

TONBRIDGE & MALLING BOROUGH COUNCIL

LEISURE and ARTS ADVISORY BOARD

22 September 2010

Report of the Chief Leisure Officer and the Cabinet Member for Leisure, Youth & Arts

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 TREE SAFETY STRATEGY

Summary

This report advises Members on comments received following the recent external consultation in regard to the proposed Tree Safety Strategy, and seeks Member approval for its adoption.

1.1 Background

- 1.1.1 Due consideration has always been given to the management of the Council's tree stock in regard to health and safety. External safety inspections are undertaken, as part of the Grounds Maintenance Contract, within public open spaces and woodlands in the Council's ownership, with these being reported to Members of this Board. In addition, inspections are undertaken separately at other leisure sites, including Poult Wood Golf Centre and the Council's Country Parks. Whilst safety inspections are currently undertaken the Council has not previously developed a written policy/strategy.
- 1.1.2 Members will recall that a draft strategy was developed and considered at the 15 March 2010 meeting of this Board. It was subsequently agreed by Cabinet that the Draft Tree Safety Strategy be approved for external consultation (Decision Notice D100036MEM).

1.2 Tree Safety Strategy

- 1.2.1 The scope of the Strategy covers trees on all Borough Council owned sites; predominantly trees are located on public open spaces or within woodlands. The Council is responsible for an estimated 2,500 non-woodland trees and 26 woodlands which are estimated to contain between 2,000-10,000 trees per woodland. The public open spaces include Country Parks, Tonbridge Castle grounds, leisure centres, Tonbridge Cemetery, sportsgrounds, woodlands and Poult Wood Golf Centre.

- 1.2.2 The Strategy has been developed to provide formal policies that enable the Borough Council to conform to best practice in the management of its trees, particularly in relation to health and safety. Guidance from the Health & Safety Executive has, in particular, been carefully considered, and used to develop the Council's approach to this issue. The Strategy identifies the need and extent of health and safety inspections required to maintain the Council's tree stock in the interest of public safety.
- 1.2.3 The Strategy provides background data regarding the potential risks from falling trees, which when combined with the Council's history regarding claims, does suggest that this risk is relatively low. Whilst the risk may be low, this does not suggest that pro-active action should not be taken, and it is felt that the approach outlined in the Strategy is both reasonable and proportionate.
- 1.2.4 In summary, the Strategy identifies the need for all trees within the Council's ownership to be inspected every three years by an external expert (Expert Inspections). In addition to Expert Inspections, Basic Inspections will be undertaken on an annual basis at key Council sites that demonstrate a relative high public use. It is proposed that Basic Inspections are undertaken in-house by appropriately qualified Officers and Park Rangers.
- 1.2.5 For reference, Members are requested to bring their copy of the Draft Strategy contained within the 15 March Advisory Board report.

1.3 Consultation

- 1.3.1 The Draft Strategy has already been subject to internal consultation including the Council's Health and Safety Officer, Insurance Officer, Landscape Officer, Chief Engineer and Legal Services Partnership Manager.
- 1.3.2 The Draft Strategy was circulated to relevant key organisations including:
- Health & Safety Executive
 - Forestry Commission
 - Zurich
 - Kent County Council
 - Kent County Council Landscape Services
 - The Woodland Trust
 - Arboricultural Association
 - Local Authorities bordering Tonbridge and Malling
 - Institute of Chartered Foresters

- 1.3.3 In general the comments received were positive and a summary can be found at **[Annex 1]** alongside any recommendations for amendments to the Draft Strategy.
- 1.3.4 In addition, and following completion of a Basic Tree Inspection course, minor alterations are proposed to Policy 8 in regard to specific “obvious hazards” and it is proposed that this now reads as follows: **Policy 8 - Basic Inspections will consist of a ground based visual assessment to observe obvious potential hazards including altered exposure, hanging dead-wood, broken branches, injury, wilting, crown decline, severed roots, cracks in the soil around the tree, evidence of fungus and splits.**
- 1.3.5 Further to the above it is also proposed that an example Basic Inspection Form be developed based on Policy 8 and incorporated as an annex to the Strategy.

1.4 Legal Implications

- 1.4.1 Landowners have a legal duty of care to any visitors to their land under the Occupiers Liability Act 1957. This encompasses a duty to take such care as in all the circumstances of the case is reasonable, to see that the visitor will be reasonably safe in using the land for the purposes for which he is invited or permitted by the occupier to be there. This duty will clearly apply to Council owned land and open spaces.
- 1.4.2 In addition, the Health & Safety Executive SIM 01/2007.5 *Management of the risk from falling trees* is aimed specifically at duties under Section 3 of The Health and Safety at Work Act 1974. Employers, persons carrying out undertakings or in control of premises all have duties under the Health & Safety at Work Act. In particular, there is the duty to do all that is reasonably practicable to ensure that people are not exposed to risk to their health and safety.

1.5 Financial and Value for Money Considerations

- 1.5.1 It is anticipated that the financial implications arising from the proposed policies within the Draft Strategy can be met from existing revenue budgets.

1.6 Risk Assessment

- 1.6.1 The development of this Draft Strategy has been undertaken following previous liaison with the Council Insurers, Zurich and in liaison with both the Council’s Health and Safety Officer and Insurance Officer. As highlighted above the Strategy has also been subject to further external consultation with relevant external organisations.

1.7 Policy Considerations

- 1.7.1 Asset Management, Biodiversity & Sustainability and Health and Safety.

1.8 Recommendations

- 1.8.1 It is **RECOMMENDED TO CABINET** that, subject to Member comment at the meeting, amendments be made to the draft Tree Safety Strategy, as highlighted at **[Annex 1]** and at 1.3 above, and the Strategy be approved for adoption by the Council.

The Chief Leisure Officer confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

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Nil

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