.org.uk/Directory-of-Tree-Surgeons

Communities and Local Government publications

www.gov.uk/government/collections/high-hedges

www.civilmediation.justice.gov.uk

Citizens Advice Bureaux

You should find the location of your nearest office in the telephone directory

www.citizensadvice.org.uk

Community Legal Service (CLS)

Helps people to find the right legal advice and there are Community Legal Service Information points in most libraries.

Telephone: 0845 345 4 345

www.clsdirect.org.uk

Mediation UK

A panel of professional mediators who are able to respond to a range of disputes

Telephone: 01773 822 222

www.ukmediation.net