# Advice from Alan

## Neighbours and trees

*by Alan Knowsley, partner, Rainey Collins Lawyers*

I am often asked what people's rights are in relation to their neighbours' trees.

A landowner has the right to the ordinary use and enjoyment of land, as long as this does not unreasonably interfere with neighbours. There is normally no legal right to a view, so a neighbour allowing trees to block your view is probably not acting unreasonably. It is unlikely you would be able to have the trees removed or topped. Discuss this with your neighbour to try to reach an agreement.

You might be able to have the trees trimmed if they unreasonably block sunlight, because the shading could amount to an unreasonable interference with your enjoyment of your property.

If a tree is likely to fall onto your land, you may be able to have it removed, because it is likely that it amounts to what legally constitutes a nuisance.

You are entitled to cut overhanging branches and roots back to the boundary. However, in some cases trees are protected under district plans, so you should check with your local council first.

Your neighbour owns the cuttings, and you are entitled to ask them to remove them. You are also entitled to put them back onto the neighbour's property, but if you do this, you should be careful not to cause any damage. Having a discussion with your neighbour beforehand is always best, if it is practicable.

In one case the High Court accepted a claim by a property owner in relation to damage to their property caused by tree roots coming across the boundary from their neighbour's property, as well as leaves and branches falling from overhanging tree branches. The court ordered $10,000 to be paid for repairs to guttering and the cost of cutting back the branches to the boundary, repairs to the driveway and installation of a root barrier, plus $10,000 general damages for the disruption and inconvenience caused to the neighbour by the trees and $23,000 legal costs. The court also ordered the tree owner to keep them cut to the boundary line.