

Environment Scrutiny Panel – 15 March 2011**Tree Protection and Management Informal Scrutiny Group Review****Report of the Chairman, Councillor Lynda Bannister**

Contact: Damian Offer, Head of Landscape and Open Spaces 01962 848 419.

Email: doffer@winchester.gov.uk

Executive Summary

The Informal Group examined the Council's functions and role in protecting trees within the district and the Council's approach to management of trees on its own land. As a consequence of their investigations, the Group makes a number of recommendations which are drawn from the attached full report and set out below:

Recommendations**That the Environment Scrutiny Panel:**

- 1. Considers the report and whether the review has adequately scrutinised issues relating to Tree Protection and Management, as defined in the Group's terms of reference.**
- 2. Asks Cabinet to agree the following recommendations from the Group:**
 - a. That the full utilisation of the facilities provided within the TPO module in CAPS/UNIFORM be investigated using either commissioning budgets or the 1Team process.**
 - b. That the option of providing out-of-hours cover for tree protection in the District through joint working with another Local Authority is investigated.**
 - c. That the post of Tree Survey Officer be established as a permanent full-time appointment to ensure that the Council is effectively managing Risk arising from trees on Council land.**
 - d. That a Portfolio Holder Decision report is bought forwards to obtain approval for the proposed framework agreement for a Schedule of Rates for tree works.**
 - e. That a feasibility study is undertaken to review Winchester TPOs in order to identify and revoke those which are no longer required or replace those which are not enforceable. Resources for the study should be sought through the City Council's 1Team process.**
 - f. That the proposed review of planning fees include the costs of the consultation service provided by Landscape and Trees staff with the aim to achieve full cost recovery.**

- g. That the Tree Officers assess applications from third parties for permission to undertake works to Council-owned trees on a case by case and grant consent where:
 - There is no arboricultural objection to the works;
 - The third party pays for the entirety of the works; and
 - The third party uses a contractor approved by the Council.
 - h. That the Tree Survey Officer provides advance notification about Council tree works to the relevant Ward Councillors and Parish/Town Council clerks.
 - i. That options to provide an additional dedicated budget of £5,000 per year for proactive tree management, are investigated either through commissioning budgets or increased fee income from planning consultations.
 - j. That the Council provides information via its web-site about the trees and woodlands within its ownership.
 - k. That the Council provides information to the community to explain its approach to the management of trees.
 - l. That Council Tree Officers maintain a positive working relationship with HCC Highways.
 - m. That a revised Tree Policy be prepared for consideration by Cabinet before the end of 2011.
 - n. That the Council encourages planting of new trees in part-mitigation of the impacts of climate change.
 - o. That the Council identifies opportunities for planting trees on its own land.
 - p. That the Tree Officers arrange a meeting of all the Tree Wardens in the District to provide an opportunity for training and networking.
3. That the Portfolio Holder for High Quality Environment be requested to report on Cabinet's consideration of these recommendations to the next meeting of the Panel (to be held 19 July 2011).
 4. That the Panel review Cabinet's implementation of the above recommendations in twelve months time, at its meeting to be held March 2012.

Links to the Sustainable Community Strategy and Corporate Business Plan:

This relates to High Quality Environment and managing our assets and risks as part of our aim to be an efficient and effective Council.

Resource Implications:

There will be an ongoing resource implication to establish the post of Tree Survey Officer as a permanent full-time post (salary and on-costs of approx. £32k).

A dedicated budget for proactive tree works is proposed with an annual budget of £5,000.

Dedicated staff resources (which could be sourced using the 1Team framework) will be required to deliver the following recommendations:

- Development of TPO Module within UNIFORM
- Provision of information about WCC trees on WCC web-site
- TPO Review

The other recommendations can be delivered using existing staff resources.

Risk Management Issues:

Having started a Tree Survey Programme in 2008, the Council is obliged to ensure that it maintains effective supervision of all the trees growing on its land and that any risks presented by trees are dealt with. Failing to maintain a proper programme of inspection and remedial works will expose the Council to the risk of prosecution and civil claims for damages should trees on Council land cause injury to persons or damage to property. The Council's insurers may decline to cover claims arising from trees if the Council cannot demonstrate it has a proper inspection programme in place.

Background Documents

As set out in the attached report.

Appendices

Appendix: Tree Protection and Management Informal Scrutiny Group Final Report

Informal Scrutiny Group

Tree Protection and Management by Winchester City Council

1 Introduction

- 1.1 The Group was established to review the City Council's approach to tree management and protection.
- 1.2 The membership of the Group was agreed as Councillors Bannister (Chair), Higgins, Jackson, Jeffs.
- 1.3 The Group met on five occasions:

10th November 2010

The Group agreed its Terms of Reference and gathered evidence about the current Council resources employed in tree protection and management from:

- Head of Landscape and Open Spaces, Damian Offer;
- Portfolio Holder for High Quality Environment, Cllr Eleanor Bell; and
- Assistant Director (High Quality Environment), Robert Heathcock.

5th January 2011

The Group gathered evidence about the City Council's tree protection functions from:

- Head of Landscape and Open Spaces, Damian Offer
- Tree Survey Officer, Andrew Giles; and
- Head of Planning Management, Simon Finch.

12th January 2011,

The Group gathered evidence about management of City Council-owned trees and the approaches of other Local Authorities from:

- Head of Landscape and Open Spaces, Damian Offer;
- Tree Survey Officer, Andrew Giles;
- Arboriculture Officer, Ivan Gurdler;
- Arboriculture Officer, HCC Highways, Mark Weal; and
- Arboriculture Officer, Basingstoke and Deane BC, Nicola Williams.

26th January 2011,

The Group gathered evidence about comparisons with other Local Authority's resourcing, tree policies and strategies from:

- Dermot Cox – Tree Officer Test Valley Borough Council;
- Head of Landscape and Open Spaces, Damian Offer;
- Tree Survey Officer, Andrew Giles;
- Arboriculture Officer, Ivan Gurdler; and
- Arboriculture Officer, Thomas Gregory.

9th February 2011,

when the Group drew together its final conclusions for this Report.

- 1.4 This Report uses the minutes of the Group's meetings to answer the questions the Group set itself in its terms of reference and, for information, the complete minutes are set out in Appendix 1.

2 The Group's Terms of Reference:

- 2.1 The group's aim is to review the City Council's approach to tree management and protection.
- 2.2 The group identified specific areas for further investigation, which are detailed below and expanded in the Terms of Reference included as Appendix 1 to this report:
1. Resources
 2. Tree Protection
 3. Management of Council Trees
 4. Trees and Community Priorities
- 2.3 The group identified the following questions to be answered during its investigations:
1. Are current resources adequate to ensure that the City Council meets its statutory and legal obligations and liabilities?
 - a. How does City Council resourcing for tree protection and management compare to other Local Authorities in Hampshire?
 2. Are the Tree Preservation Orders (TPOs) the Council currently has in place sufficient to ensure the adequate protection of designated trees and groups of trees?
 - a) Is the City Council able to prosecute breaches of TPOs?

3. How does the Council take account of trees when considering proposals for new development?
4. How does the Council approach management of its own trees:
 - a. What principles govern the management of Council-owned trees?
 - b. Should the council be managing its trees to deal solely with Health and Safety or is there a better or more effective way of management which could be adopted?
 - c. What is the Council's approach to trees where these come into conflict with people?
 - d. Should the Council consult with residents on the management of trees?
 - e. Should the Council be telling residents how we plan to manage trees?
 - f. Should the Council target resources into specific areas/wards, to reduce the potential for conflict between residents and trees in the future?
 - g. Are resources allocated for management of Council-owned trees sufficient to discharge the Council's responsibilities?
5. How does the Council work with other public bodies involved in the management of trees (e.g. HCC Highways)?
6. What policies provide the framework for the Council's approach to working with trees?
7. In what ways does the Council promote the additional benefits to the community arising from the presence of trees within and around our urban areas and countryside?
8. Climate change will affect everyone in the future. Are we doing enough in terms of tree planting to reduce our carbon use within the district?
9. Tree Wardens are a valuable resource. Should we be using them more effectively?

- 2.4 This Report sets out the Group's findings, considering each one of the above questions in turn:

3 Q1 - Are current resources adequate to ensure that the City Council meets its statutory and legal obligations and liabilities?

- 3.1 The Council currently employs three full-time officers to deal with the protection of trees in the District and management of Council trees.
- 3.2 The Tree Officers are supported by the Council's Legal section in the preparation of Tree Preservation Orders (TPOs) and by Enforcement and Legal in dealing with cases of unauthorised felling or works to protected trees.
- 3.3 More detailed information on resources is provided in Sections 3.52 and 6.25.

a) Tree Protection

- 3.4 With 2,000 TPOs which often relate to more than one tree, it is not considered practicable to tag each TPO tree due to the costs that would be incurred in administration of such a system. Currently, the burden of proof is on the person undertaking the work to check that a tree is not protected. It is not necessary to tag the protected tree to ensure it is legally protected.

Tree Preservation Orders

- 3.5 There are currently approximately 2,000 Tree Preservation Orders protecting trees or groups of trees within the District:
- **"Area Orders"** only protect the trees present (of qualifying size) on the date the order was made.
 - **"Group Orders"** protect a specific group of trees from the date of the order. The number, species and locations of the trees in the group must be properly specified in the order.
 - **"Individual Orders"** protect a specific individual tree, the species of which must be properly specified.
 - **"Woodland Orders"** protect all current and future trees growing on the site from the date on which the order was made.
- 3.6 The Council's approach to tree protection follows the guidance in the "blue book" guide issued by central Government ('Tree Preservation Orders: A Guide to the Law and Good Practice').

- 3.7 The TEMPO system is used by officers to provide a framework that supports the decision to serve TPOs.
- 3.8 The Council does not serve TPOs on itself (or other public bodies such as Parish Councils), as they were deemed to be responsible bodies that were unlikely to threaten significant trees. However, where trees are considered to be under threat, the Council may consider serving a TPO.
- 3.9 Ninety-five per cent of TPOs are emergency orders, which must be confirmed within six months or they cease to be valid. In the event of an objection, the decision to confirm the TPO would be referred to the Planning Development Control Committee.
- 3.10 The Council served 36 TPOs in the period 1st Jan to 31st Dec 2010 (compared to 45 and 30 for the same period in 2009 and 2008 respectively). It is estimated that the cost of each order is approximately £1,000 in officer time and copying costs although considerable effort has been made to streamline the process.
- 3.11 TPOs are currently served by hand by one of the Council Tree Officers in order to ensure that the Council can prove service. This entails hand delivery of a copy of the TPO with a covering letter to the property on whose land the TPO is situated and placement of copies of the documentation at the entrances to the site (site notices).
- 3.12 Central Government has undertaken a consultative review of the TPO process in order to reduce the volume of paperwork that is served on people and to rationalise the legislative framework in order to reduce confusion. The results of this review are expected to be forthcoming later in 2011.
- 3.13 The recent loss of two staff from the Council's Legal section meant that consideration was being given to greater use of the Council's planning system (CAPS/UNIFORM) to streamline the process. However, this would require an up-front investment of officer time to set up the necessary templates, which was not currently available. It was suggested that there was little point in doing this until the results of the Government's review (above) were known.

Trees in Conservation Areas

- 3.14 Any tree wider than 7.5cm at 1.5m from the ground, within the Conservation Area, is protected.
- 3.15 The number of trees within Conservation Areas in the District is unknown and it would not be practical to attempt to quantify this. However, it should be acknowledged that trees make a significant

contribution to the character and feel of Conservation Areas throughout the District.

Works to Protected Trees

- 3.16 In 2010, the Tree Officers dealt with over 280 applications for works to trees in Conservation Areas and over 250 applications for works to TPO trees. In addition the Council receives notifications of works which are exempt under the legislation (e.g. dead, dying or dangerous). All of these applications/notifications necessitate an individual site visit to assess the proposed works. Dealing with applications for works to protected trees provides a significant workload for the two Tree Officers.
- 3.17 Applications for works to TPO trees are dealt with through the planning system. Applicants must display a sign advising the public of the proposed works and there is a period of 4 weeks allowed for people to comment. Applications should be determined within eight weeks of receipt. Any application receiving six or more objections is referred to the Planning and Development Control Committee for consideration and a decision.
- 3.18 Anyone wishing to undertake work to trees in a Conservation Area must notify the Council. The Council then has six weeks from the date it receives notice to determine whether it wishes to serve a TPO on the trees and thus prevent the works proceeding. There is no statutory consultation period for Conservation Area notifications although it is good practice to make the applications public. The City Council does this by including such applications on the planning pages of its website and in weekly lists provided to Parish Councils.
- 3.19 The processing of Tree Work Applications moved from Planning Admin to the Landscape and Open Spaces Team in the summer of 2010. The move has been a success and officers continued to work closely with the Planning Administration Team in improving the processing of these applications. Moving the process has allowed the admin officers processing the applications to liaise more closely with the Tree Officers to ensure that applications are correctly logged.
- 3.20 The Group also noted that Report PDC871 contained proposals to revise delegated powers and streamline the process whereby tree works applications were referred to the Planning Development Control Committee.
- 3.21 Officers have good working relationships with local tree surgeons, who often phone the offices to check whether trees were protected.

Illegal Works to Protected Trees

- 3.22 Anyone that damages a protected tree could be fined up to £2,500. At a Magistrates Court, anyone convicted of felling a protected tree could be fined up to £20,000. This fine could be unlimited at the High Court.
- 3.23 The greatest difficulty faced by officers was proving that the TPOs had been served and mapped correctly. This burden of proof has increased since many of the orders were made.
- 3.24 The Tree Officers work closely with Planning Enforcement officers and the Legal Team in respect of confirming and enforcing Tree Preservation Orders and Development Control.
- 3.25 Enforcement Officers (who were PACE trained) accompanied Tree Officers to deal with any reported TPO breaches.
- 3.26 The Group noted that there will always be cases when illegal tree works were undertaken at weekends and whilst the Council's offices were closed. This issue, including the possibility of delegating emergency powers to Parish Councils had been considered by the Out of Hours Scrutiny Group (**Report EN69** refers).
- 3.27 A member of the Group suggested that joint working with another authority could serve as a possible solution. The Head of Landscape and Open Spaces advised that he was unaware of any other Hampshire local council offering out-of-hours cover for tree protection.

b. Trees and Development Control

- 3.28 The Tree Officers deal with around 200 development control consultations per year, each of which necessitates a site visit and written response to the case officer. The more complex cases may involve the tree officer in discussions with the applicant or their arboriculture consultant.
- 3.29 Further detail is provided in Section 5

c. Management of City Council owned Trees

- 3.30 The Council is responsible for at least 16,000 trees (see 3.41). In order to manage its liabilities in association with these trees, the Council currently undertakes a rolling programme of survey and maintenance.
- 3.31 It was noted that the Council is currently felling more trees than it is planting, due to budgetary constraints.
- 3.32 Current revenue budgets for managing trees are £22,000 for the District and £4,500 for the Winchester Town area (Note: the budgets

have been reduced from £32,000 and £20,000 in 2008/09 due pressures to find savings).

- 3.33 Current budgets equate to approximately £1.64 per year for each of the Council's trees.
- 3.34 Maintaining an active tree survey programme is important in managing risk for a council. The Group were provided with an example of what can happen where the inspection programme was inadequate; Birmingham City Council was fined £150,000 plus £56,000 costs in 2002 for failing to adequately monitor its trees. These figures do not include the cost of any subsequent civil claim.

Tree Survey Programme

- 3.35 Dedicated resources were allocated in April 2007 for a Tree Survey Programme to run for three years. The annual budgets originally set for this programme were £40,000 for the District and £10,000 for the Town area. The Tree Survey Programme was established to undertake an initial survey of all Council-owned trees and commission necessary remedial works.
- 3.36 Since 2007, the budget for works has reduced under pressure to find savings and as a result of under-spends due to having no-one in post to progress the survey.
- 3.37 The establishment of the Landscape and Open Spaces Team in 2008 resulted in the deletion of a Tree Officer post (PER138 refers) thus reducing the total staff resources for dealing with trees from 3 FTE to 2 FTE. It was erroneously assumed that the Environment Officer (Trees) who then managed the Council's trees could also take on the functions of a Tree Officer in addition to their existing duties.
- 3.38 Given the lack of staff resources, a contractor was brought in on a part-time basis in during 2009 to undertake the necessary field work. Although this allowed the survey work to progress, there was still no-one to commission the necessary remedial works.
- 3.39 Thus, in August 2009, an element of the works budget was diverted to fund a temporary full-time Tree Survey Officer post for one year. This was more cost-effective than utilising part-time contractors, the full-time officer being able to both continue the survey programme and commission the necessary works. The Tree Survey Officer post was originally scheduled to run until 13th August 2010. However, the work has been displaced by nine months as the Tree Survey Officer was seconded to another role from 1st April 2010 until 31st December 2010. The post is scheduled to terminate on 13th June 2011.
- 3.40 The 2011/11 budgets available for works are £16,000 for the District and £6,661 for the Town.

- 3.41 The survey programme has so far identified 10,124 trees plus 60 hectares of woodland (assumed to have a density of 100 trees per hectare) on Council-owned land. This gives a total of at least 16,124 trees.
- 3.42 However, trees on Council Housing land have not been included in the survey. Council tenants are, through the terms of their tenancy, deemed to be responsible for the maintenance of trees on their rented land. It is arguable that the Council should remain responsible for management of these trees and it is estimated that this could add a further 1,000 trees to the inventory.
- 3.43 The survey has assessed the Council's trees to identify any which pose a risk of injury or damage to people and/or property. Where necessary, the survey has commissioned remedial work using the programme budget and, once this is exhausted, the revenue budget for tree maintenance.
- 3.44 The degree of risk presented by a particular tree depends not only on the species of tree, but also on its location and potential to cause damage or injury. Trees in popular public parks like Abbey Gardens will present a greater risk than those in the middle of a Council-owned woodland with little public access.
- 3.45 Where the Council is advised that a third party suspects a Council-owned tree of causing subsidence or other damage to a building, further investigations are undertaken as part of the Tree Survey. Third party claims against the Council must be supported by proper technical evidence (e.g. structural survey and arboricultural reports).
- 3.46 The Tree Officers use a computer programme called 'Treewise', which was purchased by the Council to assist with the programme, to record details for each tree including their condition and an assessment of the risk of failure the hazard they represent.
- 3.47 Having an active Tree Survey Programme helps to protect the Council against claims for injury and/or damage arising from trees. Any claim for damage caused by a Council-owned tree would be dealt with by the Council's insurers. As long as the Council maintains a proactive tree inspection programme and could demonstrate that the tree had been regularly inspected in accordance with best practice guidelines, then the insurers are likely to cover any claim.
- 3.48 The Group also identified that the Tree Survey Programme should link to other Council strategies such as the Climate Change programme. It was noted that trees offer the potential to ameliorate the impacts of climate change through shading and absorption of carbon dioxide.

Schedule of Rates

- 3.49 The Council has developed a Schedule of Rates (SOR) which was put out to tender in March 2010. This SOR contains set prices for standard types of tree work that have been agreed with local tree surgeons and the Council's main grounds contractor (Serco). This SOR provides the pricing structure for all tree works, which can then be commissioned without having to request specific quotes and thus saves officer time while ensuring the Council ensures value for money.
- 3.50 The Tree Survey Officer is working with colleagues in 7 other Hampshire Local Authorities to evaluate the potential a joint Schedule of Rates arrangement. This offers joint framework agreement offers the potential to deliver further savings for the Council on the cost of tree work.
- 3.51 **Q1a -How does City Council resourcing for tree protection and management compare to other Local Authorities in Hampshire?**
- 3.52 The Council's obligations in dealing with protected trees and the impacts of development on trees, represent a significant workload, which necessitates provision of the following resources:
- Tree Officer and Environment Officer (Trees) (2 FTE @ Scale 5)
 - Admin Support Officers (0.5 FTE @ Scale 4 & 0.25 FTE @ Scale 3)
- 3.53 Monitoring and management of the Council's trees requires the following resources:
- Temporary Tree Survey Officer (1 FTE @ currently at Scale 4 but should be Scale 5 – this needs an explanation)
 - Admin Support Officer (0.25 FTE @ Scale 3) who prepares orders for work and processes invoices for payment.
- 3.54 The post of Tree Survey Officer has been funded for one year from the Tree Survey budget in order to undertake the Tree Survey Programme. The contract for this role terminates on 13th June 2011 after which the post will be deleted if the budget for the Tree Survey is not extended beyond July 2011.
- 3.55 It was noted by the group that the process of setting budgets for 2011/12 had been completed and that a proposal to establish a permanent Tree Survey Officer post would necessitate a growth bid. It was also noted the funding for the post may thus not come forwards until 2012/13. If this was the case, the group suggested that it may be

necessary to utilise resources from the tree maintenance budget to fund the post from 14th June 2011 to 31st March 2012.

**Tree Services Benchmarking – presented by Dermot Cox,
Arboriculture Officer, Test Valley Borough Council**

- 3.56 Mr Cox gave details of how Test Valley dealt internally with tree protection and management; this was currently split between two departments, Planning and Leisure.
- 3.57 An excel spreadsheet was sent to all local authorities in the county in late 2010 to collect data including how many staff, tree work applications, high hedges applications and the amount of money available to them (the findings are provided in Appendix 3).
- 3.58 A total of 11 responses were received, 4 Authorities did not reply. The statistics were compared and the cost per head of population was worked out.
- 3.59 From the returns, Mr Cox ascertained that the county average spend on tree services was £1.58 per rate payer. The cost for Test Valley is currently £1.52, which is comparable with the county average. From this exercise Winchester's spend was £1.18 per rate payer, which appeared below average (i.e. 75% of the county average).
- 3.60 The Winchester tree budget was also apparently low at £1.64 per tree compared to other authorities and below the county average of £4.92 per tree.
- 3.61 Mr Cox explained the dangers of stopping a tree survey. Councils need to make sure the survey is up to date and continue with priority areas looked at regularly. Nationally, six people die annually from tree related incidents. In a well-known case, Birmingham City Council was found liable in an incident in which 4 people were killed when a tree failed (see 3.34).
- 3.62 If the tree surveying flags up the need for re-surveying which cannot then be done, this is considered to be poor practice as Councils will always have responsibility for proper inspection, supervision and management of their trees.
- 3.63 Mr Cox pointed out that insurers could refuse cover if an incident arises where the council was aware of an issue but had not continued to monitor the problem or take action.
- 3.64 Tree management is costly and time-consuming during the first few years of a survey programme, but this should ease in subsequent years.

- 3.65 The traffic light system was discussed with regard to splitting risk into bands (the City Council has a comparable system, which is provided through Tree wise).
- 3.66 Tree Policy – Mr Cox informed the group that the Test Valley policy discusses looking after trees with supplements included on how they do this, along with the law and how they respond. He discussed the risk zone to trees. A dead tree in a wood is not considered a high risk, whereas a healthy tree in a High Street presents more of a risk due to its location.
- 3.67 Mr Cox suggested that the cost of tree management per head is a good way to measure but wondered whether there was a better way? He suggested that it was appropriate to compare Test Valley, Winchester and East Hants due to the similarity in the Districts.
- 3.68 Test Valley's registration of tree applications has been moved from planning admin into the tree team, as it has in Winchester. This had placed a considerable increased burden on the TVBC Tree Team as the additional workload was not accompanied by more resources.
- 3.69 Mr Cox explained about the time tracking exercise that he had conducted with the team, which found that less than half the working day was spent on core duties. For the exercise one week was spent recording time in five minute slots. From this exercise DC was able to identify why it took so long to produce a report, which was primarily due to the number of interruptions that occurred. These interruptions diverted officer's attention from core tasks.
- 3.70 Cllr Banister asked whether Mr Cox would recommend the time-recording exercise. Mr Cox replied that it was worthwhile, as it revealed how the core work of the tree officers was disrupted by minor interruptions and lower priority work.

Tree Management at Basingstoke and Dean Borough Council (BDBC), presented by Nicola Williams

- 3.71 BDBC had 3.5 full time Arboriculture Officers, managing 47,500 trees in parks and open space. The majority of these trees were in Basingstoke itself and planted in the 1960s and 1970s. Most were of one species, the Norway Maple, and a large proportion of the officers' work was thinning out over-planted areas and managing the 282 hectares of woodland and thicket areas planted between development areas. The BDBC tree management budget is £343,000 per annum for works, which are undertaken by contractors.
- 3.72 BDBC had surveyed all the trees for which it was responsible and was half way through a review of this survey.

- 3.73 BDBC had an adopted tree policy and a small budget (£15,000) to deal with trees that shaded private properties. This work was limited and enacted only after satisfying a strict set of criteria.
- 3.74 BDBC had a specific budget of £20,000 for planting on average 170 new trees each year.

Recommendations from Section 3 - Q1:

- 3.75 **Recommendation: That the cost effectiveness of developing full utilisation of the facilities provided within the TPO module in CAPS/UNIFORM be investigated using either commissioning budgets or the 1Team approach..**
- 3.76 **Recommendation: That the option of providing out-of-hours cover for tree protection in the District through joint working with other Local Authorities is investigated.**
- 3.77 **Recommendation: That the post of Tree Survey Officer be established as a permanent full-time appointment to ensure that the Council is effectively managing Risk arising from trees on Council land.**
- 3.78 **Recommendation: That a Portfolio Holder Decision report is bought forwards to obtain approval for the proposed framework agreement for a Schedule of Rates for tree works.**

4 Q2 - Are the Tree Preservation Orders the Council has currently in place sufficient to ensure the adequate protection of designated trees and groups of trees?

- 4.1 A significant challenge facing the Council is the urgent need to review all extant Tree Preservation Orders within Winchester District in order to identify those which are invalid or unenforceable.
- 4.2 Each TPO is governed by the legislation that was in force at the time it was served. With TPOs dating back to the 1950s, there is thus significant variation in the legislative provisions covering the 2,000 TPOs held by the Council.
- 4.3 Central Government launched a consultative review in the autumn of 2010, which proposed streamlining the legislation governing TPOs. Amongst other changes, Government is proposing that a new model order be brought forwards to provide a single legal framework for all TPOs currently in force.
- 4.4 **Q2a - Is the City Council able to successfully prosecute breaches of TPOs?**

- 4.5 The greatest difficulty faced by officers in bringing a successful prosecution was proving that the TPOs had been served and mapped correctly. The burden of proof had increased since many of the orders were made, which was potentially a huge problem. These problems were making it very difficult for the Council to prosecute perpetrators in the event of a TPO breach.
- 4.6 Given the need for a review of TPOs, the Tree Officers have identified that a place to start is with those are working with colleagues in the Legal section to determine how much work is involved in revoking old TPOs where they are no longer required. The officers have identified TPOs within Conservation Areas that are suitable candidates to use to determine what would be involved.

Recommendations from Section 4 – Q2:

Recommendation: That a feasibility study is undertaken to review Winchester TPOs in order to identify and revoke those which are no longer required or replace those which are not enforceable. Resources for the study should be sought through the City Council's 1Team process.

5 Q3 - How does the Council take account of trees when considering proposals for new development?

- 5.1 It is the Council's policy to retain and protect significant trees on development sites where possible.
- 5.2 Where significant trees are present on a site for which planning permission is being sought, it is a national requirement that the application is accompanied by an Arboricultural Impact Assessment (AIA) and Arboricultural Method Statement (AMS), which details the protection measures to be put in place.
- 5.3 Any application pertaining to a site with significant trees will be referred by the Case Officer to a Tree Officer for comment. The Tree Officer will determine whether there is any adverse impact on trees and then advise whether the application should be refused due to unacceptable impact on trees or should be approved with conditions.
- 5.4 Where an adverse impact on significant trees is identified at any stage, it is current Council policy to serve a TPO in order to protect these trees. However, in serving the TPO, the Council is not seeking to retain all the trees or prevent the development proceeding. Rather, the Council is seeking to secure negotiation over the retention of key trees in terms of the proposed layout.
- 5.5 This approach should not be considered anti-development; full planning permission will override a TPO and can result in the removal of a TPO

tree without any change to the TPO. The Group suggested that this issue could be better publicised.

- 5.6 Planning permission has been refused in cases where, although the development could theoretically be built around the trees, the trees were likely to cause a significant nuisance to future residents which would threaten their future survival.
- 5.7 It was noted that there is inadequate resource available to ensure the proper monitoring of compliance with conditions for landscape or trees imposed in respect of planning permissions. The Tree Officers currently provide assistance to Planning and Enforcement in the monitoring of conditions where issues are brought to the Council's attention.
- 5.8 The Group noted that the Council is reviewing its charging policy for planning applications and suggested that the costs of the service provided by the Landscape and Open Spaces Team should be factored in to any calculations.

Recommendations from Section 5 – Q5:

- 5.9 **Recommendation: That the proposed review of planning fees include the costs of the consultation service provided by Landscape and Trees staff with the aim to achieve full cost recovery .**

6 Q4 - What principles govern the management of Council-owned trees?

- 6.1 **Q4a - What principles govern the management of Council-owned trees?**
- 6.2 The survey programme identifies faults in trees and assesses the risk these hazards present to people and/or property. The works programme seeks to reduce the risk arising from these hazards by undertaking proactive management including the removal of dead wood, broken or split branches or diseased stems.
- 6.3 The limited funds are directed towards dealing with hazards in order of the risk they present. Thus faults in trees in popular areas like Abbey Gardens or North Walls recreation ground will be given higher priority.
- 6.4 There is no specific funding available for works to deal with shading or over-hanging branches where these are not causing damage to property or posing a hazard.
- 6.5 The waste from tree work is recycled as much as possible; green waste is composted, larger waste is chipped to be used as mulch for suppressing weed on flower and shrub beds, branches and trunks are

chipped for use on paths, converted to planks or donated to arts projects.

- 6.6 By focussing purely on management of the immediate hazards presented by trees, the Council is adopting a short-term approach, which may not be the most efficient and effective use of resources.
- 6.7 Managing for the longer term would allow the Council to deal with issues such as thinning where trees have become overly dense and formative pruning of planted trees.
- 6.8 **Q4b - What is the Council's approach to trees where these come into conflict with people?**
- 6.9 The Council seeks to deal with trees where they have potential to cause damage to property or injury to persons. In such cases, branches may be removed or the tree felled to prevent or reduce the likelihood of damage.
- 6.10 There is not sufficient budget to commission works to trees to deal with issues such as shading of gardens, branches over-hanging gardens, interference with TV or satellite reception or solar panels, leaf or fruit fall.
- 6.11 The Group considered that case where a third party contacts the Council regarding non-priority works and the Council is unable to undertake the works due to budgetary constraints. The Group suggested that the Council should consider granting permission for such works on a case by case basis where:
- a) There is no arboricultural objection to the works;
 - b) The third party pays for the works; and
 - c) The third party is willing to use a contractor approved by the Council.
- 6.12 There is a common misconception that pruning of trees will alleviate problems such as shading or leaf fall. However, the typical response of a tree to pruning is to produce additional vegetative growth (branches and leaves), which actually makes the problem worse.
- 6.13 The Council does not commission works where they are not considered good arboricultural practice or necessary for risk management purposes. Undertaking any works increases the risk of infection by pathogens, which in turn have the potential to jeopardise the future survival of the tree and its safety.

- 6.14 The particular practice of pollarding was discussed. The Group was advised that it is Council practice only to pollard trees where this is an ongoing management regime for particular trees. Pollarding is common practice for management of urban street trees that dates back to the Victorian era.
- 6.15 However, once the pollarding cycle is broken, the trees will 'grow through the pollards' to form secondary crowns. It is then considered inappropriate to re-introduce pollarding, as the additional stress is likely to kill the tree.
- 6.16 The Group was also advised that pollarding is an expensive management practice, necessitating significant ongoing commitment of resources. It is thus inappropriate to consider re-introducing a pollarding regime during a period of restricted resources.
- 6.17 **Q4d – How should the Council communicate with residents regarding the management of its trees?**
- 6.18 The Group considered how it would be best to communicate with residents about tree works and suggested that the Tree Survey Officer should provide information to the relevant Ward Councillors and Parish/Town Council clerks.
- 6.19 The Group were advised that when the Treewise software package was purchased it was intended to publish details of Council-owned trees via the internet. This has yet to be achieved but would be technically feasible but would require resources to be allocated for setting it up.
- 6.20 The Group were advised that it would not be feasible or appropriate to publish all the information held on Treewise. However, it was agreed that the details of location and condition of Council-owned trees could be published.
- 6.21 **Q4f - Should the Council target resources into specific areas/wards in order to proactively manage the potential conflict between residents and trees?**
- 6.22 Trees planted on housing developments are often planted at densities which assume that there will be losses due to disease or that the plantings will be thinned at a later date. However, in many instances such thinning has not taken place and the trees have become overly dense, which may cause problems for residents.
- 6.23 The Group suggested that it should be a priority for Planning to clarify the long term responsibilities for trees on new developments beyond the 5 year establishment period contained in conditions.

- 6.24 The Group suggested that a dedicated budget of £5,000 per year should be allocated specifically for proactive tree management such as thinning overly dense plantings.
- 6.25 **Q4g - Are resources allocated for management of Council-owned trees sufficient to discharge the Council's responsibilities?**
- 6.26 The combined budgets for tree maintenance and the Tree Survey Programme currently allow the Council to commission priority works to its trees to deal with the most significant risks.
- 6.27 With the reductions in budgets over the last three years, it is likely that the current budgets are inadequate to undertake all the works necessary in any one year. Current estimates from Treewise suggest that there is some £70,000 of works outstanding.
- 6.28 It has been necessary to utilise a proportion of the Tree Survey Programme budget for the employment of a temporary Tree Survey Officer in order to deliver the programme (see Section 3.39).

Recommendations from Section 6 – Q4:

- 6.29 **Recommendation: That the Tree Officers assess applications from third parties for permission to undertake works to Council-owned trees on a case by case and grant consent where:**
a) There is no arboricultural objection to the works;
b) The third party pays for the entirety of the works; and
c) The third party uses a contractor approved by the Council.
- 6.30 **Recommendation: That the Tree Survey Officer provides advance notification about Council tree works to the relevant Ward Councillors and Parish/Town Council clerks.**
- 6.31 **Recommendation: That options to provide an additional dedicated budget of £5,000 per year are investigated either through commissioning or increased fee income from planning consultations..**
- 6.32 **Recommendation: That the Council provides information via its web-site about the trees and woodlands within its ownership.**
- 6.33 **Recommendation: That the Council provides information to the community to explain its approach to the management of trees.**
- 7 Q5 - How does the Council work with other public bodies involved in the management of trees (e.g. HCC Highways)?**

Tree Management at Hampshire County Highways, presented by Mark Weal (MW)

- 7.1 HCC did not yet know how many trees it was responsible for, although they had recorded 60,000 on 16% of the highways network, since starting their tree survey in 2007.
- 7.2 HCC Highways had a budget for £533,000 for re-active tree inspections and £217,000 for proactive inspections.
- 7.3 This budget restricted HCC to only commission safety works to trees (including sight-lines) and they were unable to act on requests to remove overhanging branches or thin trees to increase light.
- 7.4 The Group discussed the problem of overgrown trees obstructing public footpaths. MW explained that the County was able to serve Section 154 Notices on the owners of trees that obstruct the highway to undertake remedial works. The terms of the Notice allowed the County to undertake these works themselves and recharge the costs to the resident, often through placing a charge on the land which would be paid when the property changed ownership.
- 7.5 MW highlighted the issue regarding the overall loss of large trees as not enough replacements were being planted. This re-planting was limited not only by financial resources, but also by the increasing lack of space for significant trees due to new developments and increased services under pathways etc. HCC had planted 525 large species trees in the previous year.

Recommendations from Section 7 – Q5:

- 7.6 **Recommendation: That the Council provides information to the public to show which trees are owned and managed by the Council (via web-site).**
- 7.7 **Recommendation: That Council Tree Officers maintain a positive working relationship with HCC Highways.**

8 Q6 - What policies provide the framework for the Council's approach to working with trees?

- 8.1 The Council Tree Officer had prepared a draft tree strategy in 2005, which had sought to unify all Council policies relating to trees (including the Local Plan). However, this strategy remains in draft form and has not been formally adopted by Council.
- 8.2 The Council's draft tree strategy was based on a model of good practice from Newcastle City Council.

- 8.3 The Group considered tree policies from other Hampshire councils including Eastleigh BC, Test Valley BC and Basingstoke and Deane BC. The Group considered that the Basingstoke and Dean BC policy offered a good model for development of a policy for the City Council.

Recommendations from Section 8 – Q6:

- 8.4 **Recommendation: That a revised Tree Policy be prepared for consideration by Cabinet before the end of 2011.**

9 Q7 - In what ways does the Council promote the additional benefits to the community arising from the presence of trees within and around our urban areas and countryside?

- 9.1 The Group was provided with information about the benefits that trees offer to the community including:

- Shade
- Reduction of urban heat islands?
- Landscape and Cityscape character
- Support for biodiversity
- Opportunities for contact with nature
- Climate change mitigation – carbon uptake
- Improved air quality through filtration of particles

- 9.2 The Group considered whether the benefits of trees for the community could be more widely promoted. It was suggested that they could be promoted through the Council's web-site and an adopted Tree Policy (see Section 8.4).

10 Q8 - Climate changes will affect everyone in the future. Are we doing enough in terms of tree planting to reduce our carbon use within the district?

- 10.1 The council does not have a proactive tree planting programme and does not routinely plant replacements for trees that are removed.
- 10.2 Conditions are imposed on any permission for removal of a protected tree such that a suitable replacement is planted within two years.
- 10.3 It was noted that tree planting is normally included within the landscaping schemes for proposed developments.

- 10.4 The Group was advised that the Tree Sponsorship Scheme is currently on hold until a proper review can be undertaken of the opportunities for further tree planting on Council land. The scheme had previously operated without a structured framework, with the result that sponsored trees had occasionally been planted in inappropriate locations.
- 10.5 The Group observed that the Council Tree Sponsorship Schemes potentially offered an opportunity to assist with reducing the cost to the Council of planting new trees.

Recommendations from Section 10 – Q8:

- 10.6 **Recommendation: That the Council encourages planting of new trees in part-mitigation of the impacts of climate change.**
- 10.7 **Recommendation: That the Council identifies opportunities for planting trees on its own land.**

11 Q9 - Tree Wardens are a potentially valuable resource. Should we be using them more effectively?

- 11.1 Most Parish Councils in the Winchester District have Tree Wardens. It was suggested that the Tree Officers could work more closely with Tree Wardens in order to ensure more effective coverage across the District.
- 11.2 The Tree Wardens may benefit from training to help them be fully aware of the Council's approach to protected trees and trees and development.
- 11.3 It has been suggested that an annual Tree Wardens conference could be organised to bring all the wardens together for briefing and training. To date limitations on resources have prevented this from being organised.

Recommendations from Section 11 – Q9:

- 11.4 **Recommendation: That the Tree Officers arrange a meeting of all the Tree Wardens in the District to provide an opportunity for training and networking.**

References:

The following references are the hyperlinks, in full, from the text in the above report:

'Tree Preservation Orders: A Guide to the Law and Good Practice'

<http://www.communities.gov.uk/publications/planningandbuilding/tposguide>

Council fined over falling tree deaths

<http://news.bbc.co.uk/1/hi/england/2129673.stm>

Winchester City Council, Statement of Community Involvement

<http://www.winchester.gov.uk/CouncilAndDemocracy/Consultations/StatementofCommunityInvolvement/>

Appendices:

Appendix 1 - Results from TVB Benchmarking Exercise

	land area hectares	borough population	Tree Protection														Tree Management								Whole Tree Service			TVBC Comparisons					
			Officers - full time equivalent	technician	admin	nos of TPOs	nos of CAs	nos of tpos made annually	average nos of tree appeals each year			yearly nos TPO applies	yearly nos CA notices	yearly nos DC consults	does tree team register tree apps?	% preapp visits made with respect to TPO & CA	Nos of formal High Hedge complaints per year	Officers	admin/ technicians	tree maint budget	nos of trees surveyed	area of woodland ha	estimation of trees actively managed within woodland hectares X100	borough population density head/ ha	cost tree budget - £ per managed tree budget divided by surveyed trees + woodland at 100 trees per hectare	cost tree budget -£ per head pop budget divided by population	staffing cost (salary only) for tree service	total cost of tree service per head of pop (budget + staff costs divided by population)	nos FTE full time equivalent staff	TVBC mean staff cost (salary divided by FTE)	total cost of tree service per head of pop based on TVBC staffing rates	annual staff costs as multiple of TVBC rate	
									Diss	Withd	Allowed																						
Basingstoke	63,380	165,000	2.5	1		474	47	12				80	229	360	no			2	0	£ 333,000.00	60000		0	2.6	£5.55	£2.02		£2.02	5.5		£2.91	£147,059.52	
East Hants	51,444	113,000	2	0	3							200	200	450	no						4000		0	2.2	£0.00	£0.00		£0.00	5		£1.18	£133,690.48	
Eastleigh	7,977	118,500	1.2	0	0.25	728	9	27	2.5	1	2.5	323	37	200	no	68%	0	1	0.25	£ 24,000.00	1		0	14.9		£0.20		£0.20	2.7		£0.81	£72,192.86	
Fareham	7,424	111,000	1	0	0.25	540	13	10				150	50	200	no			1	0.25	£ 113,000.00	11500	185	18500	15.0	£3.77	£1.02	£96,000.00	£1.88	2.5		£1.62	£66,845.24	
Gosport	2,528	80,000																			1		0	31.6	£0.00	£0.00		£0.00	0		£0.00	£0.00	
Hart	21,526	88,000	1.25	0	1	950	32	24	6		6	354	262	252	no	0%	3	1.25	1		1		0	4.1	£0.00	£0.00	£60,000.00	£0.68	4.5		£1.37	£120,321.43	
Havant	5,533	116,000																			1		0	21.0	£0.00	£0.00		£0.00	0		£0.00	£0.00	
Isle of Wight	38,000	140,000	1	1	1	1300	32	30	3		3	296	154	510	yes	10%	4	1	2	£ 10,000.00	2000		0	3.7	£5.00	£0.07	£55,000.00	£0.46	6		£1.22	£160,428.57	
New Forest Dist	18,342	141,000																			1			7.7	£0.00	£0.00		£0.00	0		£0.00	£0.00	
NFNP	75,000 56,658	176,000 35,000	2	0	0	760	20	18	1	0	1	100	300	285	no		na	0	0		1		0	0.6	£0.00	£0.00		£0.00	2		£1.53	£53,476.19	
Portsmouth	4,028	198,000	0	0	1	230	25	3				100	70	150	no			2	0	£ 217,000.00	25000	50	5000	49.2	£7.23	£1.10		£1.10	3		£1.50	£80,214.29	
Rushmoor	3,904	91,000	0.7	0	0	456	8	6				64	37	75	no	90%		0.2	0.2	£ 60,000.00	11000	50.424	5042.4	23.3	£3.74	£0.66	£35,000.00	£1.04	1.1		£0.98	£29,411.90	
Southampton	4,984	229,000	2	0	0.5	520	20	11	6		1	260	50	280	yes	<5%	6	2	1	£ 200,000.00	54118	286	28600	45.9	£2.42	£0.87	£170,600.00	£1.62	5.5		£1.52	£147,059.52	
Test Valley	62,758	113,000	2	0.8	0.4	900	37	10	1	0	1	200	230	365	yes	5%	3	1	0	£ 60,000.00	9000	250	25000	1.8	£1.76	£0.53	£112,300.00	£1.52	4.2	£26,738.10	£1.52	£112,300.00	
Winchester	66,097	116,000	2	0	1	2025	37	50	3		4	266	250	388	yes	5%	4	1	0	£ 26,500.00	10124	60	6000	1.8	£1.64	£0.23	£130,195.00	£1.35	4		£1.15	£106,952.38	
11																									8						£17.31		
County totals	489,583	2,030,500	17.65	2.8	8.4	8883	280	201	22.5	1	18.5	2393	1869	3515			20	12.45	4.7	£ 1,043,500.00	186748				39.12			11.9	46.0			£1,229,952.38	
County average	44,508	184,591	1.60	0.25	0.76	807.55	25.45	18.27	2.05		1.68	217.55	169.91	319.55			1.82	1.13	0.43	£ 94,863.64	16977.09			4.15	4.89			1.08	4.18			£1.57	

Numbers given below are percentage difference from the county average

Basingstoke			156%	393%	0%	59%	185%	66%	0%		0%	37%	135%	113%			0%		177%	0%	351%	353%			63%	114%				187%	132%		185%	
East Hants			125%	0%	393%	0%	0%	0%	0%		0%	92%	118%	141%			0%		0%	0%	0%	24%			53%	0%				0%	120%		75%	
Eastleigh			75%	0%	33%	90%	35%	148%	122%		149%	148%	22%	63%			0%		88%	59%	25%	0%			358%	0%				19%	65%		52%	
Fareham			62%	0%	33%	67%	51%	55%	0%		0%	69%	29%	63%			0%		88%	59%	119%	68%			361%	77%				174%	60%		103%	
Gosport			0%																							0%								
Hart			78%	0%	131%	118%	126%	131%	293%		357%	163%	154%	79%			165%		110%	234%	0%	0%			99%	0%				63%	108%		87%	
Havant			0%	0%	0%	0%	0%	0%	0%		0%	0%	0%	0%			0%		0%	0%	0%	0%			505%	0%				0%	0%		0%	
Isle of Wight			62%	393%	131%	161%	126%	164%	147%		178%	136%	91%	160%			220%		88%	468%	11%	12%			89%	102%				43%	143%		77%	
New Forest Dist			0%	0%	0%	0%	0%	0%	0%		0%	0%	0%	0%			0%		0%	0%	0%	0%			185%	0%				0%	0%		0%	
NFNP			125%	0%	0%	94%	79%	99%	49%		59%	46%	177%	89%			na		0%	0%	0%	0%			15%	0%				0%	48%		97%	
Portsmouth			0%	0%	131%	28%	98%	16%	0%		0%	46%	41%	47%			0%		177%	0%	229%	147%			1185%	148%				101%	72%		95%	
Rushmoor			44%	0%	0%	56%	31%	33%	0%		0%	29%	22%	23%			0%		18%	47%	63%	65%			562%	76%				97%	26%		62%	
Southampton			125%	0%	65%	64%	79%	60%	293%		59%	120%	29%	88%			330%		177%	234%	211%	319%			1108%	49%				150%	132%		96%	
TVBC comparison %			125%	314%	52%	111%	145%	55%	49%		59%	92%	135%	114%			165%		88%	0%	63%	53%			43%	36%				141%	100%		97%	
Winchester			125%	0%	131%	251%	145%	274%	147%		238%	122%	147%	121%			220%		88%	0%	28%	60%			42%	34%				125%	96%		73%	