

# BURNHAM AVENUE, ICKENHAM - PETITION AGAINST THE PROPOSED PLANNED REMOVAL AND REPLACEMENT OF HIGHWAY TREES

|                             |  |
|-----------------------------|--|
| <b>Cabinet Member(s)</b>    | Cllr Jonathan Bianco   |
| <b>Cabinet Portfolio(s)</b> | Finance, Property and Business Services  |
| <b>Officer Contact(s)</b>   | Stuart Hunt<br>Planning, Environment, Education and Community Services (PEECS) |
| <b>Papers with report</b>   | Appendices 1 and 2   |

## **1. HEADLINE INFORMATION**

|   |   |
|---|---|
| <b>Summary</b>                                  | Due to the size and age of 37 upright hornbeam, highway trees planted in Burnham Avenue, Ickenham, significant disruption is being caused to residents due to root movement, path and kerb displacement, loss of light, and narrowing of available path space for pedestrian access. After internal consultation with officers, letters were sent out in May 2012 to all Burnham Avenue residents advising them of plans to remove these trees over a three year period. 12 trees would be removed annually to be replaced at the same rate with 37 new trees. Feedback from 12 residents (received by the tree officer via post and Onyx enquires) expressed relief that problems the trees are causing would finally be addressed and removed. However, a petition against their removal was received in late August 2012 that objected to the Council's plans to remove and replace the trees. |
| <b>Contribution to our plans and strategies</b> | Highway tree removal and replacement can be necessary and an annual activity that can be considered as part of the Council's highway safety programme. Retention of controversial trees needs to be considered within the parameters of arboricultural and highway engineer perspectives as well as ongoing financial implications.   |
| <b>Financial Cost</b>                           | The total cost of the removal and replacement of the 37 trees will be £36,855 over a 3 year period.   |
| <b>Relevant Policy Overview Committee</b>       | Residents' & Environmental Services   |
| <b>Ward affected</b>                            | Ickenham  |

## **2. RECOMMENDATIONS**

**That the Cabinet Member:**

- 1. Meets and discusses with petitioners their concerns with the proposed tree removal programme for Burnham Avenue.**
- 2. Considers the recommendation put forward by the petitioners that all 37 Hornbeam trees are retained.**
- 3. Considers the advice of the Council's Tree Officer to the removal and the replacement of all 37 trees over a period of three years.**
- 4. Notes the information received concerning the disruption of the public footpath either side of the road, the kerb alignments, and the lack of minimum space between the trees and the properties for footpath users.**
- 5. Notes that the likelihood of insurance claims against the Council for damage caused to residents' properties from underground and near surface roots from these highway trees is likely to cost significant amounts of money if the trees are retained.**

### **Reasons for recommendation**

To allow the Cabinet Member to discuss in detail with petitioners their concerns and to consider the Council's recommendations to remove and replace the highway trees over a three-year period.

### **Alternative options considered / risk management**

1. Retention of the trees. Reason for rejection: this option would not address any of the ongoing issues concerned with highway safety i.e. pedestrian access and trip potential, and vehicle damage from protruding kerbs.

2. Various tree pruning options. Each tree would cost £190.81 to prune. One option is to make an assessment to prune the trees that are growing to the front of properties where residents have complained.

Another pruning option is to prune a proportion each year i.e. prune all of them over a five-year period, so the costs per year would be £1,335.67 (for seven trees) or £1,526.48 (for eight trees); the total for pruning all 37 trees over five years would be £7,059.97.

3. Remove trees without replanting. This option would cost £291.26 to fell and grind each tree, and £250.00 to reinstate the public footpath. Therefore the total cost for one tree is £541.26, and for all 37 trees the total cost would be £20,026.62.

### **Policy Overview Committee comments**

None at this stage.

### **3. INFORMATION**

#### **Supporting Information**

1. A petition with 51 signatures has been submitted to the Council from residents living in Burnham Avenue asking for the proposed removal and replacement of 37 upright Hornbeam highway trees (*Carpinus betulus Fastigiata*) not to be carried out and the existing trees to be retained. The petition states: "*We the undersigned: Are opposed to the removal of the mature hornbeam trees in Burnham Avenue, planned by the London Borough of Hillingdon*". The petition states that 51 houses supported this petition and 42 houses did not sign the petition. The supporting letter also states that "Based on this evidence, we suggest that the council ought to reconsider its decision and offer alternative management solutions to the problems being caused by these trees" [taken from the letter written by the lead petitioner, Mr Jonathan Tindale, 66 Burnham Avenue].

2. In response to 6 complaints received by the Green Spaces team from residents of Burnham Avenue during 2011 and 2012 the Tree Officer responsible for tree care in this area undertook a survey of all 37 hornbeam trees. The survey highlighted several issues:

- All the trees have a dense crown, both typical of this upright form of hornbeam and typical of mature specimens. These dense crowns do cause significant shading issues for residents who have a tree to the front of their property.
- A majority of the trees are taking up a significant part of the width of the public footpath on each side of the avenue, thus causing restrictions to buggies, wheelchair users and pedestrians.
- As is typical with trees of this size planted as highway trees in a hard surface area the roots and root plate have grown and raised up the footpath around each tree. This causes some disruption to the path and in some instances is pushing various kerb stones out of alignment. This can cause drivers to hit their wheels on the protruding kerbs and cause accidents and vehicle damage.

3. Disruption to the road and path:

- The photographs that accompany this report highlight a number of the highway trees in Burnham Avenue as examples of the disruption they are causing to the public footpath, kerb stones and, in some cases, private front garden walls.
- Kerb stones are being pushed out into the carriageway by 10-30mm (significantly more in some places) and in some cases the kerb stone has been completely pushed out and lost, with a couple of examples of roots and root plates extending into the road. This poses danger to vehicles in the form of damage i.e. to tyres, sills, etc and can potentially cause minor accidents to road users.
- The minimum width from the back of the footpath to the tree should be 1m at the very minimum, to accommodate disabled users, pushchairs, prams and pedestrians. The footpath in many places has less than 1m of flat, useable path to move past the tree. Tree roots and root plates across the footpath regularly exceed 20mm in height, which is the Council's intervention level. Significant root and root plate swellings cause the path to be raised up to 200-300mm. Many areas of the path next to the trees are raised from lateral roots, which pose trip and fall hazards.

4. Insurance overview of records indicating claims against the council from the trees in Burnham Avenue:

- Information received from the Council's insurance and risk department show that there have been tree root claims from four properties in Burnham Avenue, all of which were low value claims totalling £1,431.00, which were claim for either root damage to garden wall or subsidence. These were settled by the Council.
- One additional claim was repudiated however; it is unclear if it was for subsidence or root damage to a wall.
- One further subsidence claim was repudiated.

5. There are three possible options: (i) do nothing, (ii) crown reduce [prune] and keep trees, (iii) remove and replace either a proportion of the trees or removal and replacement all the hornbeam trees. Each option is discussed in turn.

- **Do nothing** – do not prune or fell any of the trees. On the one hand this would satisfy those residents who like the trees as they are now, but would disappoint those residents asking for action to be taken and inevitably result in further complaints that would be difficult to address.
- **Prune the trees** – this would bring an immediate increase in light levels into properties and would undoubtedly please some residents. The downside to this option is that within two to three years the trees would have grown back sufficient branches and leaves as to return the light levels to pre-pruning levels. In addition, this option would not address any of the most important issues such as footpath disruption and safety issues, nor would it remove the risk of root encroachment onto/under properties, thus causing damage and subsequent insurance claims.
- **Remove and replace the hornbeam trees** – removing some trees would resolve some of the issues but would upset those who wish to see the trees retained. Removing and replacing all the trees is the Council's preferred option as this would address safety and light issues.

### Financial Implications

- **Do nothing** - there would be no cost to the council in terms of short-term tree maintenance, but inevitably mid- and long-term costs associated with insurance claims arising from trips, vehicle damage, personal injury etc could add up significantly.
- **Prune the trees** – the cost to prune all 37 trees would be £7,171.00 and it is likely that there would be a call from residents asking for these trees to be re-pruned in a similar manner in the subsequent 3-5 years.
- **Remove and replace the hornbeam trees** – the cost to fell the trees, grind out the stumps and roots and to replace all 37 trees will cost in the region of £36,855. 00.

## 4. EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

### What will be the effect of the recommendation?

Recommendations to retain the trees, the effect of this recommendation are:

- a) In the first instance, this will please a proportion of the residents as they wish to see their road retained with an avenue of trees.
- b) In the short term, this recommendation will be a cheaper option for the Council. However, by retaining the trees, costs will be incurred on a mid- to long-term basis ranging from insurance claims, highway maintenance, and tree care.

Recommendations to remove and replace all 37 trees, the effect of this recommendation are:

- a) It will take some time for the newly planted trees to establish themselves and for the 'avenue' look to reinstate itself.
- b) The costs to fell and grind the existing trees; to reinstate the public footpath; to create new tree pits; and to plant 37 new trees will be costly.
- c) By removing the mature Hornbeam trees a proportion of the residents will see a change that they are seeking and will be satisfied with the council's actions.
- d) It is likely that the removal of all 37 mature trees will result in less residents claiming against the council for various claims of damage, for example, root damage to garden walls; subsidence damage to properties; damage to vehicles from protruding kerb stones; and damage as a result of trips and falls from uneven surfaces and protruding roots.

### **Consultation Carried Out or Required**

- Residents in Burnham Avenue were consulted in 2006 on various options put forward for the future of the highway trees.
- Regular correspondence received and responded to from residents in the intervening years complaining about aspects of the trees.
- Letters were sent out to Burnham Avenue residents in May 2012 with copies sent to Ward Councillors and Ickenham Residents' Association on the Council's proposed plans to remove and replace the trees.

## **5. CORPORATE IMPLICATIONS**

### **Corporate Finance**

The financial implications set out above note that taking no action at this time would likely lead to additional claims for damage and/or injury, as the Council self-insures up to a value of £100k. Any successful claims would have a direct impact on General Fund revenue budgets. The alternative options to either prune or replace the trees would result in costs being borne by existing Green Spaces revenue budgets.

### **Legal**

The Council as Highway Authority has the power to fell and plant trees on the highway in accordance with Section 96 of the Highways Act 1980. The Council may be held liable if, in exercising its powers, it causes damage to persons or property.

There are no special legal implications for the proposal which amounts to an informal consultation. A meeting with the petitioners is perfectly legitimate as part of a listening exercise, especially where consideration of the policy, factual and engineering issues are still at a formative stage. Fairness and natural justice requires that there must be no predetermination of a decision in advance of any wider non-statutory consultation.

Should there be a decision that further measures are to be considered, such as the felling or planting of trees, then the relevant statutory provisions will have to be identified and considered.

In considering any informal consultation responses, decision makers must ensure there is a full consideration of all representations arising including those which do not accord with the officer

recommendation. The decision maker must be satisfied that responses from the public are conscientiously taken into account.

## **Highways**

Under the Highways Act 1980 the Council has a duty to ensure that the highway is safe for use by members of the public. When planting replacement trees in the public highway consideration should be made as to the type of tree and putting in place constraints to ensure that future root growth does not adversely affect the highway structure.

## **6. BACKGROUND PAPERS**

NIL