

Report of: Environment Scrutiny Committee

To: Executive Board

Date: 19th February 2007

Item No:

Title of Report : Recommendations from the Environment Scrutiny Committee on the trees at East Street, Osney Island

Summary and Recommendations

Purpose of report: To present to Executive Board the recommendations arising from the Environment Scrutiny Committee debate on the trees at East Street, Osney Island.

Key decision: Yes

Portfolio Holder: Councillor Alan Armitage

Scrutiny Responsibility: Environment Scrutiny Committee

Ward(s) affected: All

Report Approved by: Emma Griffiths, Legal and Democratic Services and Andy Collett, Finance and Asset Management

Policy Framework:

Recommendation(s): The Executive Board is asked to respond to the Scrutiny Committee's recommendations:

1. If it agrees or disagrees with the recommendations outlined.
2. If it agrees when will the recommendations be implemented and who will take the lead.
3. If it disagrees, why.
4. If more information is required from other officers when that will be considered.

1. Draft Minutes

73. OSNEY TREES

The Chief Executive, the Scrutiny Manager and the Osney Island Residents Association (OIRA), each submitted a report (previously circulated, now appended).

Richard Thurston, the Chair of OIRA, gave a presentation based on the findings of their report, which was before the Committee. The Committee also considered the outcome of the review into the felling of the trees on Osney Island undertaken by the Corporate Secretariat Manager as set out in the Chief Executive's report.

The Committee considered the concerns of the residents association in a presentation which, amongst other things stated in summary that, in four key areas, the City Council had failed to fulfil its obligations since it:

- Failed to manage the trees in accordance within an agreed and adopted Tree Management Plan;*
- Failed to maintain adequate records – officers were unaware of the existence of the Tree Management Plan;*
- Failed to consider protected wildlife;*
- Failed to consult with residents despite there being no urgency to fell*

The residents also believed that between 4 and 7 of the trees were not dangerous and could have been pollarded. The residents suggested a programme of staggered felling should take place given that they were in different states of decay. Those trees deemed to be an immediate safety risk should have been removed straight away and replaced. The other trees should have been pollarded. There was a difference of opinion between the City Council's Tree Officer and the residents' arboriculturalist. The residents arboriculturalist told the Committee that in his view crack willow should be pollarded every 5 years or so, to a level of 2 metres. It was difficult for the Committee to come to a conclusion on whether this would have been possible in this instance and some of the trees saved, because the Council's tree officer did not attend.

As Osney Island is a conservation area, the residents maintained that removing the trees had damaged the environment and aesthetics of the street. The residents believed that the Council had acted without considering the impact on the conservation area. Residents were unhappy about this because of the restrictions placed on them when making changes to their own properties.

The findings of the review carried out by Mike Newman drew four main conclusions;

- The extent of decay (in the trees) – There was no evidence to suggest that the Council was wrong to cut down the trees. The trees were no longer available, but the photographic evidence appeared to bear out the conclusions of the initial inspection.*
- Inspection Process – The inspection was undertaken in accordance with Government guidelines.*
- Communication – It was a failure of the Council that the decision to fell the trees was not communicated to local people and ward councillors until five days before they were due to be cut down. Communication should have been conducted more widely involving ward councillors, City Council and County Council Planning Officers and the Local Residents Association.*
- Tree Policy – The lack of an overall tree management strategy meant that clear guidelines weren't available to officers or the public alike on the management of trees. A written procedure to outline the process followed would be extremely helpful in ensuring that the problems that have arisen would not be repeated.*

In concluding the debate, the Scrutiny Committee:

Resolved that the following recommendations should be considered by the Executive Board:

- 1. In future, Officers should consider taking advice from a third party (possibly the County Council's aboriculturalist's) when taking tree management decisions in conservation areas, environmentally and aesthetically sensitive areas and also on veteran trees. This is so that potentially controversial decisions don't rest with one officer.*
- 2. In future, informal consultation with the City Council's Planning Conservation Officers should take place when decisions are being taken on trees in a conservation area. This is no longer a statutory duty, but the Scrutiny Committee feels this would be good practice.*
- 3. The City Council should inform ward councillors and local people of their intentions when a decision has been taken to cut down, or pollard trees in a conservation area, or where such a decision is likely to cause local disquiet. This should be done at the first possible opportunity once a decision has been made. The Scrutiny Committee feel the delay in informing councillors and residents on this occasion was unacceptable. The relevant area committee could be the most appropriate forum to consider such matters.*
- 4. The City Council should prepare a tree management policy in line with a previous recommendation to Executive Board. The policy should set out the procedures to be followed when decisions are taken to cut down, or pollard trees, so that members of the public and councillors are aware of the process. A commitment should be made to follow any local tree management plans, such as the Osney Island Tree Management Plan, which was agreed in consultation with local people.*
- 5. The City Council should ensure that any staff training needs are met where required. The Committee is recommending this in response to the failure to commission a bat survey before the trees were due to be felled. A local resident reminded the Council of this duty.*
- 6. Any future inquiry of this nature by the complaints officer, if required, should aim to consult as widely as possible to ensure that the range of views of those involved is reflected in the final report. ESC believes the views of the Residents' Association and their qualified aboriculturalist should have been sought.*
- 7. The City Council should replace the trees at East Street in consultation with the local residents, Ward Councillors, Central South and West Area Committee and the County Council. The trees should be replaced in line with the residents wishes, which the Scrutiny Committee believes is for crack willows to be planted. If indeed there is good reason not to carry out the residents wishes, then there should be effective communication as in 3) above.*

2. Introduction

- 2.1 Environment Scrutiny Committee met on 15th January 2007 and discussed the felling of 11 crack willow trees at East Street, Osney Island. The item had been included on the Committee's agenda in response to the large public outcry following the felling of the trees.
- 2.2 The Council received a large number of complaints about this issue and so the former Chief Executive asked Mike Newman, the council's Corporate Secretariat Manager, to investigate the process followed in the lead up to, and in the aftermath of the felling of the trees. This report was presented to the Environment Scrutiny Committee on 15th January, along with a report and presentation from the Osney Island Residents Association. The Committee invited the Healthier Environment Portfolio Holder and officers from the Leisure and Culture

Business Unit to attend the meeting to answer questions and present the Council's position in relation to this issue.

3. The findings of the Scrutiny Committee

3.1 The Scrutiny Committee considered the report prepared by Mike Newman and a report and presentation from Richard Thurston, Chair of the Osney Island Residents Association. The main findings in Mike Newman's report were:

- The extent of decay (in the trees) – There was no evidence to suggest that the Council was wrong to cut down the trees. The trees were no longer available, but the photographic evidence appeared to bear out the conclusions of the initial inspection.
- Inspection Process – The inspection was undertaken in accordance with Government guidelines.
- Communication – It was a failure of the Council that the decision to fell the trees was not communicated to local people and ward councillors until five days before they were due to be cut down. Communication should have been conducted more widely involving ward councillors, City Council and County Council Planning Officers and the Local Residents Association.
- Tree Policy – The lack of an overall tree management strategy meant that clear guidelines weren't available to officers or the public alike on the management of trees. A written procedure to outline the process followed would be extremely helpful in ensuring that the problems that have arisen would not be repeated.

3.2 The main concerns of the residents were:

- The Council failed to manage the trees in accordance within an agreed and adopted Tree Management Plan;
- The Council failed to maintain adequate records – officers were unaware of the existence of the Tree Management Plan;
- The Council failed to consider protected wildlife;
- The Council failed to consult with residents despite there being no urgency to fell
- The residents also disagreed with the technical assessments of the trees and felt that at least 4, and maybe as many as 7 trees could have been saved because they were not decayed to such an extent to be considered dangerous.

3.3 The Committee largely agreed with the findings in Mike Newman's report about the communication with local residents and ward councillors and the absence of a tree management policy. Five of the Committee's seven recommendations to the Executive Board are in direct response to these factors. The Committee is keen to ensure that if an incident of this nature arises again, it is managed better in the future. The Committee believes that improved communication and a

tree management plan will help to ensure that there isn't a repeat of the problems seen at Osney Island.

- 3.4 Environment Scrutiny Committee felt strongly that the aesthetics of the street had been damaged considerably by removing the trees. East Street is in the Osney Island Conservation Area where there are significant restrictions on the changes that can be made to the resident's homes. The Committee felt that the environment of the island hadn't been taken into account when it was decided to remove the crack willows.
- 3.5 The Committee wasn't able to draw any conclusions on whether all the trees needed to be cut down. There was a significant difference of opinion between the Council's Arboricultural Officer and the arboriculturalist commissioned by the Osney Island residents. The residents believed that between 4 and 7 of the trees could have been pollarded and did not need to be felled as they did not pose a safety risk. The Council felt that 11 trees needed to be felled because the level of their decay meant that they were a risk to public safety. As the Council's Arboricultural Officer did not attend the Scrutiny Committee, members weren't able to explore the reasons for the difference of opinion.
- 3.5 It was clear to the Scrutiny Committee that the level of public anger with the Council was considerable. The Committee was keen to ensure that the crack willow trees were replaced like for like if at all possible. At the Committee meeting, members were told that the trees would be replaced with white willow. This was clearly against the wishes of those resident's present. Therefore, the Committee recommended that the trees should be replaced, following consultation with local residents and ward councillors, and if possible, replaced with crack willow.

4. Recommendations

- 4.1 The Environment Scrutiny Committee recommendations and comments from the Strategic Director, Physical Environment (Sharon Cosgrove) are set out below.

Recommendation 1

In future, Officers should consider taking advice from a third party (possibly the County Council's arboriculturalist's) when taking tree management decisions in conservation areas, environmentally and aesthetically sensitive areas and also on veteran trees. This is so that potentially controversial decisions don't rest with one officer.

Comments from the Strategic Director

I believe that advice from a third party should be sought only on those occasions when the Council's expert officer thinks that a second opinion

would assist the decision making process. There must be clarity about with whom the ultimate decision rests. There must not be a situation whereby the Council is presented with more than one opinion and then someone, who is not an expert, has to determine which advice to follow.

I have no reason to doubt the advice of and the decision taken by the Council's arboricultural officer in respect of the felling of the Osney Island trees.

Recommendation 2

In future, informal consultation with the City Council's Planning Conservation Officers should take place when decisions are being taken on trees in a conservation area. This is no longer a statutory duty, but the Scrutiny Committee feels this would be good practice.

Comments from the Strategic Director

I consider that informal discussions with Planning Officers would be good practice. It is a process that takes place currently. I do not think that there should be consultation, which could imply that a justifiable and reasonable decision could be the subject of negotiation.

Recommendation 3

The City Council should inform ward councillors and local people of their intentions when a decision has been taken to cut down, or pollard trees in a conservation area, or where such a decision is likely to cause local disquiet. This should be done at the first possible opportunity once a decision has been made. The Scrutiny Committee feel the delay in informing councillors and residents on this occasion was unacceptable. The relevant area committee could be the most appropriate forum to consider such matters.

Comments from the Strategic Director

I fully endorse this recommendation. The failure to communicate adequately was a serious failing identified in Mike Newman's report, which will be addressed. Again, this should not imply that there would be a consultation process. In addition, the communication process should not delay the felling of trees that are considered to be extremely dangerous. However, in these circumstances, Ward Councillors will be notified that felling is to take place.

Recommendation 4

The City Council should prepare a tree management policy in line with a previous recommendation to Executive Board. The policy should set out the procedures to be followed when decisions are taken to cut down, or pollard trees, so that members of the public and councillors are aware of the process. A commitment should be made to follow any local tree management plans,

such as the Osney Island Tree Management Plan, which was agreed in consultation with local people.

Comments from the Strategic Director

The production of a tree management protocol in line with Environment Scrutiny Committee's previous recommendation to Executive Board, and something highlighted in Mike Newman's report, is vital to ensure that clear guidelines on dealing with trees that are to be felled or pollarded are available for officers, Members and the public alike.

I also support that there should be an assessment of the trees for which the Council has responsibility. However, this will need to be prioritized and carried out on an incremental basis, and take account of the limited resources presently available. I have commissioned an appropriate survey of the trees that come within my directorate's responsibility.

Recommendation 5

The City Council should ensure that any staff training needs are met where required. The Committee is recommending this in response to the failure to commission a bat survey before the trees were due to be felled. A local resident reminded the Council of this duty.

Comments from the Strategic Director

I agree that staff should receive appropriate training and I am keen to make sure that it happens. With regard to the bat survey, this was overlooked (mainly because there was no obvious evidence of bat activity) rather than because of a lack of knowledge on the officer's part.

Recommendation 6

Any future inquiry of this nature by the complaints officer, if required, should aim to consult as widely as possible to ensure that the range of views of those involved is reflected in the final report. ESC believes the views of the Residents' Association and their qualified arboriculturalist should have been sought.

Comments from the Strategic Director

Mike Newman's investigation and report was the result of the remit he was given by the former Chief Executive. He was aware of the views and concerns of the residents from the complaints they sent me. The point of dispute between the Council and the residents, whether or not all of the trees should be felled, would not have been resolved if he had spoken to the residents or their arboriculturalist and obtained further information from them. He is not a tree expert and was not in a position to judge how the trees should be managed. The Council's arboricultural officer was of the opinion that felling was the only

reasonable option and Mike Newman's investigation concluded that the officer followed a proper process before reaching his decision.

Recommendation 7

The City Council should replace the trees at East Street in consultation with the local residents, Ward Councillors, Central South and West Area Committee and the County Council. The trees should be replaced in line with the resident's wishes, which the Scrutiny Committee believes is for crack willows to be planted. If indeed there is good reason not to carry out the residents wishes, then there should be effective communication as in 3) above.

Comments from the Strategic Director

I concur with this recommendation. Discussions are ongoing with the residents about the replacement trees.

5. Comments from the Portfolio Holder

- 5.1 The Portfolio Holder, Councillor Alan Armitage, concurs with the comments made by the Strategic Director.

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Background papers: