

WELWYN HATFIELD BOROUGH COUNCIL  
ENVIRONMENT OVERVIEW AND SCRUTINY COMMITTEE – 24 SEPTEMBER 2018  
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING AND GOVERNANCE)

**POLICY 2 – TREES AND WOODLANDS STRATEGY**

**1 Executive Summary**

- 1.1 In seeking to adopt a new Trees and Woodlands Strategy, members have queried the balance of weight that should be given to preservation of trees and to the living conditions of residents. At the last meeting of this committee in June 2018 members proposed that six principles (relating to street lights and CCTV cameras, light into living rooms, native trees, a presumption to prune rather than remove, the views of close neighbours and an appeals mechanism) should be considered by officers to help strike a suitable balance. This report sets out the officer response to those six principles.

**2 Recommendations**

- 2.1 That members debate the responses to the six principles put forward at the last meeting of this committee.
- 2.2 That the Head of Planning in consultation with the Executive Member for Environment be given delegated authority to amend the Trees and Woodlands Strategy following debate on the officer response to the six principles.
- 2.3 That the amended Trees and Woodlands Strategy be presented to Cabinet for adoption.
- 2.4 That the Head of Planning in consultation with the Executive Member for Environment be given delegated authority in respect of any administrative arrangements to enact the proposals set out below.

**3 Explanation**

- 3.1 A Draft Trees and Woodlands Strategy was considered by EOSC on 25 September 2017, agreed for public consultation in October-November 2017, the results were debated by EOSC on 26 March 2018 and alternative options for Policy 2 (which sets out where works will not be carried out to trees) were proposed to EOSC on 19 June 2018.
- 3.2 At that meeting members proposed six principles that should be considered by officers to ensure that as much weight is given to the living conditions of residents as to the preservation of trees.
- 3.3 The officer response to these principles is set out below.

Principle 1: When a street tree significantly interferes with light from a street light or the sightline of a Council CCTV camera, the presumption should be to prune the tree

- 3.4 This is agreed and will be incorporated into the wording of the Trees and Woodlands Strategy.

Principle 2: When the effect of a tree is to make a resident want to keep a light on for the majority of the day to ensure sufficient light to a living room, then the presumption should be to prune the tree

- 3.5 Planning and Environmental Health Officers have investigated this matter and concluded that there is no guidance on what might constitute an acceptable light level into living rooms. They have also been alert to the fact that if there were such guidance then enactment of it would necessitate the purchase and calibration of suitable light measuring equipment.
- 3.6 In the absence of any such guidance, it is proposed that where a request is made for works to a tree to improve light levels, a tree officer should visit the external garden of the property to make a reasonable judgement based on the orientation of the house, the proximity of the tree and any other relevant factors. It is undesirable for tree officers to have to enter the inside of a property to make this judgement as it introduces a health and safety risk.
- 3.7 It should be made clear in the strategy that the policy only applies to living rooms, and not to other rooms such as dining rooms, kitchens, offices or bedrooms.

Principle 3: When the tree is a rare example of a native tree or makes a significant contribution to the landscape, the presumption should be to preserve the tree

- 3.8 This is agreed and will be incorporated into the wording of the Trees and Woodlands Strategy.

Principle 4: In all cases the presumption should be to prune the tree, not to remove it, unless absolutely necessary

- 3.9 This is agreed and will be incorporated into the wording of the Trees and Woodlands Strategy.

Principle 5: If the decision is likely to be to allow significant pruning or removal of a tree, other than one which is dying, the views of close neighbours should be sought before a decision is reached

- 3.10 Officers consider that this principle should only apply on occasions where pruning or removal of a tree relates to a 'lack of light' request. It would have a significant burden on the workload of tree officers if views were to be sought in advance of every delegated decision to carry out work to a tree.
- 3.11 It is proposed that where tree officers are minded to carry out works to a tree to improve light levels into a living room then a letter should be sent to close neighbours. This will require a degree of officer discretion but will generally be interpreted as the three nearest properties on either side of the road when it is a street tree and the nearest three properties when it is a tree in a tree belt at the

rear of a garden plus any properties backing onto the tree belt. Officers will also consult ward councillors and the relevant town/parish council where one exists.

- 3.12 Officers will consult and record any comments using the MasterGov IT system, which is also used for planning applications.
- 3.13 Consultation will take place for at least two weeks before a decision is made.
- 3.14 Officers will make a final decision based on the balance of views. Officers will draft a short report to justify their decision. Decisions will not be made purely on the level of support or objection to proposed works.

Principle 6: There should be a mechanism for appeal against a refusal to prune or remove a tree

- 3.15 It is proposed that an officer appeal panel should be created to consider any appeals. This will comprise the Corporate Director (Public Protection, Planning and Governance) and two Heads of Service from within that directorate.
- 3.16 The appeal panel will deal with all appeals, not just those relating to lack-of-light situations.
- 3.17 It will be convened as necessary to consider any appeals, probably monthly.
- 3.18 It will consider any written views put forward by the member of the public who has made the appeal and the views of the tree officer who refused the request for works, as well as any neighbour, ward councillor and town/parish council comments where it relates to a lack-of-light situation.
- 3.19 To reduce the workload on the appeal panel, site visits to view the tree will only be made in exceptional circumstances.
- 3.20 The panel will issue a judgment that will be communicated to the member of the public by the tree officer team. The decision of the officer appeal panel will be final. The only recourse after this would be the Council's complaints procedure or the Local Government Ombudsman.

#### **4 Legal Implications**

- 4.1 There are no legal implications associated with this report.

#### **5 Financial Implications**

- 5.1 It is anticipated that the proposed responses to the six principles will have some impact on the capacity of the tree officer team.
- 5.2 Visiting the external gardens of a property to consider whether a tree is blocking light into a living room will depend on the number of requests.
- 5.3 Consulting close neighbours where tree officers are minded to carry out works to a tree to improve light levels into a living room will depend on the number of cases. It will take time and resource to add cases to the MasterGov IT system, send out consultation letters, consider comments and write-up the decision.

- 5.4 At present the tree officer team receives approximately ten requests per month for works to trees that are claimed to be blocking light, and there may be more turned away by the Contact Centre, but this may increase once it is known that the Council has adopted a more lenient policy to such requests.
- 5.5 The officer appeal panel will need to meet on a sufficiently regular basis (probably at least monthly) to deal with appeals. This will require the time of a Corporate Director and Heads of Service.
- 5.6 It is broadly estimated that the average cost where pruning/thinning requests are carried out is £259, although this can vary from £93 up to £417 depending on the size of the tree and the extent of the pruning. Where a tree is pruned or thinned, it often grows back thicker than if it were not cut in the first place, which means the regime needs to be frequently repeated in future years.
- 5.7 The average cost of felling a series of trees in a tree belt and grinding out their stumps is about £750.
- 5.8 It should be noted that the current agency agreement with Hertfordshire Highways is that the Council will only carry out works to their trees in accordance with Policy 2. If members agree to the proposals set out above then this will need to be discussed with them. The possible outcomes are that Hertfordshire Highways will: (a) agree to the alternative options, authorise the Council to carry out works on that basis and agree new fees accordingly; (b) accept the alternative options and authorise the Council to carry out works on that basis but refuse to agree new fees; or (c) oppose the alternative options and refuse to let the Council carry out works to their trees on that basis. This is important because the majority of street trees in Welwyn Garden City and Hatfield that are the subject of requests for work are owned by Hertfordshire Highways.

## **6 Risk Management Implications**

- 6.1 The risk management implications are that tree officers will need to spend more time visiting properties to judge light levels into living rooms, consulting close neighbours and weighing up comments and preparing information for the officer appeal panel, all of which will reduce the time they can spend inspecting trees to make sure they are healthy and not at risk of failure.

## **7 Security and Terrorism Implications**

- 7.1 There are no security or terrorism implications associated with this report.

## **8 Procurement Implications**

- 8.1 There are no procurement implications associated with this report. The Council has three framework contractors in place to carry out all tree management work.

## **9 Climate Change Implications**

- 9.1 The appropriate management of trees and woodlands helps to mitigate the effects of climate change.

## **10 Health and Wellbeing Implications**

- 10.1 The presence of trees in the environment is acknowledged to have a beneficial impact on the wellbeing of people.

## **11 Communications Implications**

- 11.1 If it is progressed to adoption stage, officers will need to amend the Strategy, website, information for the Contact Centre and letters to ensure that members of the public, ward councillors and town/parish councils are aware of the new policy arrangements.

## **12 Link to Corporate Priorities**

- 12.1 The subject of this report is linked to the Council's Business Plan 2015-2018 and particularly Priority 2 Our Environment to enhance our green spaces and Priority 5 Our Council to achieve value for money and put the customer first.

## **13 Equalities and Diversity**

- 13.1 An Equality Impact Assessment was carried out in respect of the Draft Strategy. It found no negative impacts on any protected characteristics under equalities legislation. Some of the further options in this report may necessitate an equality impact assessment before they can be implemented.

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### **Background Papers:**

Report to EOSC 25 September 2017  
Report to EOSC 26 March 2018  
Report to EOSC 19 June 2018

### **Appendices:**

Trees and Woodlands Strategy, as adopted by Cabinet on 3 April 2018, including Policy 2 which was not adopted by Cabinet, which is the subject of this report.