

Report of The Interim Director

TREE POLICY CONSULTATION

1 Purpose of report

To seek approval to consult on the draft Tree Policy attached in appendix 1.

2 Executive summary

A draft Tree Policy has been prepared in discussion with Wellingborough Norse (WNorse) following a number of queries being raised by customers. Following consultation and potential redrafting, it is intended that this document be adopted as council policy, thus providing clarity to our customers.

3 Appendices

Appendix 1 – Draft Tree Policy

4 Proposed action:

The committee is invited to RESOLVE that:

- 4.1 a six week consultation takes place on the draft Tree Policy as soon as practicable.**
- 4.2 a further report be submitted in due course with a final version which addresses any issues raised during the consultation.**

5 Background

- 5.1 Tree policies are documents which seek to provide information on the guidance and procedures regarding management of trees.
- 5.2 The council recognises that trees have an important role in both rural and urban environments. Appropriate tree management is needed to ensure that the council fulfils its statutory obligations and takes all reasonable steps to manage trees.
- 5.3 The council is aware that trees are widely regarded as a positive feature, but can raise a variety of potential concerns, from being a nuisance or inconvenience to some people to potentially causing serious injury or even death. As a tree owner the council has a direct responsibility for ensuring that its trees do not pose a danger to the public or property, and are managed appropriately.

- 5.4 The council in partnership with WNorse is responsible for an estimated 76,000 trees, which include 5,000 amenity trees (i.e. trees on public spaces), as well as around 5,000 Northamptonshire County Council (NCC) Highway trees which are maintained by WNorse under contract with NCC in the Wellingborough and Finedon areas. In addition the council owns several hectares of woodland.
- 5.5 This document is intended for the use of council officers, councillors and the local community as a guide to the council's approach to tree management, and may be of use when complaints and concerns are raised. The draft policy takes account of NCC's policies in relation to the management of their trees on highway land, and the county council will be consulted before a final version is produced.

6 Discussion

- 6.1 The draft Tree Policy in appendix 1 applies to all trees under the council's ownership/management, regardless of their location, as well as those trees in private ownership which pose a risk to the public. The council acknowledges that this policy does not cover every situation but provides guidelines on which to work.
- 6.2 It is recommended that consultation with as many interested parties as possible takes place for six weeks on the draft Tree Policy as soon as practicable. The comments received, together with revised versions of the documents, will then be brought back to a future committee for consideration.
- 6.3 If adopted, the policy will provide a document to confirm the council's tree management processes, making things clearer for the community, and provide a document for the development management team to consider when determining planning applications.

7 Legal powers

Town and Country Planning Act 1990.

8 Financial and value for money implications

There are no direct financial or value for money implications from the introduction of this policy as it is intended that the policy can be accommodated within existing budgets. Any additional funding required (eg. for replanting) would have to be considered separately.

9 Risk analysis

This policy will act as a decision making framework which will guide council officers, councillors, Wellingborough Norse, and the community when considering whether actions should or should not be taken in respect of individual trees. Without such a policy there is the risk of inconsistency and potential confusion.

10 Implications for resources

There are no direct resource implications from the introduction of this policy.

11 Implications for equalities and stronger and safer communities

This policy will provide clarity on the tree management process undertaken by WNorse on behalf of the council and ensure the safety of these trees.

12 Author and contact officer

Victoria Phillipson, Planning Policy and Regeneration Manager

13 Consultees

Julie Thomas, Head of Planning and Local Development
Liz Elliott, Head of Finance
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Felicity Webber, Landscape Officer
Bernard Gallyot, Wellingborough Norse
Freddy McCreery, Wellingborough Norse
Steve Benamore, Wellingborough Norse

14 Background papers

Correspondence with consultees on the drafting of a policy.

Tree Policy

DRAFT

Date: April 2017

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1. Tree policy statement

- 1.1 The Borough Council of Wellingborough (BCW), as a tree owner, has a direct responsibility to ensure that its trees do not pose a danger to the public or property. To address this risk the council has produced this Tree Policy.
- 1.2 The policy intends that:
 - An overall assessment is made to identify high, medium and low use tree zones
 - A system of tree inspections is in operation in relation to risk
 - A record of trees and inspections is retained
 - Systems and processes are identified that control and mitigate risks as identified from inspections.
 - Competent officers are employed to carry out inspections
- 1.3 Operation of this policy will enable the council to mitigate tree risks to as low a level as is reasonably practicable whilst at the same time addressing concerns raised by the community.

2. Introduction

- 2.1 Trees by their nature are dynamic living systems and they grow adaptively in response to the environment around them. Trees and woodlands can make a significant contribution to quality of life, the local economy and the environment. However, where trees and people co-exist, there is a need to ensure that the risk of injury or damage to persons and property is reduced as far as is reasonably practicable.
- 2.2 Owners of trees have a legal duty of care to take all reasonable steps to ensure that any foreseeable hazards can be identified and made safe. It is not possible to completely eliminate the risk of a tree failing, as even healthy, structurally sound trees can fail in adverse weather conditions. There are often indications that a tree may be in decline, have structural faults or be suffering from decay or pests and diseases which can be recognised by professional arboriculturalists.
- 2.3 The safe and appropriate management of its trees is important to the council in order to ensure that a balance is maintained between public safety and sustaining a healthy tree population.
- 2.4 Some examples of the aesthetic, social, economic and health benefits of trees are listed below:
- Trees play a vital role in urban and rural ecosystems by helping to support a great variety of wildlife.
 - Studies of patients in hospital found that they recovered more quickly with a view of trees and nature from their windows (Ulrich 1984). Two reports, sponsored by Royal Society for the Protection of Birds (RSPB), published in 2004 and 2007 outlined the benefits to physical and mental health arising from contact with the natural environment. These included reductions in obesity, heart disease, diabetes, cancer, stress, attention deficit hyperactivity disorder (ADHD), aggression and criminal activity, amongst others.
 - A large beech tree can provide enough oxygen for the daily requirements of ten people.
 - Property in tree lined streets is worth 18% more than in similar streets without trees.
 - Trees intercept water, store some of it and reduce storm runoff and the possibility of flooding; a 5% increase in tree cover can reduce runoff by 2%.
 - Trees help to lock up the carbon emissions that contribute to global warming. For example, 1 hectare of woodland grown to maturity and looked after forever would absorb the carbon emissions of 100 average family cars driven for one year (climate care/trees for cities estimate).
 - Trees have a positive impact on the incidence of asthma, skin cancer and stress-related illness by filtering out polluted air, reducing smog formation, shading out solar radiation and by providing an attractive, calming setting for recreation.
 - Trees can save up to 10% of energy consumption through their moderation of the local climate.
- 2.5 The importance of trees has been emphasised by a number of government reports, including a national survey of England's urban trees and their management in 2008, (see appendix 1). In December 2011, the National Tree Safety Group released its guidance on how tree owners should approach tree safety management (see appendix 1).

3. The Borough Council of Wellingborough's estate

- 3.1 The council is responsible for managing a significant number of trees within the borough of Wellingborough. The overall tree population is an estimated 76,000.
- 3.2 Wellingborough Norse (WNorse) maintains the trees on behalf of the council and employs an arboricultural officer. Areas of work include the proactive management of trees in the highway (via a contract with the county council), parks, gardens, churchyards, industrial estates and housing amenity areas.
- 3.3 The council employs a landscape officer within the planning team who deals with tree preservation orders, conservation areas and trees on development sites. Advice is sought from WNorse's arboricultural officer on technical tree related issues within the planning department.
- 3.4 The council has direct responsibility of trees:
 - On highway land in Wellingborough and Finedon (via a contract with the county council): approximately 2,500 individual street trees and some densely planted shelterbelts.
 - In parks and open spaces: approximately 4,900 individual trees and numerous areas of woodland.
 - On Housing amenity land: approximately 1,150 individual trees on ex-council housing estates.
 - In three cemeteries and in seven closed churchyards.
 - On three industrial estates and four car parks in Wellingborough.
 - In other numerous owned or managed parcels of land.
- 3.5 For information on tree ownership contact WNorse; details are shown in appendix 2.

4. Tree surveys and inspections

- 4.1 All trees are subject to cyclic surveys. Survey frequencies are based on the level of use for a site and are shown below:
- Highway trees are surveyed on a 3-year cycle.
 - Trees on industrial estates and housing amenity land are surveyed every 3-4 years.
 - Parks, gardens and other open spaces are surveyed on a 5-year cycle.
- 4.2 More in-depth inspections will take place where there are defects. Maintenance work that is recommended through an inspection is prioritised on level of risk to public safety and any work required is added to a tree work programme.
- 4.3 There are three levels of survey/inspection which include, informal, formal and detailed.
- **Informal:** The observation and reporting of a tree where safety is a concern. This is normally received from council or Wellingborough Norse officers, county council officers, and the general public.
 - **Formal:** A walk-over cyclic inspection of trees, which is a visual tree assessment from ground level. Surveys are written and form an inventory of tree stock; these are carried out by a competent person with general tree knowledge.
 - **Detailed:** A detailed inspection carried out on individual trees which have been identified through informal or formal inspections. Initial inspection is carried out at ground level using a visual tree assessment but may extend to an aerial or underground inspection and may include use of decay detection equipment, carried out by a qualified, competent person experienced in arboriculture.
- 4.4 An electronic inventory is used to record all trees maintained by WNorse and are mapped with a unique reference number. Inspections are paper based and are retained throughout the life of the tree. Tree work programmes are produced as required and saved electronically.

Levels of use

- 4.5 As identified above, survey frequencies are based on the level of use for a site and these levels are shown below:
- **High:** Major roads, residential areas, schools/play grounds, car parks, town centre, railways.
 - **Medium:** Minor roads, industrial or work premises, frequently used routes, cemeteries.
 - **Low:** Parks and gardens, churchyards, closed cemetery, woodland.

Levels of risk

High: likelihood to cause death or serious injury:

- Detached and hung-up major limb.
- Insecure rothold/Lifting root plate.
- Major sized deadwood in crown.
- Splitting or fractures in trunk or major branches.

Medium: likelihood to cause minor injury or damage:

- Detached and hung-up minor limb
- Branches attached at structurally weak unions
- Splitting or fractures to minor branches
- Obstruction to highway and/or footpath
- Branches in contact with property
- Obstructing visibility
- Obstructing road signs
- Minor to major sized deadwood in crown

Low: Defects observed but unlikely to cause injury or damage:

- Rubbing/crossing branches in crown.
- Minor sized deadwood in crown

Frequency of Inspections

Urgent: Emergency response where there is an immediate risk to public safety, usually on the same day where resources allow.

Annual: Recommendation resulting from a tree inspection where a non-immediate risk may develop in to an immediate risk over a short period of time.

3 Year: Cyclic program of inspections for trees situated within high use areas.

3 or 4 Year: Cyclic program of inspections for trees situated within medium use areas.

5 Year: Cyclic program of inspections for trees situated within low use areas.

5. Tree works

5.1 Highway trees are managed in accordance with Northamptonshire County Council's (NCC), Network Management Plan (see appendix 1).

5.2 Tree works following recommendations made from tree surveys and inspections are included in tree work programmes. Priority for undertaking tree works is based on the level of risk to public safety and is identified below:

- **High - immediate risk to public safety:** Urgent action is required to trees that show an immediate risk of serious harm.
- **Medium - non-immediate risk to public safety:** A planned and cost effective response is required to trees that pose a risk in the near future.
- **Low - risks to public safety not requiring an immediate or near future response:** No specific requirement for additional management. Existing inspection procedures should be sufficient.

5.3 All tree works will be carried out in accordance with British Standard BS3998:2010 Tree Work Recommendations (appendix 1) where practicable.

5.4 Tree works are carried out to reduce the risk of injury or damage to persons or property only and to comply with legal obligations.

5.5 Tree works will not be recommended in the following circumstances:

- To improve television or internet signals.
- To improve the energy capture of solar panels.
- To allow more light into properties.
- Due to nuisance caused by honeydew from aphids.
- Due to nuisance caused by falling leaves, flowers or fruit.
- Due to nuisance caused by pollen.
- Due to nuisance caused by bird droppings.
- Due to minor structural damage to non-supporting structures such as garden walls.
- Where tree roots have entered sewers (tree roots rarely break drains, but roots will enter a broken or damaged drain).
- To allow the construction of a new access or driveway to a property.
- If the tree is considered by a member of the public to be too big or too tall.

5.6 The following are situations where tree works **may** be recommended:

- A dead, dying or dangerous tree that is a danger to public safety.
- A tree causing an obstruction to a public highway, public right of way, access to property or footpath.
- A tree which is shown to be a major contributor to soil shrinkage and serious structural damage to buildings. Damage to walls or paving is generally relatively minor and removal of the tree would not necessarily be acceptable. Structural problems will always be carefully investigated, particularly where there is the possibility of a potential claim against the council. Private owners who consider that council- owned trees are causing damage to their property will be expected to provide an independent structural engineer's report that demonstrates that a particular tree is causing damage.

- Where tree branches are causing an obstruction to, or growing low over, a public highway, public right of way, footpath, access to a property. Generally a minimum clearance of 2.4 metres will be maintained over pedestrian accesses and 5 metres over the highway
- Where trees are causing an actionable nuisance to an adjoining property (e.g. physically in contact with buildings, roofs, walls and fences).
- Where trees obstruct highway and other signage, or are likely to do so.
- Where trees obscure sight lines at road junctions and accesses.
- Where trees obstruct essential police or council-monitored CCTV surveillance cameras or are likely to do so.
- Where trees require removal of diseased material and removal or stabilisation of dead wood.
- Where trees require pruning to remedy storm damage, mutilation or vandalism to make them safe and encourage a good crown structure.
- Where coppicing or similar silvicultural operations are required to maintain or develop woodland or groups of trees in accordance with an agreed management plan.

6. Tree Planting

6.1 Any tree planting within highway land will be in accordance with NCCs' Network Management Plan, (see appendix 1).

6.2 Tree planting on council land will adhere to the following points:

- the council will consider the costs and benefits of tree planting on its land, and investigate whether funding should be identified for tree planting on council land if resources are unavailable via other means.
- Establishing trees will entail at least 3 years' establishment maintenance to include formative pruning, stake and tie adjustment, weeding and at least 2 years watering. The cost for this maintenance will be included in the cost analysis described above, before any planting takes place.
- All tree planting and young tree maintenance will be specified in accordance with the British Standard BS8545 (2014) Trees: from nursery to independence in the landscape (see appendix 1).
- Where the removal of trees or hedges has been approved to facilitate a development, the developer will be expected to provide a landscape plan showing adequate mitigation planting and a 5-year planting and maintenance specification in agreement with the council's Landscape Officer and WNorse's Arboricultural Officer.
- The council's Landscape Officer and WNorse's Arboricultural Officer will encourage planting of native trees and trees of local provenance where appropriate, particularly in rural areas and on designated sites. However resilience to climate change and pests and diseases will be an increasing consideration when selecting planting stock. It will be important to diversify the number of genera within tree populations to ensure that new diseases that attack a particular species or genus (such as *Chalara fraxinea* - Ash Dieback) do not decimate a whole area. Reference tools are available to help landowners make their tree populations more resilient, such as the Forestry Commission's Ecological Site Classification Decision Support System (ESC-DSS). These tools will be used by the council to assist in species choice.
- Where a planting scheme and budget has been agreed, the council's Landscape Officer and WNorse's Arboricultural Officer will actively source new species, genera and varieties of street trees in urban areas - both to increase biodiversity and provide a more dynamic adaptable population. The forms chosen will have low future pruning requirements and consideration will be given to genera and varieties that are likely to be able to adapt to changing climatic conditions, that are tolerant of restricted space both above and below ground, wounding, pruning, road salt and herbicides. The guidance contained within the Trees and Design Action Group Guidelines "Trees in Hard Landscapes, A Guide for Delivery" (2014) (see appendix 1) will be promoted.

7. Trees on development sites

- 7.1 Pre-application discussions with developers, to include issues in relation to trees, are encouraged by the council.
- 7.2 The retention of trees on development sites can enhance the impact of new buildings. For schemes that need planning permission, The Town and Country Planning Act 1990 places a duty on the Local Planning Authority to:
- Ensure appropriate provision is made for the preservation or planting of trees, using conditions if necessary.
 - Make any Tree Preservation Orders under section 198 which are necessary.
- 7.3 Advice about retaining existing trees on site should be discussed with the Landscape Officer at an early stage. A pre-development tree survey to British Standards BS5837 must be carried out at the design stage.

8. Tree Preservation Orders (TPOs)

- 8.1 Local planning authorities have a legal duty to protect trees and woodland with amenity value. The Town and Country Planning Act 1990 as amended (Town and Country Planning (Tree Preservation) Regulations 2012) give local authorities the power to place Tree Preservation Orders (TPOs) on trees and woodland for protection.
- 8.2 TPOs are usually made when there is a perceived threat to trees which are considered to be of high amenity value. A local authority can make a TPO if it appears to them to be [‘expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area.’](#) Authorities can either initiate [this process](#) themselves or in response to a request made by any other party.
- 8.3 A TPO [prohibits](#) the cutting down, topping, lopping, uprooting, wilful damage and wilful destruction of a tree. Technical and specialist advice from competent arboriculturalists must be sought to ensure that the most appropriate works are proposed.
- 8.4 Permission must be sought from the council to carry out works to a TPO protected tree; this should:
- Be made in writing to the local planning authority.
 - State the reasons for making the application.
 - Identify the tree(s) to which the application relates on a plan.
 - Specify the tree(s) work operations for which consent is sought.
 - Provide appropriate evidence describing any structural damage to property or in relation to tree health or safety, as applicable.

Exceptions

- 8.5 An exception may exempt landowners or their agent from normal requirement to seek the local planning authority’s consent before carrying out work on trees subject to TPO. These exceptions include certain work:
- On dead trees and branches where there is an immediate risk of serious harm; otherwise 5 days written notice is required.
 - On dangerous trees and branches, but written notice is required.
 - To comply with an Act of Parliament.
 - To prevent or abate a nuisance where the tree is causing, or there is an immediate risk of it causing, actual damage.
 - Necessary to implement a planning permission.
 - On fruit trees cultivated for commercial purposes or minor pruning of domestic fruit trees.
 - By statutory undertakers (organisations who have legal powers to carry out some development or highways works - usually telecommunication and utilities companies).
 - For highway operations.
 - By the Environment Agency and drainage bodies.
 - For national security purposes.

- 8.6 On receipt of a valid application the council has eight weeks to make a decision. In dealing with the application the council may:
- Refuse consent.
 - Grant consent unconditionally.
 - Grant consent subject to conditions.
 - Grant partial consent and partial refusal.
- 8.7 If the council refuses consent, or fails to determine the application within eight weeks the applicant can appeal to the Planning Inspectorate.
- 8.8 Any person contravening a TPO, i.e. cutting down or damaging a protected tree, is liable to prosecution. The council will investigate any allegations of unauthorised work to protected trees.
- 8.9 The penalties for destruction of a tree subject to a TPO are currently a fine of up to £20,000, and £2,500 for unlawful pruning. These are determined by the magistrates or crown courts.
- 8.10 Where the removal of trees is approved, replacement tree planting will be encouraged to maintain the amenity of an area.

9. Conservation Areas (CAs)

- 9.1 Conservation Areas are areas of special architectural or historic interest. It is important to preserve or enhance their character or appearance. They are designated by the local authority and this brings about a number of controls relating to trees.
- 9.2 The designation of a conservation area prevents pruning or felling of any tree over 7.5cm diameter, at 1.5m above ground level, (or 10cm if thinning to help the growth of other trees) without giving the council six weeks' prior notification of any intended works.
- 9.3 An application for consent to carry out works to a tree in the conservation area must:
- Be made in writing to the Local Planning Authority in accordance with section 211 of The Town and Country Planning Act 1990.
 - State the reasons for making the application.
 - Identify the tree(s) to which the application relates on a plan.
 - Specify the tree(s) work operations for which consent is sought.
- 9.4 If a tree in a [conservation area](#) is removed, uprooted or destroyed in contravention of [section 211 of the Town and Country Planning Act 1990](#), the landowner has [a duty](#) to plant another tree of an appropriate size and species in the same place as soon as he or she reasonably can. As with unauthorised works to a TPO, penalties for destruction of a tree within a conservation area are currently a fine of up to £20,000 for removal, and £2,500 for unlawful pruning. These are determined by the magistrates or crown courts.

10. High hedges

- 10.1 In 2005, High Hedges legislation (Part 8 of the Anti-Social Behaviour Act 2003) came into effect that requires everyone with an evergreen or semi-evergreen hedge to consider the effect that the height of such a hedge will have on their neighbours. High hedges covered by the Act have to:
- Consist of a line of 2 or more trees or shrubs.
 - Be made up mostly of evergreen or semi-evergreen trees or shrubs.
 - Be more than 2 metres high.
 - Block out light or access to a residential property.
- 10.2 The Act states that councils can only intervene once it has been demonstrated that all other avenues for resolving a hedge dispute have been exhausted. The council has the power to decide whether a hedge is adversely affecting the reasonable enjoyment of an adjacent property and, if so, can issue a formal notice setting out what must be done to remedy the problem. The council does not have the power to require a hedge to be removed (only reduced in height) and therefore cannot guarantee access to uninterrupted light.
- 10.3 Advice on high hedges is available on the council's website at www.wellingborough.gov.uk. There is a charge for pre-application advice and for dealing with a high hedge complaint.

11. Privately owned trees

- 11.1 These are trees that are not owned or managed by the council. These trees do not fall within the scope of the council's Tree Policy as this inspection regime relates only to those trees owned or managed by the council.
- 11.2 Under the Local Government (Miscellaneous Provisions) Act 1976 the council has the authority to serve notice on a private tree owner to make their tree safe. In the event of failure to carry out work, the council can use statutory powers to implement essential works and recharge the costs to the owner.
- 11.3 Under the Highways Act 1980 NCC have the authority to serve notice on a private tree owner to make their tree safe, where the tree is in danger of failing into the highway. In the event of failure to carry out work, NCC can use statutory powers to implement essential works and recharge the costs to the owner.

12. Emergencies

- 12.1 **In the event of a tree or branch failure that is obstructing a path or highway, or has an immediate risk of injury or damage to persons or property, contact WNorse on 07740 401126**

13. Appendices

Appendix 1 - publications

- NCC's Network Management Plan
<http://www3.northamptonshire.gov.uk/councilservices/northamptonshire-highways/transport-plans-and-policies/Documents/Network%20Management%20Plan.pdf>
- National Tree Safety Group - common sense risk management of trees guidance
<http://ntsgroup.org.uk/wp-content/uploads/2016/06/FCMS024.pdf>
- National Tree Safety Group - common sense risk management of trees guidance for landowners
<http://ntsgroup.org.uk/wp-content/uploads/2016/06/FCMS025.pdf>
- National Tree Safety Group – managing trees for safety
<http://ntsgroup.org.uk/wp-content/uploads/2016/06/FCMS026.pdf>
- BS 3998:2010 Tree work recommendations
<http://shop.bsigroup.com/ProductDetail/?pid=00000000030089960>
- BS 5837:2012 Trees in relation to design, demolition and construction recommendations
<http://shop.bsigroup.com/en/ProductDetail/?pid=00000000030213642>
- BS 8545:2014 Trees: from nursery to independence in the landscape.
<http://shop.bsigroup.com/ProductDetail/?pid=00000000030219672>
- Trees in hard landscape – a delivery guide
http://www.tdag.org.uk/uploads/4/2/8/0/4280686/tdag_trees-in-hard-landscapes_september_2014_colour.pdf
- Trees in Towns II: A new survey of urban trees in England and their condition and management
https://www.researchgate.net/publication/262857090_Trees_in_Towns_II_A_new_survey_of_urban_trees_in_England_and_their_condition_and_management
- Trees and Landscape SPD
http://www.wellingborough.gov.uk/info/200132/local_development_framework/1164/supplementary_planning_guidance-documents_and_informal_guidance
- Hedge Height and Light Loss guidance
<https://www.gov.uk/government/publications/hedge-height-and-light-loss>

Appendix 2 - contacts

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