

Useful contacts

London Tree Offices Association (LTOA)

Arboricultural Services, Parks & Open Spaces Section,
7th Floor Town Hall Extension, Argyle Street, London WC1H 8EQ

Tel: 020 7974 4124

Email: executive.officer@ltoa.org.uk

Website: www.ltoa.org.uk

Arboricultural Advisory and Information Service (AAIS)

(A registered charity that carries out research and disseminates information to the arboricultural and forestry industries on behalf of the Government)

Alice Holt Lodge, Wrecclesham, Farnham, Surrey GU10 4LH

Tel: 01420 22022 – Fax: 01420 22000

Tree Help line: 09065 161147 (calls charged at £1.50 per minute).

Arboricultural Association

(A registered charity concerned with raising the standards of tree care in the UK)

Ullenwood Court, Ullenwood, Cheltenham, Gloucester GL53 9QS

Tel: 01242 522152 – Fax: 01242 577766

E-mail: admin@trees.org.uk

Website: www.trees.org.uk

Borough of Basingstoke and Deane, Environmental Care (Council trees)

Civic Offices, London Road, Basingstoke, Hampshire RG21 4AH

Telephone: (01256) 844844

Fax: (01256) 845200

www.basingstoke.gov.uk/services/envhealth/trees

Website: www.basingstoke.gov.uk

Neighbourhood Development (Protected and Private trees)

Civic Offices, London Road, Basingstoke, Hampshire RG21 4AH

Telephone: (01256) 844844

Fax: (01256) 845200

E-mail: neighbourhood.dev@basingstoke.gov.uk

Website: www.basingstoke.gov.uk



*Basingstoke
and Deane*

Guide to subsidence and trees



Introduction

Subsidence is a complex interaction between the soil, building, climate and vegetation that occurs on highly shrinkable clay soils when the soil supporting all or part of a building dries out and consequently shrinks, resulting in part of a building moving downwards. Trees lose water from the leaves through transpiration that is replenished by water taken from the soil by the roots. If the tree takes more water from the soil than is replaced by rainfall the soil will gradually dry out. All plants can dry out the soil (including shrubs, climbers and even grass) but trees because of their size can have the greatest influence. Trees have a large root system and they can dry the soil to a greater depth, critically below the level of foundations. The opposite of subsidence is a process called 'heave' and this occurs as a shrinkable clay soil re-hydrates (re-wets) and begins to increase in volume exerting upward pressure. Heave can also cause damage to buildings and is just as undesirable as subsidence.

Trees are not the only factors that can cause building movement. Others, for example natural seasonal soil moisture changes, localised geological variations, lack of flank wall restraint, over loading of internal walls, internal alterations reducing the load bearing capacity of the original building, installation of replacement windows without proper support, loft conversions, settlement and land slip, leaking drains and changes in thermal, moisture or chemical changes in the building materials can also cause building movement.

If vegetation is involved there will always be a cyclical pattern to the movement with cracks widening during the summer as the soil reduces in volume as it dries out and closing during winter as the soil increases in volume as it re-hydrates. It is important that monitoring should be continued long enough to establish the nature of the building movement. Most subsidence claims are relatively minor (cosmetic) that can usually be repaired without the need for extensive works.

Subsidence and protected trees

A protected tree is one subject to a tree preservation order or growing in a conservation area.

Tree preservation orders

Where an application to work on a protected tree is to be submitted, it is reasonable for the Council to expect that sufficient evidence is provided to demonstrate that, on the balance of probabilities, the tree in question is an influencing cause in the subsidence.

More information can be found in the councils Tree Policy document available to download from this website.

Trees in conservation areas

Where trees are growing in a conservation area, the council is only able to raise no objection or to serve a tree preservation order if the proposed work would have an adverse effect on the tree and/or the conservation area. Unless the removal of a tree would have an adverse effect on the conservation area, no objection will be raised to a 'Notice of Intent' involving subsidence.

Controlling or abating a nuisance

One of the exemptions from the requirement to submit a formal application (for trees subject to a tree preservation order) or a 'Notice of Intent' (for trees growing in a conservation area) is where the proposed work is '*so far as may be necessary to prevent or abate a nuisance*'. The term 'nuisance' is used in a legal sense and not in its ordinary everyday sense. In simple terms, this means that where harm is caused or is alleged to have been caused by a tree it has actually occurred or is likely to occur. If you are in any doubt, you might wish to take independent legal advice. Two properties must be involved; a tree owner cannot claim that a tree in their ownership is a nuisance to themselves.

For a tree owner who has received a request from a neighbour (or their insurance company) to remove a protected tree that has been implicated in subsidence damage, they are advised to contact their insurance company in the first instance. The tree owner may also need to seek professional advice on the level of evidence supplied with the request. Under the protected tree legislation, the burden of proof rests with the tree owner to show that the tree in question is an influencing cause if they wish to remove a protected tree under the prevention or abatement of a nuisance exemption.

Subsidence and council owned trees

For claims against council owned trees, these will be considered in the light of the adopted Tree Policy as described in the introduction above. The council will reasonably expect any claim to include an appropriate level of evidence provided to demonstrate that on the balance of probabilities, the tree in question is an influencing cause in the subsidence.

Non-protected trees in private ownership

For a tree owner who has received a request from a neighbour (or their insurance company) to remove a tree that has been implicated in subsidence damage, they would be advised to contact their insurance company in the first instance. The tree owner may also wish to seek professional advice on the level of evidence supplied with the request. The Arboricultural Association maintains a directory of registered arboricultural consultants; please see the link in the 'Useful Contacts' at the end of this leaflet.