

WYRE FOREST DISTRICT COUNCIL

CABINET
24th NOVEMBER 2009

Tree and Woodland Management Plan

| OPEN | |
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| SUSTAINABLE COMMUNITY STRATEGY THEME: | Improving Health and Wellbeing |
| CORPORATE PLAN AIM: | A Better Quality of Life |
| CABINET MEMBER: | Councillor Marcus Hart |
| DIRECTOR: | Director of Community and Partnership Services |
| CONTACT OFFICER: | Kay Higman ext 2902 Kay.higman@wyreforestdc.gov.uk Cultural Services Manager |
| APPENDICES: | Appendix 1 - Tree and Woodland Management Plan Appendix 2 Management of the Risk from Falling Trees Appendix 3 – Quantified Tree Risk Assessment Appendix 4 – Action Points Appendix 5 – Parks and Open Spaces Site Assessments Appendix 6 – Schedule for Full Tree Audit with Current Staffing Levels <i>The appendices to this report have been circulated electronically and a public inspection copy is available on request. (See front cover for details).</i> |

1. PURPOSE OF REPORT

- 1.1 To seek Council's agreement of the Tree Management Plan as attached at Appendix 1.

2. RECOMMENDATION

The Cabinet is asked to **RECOMMEND TO COUNCIL** that:

- 2.1 The Tree and Woodland Management Plan be adopted and the Action Points be implemented.
- 2.2 The allocation of £10,000 for 2010/11 and £10,000 for 2011/12 be used from savings to be identified from the Parks and Green Spaces budget for each of these years.
- 2.3 The survey will take place over two financial years as part of a scheduled programme.

3. BACKGROUND

- 3.1 The Parks and Green Spaces Section and Countryside and Conservation Service are responsible for the management of 70 sites within the District which incorporate trees and woodlands.
- 3.2 In order that these trees are managed in a way that increases safety, amenity and environmental benefits of the tree and woodland resource, a clear long term management plan is necessary.
- 3.3 The management plan attached to this report is designed to set a clear vision and plan for the next 10 years.
- 3.4 Very few sites out of the 70 in the Council's ownership have been surveyed prior to March 2008 due to the absence of an adopted management plan and a lack of resources to undertake a survey. The Council's current policy is that all trees it owns should be inspected every 5 years.
- 3.5 There are 2 current Acts which require the Council to ensure its tree stock is in a safe condition:
- Occupiers Liability Act 1957 and 1984
 - Health and Safety at Work etc Act 1974
- Non-compliance with the legislation could result in the Council being liable should a tree in the Council's ownership fail and cause injury or death.
- 3.6 An example of where a Council did not fulfil its responsibilities is in Birmingham where a mature ash tree fell across a highway and killed 3 people. Birmingham City Council was prosecuted under the Health and Safety at Work etc Act 1974 and fined £1.5 million plus costs.
- 3.7 This Council has a duty of care as a landowner. Trees cannot only be a "nuisance" but can have the potential to cause damage to property or injury to persons. For example, roots can damage walls, foundations, drains and surfaces and branches can fall. In a few cases each year trees can blow over completely.
- 3.8 While there is no overall statutory duty to provide a tree service there are specific tasks that relate to statutory duties, under section 3(1) of the Health and Safety at Work Act etc 1974, which requires authorities to take reasonable practicable precautions to ensure that trees for which it is responsible are inspected and maintained in a safe condition.
- 3.9 In 2005 the Health and Safety Executive (HSE) published a document 'Management of the Risk of Falling Trees' to clarify the responsibilities of tree owners and managers. This document has provided a useful base for the Tree Management Plan (Appendix 1).
- 3.10 The Council has responsibility for over 5,000 trees of various sizes and ages within woodland, parkland and urban environments. These are located within every ward of the District, (although this figure does not take into account trees within Local Nature Reserves (LNR) or Sites of Special Scientific Interest (SSSI). Commonly, these are large forest-type species, which were planted because they could survive harsh conditions. Now, as mature trees, they are often too large for their location. Also fast

growing species planted in the 1970's and 1980's are now in need of management through reduction, thinning or removal.

- 3.11 Falling trees, or parts of trees, are an unavoidable, but manageable hazard. Within the District there has been at least one serious injury within the last year as detailed below.
- 3.12 After reviewing best practice the preferred route of management would be a fully auditable computerised tree management system, which records the tree's attributes and maps it onto the Council's map system. In the event of an insurance claim this information would support the Council in terms of location and the information on maintenance, and orders and dates of inspection which can be plotted directly onto the maps.

4. KEY ISSUES

- 4.1 The best way to adhere to the HSE guidelines is to use a standardised tree risk assessment. The system most commonly used is the Quantified Tree Risk Assessment (QTRA).
- 4.2 The QTRA system is based around a targeted approach to tree management which means that trees within high target areas (for example next to busy roads or property) and medium target areas (like C roads and infrequently used footpaths) are surveyed more regularly than low target areas (for example footpaths which are rarely used).
- 4.3 In order to comply with best practice it is suggested within the Management Plan that trees in high and medium risk areas are inspected every year and where it is deemed necessary, in low target areas every 3 to 5 years. Areas within large (LNR) and (SSSI) that are unused or inaccessible by the public may not need any formal tree surveys and these will therefore be given the lowest target rating and not included within the inspection regime.
- 4.4 Section 2.2 of the attached report details the IT requirements for the data capture and creation of rounds for proactive management of the tree resource. This will include timetabling rounds for safety inspections and proactive works.
- 4.5 In 2008 a serious accident occurred in Brinton Park when a major limb of a Cedar tree fell and crushed a member of the public resulting in a broken leg and hip of the individual. Due to the fact that a detailed walk through assessment of the trees within the site was completed the previous year and all works identified as a result of the survey were completed, the Council significantly reduced any liability in terms of the failed limb of the tree.
- 4.6 However, if this accident had occurred on any of the Council's sites which had not been inspected, it would not have been able to disclose the necessary information to mitigate liability and would be more likely to have been found to be liable.
- 4.7 Both the Council's Insurers (Zurich Municipal) and best practice require a detailed inspection of the tree stock at least every 5 years to ensure the Council is managing the trees appropriately and professionally, which in the event of an incident would be used in the Council's defence against any claim.

- 4.8 Section 3(1) of the Health and Safety at Work etc Act 1974, requires authorities to take reasonable and practicable precautions to ensure that trees, for which it is responsible, are inspected and maintained in a safe condition.
- 4.9 The Authority has undertaken inspections on various trees and areas of trees, but is now in a position where some areas are outside of the 5-year period of inspection and the designated priority of areas are due for a review.
- 4.10 A tree survey will enable the Council to develop and maintain an accurate record of all of its trees including location, species, size, health and associated risk. This knowledge will allow the Council to identify those trees that are at risk of failing and thereby possibly causing injury or damage and therefore implement appropriate works to reduce such risks.
- 4.11 A great number of requests for work on trees received from the public, result in the need for an assessment of the tree and then an action plan of work to be undertaken. This can be time consuming and as the authority does not have a specialist tree inspection service this has to be undertaken on an as and when required basis. Through having an up to date detailed survey, pictures and details of the history of the tree, the Council can more readily identify the appropriate actions and plan work more effectively as part of routine maintenance.
- 4.12 The Council has a vast stock of trees but has limited records of location, species and condition of its trees. If any claim should arise from damage or accident in connection with the trees the records of inspection, maintenance and exact location would form the basis of any defence. The Council's insurers have advised that maintaining records of this type is best practice and in the event of a claim this would form the basis to show everything has been done which is reasonable and practicable.
- 4.13 The Council is unable to survey proactively its trees. With current resources this would take over 5 years and it is more likely that an unsafe tree would only come to the attention of the Council after it had failed.

5. FINANCIAL IMPLICATIONS

- 5.1 There is one main financial implication of the action plan:
- 5.1.1 Employment of an external consultant to complete a one off comprehensive assessment of all of the Council's Parks and Green Spaces (excluding LNR's & SSSI's) trees at an estimated maximum cost of £20,000. This revenue cost would be £10,000 in 2010/11 and £10,000 in 2011/12 and will be met through savings to be achieved through the Parks and Green Spaces budget. The survey will take place over two financial years.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 There are two main Acts that cover the management of trees and woodlands
- Occupiers Liability Act 1957 and 1984
 - Health and Safety at Work etc Act 1974
- Failure to comply with the legislation could result in the Council being liable should a tree in the Council's ownership fail and cause injury or death.

7. RISK MANAGEMENT

- 7.1 The Council does not have adequate policies, procedures and inspection regimes in place at all sites regarding management of trees, which could leave the Council liable for litigation similar to that experienced by Birmingham City Council.
- 7.2 Where there is an identifiable risk of damage or injury from dangerous trees, Councils have a duty of care to protect the public and property and to safeguard themselves against negligence claims from the public. It is considered that this inspection policy and schedule gives the Council adequate defence against a possible charge of negligence in risk management of its duties regarding dangerous trees.
- 7.3 In order to manage these duties and to reduce exposure to risk, insurers and the HSE strongly recommend Councils adopt a formal tree management policy.
- 7.4 In order to minimise these risks CAPS has set out a Tree Management Policy (which is attached at **APPENDIX 1**) and formal adoption of this proposal is sought.
- 7.5 The potential to defend a claim for damage or injury is significantly reduced by not having a thorough robust tree management and inspection regime. The Council's insurers, Zurich Municipal, strongly advise that this level of work be undertaken and that an inspection of trees is carried out by a level 2 trained Arboricultural Officer every 5 years.

8. EQUALITY IMPACT ASSESSMENT

- 8.1 Not applicable.

9. CONCLUSION

- 9.1 The adoption of a tree and woodland management plan is considered best practice for Councils and if the actions within this plan are adhered to then any future risk of liability would be minimised.

10. CONSULTEES

- 10.1 Director of Legal and Corporate Services
Director of Resources
Cabinet Member for Community and Partnership Services

11. BACKGROUND PAPERS

- 11.1 None