

LONDON BOROUGH OF BRENT
EXECUTIVE - 7TH JANUARY, 2004

FROM THE DIRECTOR OF ENVIRONMENT

FOR ACTION

NAME OF WARDS: ALL

Report Title : TREE REMOVAL & REPLACEMENT PROGRAMME 2003-04
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FP REF: ES-03/04-177

1.0 SUMMARY

- 1.1 At its meeting on 13th October, 2003 the Executive approved a new Street Tree Management Policy. The report proposed a programme of tree removal and replacement in eleven roads in the Borough.
- 1.2 The Executive's decision required that results from the consultation would be reported back if they revealed substantial objections or concerns.
- 1.3 The consultation exercise resulted in concerns from residents in Burrows Road, NW10, presented by way of a petition. Responses to the consultation in the other ten roads affected were overwhelmingly positive.
- 1.4 This report informs the Executive of the details of the petition and the concerns raised by petitioners. It also informs the Executive of the issues raised at a public meeting with residents of Burrows Road to discuss the Council's proposals.

2.0 RECOMMENDATIONS

- 2.1 That the Executive notes the receipt and details of a petition received by residents of Burrows Road, NW10 concerning the Council's proposals to remove and replace street trees in the road.
- 2.2 That the Executive notes the points raised by residents at a public meeting to discuss the Council's proposals, and officers' responses to those points.
- 2.3 That the Executive approve the proposals to remove and replace street trees in Burrows Road, NW10 and instructs officers to proceed.
- 2.4 That the Council seeks views from residents of Burrows Road, NW10 on the proposed tree locations and species, and seeks to accommodate those views as far as practicable.

FINANCIAL IMPLICATIONS

- 3.1 The cost of the planned removals / replacements to the eleven roads concerned is £47,395 in 2003/4 and the costs will be contained within existing budgets.

- 3.2 In the roads affected, the removal of large forest type trees will significantly reduce the financial risk to the Council that might arise from subsidence claims due to tree root damage to adjacent properties.

4.0 STAFFING IMPLICATIONS

- 4.1 There are no staffing implications as a result of this report.

5.0 ENVIRONMENTAL IMPLICATIONS

- 5.1 The environmental implications of the tree removal and replacement programme will be to enhance the borough's tree stock aesthetically, and keep them in a safe manner.

6.0 LEGAL IMPLICATIONS

- 6.1 The Council has power under Section 96 of the Highways Act 1980 to plant street trees. The same section entitles any person whose property is damaged by such a tree to claim compensation in respect of such damage.
- 6.2 The Act also deals with the removal of dangerous trees and trees causing obstructions.
- 6.3 The Council could also be sued in negligence and nuisance.
- 6.4 In the case of Paterson v Humberside County Council in 1995 the Council was held liable for damage caused by trees to the plaintiff's house, on the basis that the damage was foreseeable in view of the soil conditions.
- 6.5 Accordingly, if the Council does not have a policy in place that is effectively monitored there is an increased risk of successful claims for compensation.

7.0 DIVERSITY IMPLICATIONS

- 7.1 The proposals in this report have been subject to screening and officers believe that there are no diversity implications.

8.0 PHASED REMOVAL AND REPLACEMENT IN BURROWS ROAD

- 8.1 The proposal for Burrows Road involves the removal of 19 street trees, and for these to be replaced with around 25 new street trees. The precise number will be subject to survey, taking account of the presence of underground services, street lights and overhead obstructions such as telegraph poles and cables.

9.0 RESIDENTS' PETITION

- 9.1 A petition was delivered to the Council on 4th November, 2003 in response to the original consultation letter. The petition contained in excess of 50 signatures and has been dealt with in accordance with Standing Order 68.
- 9.2 The lead petitioner and the Chairs of Scrutiny Committee and Overview Committee have been advised that the petition will be considered by the Executive.

9.3 In response to a request from the lead petitioner, it was agreed that a residents' meeting would be held and that the Council would invite independent experts to address the meeting.

9.4 The petition stated that:

"We the undersigned residents of Burrows Road, NW10, are very concerned about the proposal to remove 22 mature trees in our street, as well as the lack of information and minimal consultation period. We call on the Council to hold a formal consultation meeting at which we can hear expert arguments both for and against this proposal before any decision is made. In the meantime please note our concern about the loss of the amenity of mature trees".

The lead petitioner also asked for the Council to arrange for independent advice on arboricultural and structural issues.

9.5 In response to this, Council officers arranged a meeting for Burrows Road residents and this took place on 3rd December, 2003. As well as Council officers, two independent advisors were present - Mr. Ian Keen (Arboricultural Consultant) and Mr. Keith Sacre (Director, Barcham Trees).

9.6 At the start of the meeting 27 residents were present. Burrows Road has in the order of 120 households.

9.7 The principal issues raised by residents relating to the Council's proposals were:

- The size of the replacement trees
- The ability of new trees to establish
- Whether the new trees would be of the same species, or a mixed variety of species
- Whether root treatment for the existing trees was an alternative solution
- The risk of "heave" after tree removal
- Concern that the proposals for Burrows Road were a "first" for Brent in that no other roads had been similarly dealt with
- Concern about losing mature trees
- Concern that the proposal was merely a cost-saving exercise
- Whether any financial savings were ring-fenced to tree-related activities
- Where the new trees would be located – would residents' views be catered for
- Would the new trees guarantee that there would be no further subsidence
- Could the Council deal with subsidence on a tree by tree basis
- Can the Council find examples of this type of programme on other Boroughs
- Concern from some residents that they had been adversely affected by subsidence and wanted action taken
- Whether the tree removal and replacement operations would be closely synchronized
- Concern about existing trees being so large and causing pavement slabs to be lifted

9.9 The above issues were responded to both by officers and the independent advisors present. Statements were also read out on behalf of Brent Council Insurance Management and Uftons Ltd (Loss Adjustors).

The main responses in respect of the above points and concerns were as follows.

9.9.1 Size, type and location of replacement trees, ability to establish etc.

The size could vary, and there would be constraints presented by the footway width and the presence of underground services etc. However, within these constraints we will seek to plant new trees of a size that have a good chance of successful establishment. Residents views will be sought on the proposed locations of new trees and officers will seek to accommodate these views as far as possible.

The type(s) of tree planted will have a proven track record of establishing in London conditions and, again, we will seek to accommodate views about whether it is preferable to have the same, or a mix of, species.

9.9.2 Risk of heave and/or further subsidence

Whilst no guarantees are able to be given, the independent advice was that it was extremely unlikely that heave would occur. Similarly, whilst there could be no absolute guarantee that subsidence would not occur in the future, removing the mature trees and replacing them with a more suitable species would dramatically reduce the potential for future subsidence problems.

9.9.3 Financial concerns

Residents were assured by officers that this was not a cost-cutting exercise and there were no proposals to reduce the street tree maintenance budget. Removing the risk of subsidence was as much about reducing future financial risks and liabilities that would then fall on the Council Taxpayer.

9.9.4 Current concerns about subsidence caused by tree root damage

In response to the concern of some residents who felt they were currently experiencing problems caused by street trees, officers advised that there was a claims procedure available, and re-stated that the proposed programme was intended to significantly reduce such problems.

9.9.5 Timing of tree removal and replacement

Residents were assured that the removal and replacement of street trees would be closely synchronized to minimise disruption, potential loss of parking space, and ensure that the work was completed in as short a space of time as possible, including footway reinstatements.

9.9.6 Loss of mature trees and concern about being the first area where such a programme was proposed.

Clearly, mature trees would be lost, but officers explained that the programme itself would deliver an improved street scene in terms of street trees, including a net increase in the number of trees.

It was recognised that this was the first time such a programme had been introduced in Brent, and officers undertook to explore whether any nearby Boroughs had undertaken such work so that residents could visit other areas if they wished.

10.0 CONCLUSION

10.1 Officers feel that the concerns raised by residents both through the petition and the residents' meeting were responded to as thoroughly as possible, and that the independent advice was particularly helpful.

10.2 The programme offers an opportunity to improve the street environment in Burrows Road aesthetically and significantly reduce the potential risk of tree root damage to residents' properties and the footway. It also significantly reduces the financial risk to the Council from potential future subsidence claims.

10.3 At the lead petitioner's request, a "show of hands" was taken at the end of the meeting and recorded. At that time, 26 residents were present.

10.4 When asked whether those residents present "agreed to the proposal put forward by the Council", the recorded 'vote' was: YES - 15; NO - 10, Abstentions - 1.

11.0 BACKGROUND INFORMATION

- Report: Street Tree Management Policy (Executive, 13th October, 2003)
- Petition received from residents of Burrows Road, NW10 (4th November, 2003)

Any person wishing to inspect the above papers should contact Keith Balmer, StreetCare Unit, Brent House, 349-357 High Road, Wembley, Middlesex HA9 6BZ, Telephone: 020 8937 5066.

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