

Officer responsible Parks Manager	Author W Fielding-Cotterell
Corporate Plan Output: Street Tree Maintenance & Felling City Wide	

The purpose of this report is to resolve a situation where a large street tree is detrimentally affecting a neighbouring property. The matter will be referred to the City Services Committee for a decision.

BACKGROUND

For some years the Parks Unit has been receiving complaints from Mr Drumm of 3 Swithland Place about problems caused to his property by a large lime tree situated on grassed road reserve approximately 1.0 metre from the property boundary. The tree is approximately 16.0 metres in height and 13.0 metres crown diameter.

The complaints relate to the following:

- Leaves, seeds and other tree debris accumulating in the roof guttering, downpipes and other parts of the property.
- The shading effect of the trees.
- Fears of possible root damage to the house foundations.
- Concerns that branches or the whole tree could fall and damage the property.

Previous requests for the tree to be removed have been declined as the lime is a sound, healthy and attractive specimen, which, in the Park Unit’s view, makes a significant contribution to the attractive landscape character of Swithland Place.

The tree has been pruned in the past in an attempt to alleviate the problems experienced on Mr Drumm’s property but this has not proved satisfactory to Mr Drumm.

LEGAL SITUATION

Approximately one-third of the tree’s roots and branches extend over the road boundary into Mr Drumm’s property. In law, Mr Drumm is entitled to remove all branches or roots encroaching over his property back to the road boundary. Furthermore, if actual and sensible damage can be proved (e.g. damage to house foundations or roof guttering) the Council could be held liable for damages under the common law of nuisance. In either situation remedial pruning work is likely to spoil the attractive character of the lime and render it unsafe because of a damaged root system.

RESIDENTS’ VIEWS

The residents of Swithland Place were recently canvassed for their views as to the removal or retention of the tree with the following result:

11 favoured the removal of the lime
4 opposed the tree’s removal.

One of the eleven residents in favour of removing the lime also made a strong request for the removal of a large oak outside his own property. This exemplifies the problems of trying to preserve large trees in the street landscape in some residential areas.

In view of the above considerations and the fact the greater number of residents by far preferred that the lime be removed, it is recommended that the Council remove the tree.

Recommendation: That the Board endorse the removal of the tree.

**Chairman's
Recommendation:** For discussion.