

**TREE MANAGEMENT FOR SAFETY – Advice for Allotment Societies**

July 2012

This advice has been prepared to assist the allotment societies in the London Borough of Barnet to prepare themselves to successfully manage their allotment sites under the Council's new self management regime. This advice is not about the technical treatment of different species of trees in varying circumstances – it is focused on the management of trees for safety in the context of allotment sites.

**MAKING CHOICES**

Historically, the Council's rules for allotment sites distinguished between fruit trees which were permitted and forest trees which were not permitted. The Council has not controlled the forest trees on its directly managed allotment sites for many years and there has been a lack of clarity over responsibility for tree management on leased sites. The result is that there are forest trees on almost all allotment sites and commonly trees on adjacent land which overhang allotment sites. Under the new self management regime allotment societies will be responsible for the management of all their trees and will have to make decisions about which trees they want to retain and how they want to manage them.

Gardeners know that they cannot successfully grow most crops under trees. Permitting forest trees to grow on allotment land is effectively to use the land for a different purpose, and if trees are allowed to grow and spread plot holders retreat and more gardening land is lost to trees. This has a long term effect on the amount of allotment land available and the income and viability of the allotment society. Furthermore, there are costs to managing big trees. Whereas seedlings can be easily pulled or saplings cut by a plot holder, large trees need specialist arboricultural contractors to effect management and this comes at a considerable cost. There are strong reasons for eliminating or at least limiting forest trees on allotment sites.

But people like trees. On many sites people value gardening in a green and pleasant environment in which the forest trees are an important element, and have grown used to this in recent decades as forest trees have encroached on their allotment sites. Even with the removal of forest trees this wooded environment can be maintained, at least partly, by fruit trees alone. Thus every society will have to make choices about which forest trees it wants to keep on site. But every society should recognise that having forest trees will:

- Reduce the amount of land for allotment purposes at a time when there is a large unmet demand for allotments.
- Limit the society's income because there will be less land to let as allotments for growing crops.
- Increase the society's costs because large forest trees are expensive to manage.

**THE RULES**

The Council's new model lease includes only the following clause on trees:

- 3(6)(v) At all times during the Term [the society] to keep all trees in or upon the Property regularly inspected and properly maintained

This does not distinguish between fruit and forest trees but applies to all of them. It leaves each society with considerable discretion to determine its tree policy and plot holder rules. But it does require each society to actively manage its trees.

Societies are advised to allow the growing of fruit trees. Such trees should be permitted to a maximum size in the society's rules for plot holders. Societies are advised to prohibit plot holders from growing forest trees, whether planted or self seeded. BFAHS has published model tenancy rules for societies to adapt and use, and these include the following rules for trees.

- 22 Tenants must not plant, or allow to grow by natural seeding or otherwise, any trees or bushes other than fruit trees and bushes of recognised varieties cultivated for their crop.
- 23 Fruit trees and bushes must not be planted within 1 metre of - nor hang over or encroach upon - roads, paths, fences or neighbouring allotments, and should not exceed 5 metres in height.
- 24 All trees must be regularly inspected and properly maintained to the satisfaction of the Society.

## MANAGING TREES

Much of the advice here is based on *Common Sense Risk Management of Trees* by the National Tree Safety Group, published by the Forestry Commission, December 2011, £19.99 + postage and packing, A4 colour 104 pages, 978-0-85538-840-9, stock code FCMS024. It can be downloaded for free from the website <http://www.ntsg.org.uk/> and is also available from the BFAHS website <http://www.barnetallotments.org.uk/downloads/selfmanagement/FCMS024.pdf>. This guide contains chapters on understanding the risks, what the law says and tree risk management, together with some very illuminating examples of how to apply the guidance. All allotment societies are recommended to read and use this publication as the basis for their management of the risks associated with trees.

Managing fruit trees on allotments is not generally a problem. Most fruit trees are naturally small trees and the modern practice of using dwarf root stock ensures they are easily manageable. Provided they are not permitted to obstruct paths or overhang adjacent plots they are unlikely to be the cause of problems. Responsibility for managing fruit trees rests with the individual plot holder.

Forest trees are an entirely different matter. Some common species grow over fifty metres high and can extend their branches tens of metres laterally. They shed branches weighing hundreds of kilograms, sometimes with no prior warning. They weigh tonnes and will eventually fall, sometimes in calm weather and before there are any visible indicators of stress.

### Are Trees Safe?

The research which contributed to *Common Sense Risk Management of Trees* has revealed that there are about 6 UK tree deaths per year and about 55 injury visits to A&E units in hospitals including arboricultural workers. This shows a risk of death of about one per ten million people per year. "The Health and Safety Executive has identified that an individual risk of death of one in one million per year for both workers and the public corresponds to a very low level of risk..." "It points out that this level of risk is extremely small when compared with the general background level of risk which people face and engage with voluntarily." So trees carry about one tenth of the risk of death compared to what the HSE regards as acceptable. To put this in perspective death or injury from trees is about twice as likely as from lightning but only one fortieth of the risk associated with wheelie bins. Of course injury or death is a serious and sometimes very expensive matter when it happens and that is why all societies should hold public liability insurance.

## **What is the Law?**

Once an allotment society holds the new lease it owes a duty of care to anyone who might come within the area of risk from a tree. This includes people near the site as well as on it. The courts do not require landowners to make trees absolutely safe nor have expert knowledge in tree management. They do require tree owners to fulfil their duty of care as “a reasonable and prudent landowner”. In the event of a court case the land owner will find it much easier to demonstrate that he has been reasonable and prudent if he has kept the records of his tree inspections, any consultants’ reports and details of works carried out. Allotment societies are recommended to keep such records.

## **Inspecting Trees**

*Common Sense Risk Management of Trees* shows how to design an inspection regime which takes account of the risk posed by different trees in different circumstances. For example, on one allotment site in Mill Hill there are several veteran oak trees of great age and size which pose little threat to plot holders because nearby land is not in use for growing crops and people rarely go onto it. By contrast on another allotment site also in Mill Hill there is a mature but not ancient oak adjacent to a high speed dual carriageway. This tree is in better condition than the veteran oaks but its management will need more attention and caution because of the greater threat resulting from its location.

The essentials of tree safety management are summarized in *Common Sense Risk Management of Trees* as follows. “A reasonable and balanced approach forms the basis of a tree safety strategy for sensible tree safety management. By a ‘strategy’, we mean a plan that guides management decisions and practice, in a reasonable and cost-effective way, typically covering three essential aspects:

- Zoning: Appreciating tree stock in relation to people or property
- Tree inspection: Assessing obvious tree defects
- Managing risk at an acceptable level: Identifying, prioritising and undertaking safety work according to level of risk.”

## **Implementing a Strategy**

*Common Sense Risk Management of Trees* contains five detailed examples of different sorts of property and their tree management. The second example, of a small farm, is the one most similar to allotment sites.

Allotment sites vary in their need for management. Some sites have only a few small trees in situations where they are unlikely to cause harm. Other sites have many large trees, some in situations where considerable harm is much more likely.

Sites where the requirement is less could:

- 1 Alert all plot holders to report any tree problems they see to the Secretary, and remind them annually of this need.
- 2 Keep a permanent written log of these reminders and of all reports and the decisions and actions taken as a result.

Sites where the requirement is much greater could:

- 1 Alert all plot holders to report any tree problems they see to the Secretary, and remind them annually of this need.

- 2 Keep and update as required a plan of the site showing all significant trees together with a schedule describing each tree and a zoning of the site according to the risk when a tree or branch falls.
- 3 Appoint a tree officer or a small group of the plot holders to inspect all the trees each year. Require their report in writing together with any recommendations. It would be helpful if someone in the group had experience of tree management, grounds maintenance or land management.
- 4 Keep a permanent written log of the requests to plot holders and of all reports and the decisions and actions taken as a result.

## STATUTORY PERMISSIONS

If a tree is subject to a Tree Preservation Order the local planning authority must give permission for any work. If a tree is in a Conservation Area the planning authority must be notified of proposed works. Full information on the processes and the forms is available on the Council's website at [http://www.barnet.gov.uk/info/508/tree\\_preservation\\_orders/93/tree\\_preservation\\_orders](http://www.barnet.gov.uk/info/508/tree_preservation_orders/93/tree_preservation_orders)

## NEIGHBOURS' TREES

Problems are often caused on allotment sites by trees on neighbouring land, usually by overhanging branches which prevent the underlying land being used for growing crops. Any landowner is entitled to cut back any overhanging vegetation to the property line but must offer the cut material to the owner of the tree. You do not need to agree any works with your neighbour, nor consult him nor even inform him of the work you are about to do. No person is entitled to grow his trees or other plants over someone else's land. But if you want to maintain good relations with your neighbours you should explain the problems and what you propose to do. You should consult with them about the matter and listen to what they want – compromise may be possible. And, if possible, you should agree with them about what you will do.

You are not obliged to manage your neighbours' trees and it is unlikely that a court will hold you accountable if his trees cause damage to people or property, especially if you have written to him to warn of any hazards you perceive. Sometimes a large tree stands across the property line so that its ownership and responsibility for it is not clear. In this situation you should endeavour to agree the management with your neighbour.

## FUNDING AND INSURANCE

For all sites with trees there is a need to set a budget for planned tree works and a need for an emergency fund which will pay for unplanned tree works.

In the event of someone suffering injury or property loss from an allotment tree they may be able to make a successful claim against the allotment society if they can show that the society was at fault. The costs of such a claim would be met from public liability (third party) insurance which is essential for all societies. BFAHS has published a paper on insurance for allotment societies which is available from the website at <http://www.barnetallotments.org.uk/selfmanagement.php>

Insurance for carrying out emergency tree works is available but insurers are not noted for making losses and customers can expect their premiums to more than cover the costs of the emergency tree works over time. Such insurance is not commonly available and is not recommended. Allotment societies should hold sufficient funds in an emergency reserve for unplanned works.

## CONSULTANTS, CONTRACTORS AND VOLUNTEERS

Older and larger trees may require more expertise in assessing their condition and determining any works than plot holders feel competent to give. Such advice can commonly be obtained from arboricultural contractors, often for free when they hope to be given a contract for work. Some contractors are more expert than others but their advice is never independent. For truly independent advice use an arboricultural consultant. The Arboricultural Association provides a list of approved consultants at <http://www.trees.org.uk/>. Always ask for a copy of a consultant's professional indemnity insurance certificate at the time of appointment. This is the insurance which will compensate your society if his advice proves disastrously wrong.

Approved arboricultural contractors (tree surgeons) can also be found on the website of the Arboricultural Association. There are very many tree surgeons not registered with the Association and another way of finding a good tree surgeon is by personal recommendation. Smaller contractors are often not registered for VAT which may make their work much less expensive for allotment societies which are not registered for VAT. Arboricultural works should be specified in detail and at least three quotes obtained as quotations for tree works are notorious for varying widely in price. If you allow the contractor to fit in your work with other contracts you may get a better price. Always ask for a copy of the contractor's certificate of public liability insurance before allowing work to start.

Disposing of the timber and trash from tree works adds significantly to a contractor's costs. Hauling the timber off site or chipping the trash requires vehicular access close to the tree. The cheapest method of disposal is to burn the timber and trash on site. But if you are cutting hardwood timbers such as ash or oak you can have the contractor cut any timber thicker than 150mm (6") into pieces not more than 250mm (10") long. When such logs are split by plot holders they make first class firewood and are very popular with plot holders though many species of timber require a year's seasoning. It is not legal to sell firewood in smokeless zones even though most of the garages in London do so.

Arboricultural training and insurance distinguishes clearly between people who are competent to use a chain saw with their feet on the ground and those who are competent to take chain saws up trees. The latter are much more expensive. If you are clearing ground and doing high level tree works it may be much cheaper to separate the contracts and appoint two different sorts of contractor. If you are removing trees with the intention of bringing land back into cultivation you will need to specify that the stumps are to be pulled or ground out.

Many people own a chain saw and on some sites there is a tradition of plot holders doing clearance work. Do not accept an assurance that such a volunteer will bear the risk as his widow is unlikely to honour this promise. Check with your society's insurer that they will accept this risk and put it in writing to them if they do. Never allow a plot holder to take a chain saw up a tree, especially if he is acting as a volunteer of the allotment society.