

Meeting:	Overview and Scrutiny Committee	Date:	3rd March 2014
	Cabinet		5th March 2014
Subject:	Changes to the Council's Tree Management Guidelines.		
Report Of:	Cabinet Member for Environment		
Wards Affected:	All		
Key Decision:	Yes/No	Budget/Policy Framework:	No
Contact Officer:	Justin Hobbs, Tree Officer		
	Email: justin.hobbs@gloucester.gov.uk	Tel:	396897
Appendices:	1 - Tree management guidelines		

1.0 Purpose of Report

- 1.1 To consider changes to the Council's current tree management guidelines and to formally adopt these guidelines as for City Council owned trees. The current tree management guidelines are in need of updating due to increased concern with regard to trees and their potential impact upon third party property interests.

2.0 Recommendations

- 2.1 **Overview and Scrutiny Committee** is asked to examine the information contained in the report and make any recommendations it considers appropriate to the Cabinet.
- 2.2 **Cabinet** is asked to **RESOLVE** that the tree management guidelines at Appendix 1 be approved as the tree management guidelines for City Council owned trees.

3.0 Background and Key Issues

- 3.1 The City Council owns, and is ultimately responsible for, thousands of trees located in open spaces, parks, nature reserves, Country Parks, playing fields and grass verges, across the City.
- 3.2 All tree owners, whether they are a local authority or a private householder, have a duty of care to ensure as far as is reasonably foreseeable that their actions (or inactions) do not result in trees causing damage to property and/or harm to persons. To fulfil this duty of care on behalf of the Council, Amey are contracted to survey City Council trees, and where required, undertake tree works, for example, removal of dead or dangerous trees and branches. This includes situations where City Council trees are located close to private property.

- 3.3 Where City Council trees are in close proximity to housing, businesses, etc the Council has established tree management guidelines. The guidelines were established over 5 years ago primarily to provide members of the public with clear and consistent guidelines with regard to what the Council will and will not do in regard to:
- Council trees overhanging property
 - Council trees restricting light or view
 - Council trees which are dead, dying, dangerous or contain any significant dead or broken limbs.
- 3.4 The guidelines also confirm what works members of the public can carry out on City Council owned trees, and the procedure for requesting permission to carry out works to City Council owned trees.
- 3.5 The guidelines are available to the public as a leaflet and are on the City Council's website.
- 3.6 Under the current guidelines the Council will "Prune branches where an actionable legal nuisance is being caused, e.g. damage to structure".
- 3.7 Furthermore the guidelines state that the Council has no obligation to "prune back or remove overhanging branches other than to abate an actionable legal nuisance".
- 3.8 The City Council receives a significant number of requests to prune and remove trees due to alleged tree root related subsidence to buildings. Damage from tree root related subsidence is a complex issue and dependent upon a significant number of variables. There are no proven "hard and fast" rules that enable a land owner to categorically state that X species of tree in Y location, will cause damage and that the tree should therefore be removed. Before removal can be entertained a number of tests, monitoring and analysis must be undertaken.
- 3.9 As of February 2014, according to the City Council's insurance database there have been 12 tree root related claims in the past two years. Payments have been made relating to 4 of these claims. The total paid out relating to tree root claims over the past 2 years is £5209.68
- 3.10 However, the Council position of undertaking works once damage has occurred, can be seen as a reactionary stance. A more proactive approach is therefore proposed which, while being more positive, should not lead to an excessive increase in unsubstantiated demands for tree removal. The following change is therefore put forward:
- "Where there is sufficient evidence, the Council will prune and/or remove trees to prevent damage to property".*
- 3.11 This will allow a tree to be removed where it is very likely (and backed up by evidence) that damage will occur without the damage actually having to occur first.

4.0 Alternative Options Considered

- 4.1 A continuation of the status quo is an option. This has proven to be onerous to operate and can lead to unnecessary distress for owners of property where damage is very likely but has not actually occurred.
- 4.2 The Council could opt for a more pro-active approach where trees were removed 'just in case' they caused damage. This would undoubtedly result in many trees being removed unnecessarily and result in significant additional costs to the City Council.

5.0 Reasons for Recommendations

- 5.1 Due to a number of reasons, but primarily because of landscape schemes implemented on the back of development in the 1970s and 1980s, the number of complaints around Council trees and third party damage has been on the increase. Unusual weather patterns have also exacerbated the issue as most of the damage is caused by hydration and re-hydration of clay soils causing buildings above them to move. A re-active approach, where the damage has to occur before it is referred to insurers, while simple to implement, can cause distress to third parties. The proposal should allow a more practical approach where it is clear that damage will occur from inappropriately sited trees, while still ensuring that trees are not unnecessarily felled.

6.0 Future Work and Conclusions

- 6.1 If adopted, the guidelines will be incorporated into a new leaflet and website page. Monitoring will need to be put in place to ensure that trees are not unnecessarily felled and that costs to the authority are manageable.

7.0 Financial Implications

- 7.1 This is difficult to predict and will be monitored. However, if adopted, the guidelines could lead to further requests for works to City Council owned trees, leading in turn to increased officer time spent dealing with requests as well as costs of undertaking tree works.

(Financial Services have been consulted in the preparation this report.)

8.0 Legal Implications

- 8.1 Adoption of the guidelines does not alter the City Councils requirements in fulfilling legislation in relation to trees.
- 8.2 Under the Occupiers Liability Acts 1957 and 1984, the Council has a duty of care as landowner to ensure that the trees on its land are not a danger to others. The Council is also subject to the tort of nuisance and can be liable for damage caused by trees on its land where the damage caused is reasonably foreseeable.

- 8.3 Adopting guidelines of removing trees where evidence exists that damage is more likely than not to occur could help to reduce the volume and value of insurance claims against the Council for subsidence and other types of property damage.
- 8.4 Adoption of the guidelines does not alter the City Council's requirements in fulfilling its other legislative obligations in relation to trees (e.g. Tree Preservation Orders; High Hedges).

(Legal Services have been consulted in the preparation this report.)

9.0 Risk & Opportunity Management Implications

- 9.1 The risk posed by dead, dangerous and decaying trees has been acknowledged in the Appendix attached to this report.

10.0 People Impact Assessment (PIA):

- 10.1 The PIA Screening Stage was completed and did not identify any potential or actual negative impact, therefore a full PIA was not required.

11.0 Other Corporate Implications

Community Safety

- 11.1 No implications.

Sustainability

- 11.2 No implications.

Staffing & Trade Union

- 11.3 None.

Background Documents: None

APPENDIX 1 – GLOUCESTER CITY COUNCIL TREE MANAGEMENT GUIDELINES

The trees in Gloucester make a major contribution to its amenity. Amongst other things, they screen eyesores, frame views and form landmarks. Trees have significant environmental value, provide a habitat for many creatures and help to give us cleaner, filtered air, shade in the summer and warmth in the winter.

The Council is proud of its trees and favours the retention of trees where possible. The purpose of this guide is to provide the property owner/tenant with clear and concise information with regard to what they can reasonably expect from the Council in terms of:

- Council trees overhanging your property.
- Council trees restricting light or view.
- Council trees which are dead, dying, dangerous or contain any significant dead or broken limbs.
- Acknowledging requests and service delivery.

Work the Council WILL do

The Council will maintain their trees in a safe condition and will:

- Remove dead, dying and dangerous trees.
- Remove major dead wood (over 75mm diameter) which overhangs private/Council property.
- Remove dangerous or damaged limbs.
- Where there is sufficient evidence, the Council will prune and/or remove trees to prevent damage to property.

What should I do now?

If you would like the Council to carry out any of the work listed above, fill in the prepaid Tree Work Request Form providing as much accurate information as possible and return to Gloucester City Council.

What happens next?

You will receive a letter confirming that your request has been registered and is being assessed. We aim to assess the work and instruct a contractor, where appropriate, within a period of 8 weeks from the registration of your request. Occasionally, high volumes of applications will extend this period.

If we **agree to carry** out tree work, a contractor will be instructed to complete the work within 8 weeks of the date of the instruction.

If, after assessment, we decide that the work is not appropriate, you will be notified in writing before the 8 week period expires.

Work the Council will NOT do

The Council has NO obligation to:

- Prune or fell trees to improve light to a property.
- Prune or fell trees to improve the view from a property.
- Systematically crown reduce or 'top' trees.

Do not return the request form for this type of work.

If the Council will not do the work, can I get it done myself?

In common law, a property owner can cut back overhanging branches to the boundary of his property. The Council will usually have no objection to property owners carrying out tree work or engaging a contractor at their own expense, providing that:

- access is not gained onto the neighbouring land or into a tree within that land. If access to our land or into a tree on that land is required, our permission must be sought
- the tree is not situated in a Conservation Area or protected by a Tree Preservation Order for which separate consent is required from Planning Services
- any work that is done to a tree is not detrimental to its health or stability
- any tree work undertaken is carried out in accordance with current best practice (as defined in British Standard Recommendations for Tree Work 3998)
- we are notified of the proposed work and commencement date

Tree contractors

Most reputable contractors will give advice and provide a free quotation. Tree work is covered by British Standard Recommendations for Tree Work (BS3998) and the Council advises applicants to specify this standard for the proposed work.

The Council cannot recommend individual tree surgeons, but would strongly advise you to check the contractor's qualifications and public liability insurance before agreeing to any work.

The council has produced an information leaflet about selecting tree surgeons and arboricultural consultants. Please contact us if you would like a copy.

Council contacts

The City Council is responsible for trees in parks and open spaces.

Trees bordering the highway are the responsibility of Gloucestershire County Council.

All City Council Tree enquiries: (01452) 396396

Email: enviro@gloucester.gov.uk

Tree Preservation Orders only: (01452) 396897

All County Council Trees: 08000 514514

Other useful contacts

Gloucester City Council:

www.gloucester.gov.uk

The Arboricultural Association:

www.trees.org.uk

Arboricultural Information Exchange:

www.aie.org.uk

Help with accessing this information:

www.gloucester.gov.uk

City Council Translation Unit: 01452 396909

For large print versions or help with other accessibility issues that you may have with this document:

01452 396396