

Roadside Trees and Hedges

An introduction to roadside trees and hedges in relation to safety works, wildlife issues and Tree Preservation Orders



Noctule bat © Jean Matthews



Dormouse © Danny Green



Bullfinch © CCW/Mike Hammett



Roadside trees and hedges play an important part in creating a pleasant environment and an important habitat for wildlife. They can also help reduce air and noise pollution, offset climate change and provide shade. However, dangerous trees or low branches next to roads can cause accidents.

Who is responsible for roadside trees and hedges?

Trees growing *within* road verges are generally the responsibility of the relevant *highway authority* (either the local council or the trunk road agency). Trees and hedges growing *along the highway boundary and on adjacent land* are generally the responsibility of the adjoining *landowner*.

Under the Occupiers' Liability Act, owners of trees have a "duty of care" to ensure that their trees are in a safe condition and to prevent or minimise any risk to a third party. In addition, highway authorities have a duty under the Highways Act 1980, to ensure that the highways are safe, free from danger and obstructions, with sufficient clearance above the road. To fulfil these obligations, the highway authority may contact landowners or occupiers to request cutting or pruning of trees and hedges. If the necessary work is not carried out, an official notice may be sent under the Highways Act 1980 requiring works to be carried out within 14 days. If not, the highway authority can carry out the work and recover the costs from the owner.

Note that highway authority notices to carry out work on trees and hedges **do not** over-ride the requirement to comply with other legislation outlined in this leaflet. The landowner is responsible for checking that all aspects of law are complied with.



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Noctule bat (*Nyctalus noctula*)

Trees, Hedges, their Wildlife and the Law

Trees and hedges can provide important habitats for wildlife. You need to be aware that both habitats and species may be protected by law.

Protected Sites

Certain areas of high conservation value may be subject to statutory designations such as Sites of Special Scientific Interest (SSSI) which are administered by the Countryside Council for Wales (CCW). Contact your local CCW office and obtain their consent prior to undertaking works.

Protected species

If you know or think that you have protected species such as dormice, red squirrels, badgers, otters, or rare invertebrates, plants or lichens on your land, you should contact CCW and seek advice before carrying out any works. **All species of birds and bats are protected** and they may frequently be found in roadside trees and hedges; see specific guidance below:

Birds

All birds, their nests and eggs are protected by law. Tree felling, pruning and hedge trimming should not take place during the bird breeding season, March to August inclusive. It should be noted that climate change is causing some birds to breed slightly before and after this time period. If it is not possible to avoid works when birds are breeding then a search must be made for signs of nesting activity before starting the work. If signs of nesting are found, works must be postponed or seek advice from CCW. Even if no nests are found, only work required to **resolve safety issues** should be undertaken during the bird breeding season. In this case, works should be kept to a minimum and it is recommended that hand tools are used.

Bats

Law protects all species of bats and their roost sites. It is illegal to kill, injure, capture or disturb any bat or to damage, destroy or obstruct access to their roosts or resting areas, even if bats are not present at the time.

Roosts sites are usually in older trees and may be in such places as cavities, split branches, under ivy and loose bark and may not be obvious to a non-specialist. The Bat Conservation Trust have produced "Bat Surveys - Good Practice Guidelines" (available on their web site) which gives details of how to do a survey of trees for bats. Anyone undertaking work to

trees should be familiar with these guidelines. It is recommended that trees that are highly likely to support bat roosts should be surveyed by a licensed experienced bat worker if the proposed works could result in an offence being committed.

Even if a bat survey fails to find any evidence of bat roosts, it is advisable to carry out the following precautionary good practice:

- Carry out work between 10th March - 15th May or 1st September - 15th November. Work should not be done in June, July or August, unless there is an *urgent* health & safety requirement or it has been established by a competent bat surveyor that bats are not using the tree. (Note that the spring period could affect breeding birds so you must limit works and also check for nesting activity).
- With large trees, dismantle the trunk or branch in sections and avoid cutting into any cavities, hollows, splits or cracks.
- Any tree sections containing crevices or voids where bats could potentially be roosting should be gently lowered to the ground intact and left undisturbed for 24 hours.
- If bats are found during felling or surgery, make the site safe and postpone work until further advice has been sought from a licensed bat worker or CCW.

If in doubt, a licensed bat worker should be present during works that may affect bats.

Tree Preservation Orders (TPO) and Conservation Areas

Some trees may be covered by a TPO, or grow within a Conservation Area. If in doubt, please check the status of your trees with your local planning authority. It is an offence to cut down or prune a protected tree without the written consent of the planning authority unless the tree is deemed to be dead, dying or imminently dangerous. In this case, works may be done to remove the immediate danger, but the tree owner and the person doing the work must be able to prove that it was done for urgent safety reasons.

Felling Licences

The Forestry Commission administers felling licences. A licence is needed if more than 2m³ of timber (including branch wood) is to be felled per calendar quarter. No licence is needed if trees are deemed to be dead, dying or dangerous, or for trees in gardens or for pruning or pollarding.

Managing Trees including Hedgerow Trees

Inspections

Landowners must ensure that their trees are inspected regularly in case they are unhealthy, unsafe, affect visibility on roads or footways or clearance for vehicles. Practical guidance can be found in the Forestry Commission Guide “Hazards From Trees” (available on their web site). An owner without specialist knowledge would be expected to employ a suitably qualified and experienced arboriculturalist/tree surgeon to inspect their trees at intervals of 1-3 years, depending on the level of risk. Failure to carry out regular inspections could affect any insurance claims.

Tree Felling and Pruning

You should always employ a suitably trained professional tree surgeon who is covered by Public Liability Insurance. The Arboricultural Association have produced a guidance leaflet “Choosing an Arborist” (available on their web site). Where possible, consider the option of keeping trees, particularly old ones. Sometimes removing certain branches or deadwood is enough to make the tree safe. Dead wood on trees away from roads is important for wildlife and should be kept if it is not dangerous.

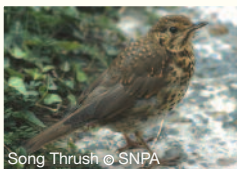
Managing Hedges

The trimming of roadside hedges is usually the responsibility of the adjoining landowner. When cutting verges, the highway authority may sometimes trim the bottom section of the hedge, but the landowner is still responsible for managing the hedge.

When to trim?

Ideally, hedges should be trimmed between **December and February**, to ensure that berries and nuts are available for wildlife during early winter.

Most farmers have to comply with Good Agricultural and Environmental Condition (GAEC) as participants in the Single Payment Scheme. Hedgerows may not be trimmed between **1 March and 31 August**, unless there are over-riding safety reasons, when only the minimum should be trimmed to make the right of way safe.



Song Thrush © SNPA



Bird's nest © NWTRA

How to trim?

- The use of a tractor-mounted flail or similar is acceptable to cut stems/branches up to 2.5cm (1") diameter. Larger diameter branches should be cut with a saw.
- Hand tools can be used to trim hedges if work is being carried out for safety reasons within the bird nesting season.
- Hedge trimmings should be cleared from the road and paths.
- Where safety considerations allow, hedges should be cut on a two or three year cycle and all the hedges on a holding should not be cut in the same year.
- If the side of the hedge adjacent to the road has to be cut every year, consideration should be given to only cutting the top of the hedge once every two or three years.
- For maximum wildlife value, aim for a hedge which is wide at the base and gradually narrows up to a height of 3-4m ('A' shape.) leaving the occasional hedgerow tree to grow larger.

Removal of Hedgerows

The Hedgerow Regulations 1997 control the removal of hedgerows. You must consult the local authority before removing a hedge. If this is approved you should consider relocating it or planting a new hedge using locally sourced plants.

Traffic Management / Signs and Health and Safety

Work on trees and hedges must not compromise the safety of workers and road users and where necessary appropriate traffic signs and traffic management should be used. You are strongly advised to consult with your local highway authority and find out what traffic management is required.

Note that this leaflet provides an introduction only to issues relating to roadside trees and hedges in relation to wildlife law, Tree Preservation Orders and other legislation. It cannot be taken to be a definitive statement or interpretation of the relevant legislation. If in doubt seek legal advice



CHECKLIST OF ISSUES TO CONSIDER BEFORE CARRYING OUT WORK ON TREES AND HEDGES.

KEY QUESTION	WHAT TO DO
Protected Sites. Is your land notified as a Site of Special Scientific Interest (SSSI)?	If yes or you are unsure, contact the Countryside Council for Wales (CCW) .
Are there any " protected species " present? Particularly important are: otters, red squirrels, dormice, badgers and bats.	If yes or you are unsure, contact CCW .
Will any breeding birds be affected?	Do works outside bird breeding season
Will any bats or their roost sites be affected?	If yes, or you are unsure, contact CCW or a bat specialist .
Is the tree or hedge covered by a Tree Preservation Order or in a Conservation Area ?	If yes or you are unsure, contact your Local Planning Authority .
Is a tree Felling licence going to be required?	If yes or you are unsure, contact the Forestry Commission .

Useful Contacts/ Links:

Countryside Council for Wales: www.ccw.gov.uk Tel: 0845 1306 229
Bat Conservation Trust: www.bats.org.uk Tel: 020 7627 2629. Bat Helpline: 0845 1300 228. Produce publications and guidance including some free downloads: "Bat Surveys - Good Practice Guidelines" and "Bats and Trees in Wales"
Forestry Commission: www.forestry.gov.uk Tel: 0845 604 0845. Free download "Hazards from trees" and "Tree Felling - Information on Tree Felling and the law".
Arboricultural Association: www.trees.org.uk Tel: 01794 368717 - Tree related issues and produce a free leaflet/download "Tree Work - Choosing your arborist"

The **Trunk Road Agencies** manage the trunk road and motorway network in Wales on behalf of the **Welsh Assembly Government**.
North Wales Trunk Road Agency: www.northwales-tra.gov.uk
Tel: 01286 685186
Mid Wales Trunk Road Agency www.midwales-tra.gov.uk
Tel: 0845 6027 035
South Wales Trunk Road Agency: www.swtra.gov.uk Tel: 0845 602 6020

Local highway authority: details are available from your local council website or the Phone Book.