

PERSONNEL COMMITTEE - 11 JUNE 2012

ADDITION TO ESTABLISHMENT – TREE SURVEY OFFICER

REPORT OF HEAD OF LANDSCAPE AND OPEN SPACES

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RECENT REFERENCES:

CAB2297 - Budget and Council Tax 2012/13, 8 February 2012

WTF165 - Winchester Town Account Budget 2012/13, 25 January 2012

EN109 - Tree Protection and Management Informal Scrutiny Group Review - Report of the Chairman, Councillor Lynda Bannister, 15 March 2011

WTF70 - Winchester Town Forum Public Meeting, Managing The Environment in Winchester, 9 March 2006

PER138 - Operations Group Staff Changes, 3 March 2008

EXECUTIVE SUMMARY:

Since its inception in 2006, the Tree Survey Programme has identified 11,599 trees growing on land for which the Council is responsible. In order to ensure that the Council is properly and adequately managing the risk and liabilities arising from these trees, it is proposed that a permanent full-time post of Tree Survey Officer be added to establishment from 1 April 2012.

Winchester Town Forum agreed on 21 March 2012 to contribute 45% of the total cost of this post (c£18,000 per annum) to cover the inspection and monitoring of Town Forum trees (WTF165 refers).

The remainder of the cost (c£22,000 per annum) is to be funded from General Fund, a budgetary growth bid for which was approved by Cabinet on 8 February 2012 (CAB 2297 refers).

RECOMMENDATION:

That the Personnel Committee approves the addition of 1 FTE Tree Survey Officer post (Scale 5) from 1 April 2012 to the Landscape and Open Spaces Team.

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REPORT OF HEAD OF LANDSCAPE AND OPEN SPACES

1 INTRODUCTION

- 1.1 There is a common duty of care imposed by the Occupiers' Liability Act 1957 s. 2 (2) of which reads:

“The common duty of care is a duty to take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purpose for which he is invited or permitted by the occupier to be there.”

- 1.2 There have been a number of cases in which local authorities and other organisations have been found negligent in the supervision of their trees, which have in turn exposed these to significant financial and reputational penalties. Significant examples of case law are summarised below:
- a) Birmingham City Council was found liable in 2002 following the failure of a tree which caused the death of 3 people. The council was fined £150,000 plus £56,000 in costs because it did not have in place an inspection programme for its trees, which would have identified the defects present in this tree.
 - b) Surrey County Council (2007) was found in breach of its duty of care in a case in which a man had been killed when struck by a large branch which fell onto him from an oak tree on the verge. Although the Council had a programme of inspection in place, this was deemed to be inadequate because it was under-resourced and a backlog of work had prevented the inspection trees in accordance with the predetermined schedule. Although damages were agreed at £500,000, the claim was dismissed because the judge considered that the fault in the branch would not have been evident even had the tree been inspected.
 - c) Barking and Dagenham LBC (1998) was found negligent in a case in which a branch fell from a mature Horse Chestnut tree and caused severe injury to a member of the public. The Council had no proactive tree inspection regime in place at the time of the accident and was purely reactive, responding solely to complaints and enquiries from the public.
 - d) The National Trust (2011) was found not to be negligent in the case of branch falling from a beech tree in a relatively poorly frequented woodland on their land and killing a boy. The Trust was able to demonstrate that it had an active tree survey programme in place which included well-documented guidance on the procedures to be followed in the assessment of risk.

- 1.3 Case law has thus established an organisation must have in place an adequate inspection and maintenance programme for its trees if it is not to be found at fault. The inspections must be conducted by an appropriately qualified person and the programme must include provision for identified defects to be dealt with as required.
- 2 TREE SURVEY PROGRAMME
 - 2.1 In response to the perceived risk arising from trees growing on its land, the Council initiated a Tree Survey Programme in 2005. The Programme set out to introduce a cyclical survey of all the trees growing on Council land in order to identify and remedy any defects.
 - 2.2 The Programme was allocated an operational budget but no additional staff resources, it being determined at the time that the Environment Officer (Trees) would develop and manage the Programme. The Council commissioned contractors to undertake the initial survey, which recorded details of all trees growing on Council land in the Treewise database and ArcGIS. The initial survey also assessed the risk presented by trees growing in high-risk locations (i.e. those subject to high levels of public use). Subsequent re-inspections were conducted by the Environment Officer (Trees), who commissioned contractors to undertake remedial work until the formation of the Landscape and Open Spaces Team in 2008.
 - 2.3 The establishment of the Landscape and Open Spaces Team resulted in a reduction of the total available resources for tree protection and management from 3 FTE to 2 FTE (PER138 refers). It was subsequently found that the Environment Officer (Trees) cannot deliver both the Tree Survey Programme and the workload of a Tree Officer (development control and tree protection).
 - 2.4 In 2009, a contractor was appointed on a part-time basis (2 days/week) to continue the Programme funded from the Tree Survey budget. Although this enabled the tree inspections to continue, it did not provide sufficient capacity to commission and supervise the consequent remedial tree works.
 - 2.5 In August 2009, a virement of funds from the Tree Survey budget enabled the recruitment of a temporary full-time Tree Survey Officer. This proved more cost-effective than utilising a part-time contractor, a full-time officer being able to both continue the Programme and commission necessary works. The temporary post was originally scheduled to run until 13 August 2010. However, this time-frame was displaced by repeated secondments associated with preparation of the new joint depot services contract, which commenced 1 October 2011. The temporary post is now scheduled to terminate on 30 June 2012, following which the Council will cease to have provision for tree inspection and management.

3 TREES INFORMAL SCRUTINY GROUP

- 3.1 In 2011, the Trees Informal Scrutiny Group considered all aspects of tree protection and the management of Council trees. The ISG recognised that there remained a significant on-going risk to the Council (and Town Forum) arising from trees. The ISG also concluded that the Tree Survey Programme should continue beyond 31 March 2012 and recommended that the post of Tree Survey Officer be made permanent in order to continue the programme.

4 COUNCIL RESPONSIBILITY FOR TREES

- 4.1 The Tree Survey Programme has identified 11,599 trees (individual trees and groups of trees) and 60 hectares of woodland (a woodland is assumed to contain an average of 100 trees per hectare) growing on Council land. The survey did not include trees growing in Housing tenant's back gardens.
- 4.2 A detailed analysis of the data collected and held on the Treewise database was undertaken in January 2012 (see Appendix 2). The analysis enabled the apportionment of trees to the appropriate Council client (Housing, Car Parks, Sport, Leisure, Legal) and to the appropriate administrative body (City Council or Town Forum).
- 4.3 Of the total, 7,547 trees are considered to be growing on land deemed the responsibility of the General Fund. The Town Forum has responsibility for 4,052 trees (35%). However, the risk presented by a particular tree depends not only upon the species, maturity and health, but also upon its location and its potential to cause damage or injury. Trees in well-frequented public locations like North Walls Recreation Ground and St Giles' Hill present a greater risk than those in the middle of woodland which is seldom visited.
- 4.4 The table in Appendix 1 shows a full breakdown of the number of trees in each Risk Rating Category. Every tree deemed to be growing in a high-risk location was allocated a Risk Category in the initial survey. Subsequent surveys have re-assessed and updated this risk category. It should be noted that, although trees in lower risk locations present less of a risk to persons or property, they must also be inspected in order for the land-owner to be exercising its duty of care (see NT case above).
- 4.5 The risk category determines how often a particular tree should be re-surveyed. There are currently 6,664 Council trees located in high risk areas for which a risk rating has been recorded. Best practice advises that these trees are inspected at least annually. Those trees with a higher risk rating (426 trees) may need to be inspected more often (i.e. every six months). If a tree is deemed to require inspection more frequently than every six months, current policy is for that tree to be removed.
- 4.6 There are 4,041 Council trees that have been surveyed but do not have a recorded risk rating. Although most of these will be in lower-risk locations, they will still need to be assessed for the Council to ensure it is meeting its obligations. In order to discharge its duty of care, the Council must ensure it has put in place an adequate programme of monitoring and maintenance for all the trees growing on land for which it is responsible.

5 PROPOSAL

- 5.1 It is proposed that the post of Tree Survey Officer be a permanent addition to establishment from 1 April 2012. This will ensure that the Council and Town Forum are properly managing the risks arising from trees growing on land for they are responsible.
- 5.2 Adding the post of Tree Survey Officer to establishment as a permanent Scale 5 post from 1 April requires growth of £36,200 (including on-costs and pension). Additionally, Essential User and mileage costs are estimated to be around £3,800 per annum.
- 5.3 Winchester Town Forum agreed on 21 March 2012 to contribute 45% (c£18,000 per annum) of the cost of the Tree Survey Officer post (calculation derived from number of trees and relative risk). The remainder of the cost (c£22,000 per annum) is to be paid from General Fund, a budgetary growth bid for which was approved by Cabinet on 8 February 2012 (CAB2297 refers).

OTHER CONSIDERATIONS:

6 SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):

- 6.1 The establishment of a permanent full-time post of Tree Survey Officer will ensure that the Council properly manages the risk arising from trees growing on land for which it is responsible.
- 6.2 In addition to managing the risk arising from trees, the post of Tree Survey Officer will facilitate the overall management of the Council's tree stock. This will include the planting of new trees either in place of felled trees or where required to improved the townscape and setting of the city and district.
- 6.3 This post will contribute to the following Community Strategy outcomes:
- a) Protect and improve our landscapes and townscapes
 - b) Protect and enhance the District's rich biodiversity and habitats

7 RESOURCE IMPLICATIONS:

- 7.1 The Town Forum has approved an annual contribution of £18,000 towards the new Tree Survey Officer post on 21 March 2012 (WTF165). The Town share of salary + on-costs are forecast to be c£16,300 per annum, with the remaining £1,700 required for essential user allowance and mileage costs.
- 7.2 The remainder of the costs for the post (c£19,910 per annum for salary and c£2,000 per annum for essential user allowance and mileage) will be paid from General Fund as approved by Cabinet on 8 February 2012 (CAB2297 refers)
- 7.3 The Tree Survey Officer will utilise the existing revenue budgets to pay for tree works arising from the ongoing survey programme (£11,161 for Town Forum and £35,042 for District).

8 RISK MANAGEMENT ISSUES

- 8.1 In order to manage risk, the Council must ensure that it has in place an appropriate programme for inspecting and maintaining trees growing on its land. The post of Tree Survey Officer addresses the risk presented to the Council by Council trees growing on its land. The full-time permanent post will ensure that the Tree Survey Programme is sufficiently resourced.

9 BACKGROUND DOCUMENTS:

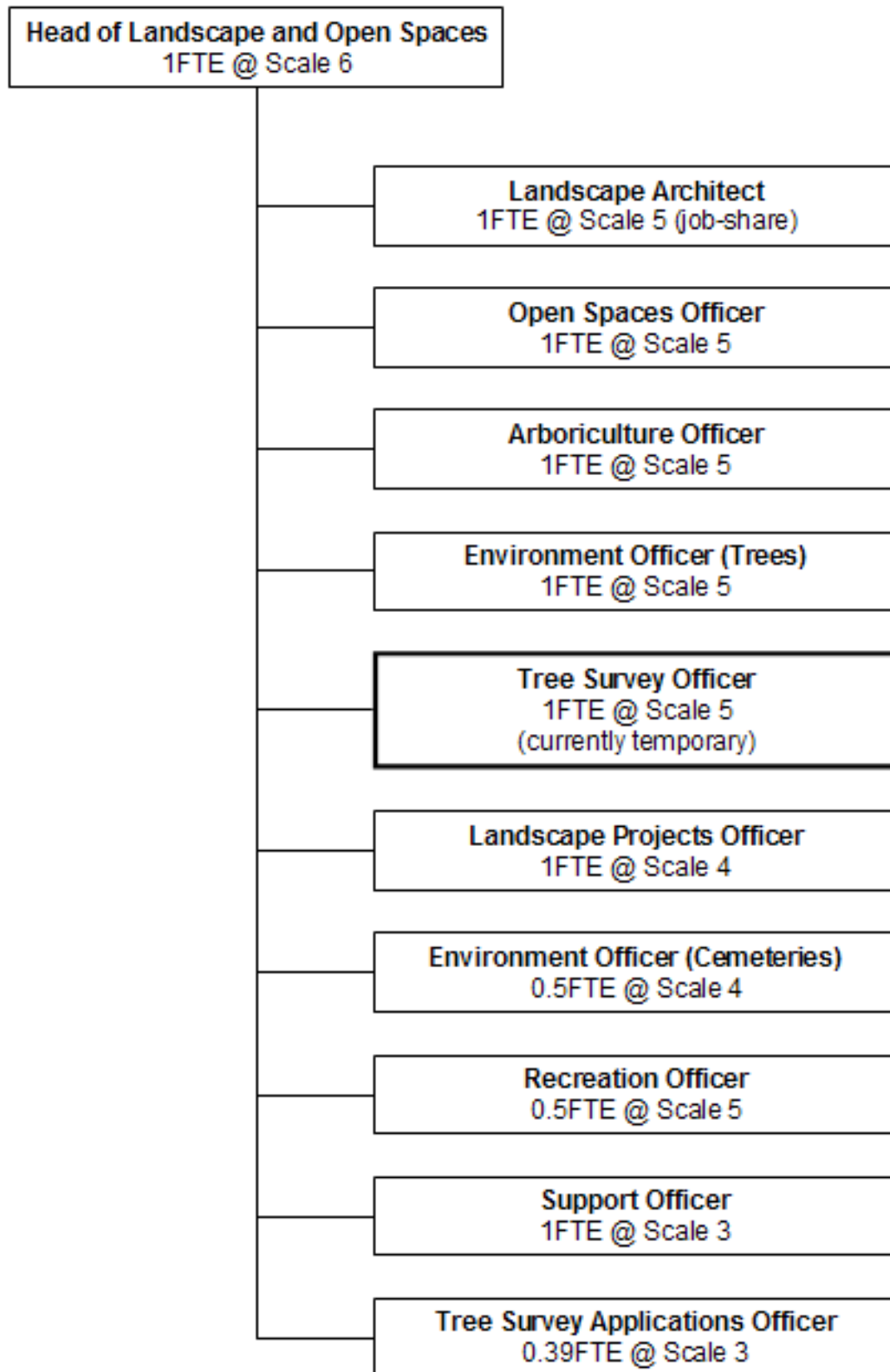
None

10 APPENDICES:

Appendix 1 - Landscape Team Structure Chart (proposed)

Appendix 2 – Trees on Council Land by Client and District/Town Split

Landscape and Open Spaces Team – June 12



Appendix 2 – Trees Growing on Council Land by Client and Town/District Split

Nos. of Individual Trees by Client and Town/District

SPLIT	CLIENT	Risk Category (1 = LOW, 6 = HIGH)							Grand Total
		Not Assessed	1	2	3	4	5	6	
DISTRICT	Car Parks	0	1	0	2	0	0	0	3
	Housing	62	15	5	1	1	1	1	86
	HSTW	0	0	6	3	0	0	1	10
	Leisure	1027	1088	413	210	65	48	78	2,929
DISTRICT Total		1089	1104	424	216	66	49	80	3,028
TOWN	Car Parks	141	59	20	41	15	29	16	321
	Housing	615	399	51	52	22	11	16	1,166
	Legal	485	164	5	5	3	0	0	662
	Leisure	1241	470	87	109	44	94	91	2,136
	Sport	323	130	16	25	7	25	15	541
TOWN Total		2805	1222	179	232	91	159	138	4,826
GRAND TOTAL		3894	2326	603	448	157	208	218	7,854

Town Forum	2049	764	108	139	54	119	106	3,339
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Nos. of Trees in Tree Groups by Client and Town/District

SPLIT	CLIENT	Risk Category (1 = LOW, 6 = HIGH)							Grand Total
		Not Assessed	1	2	3	4	5	6	
DISTRICT	Housing	22	287						309
	HSTW		79						79
	Leisure	24	2402						2,426
DISTRICT Total		46	2768						2,814
TOWN	Housing	55	163						218
	Leisure	19	223						242
	Sport	27	444						471
TOWN Total		101	830						931
GRAND TOTAL		147	3598						3,745

Town Forum	101	830	713
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TOTAL (ALL TREES AND TREE GROUPS) 11,599

TOWN FORUM TOTAL TREES 4,052

TOWN FORUM PERCENTAGE 35%