

Cabinet – 8 February 2017

Urban Forestry Strategy

Portfolio: Councillor Jones, Clean and Green

Related portfolios: None

Service: Clean and Green

Wards: All

Key decision: Yes

Forward plan: Yes

1. Summary

- 1.1 The purpose of this report is to present to Cabinet the revised and updated Urban Forestry Strategy for 2016/2026 for approval.
- 1.2 This Urban Forestry Strategy (UFS) for Walsall sets out the strategic framework for the management of trees in the borough over the next 10 years. It has been prepared with reference to legislative drivers along with local, regional and national policies.
- 1.3 Walsall is geologically and topographically diverse, comprising leafier suburbs across the eastern side of the borough with denser tree canopies and a more rural landscape within a patchwork of farmland, green spaces and parks to the west, defining the industrial heritage of the town.
- 1.4 All local authorities have a duty to protect their natural heritage and value the asset of their trees. Walsall is no exception to this in managing large numbers of trees, both directly and indirectly to ensure their preservation for future generations and contribute to tackling wider implications of climate change and biodiversity loss.
- 1.5 Cabinet Members have already received a copy of the Urban Forestry Strategy for 2016/26. A copy is also available on the Committee information pages of the Council's website, and has been deposited in political group rooms.

2. Recommendations

- 2.1 That Cabinet approve the Urban Forestry Strategy as detailed in this report.
- 2.2 That Cabinet approve minor amendments to the Strategy to be made by the Executive Director, Economy and Environment and the Portfolio Holder for Clean and Green.

3. Report Detail

- 3.1 In May 2007 Cabinet approved Walsall's first Urban Forestry Strategy in order to define what is an 'Urban Forest', the importance of trees, and develop a framework and focus on the management of the borough's tree assets. The report was for five years and expired in 2012. Since that time a new strategy has been developed that focuses on sustainable tree management, conservation and considerations to the urban environment and the affects on climate change.
- 3.2 In delivering this strategy, the Council commits to:
- Ensure that the tree population is protected, developed and expanded for the future.
 - Promote a greater sense of community ownership, awareness and education on the importance and management of our trees and the benefits to people's well being.
 - Ensure the health and safety of both people and property are protected through risk management and pro-active maintenance of our tree stock.
 - Ensure that maintenance of our trees is managed in a professional manner undertaking appropriate works giving due consideration to health and requirements of the trees.
 - Consider the wider impact of trees at a regional and national level and how Walsall's approach has an impact on the wider global climate.
 - Review and update the strategy periodically (at least every five years).
- 3.3 Under this strategy Urban Forestry Team will be responsible for all trees and woodlands and their management in accordance to meeting the Authority's statutory obligations of a responsible tree owner and ensuring proactive and appropriate legislative guidance.

4. Council Priorities

- 4.1 The Urban Forestry Strategy supports the following Council priorities
- 4..2 **Lifelong health wealth and happiness** - *Continuing to promote health and well being and enabling residents to find suitable opportunities to be active through the range of services provided will help people live independent, healthy and active lives. Developing healthy and sustainable places and communities and continuing to tackle all inequalities will help to strengthen and empower our diverse communities.*

- 4.3 **Sustainable change and improvement for all** - *We will work with and empower our local communities to keep the borough clean and tidy and maximise the use of parks and green spaces to support healthy living and protect the environment.*
- 4.4 Trees, woodlands and urban forest are an essential part of the borough's character and identity and define the neighbourhoods and areas of where we live, work and play. They breathe life into communities, and provide a welcoming backdrop to the stresses and demands to everyday life. They provide us with a reminder of the seasons, acting as nature's clock in defining changes through the year.
- 4.5 Walsall is geologically and topographically diverse, comprising leafier suburbs across the eastern side of the borough with denser tree canopies and a more rural landscape within a patchwork of farmland, green spaces and parks to the west, defining the industrial heritage of the town.
- 4.6 Walsall is steeped in heritage with its premier Victorian park (The Arboretum) centrally located within the town providing a rural escape and refuge bringing local communities together as well as attracting regional and national acclaim for its standards, events and attractions.
- 4.7 Tree planting, management and maintenance has a positive impact on creating sustainable and safer communities, attract business to the area and provides a sense of health and wellbeing.

5. Risk Management

- 5.1 Proactive maintenance of the borough's tree stock is likely to significantly reduce the occasions when trees are damaged, particularly in times of severe weather.
- 5.2 The Council has a number of statutory duties to manage risk associated with trees:
- The Council has a statutory duty of care under the Health and Safety at Work Act 1974 and the Occupiers' Liability Act 1957/84 to ensure that members of the public and staff are not to be put at risk because of any failure by the Council to take all reasonable precautions to ensure their safety.
 - A Risk Assessment is required under the Management of Health and Safety Regulations 1999. There is a need to inspect trees in or near public places, or adjacent to buildings or working areas to assess whether they represent a risk to life or property, and to take remedial action as appropriate.
- 5.3 Each year on average five to six people in the UK are killed by falling tree branches. Thus the risk is low; the risk of being struck and killed in a public space is even lower. Up to three people are killed each year by trees in public

spaces. As almost the entire population of the UK is exposed, the risk is about one in 20 million. However the low level of risk may not be perceived in this way by the public and courts, particularly when the cost of maintenance of individual trees is so low.

- 5.4 The Council must be able to demonstrate it has a system in place, from a legal and moral perspective, that shows risk is controlled as far as reasonably practicable.
- 5.5 The Health and Safety Executive (HSE) believes that: "...public safety aspects can be addressed as part of the approach to managing tree health and tree owners should be encouraged to consider public safety as part of their overall approach to tree management."

6. Financial Implications

- 6.1 None directly associated with this report.

7. Legal Implications

- 7.1 Tree management and maintenance activities are not specifically statutory services, but statute does have an influence on the activities carried out.
- 7.2 Below are the identified acts and government guidance relevant to tree management and maintenance:
 - Health and Safety at Work Act 1974 and the Occupiers Liability Act 1957/84 - The Council has a statutory duty of care under these acts to ensure that members of the public and staff are not to be put at risk because of any failure by the Council to take all reasonable precautions to ensure their safety
 - Management of Health and Safety Regulations 1999. A Risk Assessment is required under the above act as there is a need to inspect trees in or near public places, or adjacent to buildings or working areas to assess whether they represent a risk to life or property, and to take remedial action as appropriate. The tree inspection programme has four stages
 - a) Assessment of risk;
 - b) Assessment of hazard;
 - c) Prescription for remedial action.
 - d) A plan for the recording and re-inspection process
- 7.3 The legal framework Under both the civil law and criminal law, an owner of land on which a tree stands has responsibilities for the health and safety of those on or near the land and has potential liabilities arising from the falling of a tree or branch:

- The civil law gives rise to duties and potential liabilities to pay damages in the event of a breach of those duties. The civil law the owner of the land on which a tree stands, together with any party who has control over the tree's management, owes a duty of care at common law to all people who might be injured by the tree. The duty of care is to take reasonable care to avoid acts or omissions that cause a reasonably foreseeable risk of injury to persons or property.
- The criminal law gives rise to the risk of prosecution in the event of an infringement of the criminal law. What the law says if a person is injured by a falling/fallen tree or branch, potential causes of action arise against the tree owner in negligence for a breach of the duty of care, in the tort of nuisance and, where the injured person was on the land of the tree owner at the time of the injury, under the occupiers' Liability acts of 1957 or 1984.
- Some regulations under the Health and safety at Work etc act 1974 may also give rise to liability under the civil law as well as under the criminal law.

7.4 As part of the Council's statutory obligations it is expected in the eyes of the law to have a proactive program of inspection and maintenance. Walsall MBC has put in place a strategy that ensures each individual tree in the Borough is inspected every 5 years.

7.5 Where remediation has been identified works will be prioritised dependant on the level of risk. Associated acts informing the Council of its duty to manage trees in a planned and pro-active way are as detailed:

- Town and Country Planning act 1990 – The Council has a duty to protect and maintain trees that are subject to Tree Preservation Orders or in conservation areas.
- Highways Act 1980 – The Council has a duty to ensure trees on Council and private land are safe and maintained (removal of epicormic growth / low branches etc) to allow the free flow of traffic and pedestrians over the highway.
- Local Government Miscellaneous Provisions Act 1976 - gives powers to local authorities to deal with dangerous trees.
- Wildlife and Countryside Act 1981 – All birds, their nests and eggs are protected against damage and destruction. Bats and their roosts are also protected from disturbance, damage and destruction.
- SIM 01/2007/05 & 5 steps (management risk of falling trees HSE).

8. Property Implications

8.1 There are no direct property implications with this report.

8.2 A Risk Assessment is required under the Management of Health and Safety Regulations 1999. There is a need to inspect trees in or near public places, or adjacent to buildings or working areas to assess whether they represent a risk to life or property, and to take remedial action as appropriate.

9. Health and Wellbeing Implications

9.1 Public access to the urban forest and green spaces has clear health benefits, not just in terms of physical exercise, but also for mental health and wellbeing through contact with and appreciation of nature.

9.2 The Council has a statutory duty to promote health and wellbeing. Two of the objectives to reduce inequalities from the Marmot review are that we “Ensure a healthy standard of living for all” and we “Create and develop healthy and sustainable communities” By supporting our neighbourhoods and working with our communities there are a number of social benefits derived from good management of trees:

- Improvement to the quality and public perception of the urban forest where communities live and work.
- Creating community focal points, landmark links and a sense of place and local identity.
- Higher public esteem and pride in the area by breaking up building lines and the built environment.
- Positive impact on physical and mental health and well being, providing areas of recreation and aesthetically pleasing environments to live and work.
- Positive impact on the reduction of crime.

10. Staffing Implications

There are no staffing implications with this report.

11. Equality Implications

There are no equality implications with this report.

12. Consultation

Community Tree Wardens have been consulted during the development of the strategy.

Background Papers

None.

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Simon Neilson
Executive Director

30 January 2017

A handwritten signature in black ink, appearing to be 'G. Jones', written in a cursive style.

Councillor Jones
Portfolio Holder

30 January 2017