

REPORT TO:	HOUSING AND COMMUNITY SERVICES COMMITTEE	AGENDA ITEM: 12
DATE OF MEETING:	01 FEBRUARY 2024	CATEGORY: RECOMMENDED
REPORT FROM:	STRATGIC DIRECTOR (SERVICE DELIVERY)	OPEN
MEMBERS' CONTACT POINT:	SEAN MCBURNEY HEAD OF CULTURAL AND COMMUNITY SERVICES	DOC:
SUBJECT:	TREE SERVICE BUDGET	
WARD(S) AFFECTED:	ALL WARDS	TERMS OF REFERENCE:

1.0 Recommendations

- 1.1 To approve the budget outlined in this report to ensure good tree management and reduce potential risks to the Council.

2.0 Purpose of the Report

- 2.1 To highlight the issues and risks associated with tree maintenance within South Derbyshire.
- 2.2 To propose the approval of a tree maintenance budget. Total value of the requested budget for this area is £85,000. This report is providing additional detail following the budget report for Housing & Communities Committee that was presented at the 8th January 2024 committee.

3.0 Executive Summary

- 3.1 The Council has a duty to effectively manage its many trees, and have been mapping, inspecting, and maintaining them within current resources. However, with better data, an ever-increasing tree stock, increased environmental awareness, advancement of issues such as Ash Die back, Oak Processionary moth, sudden branch drop, increased development, and public expectations to protect trees, it has led to significant capacity issues with the parks and green spaces service.
- 3.2 The Committee adopted a new Tree, Woodland and Hedgerow Policy in March 2022 which also highlighted the backlog of works to our own tree stock and approved a one-off budget to address this.
- 3.3 It is now clear that undertaking adhoc maintenance is unsustainable and requires a more formal arboricultural contract with sufficient financial resource to ensure the risks to the Council are minimised. Newcastle City Council were fined £288K for failing to

manage their tree stock safely. This is the latest in several high-profile cases in recent years.

- 3.4 There are several risks and opportunities facing the Council which are highlighted by an examination of current issues. These issues include risks associated with achieving current policy response times, lack of a dedicated and defined tree work budget and an expanding tree management workload.
- 3.6 The council manage's in excess of 117,000 trees across its parks, cemeteries, woodland and housing areas.

4.0 Detail

- 4.1 An independent report was undertaken by Ruth Wilmott Associates in 2021 to identify what resources were needed to deliver effective tree management for South Derbyshire District Council. It concluded that we are under resourced for the tree stock that we are responsible for.
- 4.2 The average annual spend for tree works over the past five years (excluding the backlog of works) is c.£55k per annum. It is therefore proposed that an annual tree maintenance budget of £85k per annum to allow for a more proactive approach including a planned tree replacement programme.
- 4.3 In addition, the report identifies the need for a specific tree maintenance budget and to be more proactive towards tree management and maintenance rather than just reactive to problems. This budget will allow for this approach.
- 4.4 In the medium-term, the continued effective and efficient management of trees will help the Council manage identified future risks.
- 4.5 In addition, with the declaration of an ecological emergency places good maintenance to ensure our tree stock remains in a healthy condition as a key consideration.
- 4.6 Once the tree works budget is formally in place a procurement exercise will be undertaken to establish a tree maintenance contract to undertake the works.

5.0 Financial Implications

- 5.1 As detailed in January's Housing and Community Services Special Budget Committee and the Finance & Management Special Budget Committee reports, the provision for the additional tree maintenance budget has been considered with the financial position of the General Fund over the medium term.
- 5.2 Subject to approval a procurement exercise to tender for a new medium-term contract (5 years plus 2) will be undertaken to establish a formal contract for tree maintenance.

6.0 Corporate Implications

Employment Implications

- 6.1 None as a direct result of this report

Legal Implications

- 6.2 Under UK law, in England and Wales, the Occupiers' Liability Act 1957 and 1984 governs liability. The earlier Act deals with any liability relating to visitors, i.e., persons who enter the land or premises either by invitation or by permission. The later Act deals with liability to other persons, including trespassers. Occupiers can be held negligent in their duty of care even if injury or damage occurs on land where people do not have access by right or invitation. Under General Liability, a tree owner has a 'Duty of Care' to its 'neighbours' with regards to the regular inspection and hazard abatement of its tree stock. This duty is laid down in;
- Occupiers Liability Acts of 1957 & 1984
 - Highways Act 1980 (especially section 130),
 - The Miscellaneous Provisions Act 1976 'Dangerous Trees and Excavation'
 - Health & Safety at Work Act 1974 (for bystanders' sec 3(1)).
 - Criminal Liability can be pursued under Section 3 of The Health and Safety at Work Act 1974, where there is a general duty of care at Common Law to take reasonable care to avoid injury to your neighbour.
 - Corporate Manslaughter and Corporate Homicide Act 2007
- 6.3 The Government consulted in 2021 on the need for Councils to adopt tree strategies and policies, and the proposed response was agreed by this Committee in August 2020. This could be the subject of future legislation. In addition, the Natural Environment and Rural Communities Act 2006 places a statutory duty to consider biodiversity in all Council functions, which the forthcoming Environment Bill may change to "evidence net biodiversity gain".

Corporate Plan Implications

- 6.4 The effective management of trees contributes significantly to the Corporate Plan Priorities and Key aims including:

Our Future

- a. Support economic growth and infrastructure
 - i. Enable the delivery of housing across all tenures to meet Local Plan targets
 - ii. Influence the improvement of infrastructure to meet the demands of growth
- b. Transforming the Council
 - i. Provide modern ways of working that support the Council to deliver services to meet changing needs

Our People

- c. Supporting and safeguarding the most vulnerable
 - i. Promote health and wellbeing across the district
- d. Deliver excellent services
 - i. Ensure consistency in the way the Council deals with its service users
 - ii. Have in place methods of communication that enables customers to provide and receive information
 - iii. Ensure technology enables us to effectively connect with our communities
 - iv. Invest in our workforce

Our Environment

- e. Improve the environment of the district
 - i. Enhance biodiversity across the District
- f. Tackle Climate Change
 - i. Strive to make South Derbyshire District Council carbon neutral by 2030
- g. Enhance the attractiveness of South Derbyshire
 - i. Enhance the appeal of Swadlincote town centre as a place to visit
 - ii. Improve public spaces to create an environment for people to enjoy

Risk Impact

- 6.5 There is no nationally recognised practice or prescribed methodology for tree management, although Forestry England's - Operational Guidance Book #1 (Tree Safety Management) sets out a good baseline for inspecting trees on the public forest estate. As a result, much guidance derives from established professional practice and case law, which identifies the need for landowners to put in place pro-active defensible systems for managing tree risk as part of its general duty of care, particularly for open spaces. If the Council does not have adequate measures in place, it may be liable to substantial financial and reputational consequences, if found to be negligent in its management.
- 6.6 The additional resources will allow the Council to protect itself against potential claims for damage or injury, but also allows a much more integrated and pro-active approach to managing trees on its land.

7.0 Community Impact

- 7.1 Effective management of its tree stock is of critical importance to all South Derbyshire residents who benefit from the positive impact of trees in many areas of life including the environment, biodiversity, housing, amenity and leisure. Similarly, effective management is of critical importance to a variety of partners and community stakeholders including the National Forest Company, Forest England, Parish Councils the private sector and a plethora of Voluntary and Community Sector organisations.

Consultation

- 7.2 Consultation has taken place across relevant service areas within the Council

Equality and Diversity Impact

- 7.3 None Known

Social Value Impact

- 7.4 Use of local tree contractors can promote local businesses.
- 7.5 Working closely with developers to enable the delivery of housing across all tenures to meet Local Plan targets.
- 7.6 Potential to involve communities in new tree planting schemes.

Environmental Sustainability

7.7 Trees are crucial to the environmental sustainability of the District and by extension the planet, by:

- Capturing atmospheric carbon
- Cleaning the air that we breath
- Filtering atmospheric pollution
- Stabilising river/stream sides and attenuating flow
- Stabilising soils and moderating rainfall absorption
- Improving the quality of contaminated land
- Providing a barrier to noise and screening poor views; trees and other vegetation can play an important role in reducing noise
- Providing shelter from the sun, wind, rain, and other weather events
- Shading out harmful solar radiation, reducing “heat island” effects.

8.0 Conclusions

8.1 Trees are an immensely valuable asset for the environment and people of South Derbyshire. Therefore, for the reasons set out in this report the Committee approves the establishment of a tree maintenance budget.

9.0 Background Papers

9.1 Tree Management Policy - 2022