

15 BAWTREE ROAD, UXBRIDGE - PETITION AGAINST THE PROPOSED PLANNED REMOVAL AND REPLACEMENT OF HIGHWAY TREE

Cabinet Member(s)	Cllr Jonathan Bianco
Cabinet Portfolio(s)	Finance, Property and Business Services
Officer Contact(s)	Stuart Hunt Residents Services
Papers with report	Appendix A and Appendix B

1. HEADLINE INFORMATION

Summary	Due to the size and age of a mature Ash tree situated outside 15 Bawtree Road, footway disruption and damage to a brick wall has occurred over a number of years. The Council has been advised by the Highways Department that the raised footway is a significant trip hazard and exceeds their intervention levels. An insurance claim has been made by a resident after they tripped, fell and injured themselves. After discussions with Highways engineers, Officers recommended that tree removal was the only viable management option. A consultation letter was then sent to the residents who are closest to this tree, informing them of the Council's intentions. A petition of 64 signatures was received from local residents in response to this, objecting to the proposal.
Contribution to our plans and strategies	Highway tree removal and replacement is necessary and an annual activity that can be considered as part of the Council's highways 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.
Financial Cost	The cost to the Council of removing the tree, repairing the footway and planting a new one is £1,158.60 which can be accommodated within the tree maintenance budget.
Relevant Policy Overview Committee	Residents' & Environmental Services
Ward(s) affected	Uxbridge North

2. RECOMMENDATIONS

That the Cabinet Member:

- 1) Notes the information in the report, and the views of petitioners at the meeting and considers the suggested actions.**
- 2) Decides which of the three options set out in the report to take.**
- 3) Subject to the decision above, asks officers to take the necessary action.**

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 this mature highway tree with a suitable species for the location.

Alternative options considered / risk management

- 1) Retention of the tree. This option would not address any of the ongoing issues concerned with highway safety i.e. pedestrian access and trip potential, and also potential damage to the brick wall.
- 2) Retention of the tree with Highway adjustments. Loss of parking bays and continued damage to footway and possible damage to adjacent property.

Policy Overview Committee comments

None at this stage.

3. INFORMATION

Supporting Information

1. A petition with 64 signatures has been submitted to the Council from residents living in Bawtree Road asking for this mature Ash tree to be retained (*Fraxinus excelsior*). The petition states: *"We the undersigned, strongly object to the London Borough of Hillingdon's plan to remove the Ash tree from outside 15 Bawtree Road, Uxbridge. This is a fine healthy tree that is a visual and environmental benefit to the road. The path on this side of this quiet residential cul-de-sac is not continuous and pedestrians can easily walk around this tree"*.

The supporting letter also goes on to say that: *"Trees are important assets in the urban landscape. They produce oxygen, clean the soil and clean the air. They look good and provide habitat for birds and animals such as squirrels. Trees help global warming and it is criminal to consider the removal of this fine, healthy specimen which has at least 50 years useful life left in it"*.

2. In response to an insurance claim received by the Highways and Green Spaces teams from a resident who tripped on the uneven path, the Tree Officer responsible for this area has made arrangements to remove the tree after discussions with the Highways team to find an alternative

engineering solution to this issue. In addition, officers noted that the roots of this tree are too large to prune without affecting the stability and long term health of the tree.

The survey highlighted several issues:

- This mature street tree is likely to have been planted before Bawtree Road was developed in the 1940s; this would make the age of the tree to be approximately 90 years old.
- This tree's habit is typical for a mature specimen of this species.
- This tree takes up a significant part of the width of the public footpath, thus causing restrictions to buggies, wheelchair users and pedestrians.
- As is typical with a tree of this size which has grown within in a hard surface area, the roots and root plate have grown and raised up the footpath around the tree. This naturally causes some disruption to the path and, in this instance, has raised the path to a significant height which exceeds the Council's Highways Department's intervention levels.
- Despite this tree being mature in age, this tree will continue to grow in size.

3. Disruption to the road and path

The photograph that accompanies this report highlights the disruption the tree is causing to the public footpath.

- The minimum width from the back of the footpath to the tree should be 1.2m or 1m at the very minimum, to accommodate disabled users, pushchairs, prams and pedestrians. The footpath in this instance is significantly less than 1m of flat, useable path to move past the tree. The tree roots and root plate across the footpath here exceeds 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. This area of the path next to the tree is raised from lateral roots, which pose trip and twist hazards which have previously led to incidents.

4. Insurance claims: overview of records indicating claims against the Council from Ash tree in Bawtree Road:

- Information received from the Council's insurance and risk department show that there is an ongoing injury claim from a local resident.

5. There are three possible options: do nothing and keep the tree, remove and replace this tree with a suitable species or retain the tree with Highway modifications. Each option is discussed in turn.

- **Do nothing** – do not fell this tree. On the one hand, this would benefit those residents who like this tree as it is now. This option does not address the range of concerns that have been raised by the Council's Highways and Insurance Services.
- **Remove and replace this tree** – removing this tree would resolve the issues mentioned but would disappoint those who wish to see this tree retained. Removing and replacing this tree is the Council's preferred option as this would allow the Authority to address the public safety issues which have arisen.
- **Retain the tree with Highway modifications** - If the tree were to remain in situ, the only option available would be to widen the section of footway sufficiently in order that pedestrians, particularly those with disabilities could use it. A sufficient footway width would be 1.2m and in order to provide this the kerb line would need to be brought out into the carriage way by about 1m. The kerb line where it meets Blackmore Way could be realigned in order to widen the section of footway in Bawtree Road by the tree (Appendix B). Bawtree

Road is about 5.3 metres wide and being a small side road and dead end, 4.3 metres of carriageway is sufficient. In order to achieve this, two parking bays on the opposite side of the road (shown in Appendix B photo) would need to be removed. One of the bays is outside properties with off street parking, but the other is not. Extra drainage would also need to be installed in order to capture the disturbed flow into the existing drainage. The cost for such realignment work would be approximately £15,000.

Financial Implications

- **Do nothing** - If no action is taken, there could be further costs associated with insurance claims arising from trips, personal injury etc. Presently, the width of the footway has been narrowed to such an extent that it is only wide enough for one person. Furthermore, the root formation has lifted the tarmac footway to such an extent that it is not possible to walk on the surface safely. Any attempt to manage the roots of the tree in order to avoid its removal will compromise its stability and could endanger lives.
- **Undertake highway realignment** - It is estimated that Highway realignment will cost approximately £15,000, removing two on street parking bays. This option would not remove the tree so the Council could still be liable for claims of damage by the tree.
- **Remove and replace the tree** – If the tree is removed and another replanted, the cost to the Council is £1,158.60 which can be accommodated within budgets.

4. EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

- The recommendation is to take action to address the disruption this tree is causing. If the tree is removed, the effect would be to satisfy the obligations that the Council has to retain a safe useable footpath. If this tree is removed and replaced, the effect will be to improve the safety of the footpath in this area of Bawtree Road. As result, the incidence of future claims brought about by residents and users of Bawtree Road would be significantly less likely to occur.
- If this tree is retained, the effect would be welcome to those residents that wish to see this tree retained. Projected costs would be reduced significantly in the short term. Bawtree Road would continue to retain a landscape which is aesthetically pleasing, due to the significant contribution that this mature tree makes.
- If the tree is retained with the highway adjustments, the above would remain true, but parking spaces in the road would be lost and the roadway narrowed.

Consultation Carried Out or Required

- The residents living closest to this tree were consulted in November 2014 on the proposed removal and replacement of this highway tree.
- Before letters were sent out to Bawtree Road residents in November 2014, internal discussions took place within the Council about the options available in order to repair the footpath.

5. CORPORATE IMPLICATIONS

Corporate Finance

Corporate Finance has reviewed this report and the financial implications, noting that there are no material cost implications associated with the recommendations to this report, and can thus be contained within existing tree maintenance revenue budgets. The costs of remedial action are significantly lower than the costs of potential claims for property damage or pedestrian injury should no action be taken.

Legal

A Highway Authority has a duty to ensure that trees on highway land do not constitute a danger to those using the highway or adjoining properties. The Highways Act 1980 provides that duty to maintain the highway (and footpaths are highways for the purposes of the Act). 'Maintain' includes a duty to repair. The duty to maintain provides sufficient power to create a degree of control over highway trees for the imposition of liability in nuisance. The Council could therefore be liable in a civil action for a breach of the duty to maintain if appropriate action is not undertaken.

The Council has a duty to take reasonable steps to prevent or minimise the known danger of damage occurring bearing in mind the practicability of the steps required and the cost. Where a local authority is aware of an appreciable risk of substantial damage, it is possible that liability will also arise in negligence. The steps required to be taken in order to prevent liability for nuisance arising depend very much on the facts and circumstances of each tree.

This report highlights that there has been disruption to the road and footpath, which has resulted in an insurance claim from a resident who tripped on the uneven path. This indicates that there is a strong possibility that a further accident may occur, which strongly suggests that the Council should be undertaking steps to prevent or minimise danger to both property and persons.

Members must ensure there is a full consideration of all representations arising including those which do not accord with the officer recommendation. Members must be satisfied that responses from the public are conscientiously taken into account.

6. BACKGROUND PAPERS

Nil.

Highways Comments

The Council has a Legal duty to ensure that the highway is free from obstructions and fit for purpose. Whilst every effort is made to maintain the footways around highway trees in this particular instance the footway has become unusable due to the size of the highway tree and its root formation.

The width of the footway has been narrowed to such an extent that it is only wide enough for one person, however, the root formation has lifted the tarmac footway to such an extent that it is not possible to walk on the surface safely. It is not possible to cut the root formation back as this would affect the stability of the tree and possibly kill it. As the footway is dangerous to use should an accident occur then the Council would not be able to defend any claim made against it.

If the tree were to remain in situ then the only option available would be to widen the footway sufficiently in order that pedestrians particularly those with disabilities could use it. A sufficient footway width would be 1.2 metres and in order to provide this the kerb line would need to be brought out into the carriageway by about 1 metre.

The kerb line where it meets Blackmore Way could be realigned in order to widen the section of footway in Bawtree Road by the tree (see Appendix B). Bawtree Road is about 5.3 metres wide and being a small side road and a dead end 4.3 metres of carriageway would be sufficient.

In order to achieve this there would be a need to remove two parking bays on the opposite side of the road (shown in the Appendix B photo). One of the bays is outside properties with off street parking but the other is not. Extra drainage would also need to be installed in order to capture the disturbed flow into the existing drainage. The cost for such realignment work would be in the order of £15k.

