

TONBRIDGE & MALLING BOROUGH COUNCIL

STREET SCENE and ENVIRONMENT SERVICES ADVISORY BOARD

05 November 2018

Report of the Director of Street Scene, Leisure & Technical Services

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision

1 CHERRY ORCHARD/BRAMPTON FIELD, DITTON

Summary

This report recommends the removal of a row of conifer trees on Council owned land between Cherry Orchard and the houses in Brampton Field, Ditton.

1.1 Introduction

1.1.1 The Council has recently received a letter from a resident of Brampton Field raising concerns over the row of conifers located to the rear of their property. The resident highlights a number of issues including branches hitting their property, concern the trees may fail and fall, falling debris blocking gutters, falling dead branches, pollen from the trees and lack of light due to their excess height. The resident requested that the trees be trimmed and topped. The resident has also sought guidance from the Government website in relation to the High Hedges legislation highlighting that the trees conform to all the requirements for action as shown below:

- Two or more mostly trees or shrubs.
- Over two meters tall
- Affecting your enjoyment of your home or garden because it's too tall

1.1.2 It has been confirmed that the trees are located on a public open space between Cherry Orchard Road and Brampton Field, Ditton in the Council's ownership and responsibility for the trees is therefore this Council's. A location map is attached at **Annex 1**.

1.2 Outcome of Investigations

1.2.1 The trees have been viewed by Council Officers and photographs of the trees are attached at **Annex 2**. The trees exceed the height of the adjacent houses and run along the boundaries of 10 properties in Brampton Fields. On average the trunks of the trees are located 6/7 metres away from the houses, and one resident's

property is within 3/4 metres of the trunk of the trees. The trees are immediately adjacent to all property boundaries.

- 1.2.2 The Council has sought the views of an external specialist tree contractor on both the current condition and future management options for the trees. The contractor has advised that the maximum growth that could be cut from the top of the trees is 3 metres, due to the species and current condition. An estimated cost of £5,600 has been given for this work. The contractor has, however, advised that a reduction of this height is highly unlikely to solve the complaints issue from the houses to the rear of the trees, neither will it address the dead and dying material within the hedge or the potential for failure. The trees are still growing fast, are beginning to fall apart and have dieback (*Serotinia* fungus). Dieback will result in the continual decline of the line of trees, leading to dead branches and branch/stem failure. Severe weather (heavy snow or rain and winds) will increasingly bring the potential for failure as the tree height continues to increase. The option to fell and stump grind the trees is estimated at around £17,000.
- 1.2.3 In assessing the best way forward consideration also needs to be given to the High Hedges legislation. The Head of Planning has assessed the trees against this legislation and offered the following comments.... *“Having reviewed this matter it seems likely that in the event of a High Hedges application the Council would be serving a notice to require the hedge to be reduced to a height of around 3m. In that case, what you would really be left with given the condition of the hedge are the stumps meaning that from a visual amenity perspective the removal would be the preferred option (although such a notice wouldn’t require wholesale removal as it wouldn’t take appearance into account).”*

1.3 Proposed Way Forward

- 1.3.1 Taking all factors into consideration, it is proposed that the trees be felled and stumps ground out. Whilst the estimated cost of the works is £17,000, it is also suggested that some replacement trees are planted on the public open space. These replacement trees will be of a more suitable species, be fewer in number and be located further from the boundary of the fence. The replacement trees would be of a more mature nature (standards or heavy standards) with an estimated cost for purchase and planting of £3,000. An overall budget of £20,000 is therefore required for all the works to be completed.

1.4 Local Views

- 1.4.1 It is worthy of note that this issue has been raised with the Council previously and at that time generated significant local interest. In particular, residents of Cherry Orchard were against any potential removal of the trees as these currently provide a visual screen between Cherry Orchard and the houses in Brampton Field.
- 1.4.2 The local Members have been consulted and a response has been received from Councillor Cannon. A summary of the response is as follows:-

"I am very glad to hear that these trees are being removed and are to be replaced with more suitable trees that are more sensibly spaced. I am aware that there has been differing views with some residents wanting them to remain and others removed, but these trees are seriously impacting the quality of life of residents in Brampton and also present a danger if not dealt with. I support this recommendation and I feel it will greatly enhance the area and the quality of life of local residents, improving access to light and discouraging fly tipping".

- 1.4.3 Councillor Cannon also suggested that semi-mature trees be used as replacements so local residents do not have to wait too long for them to be established. This is accepted as a sensible approach and it is proposed that local Members be involved in the selection and positioning of the replacement trees.

1.5 Legal Implications

- 1.5.1 The row of conifers are on Council owned land and are therefore the responsibility of this authority. High Hedges legislation has been considered in identifying the most appropriate way forward.

1.6 Financial and Value for Money Considerations

- 1.6.1 The estimated cost of the proposed works is £20,000 and at present there is no identified budget to meet this expenditure. It is apparent from the views of the specialist tree contractor that the works need to be progressed in advance of the winter season and if Members are in agreement to the proposed way forward an order for the removal needs to be placed immediately after this meeting. Following liaison with the Director of Finance & Transformation, in order to secure the required budget it is necessary to invoke urgency proceedings in accordance with Financial Rules 15.1 and 15.2. If Members are minded to support this approach approval will be sought by the Chief Executive from the Leader and Chairman of Overview & Scrutiny Committee in liaison with the Director of Finance & Transformation. The Chief Executive will then report approval and the circumstances that made it necessary to the Executive and the Overview & Scrutiny Committee. The Executive will recommend approval to Full Council of a supplementary estimate.

1.7 Risk Assessment

- 1.7.1 If the works are not progressed as soon as is practicable there is a clear risk that damage could be caused to the houses in Brampton Walk and the quality of life for the residents will worsen. The evidence provided by the specialist tree contractor of dieback identifies the need for immediate action to be taken by this Council.

1.8 Equality Impact Assessment

- 1.8.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.9 Policy Considerations

1.9.1 Asset Management

1.9.2 Community

1.9.3 Customer Contact

1.9.4 Health and Safety

1.10 Recommendations

1.10.1 It is **RECOMMENDED to CABINET** that:-

- i) the existing row of conifers on Council owned land between Cherry Orchard and Brampton Field be removed as soon as is practicable;
- ii) suitable replacement trees be planted on the Council's open space, in liaison with the local Members; and
- iii) urgency proceedings be invoked to secure the required budget to progress the works, in accordance with Financial Rules 15.1 and 15.2, with reports from the Chief Executive submitted to future meetings of the Executive and the Overview & Scrutiny Committee.

Background papers:

contact: Darren Lanes

Nil

Robert Styles

Director of Street Scene, Leisure & Technical Services