

**Agenda Item No. 9**

**BRIERLEY HILL AREA COMMITTEE - 27<sup>TH</sup> OCTOBER 2005**

**REPORT OF THE DIRECTOR OF THE URBAN ENVIRONMENT**

**TREE ISSUES AT LEYS ROAD & LEYS CRESCENT**

**Purpose of Report**

1. The purpose of this report is to inform Members of the Committee of the status of trees in Leys Road and Leys Crescent, Brierley Hill, in consideration of Health & Safety and Tree Nuisance issues.

**Background**

2. The Council considers the condition and future maintenance of trees in the Borough through a series of on-site risk assessments and in consideration of the Borough's Tree Strategy. The risk assessment process includes tree condition assessment, location and species. The basis of the Tree Strategy is to protect and enhance the tree stock of the Borough as it is recognised that trees play an important role aesthetically, environmentally and also contribute to the Borough's health agenda.
3. Following a number of incidents across the country where people have been killed by falling trees, the issue of tree inspection is being closely examined at both national and local level. As a consequence, the Health & Safety Executive are now insisting that local authorities produce a tree inspection policy that covers all of their council owned trees. The policy must demonstrate pro-active monitoring and include condition assessment, reporting of ongoing incidents/work to the tree and prioritisation of inspections. The inspection process must demonstrate a robust system of recording both trees and inspections.
4. The HSE have stated that failure to produce a tree inspection policy will result in individual and corporate prosecution.
5. Further to the reports to Dudley Council's Select Committee on the Environment on the 27<sup>th</sup> July 2004 'Tree Management Policy' and 27<sup>th</sup> January 2005 'Tree Management Policy - Service Update', additional funding was secured for 2005/6 to assist in the introduction of a revised system of inspection for the management of trees in the Borough. As a

consequence, a pro-active inspection and cataloguing system has now been initiated to manage the Borough's tree stock, the Tree Risk Management Strategy, incorporating a 'Tree Inspection Plan' is currently in its final draft stages, and Technical Specification & Tendering Documentation for a new Arboricultural Maintenance Contract, which is due to be let later this year, is being progressed.

6. Although a considerable amount of remedial work has already been identified following pro-active inspections on high risk trees, the section is mostly engaged in undertaking work identified through the reactive inspection process. This is due to the large number of tree enquiries received by the section and the capacity of the resources currently available to undertake this work prior to commencement of the new contract. This has invariably resulted in teams targeting high priority/emergency work to the detriment of work required to improve light, overhang and general neighbourhood nuisance issues.
7. The majority of nuisance work continues to be attributed as low priority. However, there are many cases where residents are particularly sensitive to the consequences of living next door to mature trees but the professional opinion is that neither remedial work nor felling could be justified.
8. In order to promote a fair, open and intelligible process to deal with these cases, a decision sheet may be taken by the Lead Member through the decision sheet process against specific criteria. Nonetheless, it is important to recognise that any decision taken must consider the requirements of the Council's Tree Strategy, the impact on outstanding high priority or dangerous trees and the application of any Tree Preservation Order applied by the Council's Planning section etc.

### **Trees in Leys Road and Leys Crescent**

9. An inspection of the trees in Leys Road and Leys Crescent was undertaken by officers of the Arboricultural Section on the 28<sup>th</sup> September 2005. Appendix 1 shows a plan of Leys Crescent and Leys Road and indicates where the trees are situated, including land ownership responsibility. Of the 11 trees identified in Council ownership, all but one (20 Leys Crescent) are in receipt of TPO's.
10. The trees in private ownership were visually assessed and no safety concerns were noted at the time of inspection. The responsibility for management/maintenance of these trees lies with the land owner.
11. The trees in Council ownership were also visually assessed and catalogued for future reference. Whilst it is recognised that all trees pose a potential risk to people and property, no direct safety concerns were noted at the time of inspection, with no visual evidence of structural damage to properties. In accordance with the inspection process, the trees in Council ownership were assessed as being of low

priority in relation to the Council's other outstanding works/priorities and the Tree Strategy.

### **Finance**

- 12 In order to manage additional works arising from proactive tree inspections, an additional £210,000 per annum was allocated in 2005/6 for a period of 3 years. It will however be necessary to make further detailed analysis of future anticipated costs prior to the end of the funding period. In particular, the extent of remedial work that is identified from the inspections and the introduction of a future cyclical programme of works to maintain the tree stock in good order.

### **Law**

13. The Council carries out its function of providing parks and open spaces under various statutes notably the Open Spaces Act 1906 and Part IV of the Public Health Act 1875. Section III of the Local Government Act 1972 enables the Council to do any thing that is calculated to facilitate or is conducive or incidental to the discharge of its functions, the care and maintenance of the tree stock being such an activity.

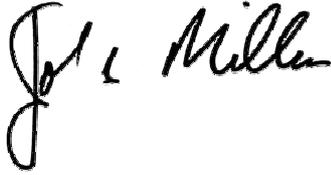
### **Equality Impact**

14. This report takes into account the Councils Policy on Equal Opportunities

### **Recommendation**

15. It is recommended that:-
- The Council take no action with regard to the privately owned trees as the liability and responsibility for tree management lies with the respective land owners.
  - The Council note the concerns of local residents and programme future pruning works in line with current priorities.
  - The Committee request that the Cabinet Member for Transport consider a decision sheet for each of the Council owned trees in Leys Crescent and Leys Road, in accordance with the Council's Tree Strategy, outstanding commitments and restrictions as a result of relevant Tree Preservation Orders.
  - Subject to the above, the Council-owned trees in Leys Road and Leys Crescent be considered for future work through the remit of the new arboricultural contract.

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### **List of Background Papers**

None.