

**DRAFT**

Planning and Environment Commission

## **Scoping Report on the Commission's review of Derby City Council's Tree Management Policy**

### **1. Introduction**

When the Planning and Environment Commission met on 22 July 2004, it agreed on two work plan topic reviews for the coming year. These were:

1. A review of the way in which the dog fouling legislation is enforced in Derby, and
2. A review of the Council's Tree Management Policy.

This report sets out the possible scope of the review to examine the Council's Tree Management Policy and the way that it is being applied in the City.

### **2. Background to the Review**

The City Council owns and is responsible for around 15,000 street trees in the City. The number of trees in parks and residential areas has not been accurately quantified but the total is thought to be around 250,000. There are also numerous other trees in Derby that are the subject of approx 400 Tree Preservation Orders, but these are privately owned.

In July 2001, the City Council published a Tree Management information leaflet for Derby residents. The leaflet (see copy in Appendix A) describes the various methods of tree maintenance used by the Council's arboricultural service. It explains the Council's policies on tree pruning and felling. These apply to all the Council's trees and those for which it is directly responsible.

In summary, the objectives of the Council's tree policy are to:

- Ensure that the trees for which the Council is responsible are managed in the best way and to,
- Make the best use of the City's tree and associated financial resources.

#### **2.1 Public concern about the Tree Management Policy**

From their attendance at Area Panel meetings, Commission members will be aware that there has been significant public concern about the way in which the Council's tree policy has been interpreted. This concern is summarised in Mr Mark Tittley's following question to Council at its meeting on 25 November 2003.

*'The residents of Chellaston and the district of Shelton Lock welcome the fact that Derby City Council has had both the vision and the foresight to draft and implement a City-wide Tree Management Policy. However, whilst recognising the significant ecological and aesthetic value to the citizens of Derby, by virtue of possessing a conserved and expanding tree population, nonetheless many residents are greatly disturbed by the current interpretation of this policy. Many residents in Chellaston and Shelton Lock feel that the Tree Management Policy is interpreted with too little reference made to their requirements and concerns. Specifically they feel that a large number of trees are allowed to mature to the extent that they grow so high as to be potentially dangerous in high winds, with root systems that threaten the foundations and integrity of their properties. In addition such trees for many hours of the day totally block out the flow of sunlight, even in high summer into their living rooms.*

*In view of these very real concerns shared by many local residents, I am asking Derby City Council to adopt a more pragmatic interpretation of its Tree Management Policy.*

*Based upon the foregoing I would like to ask the City Council if they believe this proposal to be both reasonable and possible?'*

In response to Mr Tittley's question, Councillor Care said that the Tree Management Policy was considered by Council Cabinet at its meeting on 15 October 2002 when it was decided that the Policy was appropriate and no revision was required.

During 2004 there have been further complaints to the Area Panels about the way in which the Tree Management Policy is being applied.

## **2.2 The wider implications of the Tree Management Policy**

In order to conduct a review of the Council's Tree Management Policy, the Planning and Environment Commission will need to consider the views of residents, as summarised in Mr (now Councillor) Tittley's question to Council. However there are also other aspects of the Tree Management Policy that the Commission will need to consider. These are:

- a) the positive as well as the negative effects of the Tree Policy on Derby residents
- b) the protection and conservation of the City's trees and its wildlife populations
- c) the risks posed by trees to the health and safety of residents and visitors to the City

### **2.1.1 The positive aspects of the Tree Management Policy**

The views expressed by Mr Tittley are in the main representative of those Derby residents who have concerns about particular trees and who are not satisfied with the tree management approach taken by the Council. This group of Derby residents will be important contributors to the review

However, if it is to fully assess the implications of the Tree Management Policy and the way in which it is viewed by the public, the Commission will also need to try and find out the proportion of Derby people who do not see themselves or their property as being adversely affected by trees and to seek their views on the Policy, its interpretation and application.

### **2.1.2 Trees and Wildlife**

The Tree Management Policy recognises the importance of trees in an urban environment and touches on the benefits they bring in terms of reducing air pollution, filtering solar radiation, and in 'bringing a sense of relaxation to our bustling cities.' The Policy also confirms the importance of city trees in providing valuable refuges and habitats for urban wildlife.

It is suggested that the Commission's review of the Tree Management Policy could usefully investigate the Policy's effectiveness in this area and see whether there are any ways in which wildlife conservation might be improved.

### **2.1.3 Health and Safety**

Under UK legislation, where a tree is hazardous because of decay or structural weakness and shows external signs of being in such a condition, the occupier of the land is normally liable for any personal injury or damage it may cause by breaking or falling. The effect of this legislation is to make the Council responsible for any damage or injury caused by one of the trees for which it is responsible. Obviously the greatest risk is posed by the street trees, which are often located in well trafficked areas and in close proximity to buildings.

It is suggested that it could be of considerable benefit for the Commission to examine the methods that are employed to assess the risks posed by the Council's trees and to see whether any additional action is required.

It is of note that in August 2001, Birmingham City Council was prosecuted and served with an Improvement Notice by the Health and Safety Executive. The notice required the Council to review their current system for managing and maintaining the safety of the trees for which they were responsible and to 'make and prepare' an action plan to implement any improvements that were found to be required.

Derby City Council's Arboricultural Manager has informed the Commission's Co-ordination Officer that at present the majority of the work being carried out is reactive and that the Council does not have any procedure for the planned

periodic inspection of its trees. In the event of damage or injury being caused by one of the Council's trees, it is likely that this approach would be found negligent by the Courts.

### **3. Objectives of the Review**

It is suggested that for this review the Commission's objectives should be:

1. To understand the implications of the Council's current Tree Management Policy and the way in which it is being applied. To do this the Council will need to consider:
  - The public's opinion of the Tree Management Policy and the way in which it is being applied
  - The standard of conservation and protection of trees achieved by the Tree Management Policy
  - The impact of the Tree Management Policy on the conservation and protection of urban wildlife
  - The level of any risks associated with the way in which the Council is currently implementing its Tree Management Policy
2. To identify the scale of any problems caused by the way in which the current Tree Policy is being applied
3. To compare the standard of Tree Management in Derby with that of other similar sized local authorities
4. If appropriate, to make recommendations for:
  - a) addressing any problems that have been identified in the course of the review
  - b) improving or amending the current Tree Management Policy
  - c) improving or amending the way in which the Council applies the Tree Management Policy

### **4. Stakeholders in the Review**

The main stakeholder groups in this review appear to be:

- The public, who split into two sub groups which are:
  - Those members of the public who disagree with the way in which the Council manages its trees
  - Those members of the public who are in general agreement with the way in which the Council manages its trees
- Council officers, the Arboricultural Manager, the Director of Commercial Services and possibly the Chief Legal Officer
- The relevant Cabinet member
- Local wildlife groups

## 5. Proposed Methodology

As a first step in this review it will be necessary to establish the public's views on the existing Tree Management Policy. It is proposed to do this by asking the public to inform the Commission about any problems they have experienced with trees. The public will be informed of the review by means of a press release and through a report to the Area Panels. Depending on the public's response to the press release and the report to the Area Panels, it may also be necessary to actively seek response from members of the public who support the approach defined in the Tree Management Policy.

The press release and the report to the Area Panels will ask the public to inform the Commission of any 'tree problems' they have experienced, and it is anticipated that the Commission's request may generate a significant response from the public. If possible it is proposed to visit and photograph all the sites that are identified by the public. The visits should provide useful information about the way in which the Tree Management Policy has been applied and about the way in which it is perceived by the public. This will give an important background to the Commission's review. It is hoped to complete this phase of the review in September whilst there are still leaves on the trees.

Interviews of the witnesses selected by the Commission can be held in September and October. The witnesses will need to include the Arboricultural Manager, the Director of Commercial Services and possibly the Chief Legal Officer. The latter will be required if the Commission wish to consider the Council's legal responsibilities for maintaining its trees and its position in the event of an accident that caused injury or damage to property.

It is presumed that the Commission will wish to interview the relevant Cabinet member in order to ascertain the Cabinet's position on the Tree Management Policy. If it is thought appropriate, the Commission can invite selected members of the public, or their representatives, to give their views on the Tree Management Policy and the way in which it has been applied.

The Commission may also wish to invite a representative of one of the local wild life groups to tell them about the way in which the Tree Management Policy impacts on urban wildlife in Derby.

It is thought that the Commission would find it of benefit to visit some similar local authorities to find out how they manage their trees. In particular it would be helpful to visit Birmingham City Council to find out how they have responded to the Improvement Notice that was served on them by the Health and Safety Executive in August 2001.

Finally The Commission may wish to investigate the financial implications of a more relaxed application of the Tree Management Policy.

## 6. Terms of Reference of the Review

The terms of reference are as shown in Table 1.

Table 1

| Terms of Reference |  |   |
|--------------------|--|---|
|                    | Issue  | Action  |
| 1                  | Appreciation of the public's concerns about the tree policy and the way it is being applied  | Follow up to feed back from publicity about the review. Site visits and, if appropriate, meetings with selected representatives of the public   |
| 2                  | Assessment of the issues faced by Commercial Services Directorate and the Council and of the actions being taken to address those issues | Meetings with Council officers, the relevant Cabinet members and any other witnesses that the Commission considers can contribute to the review |
| 3                  | Assessment of the way that other similar local authorities are managing their trees  | Fact finding visits to representative local authorities   |
| 4                  | Development of appropriate recommendations to address any issues identified by the review  | Commission meetings at which recommendations can be developed   |

## 7. Timetable and Member input into the Review

Table 2 sets out the timetable for the review.

The review will involve the Commission in several additional meetings and some visits. These are:

- Late August/mid September – visits to sites identified by the public
- Week commencing 20 September – interviews with witnesses selected by the Commission (meeting rooms have been booked for the evening of 20/9, afternoon of 21/9, afternoon of 22/9 and evening of 23/9)
- Week commencing 11 October – visits to local authorities selected by the Commission (maximum of three day time visits). If any additional interviews are required they can be arranged for this week
- Late October/early November – one meeting of the Commission to consider the evidence and decide the recommendations

Table 2

| <b>Date</b>                  | <b>Activity</b>   |
|------------------------------|---|
| Mid August                   | Publicise review and issue press release  |
| 2 September                  | Commission to confirm scope of review at scheduled business meeting                               |
| 14 September                 | Outline of review reported to Scrutiny Management Commission                                      |
| September/early October      | Reports to the Area Panels.<br><br>Site visits to locations identified by the public              |
| Week commencing 20 September | Interviews with witnesses   |
| Week commencing 11 October   | Visits to selected local authorities and any additional interviews that are found to be necessary |
| Late October                 | Circulation of the collated evidence  |
| Late October/early November  | Commission meeting to review evidence and agree recommendations                                   |
| Week commencing 8 November   | Draft report circulated for comments and revised accordingly                                      |
| 2 December                   | Deadline for draft reports for Council Cabinet on 21 December                                     |

DRR 11 August 2004.