

Cabinet

16th July 2014

Draft Corporate Tree Management Policy



Key Decision: NS/25/13

Report of Corporate Management Team

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Purpose of the Report

1. To consider, in the light of public consultation, a draft countywide tree policy for the management of all trees under Durham County Council's ownership and for those trees in private ownership which pose a safety risk to the public highway.

Background

2. On 18th December 2013 Cabinet considered a report and draft policy document which brought together a number of tree management policies and practices inherited from the former Districts and County Council. It covered a variety of aspects of tree management, such as the following areas.
 - Inspection of Trees and Scheduling of Work
 - Dealing with Tree Care - Guidance
 - Alleged Damage and Tree Roots
 - Circumstances on Private Land
 - Anti-Social Behaviour, Vandalism and Disputes
 - Planning / Protected Trees / Trees in a Conservation Area / Factors constraining works to trees
 - Maintenance and Bio-Security
 - Tree Pruning Techniques
3. Whilst the day to day works on the ground are already in keeping with the draft policy, it was felt that having a written document is helpful so that service requests can be consistently responded to and there is a clear basis for decision making. The policy also encourages others responsible for trees to take a positive to management as well as outlining ways in which the Council will help ensure its own tree stock is in a safe condition.

4. Tree related complaints can be highly emotive, and in some circumstances can cause polarised views relating to their maintenance. For this reason, Members approved the recommendation to consult widely on the draft policy.

Consultation

5. Consultations began on 19th December 2013 and ended on 13th March 2014, with a wide variety of organisations contacted and residents all invited to respond either directly or using a questionnaire format on the County Council's website.
6. A total of forty nine responses were received. Thirty one were from residents (63.3%) and eighteen were from organisations (36.7%). These organisations included six Town & Parish Council's, County Durham Association of Local Councils, three Residents Groups / Community Partnerships, a community newspaper, Access & Rights of Way Team, Countryside Service, DCC Senior Forester, The Woodland Trust, Forestry Commission, and the Campaign to Protect Rural England. The survey was open ended and allowed respondents to answer freely on any aspect of the policy.
7. The consultation has revealed an overall strong endorsement of the draft proposals with the majority of respondents supportive of a new countywide policy. Some Parish Councils felt that they would want to adopt similar policies themselves, which is welcomed in bringing a consistency of approach.
8. The suggestions / comments made have been grouped into the most common themes and our responses to them given as follows:
 - eight respondents specifically commented that it is a fair and balanced policy. Three respondents thought it too negative, that it should be more proactive and highlight more the benefits that trees give. The importance of trees is highlighted in Section 3 of the draft policy and the presumption is on the protection of trees as far as possible.
 - Two respondents highlighted the need to inform residents / local community when carrying out more impacting tree works. Section 8 of the draft policy outlines when and how we will do this.
 - Eleven respondents felt that trees with a Tree Preservation Order (TPO) should be the responsibility of the Council rather than the landowner as it is the Council who enforces the TPO. The Town & Country Planning Act and associated legislation does not provide for Council's to take on this responsibility.
 - Eleven respondents commented on procedures / issues with requesting trees to be removed / trimmed back due to light pollution and / or blocking TV reception; and tree roots and damage to footpaths. The draft policy will lead to greater clarification / consistency of response on how we will deal with these issues.
 - One respondent commented that there is no mention of the woodland management function contained within the policy. This aspect is felt to be a more specialist area and outside the scope of the general tree management proposals contained in the draft policy.

- One respondent raised points regarding subsidence and heave. Such issues will be dealt with on a case by case basis taking account of appropriate legal advice at the time.
- Two respondents made comments regarding carrying out tree works during the birds nesting season and also European Protected Species Directive. The wording in the original draft proposals has been amended, following consultation with the Council's Ecologist, to further clarify these issues.
- Three respondents expressed concern for little mention of replacement planting or continuity of planting schemes. This is covered in Section 16 of the draft policy but has been strengthened to say that where trees are removed on land owned / managed by DCC, replacement planting will be carried out where appropriate. The policy already proposed a commitment to undertake the planting of new trees on our land when suitable opportunities arise.
- One respondent felt that reference should be made to the emerging County Local Plan. After taking advice from Planning colleagues it was felt that as this has not yet been published or adopted it could not be referenced as part of this draft policy. Future revisions of the policy may allow for this.
- Two respondents raised concerns regarding the Council charging a fee (currently £385) to handle resolution issues between neighbours relating to high hedges as people may not be able to pay. This power, under the Anti-social Behaviour Act 2003 and High Hedges Regulations 2005, is only used when all avenues for resolving a hedge dispute have been exhausted. The fee contributes towards the cost of administering the complaint and is in line with national guidelines.

Main Changes made to the draft policy following consultation

9. The suggestions / comments made by respondents have been considered and some changes made to the draft proposals in light of this feedback. None has substantially changed the original draft proposals and in many cases have enhanced them or led to greater clarification. The main changes are as follows:
 - Section 7 Tree Maintenance. 7.1 has been amended to highlight the fact that some cyclical tree maintenance is already carried out with some countryside sites having site specific inspection / maintenance plans. 7.3 and 7.4 has been amended to give greater clarification over what priority response will be given to certain tree issues. 7.5 has been amended to mention ancient and veteran trees.
 - Section 9 Dealing with Tree Care. 9.3 has been amended to highlight that particular care will be given to proposals affecting ancient or veteran trees.
 - References throughout the policy to roads and footpaths have been amended to roads, footways and public rights of way.
 - Section 10.3 Damage to walls and fences has been amended to state that if a tree on DCC land is found to be causing damage to a neighbouring property we will investigate and take action as appropriate.
 - Section 14 Protected Trees. 14.1.15 and 14.2.5 Contact details have been simplified. 14.3 relating to Forestry Commission Felling Licences has been further clarified.

- Section 15 Other factors constraining work to trees. 15.1 Birds and 15.2 Bats have been further clarified following consultation with the Council's Ecologist.
- Section 16 Replacement Tree Planting has been strengthened to say that where trees are removed on land owned / managed by DCC, replacement planting will be carried out where appropriate.

Summary

10. A tree management policy will act as an important guide for the management of the Council's tree stock and responding to service requests. The consultation involving both organisations and residents has revealed an overall endorsement of the proposals, as well as allowing some refinements to further improve the document.

Recommendations

11. It is recommended that the draft tree management policy is adopted by Cabinet.

Background Papers

Cabinet Report 18th December 2013

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APPENDIX 1 – Implications

Finance Moving from a re-active to a pro-active tree inspection regime will generate additional tree maintenance works. These will need to be costed and included in an annual work programme.

Further information will be provided for consideration if it is felt that the volume of requests generated as a result of this work exceeds the budget available. If necessary implementation of all priority 3 (desirable) will be dependent upon the availability of budgetary resources at the time.

Staffing The tree inspection regime will be accommodated within existing staff resources from both Neighbourhood Services and RED

Risk We will work to a risk-based approach to tree management: a programme of inspection identifying and prioritising potential hazards. The cycle of inspection for trees will be set according to their location and area of risk. Highway trees are considered the highest priority.

The implementation of a more pro-active tree inspection regime will enable us to more effectively defend claims which will mitigate some of the financial losses currently experienced in this regard.

Currently the absence of a written policy exposes the Council to risks of inconsistent responses and challenge.

A Comprehensive Risk Assessment has been reviewed with no reportable risks. There are operational risks and these will be monitored and reported on, if appropriate, at an operational level.

Equality and Diversity An Equalities Impact Assessment has been carried out and is attached at Appendix 3. Where issues arise relating to the needs of disabled, infirm or elderly people the presumption in favour of tree protection will be weighted against those needs on a case by case basis. This approach recognises the Council's duty under the Equality Act 2010 to advance equality of opportunity for disabled people, as well as other people with protected characteristics specified in the Act.

Accommodation - N/A

Crime and disorder – Vandalism is an increasing pressure on trees. There are various ways in which vandalism can be counteracted, but none of these is 100% effective against determined attack. We will investigate any reports of vandalism / damage to trees in our ownership / management, and try to repair any damage where we can. Where possible, we will take legal action against the person(s) causing the damage.

Human rights – N/A

Consultation – a working group of officers from Neighbourhood Services and from RED have been involved in the development of this draft policy.

Public consultation has been carried out. The suggestions / comments made by respondents have been considered and some changes made to the draft proposals

in light of this feedback. None has substantially changed the original draft proposals and in many cases have enhanced them or led to greater clarification.

Public consultation has revealed an overall endorsement of the draft proposals with the majority of respondents supportive of a new countywide policy.

Procurement– N/A

Disability Issues Where issues arise relating to the needs of disabled people the presumption in favour of tree protection will be weighted against those needs on a case by case basis.

Legal Implications There is a range of legislation which has been considered during the development of this policy (listed in Section 4 of the policy document).