

Appendix 1 – Extract from LCC Highways Management Plan 2018

Maintenance Categories for Highway Verges, Landscaped Areas and Trees

The green estate comprises of a number of different elements, each having their own characteristics and requirements, which are set out below:

Tree, Hedge and Verge Maintenance

The county council is in the process of approving a Tree Safety Management Guidance which sets out the procedures we will put in place to inspect those trees which are either growing within highway limits or are within falling distance of the highway. In addition, the guidance defines what highway (county council owned), adjoining (i.e. growing on private land) and consent (i.e. planted within the highway with our consent) trees are and outlines procedures for dealing with overhanging trees, hedges and shrubs, dead or diseased trees. In addition it advises what we will and will not do in relation to complaints and reports about other perceived tree nuisances.

The Tree Safety Management Guidance should be read in conjunction with this section and when approved it will be published on the Highways Asset webpage and can be found at:

<http://www.lancashire.gov.uk/council/strategies-policies-plans/roads-parking-and-travel/highway-asset-management-in-lancashire>

Traditionally there has been a presumption in law that trees within the highway that existed before dedication of the highway and self-sown trees that have become established since dedication of the highway are vested in the owner of the subsoil. However, it appears that the judgement of the Court of Appeal in the case of Hurst -v- Hampshire County Council (1997) indicates that the responsibility for all trees in a highway maintainable at public expense rests with the highway authority. However, there may be occasions when, given the known history of a tree and the road adoption, it may be advisable to seek specific legal advice.

Definition of Activity

- The management of foliage within or immediately adjoining the highway including the removal of epicormic growth, pruning, pollarding and the removal of dangerous overgrowth, branches, roots or trees presenting a hazard to road users or adjoining property and to utility companies apparatus.
- Routine operations that may be required to keep the highway verge, central reservations, cutting and embankment slopes in a safe and tidy condition.
- Routine operations required to preserve the effective width of the carriageway or footway.

The county council will undertake appropriate maintenance to retain a healthy tree stock across Lancashire and remove hazards. This will include planned and reactive inspection

on receipt of a notice of a defect, and works will normally comprise pruning. The procedures we intend to adopt in relation to achieving our safety and environmental objectives, particularly with respect to reducing the risk of injury from dying, decaying, dead stock and dealing with a range of perceived tree nuisances are set out in the Tree Safety Management Guidance.

Trees will only be felled as a last resort when a tree is dead, when the risk to people or property posed by a tree is considered to be excessively high (this includes trees where there is potentially a high financial risk), or as an unavoidable consequence of highway maintenance works. Trees will not be removed to accommodate vehicular crossings.

Replacement of Trees we have felled

The county council will not replace trees we have felled for whatever reason. However, we will allow a district or parish council to fund a replacement tree which normally should be a young tree that is planted as close as possible to the position of the original tree, subject to an assessment of the location. The type of tree should match as closely as possible the characteristics of the tree that has been removed, subject to the replacement being appropriate to the setting and environment. Wherever possible, replacement planting will be such that the character of a street or area is retained, for example avenues or focal points in towns or villages and will require agreement of the relevant Highway Manager and the arboricultural officer. Where possible, replacement trees will be locally native species and where considered appropriate root barrier pits to prevent damage to structures or uplift of footways should be used. Where a district or parish council plants a replacement tree, we will adopt and maintain this tree.

Planting of trees as part of highway schemes

Where we plant trees as part of a highway scheme it is important that appropriate species and planting specifications, including the use of root pits are taken into consideration as inappropriate highway trees represent a long-term maintenance liability. Where new trees are being planted as part of a highway scheme the contractor should be required to provide a minimum 5 year establishment period, following which we take over and maintain such trees via reactive maintenance activities.

Planting of Trees in the highway by others

Section 96 of the Highways Act 1980 empowers a district or parish council to plant and maintain new trees in a highway maintainable at public expense, with the permission of the highway authority. Before a district or parish council can do this they need to sign a consent form which will indemnify the county council against third party claims arising from the tree being planted in the highway. Where we allow this, such trees are referred to as 'consent' trees.

Prior to district councils and parish councils planting consent trees within the highway they need to agree in advance with the relevant Highway Manager in conjunction with the council council's arboricultural officer the location of the tree, the variety of tree to be

planted and the planting specification (e.g. the use of root barrier pits etc) to prevent damage to structures or uplift of footways as appropriate.

In relation to the planting of such trees

- there should be no compromise on achieving desirable visibility standards
- there should be no compromise regarding the positioning of trees to minimise the risk of vehicle impact
- there should be no compromise on achieving acceptable systems of street lighting
- trees should not be positioned such that tree canopies and/or root systems will obstruct users of the highway or future maintenance operations including maintenance of highway drainage systems and statutory undertaker plant
- horizontal clearance shall be sufficient to avoid direct damage to drains underground services, flexible services and adjacent private structures
- there will be no new / replacement tree planting on High Risk Routes

Where such trees are planted within the highway we:

- will not maintain such trees
- will not be liable for any claim arising from consent/licence tree defect
- will record details of the licence/consent form on the Highway Asset management System

Where a consent tree is planted within the highway and it subsequently causes an obstruction, hazard or damage to any part of the highway or highway structure the consent holder will be liable for rectifying any defect or hazard arising from this tree. The Tree Safety Management Guidance provides further advice about the serving of notices against consent holders and the withdrawal of permission, and removal of the tree, if the consent conditions are not being adhered to.

Planting of Trees by Adjacent Property Owner/Occupiers

Whilst section 142 of the Highways Act permits adjacent property owner/occupier to plant trees in the highway subject to compliance with the terms and conditions specified in a licence granted by a Highway Authority the county council does not generally allow such planting.

Overhanging Vegetation and Hedges

Section 154 of the Highways Act gives competent authorities the power to serve notice on the owners of overhanging hedges or shrubs or the occupier of the land on which they are growing. Where an overhanging hedge or shrub is identified to obstruct the passage of vehicles or pedestrians or obstructs or interferes with the view of vehicles, the county council is also empowered to take action to alleviate the problem.

Our procedures for dealing with overhanging, dead or diseased trees and tree nuisance issues are set out in the Tree Safety Management Guidance.

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MAINTENANCE STANDARDS FOR VERGE MAINTENANCE		
Feature	LCC Standards	Notes
<p>Trees vested in highway authority</p>	<p>Trees will be maintained by pruning, pollarding and sometimes felling to minimise risks to highway users, people and property, utilities and to maintain a healthy tree stock. Work will either be undertaken as planned maintenance or by reactive maintenance, in respect of inspection reports or complaints.</p> <p>Maintenance on trees will be carried out to:</p> <ul style="list-style-type: none"> • ensure a minimum 5.5m clearance over the carriageway and 2.5m over a footway or 3.0m where there are cycling rights • ensure that there are clear site lines at junctions and access points, and for traffic signals and street signs • minimise trip hazards • ensure that street lighting is not unduly blocked • remove the nuisance of a tree touching a property • reduce interference with telephone wires (pruning only) when requested by the utility <p>Maintenance on trees will not be carried out to:</p> <ul style="list-style-type: none"> • remove overhanging branches that aren't touching property • prevent roots entering a drain that is already damaged • improve natural light in a property • improve natural light to a solar panel • improve the view from a property • remove or reduce leaf fall, honeydew or other sticky sap, blossom, fruit, berries, nuts or bird droppings • remove or reduce the incidence of bees, wasps and wild animals • prevent interference with TV / satellite reception 	<ul style="list-style-type: none"> • Pollarding should only be undertaken where previously done as it is no longer considered good practice. However trees previously pollarded have to keep being done to prevent problems with weighty limbs and poor limb attachment. • Maintenance will not be undertaken, because trees are considered to large or too small for their setting. • Where it is alleged that trees are interfering with telephone wires, property owners should initially be directed to their utility provider. • Work will not be undertaken to improve the quantity and quality of light falling upon a property or television reception – see Tree Safety Management Guidance for advice about dealing with perceived tree nuisance. • Works impacting on tree roots should only be taken after seeking arboricultural advice. • Where significant pruning, pollarding or felling maybe required arboricultural advice should always be sought, and with the exception of emergencies, adjacent property owners, parish councillors and elected members should be informed. • With the exception of emergencies, works to trees that have a TPO or are located in a Conservation Area shall be approved in advance by the local district council. • All maintenance works shall be undertaken in accordance with the requirements of the EC Nesting Birds Directive, the Wildlife and Countryside Act 1981, the Hedgerow Regulations 1997 and the Natural Environment and Rural Communities Act. • Where it is reported that unsupervised young children are likely to be exposed to poisonous berries or foliage, each case should be investigated and appropriate action considered. • We will not fell a tree to allow for the construction of a drop crossing to a private development • Where roots are causing a trip hazard or other damage to the footway, highway or highway structures, alternative engineering solutions should always be considered along with possible works to the tree. Where such trees are removed, thought will be given, if replaced by a district/parish council, to replant them with a root barrier system, otherwise consideration will be given to planting a replacement tree of a more appropriate species. • Replacement trees shall be selected, planted and maintained in accordance with the Design Guide.

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MAINTENANCE STANDARDS FOR VERGE MAINTENANCE		
Feature	LCC Standards	Notes
Hedges vested in highway authority	<ul style="list-style-type: none"> Seasonal growth on county council owned hedges will be trimmed once a year to ensure that there are clear site lines at junctions and access points and for traffic signals and traffic signs. 	<ul style="list-style-type: none"> Hedge clippings shall be removed from paved surfaces, in particular those used by cyclists.
Trees and hedges in other ownership	<ul style="list-style-type: none"> Regulatory action shall be undertaken as required to maintain visibility, prevent obstruction of the highway and to obviate any danger from falling trees or branches. Consideration will be given to undertaking works at Highway Authority expense where cost effective by comparison with enforcement action. 	<ul style="list-style-type: none"> see Tree Safety Management Guidance for further information about taking action, serving notices and recovering expenses. Hedges may not be removed without satisfying the requirements of the Hedgerow Regulations 1997.
Landscaping areas vested in highway authority.	<ul style="list-style-type: none"> Minimum works necessary to maintain visibility or prevent obstruction to the highway. 	<ul style="list-style-type: none"> New landscaping maintained under contract until established
Accident damage to trees		<ul style="list-style-type: none"> Trees on higher risk routes should be assessed to determine whether felling is an option. No new trees are to be planted on higher risk routes.
Siding (Side dressing)	<ul style="list-style-type: none"> Siding on carriageways will not be undertaken except when needed as preparatory work for surface dressing, renewal of road markings etc. Sidings on footways will be undertaken as necessary to preserve the footway width, following the receipt of inspection reports. 	
Verge Repairs	<ul style="list-style-type: none"> Undertaken as required following the receipt of inspection reports or complaints 	