

Report to Overview and Scrutiny Committee

Date of meeting: 3 June 2021



Portfolio: Housing & Communities – Cllr Holly Whitbread

Subject: Policy on our approach to trees causing structural damage to assets

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1. Recommendation:

That the Overview and Scrutiny Committee reviews our approach to dealing with trees which are causing structural damage to our assets and recommends that the policy be presented to Cabinet for approval.

2. Executive Summary:

There is little doubt that trees enhance the enjoyment of our District, as well as providing support for wildlife. However, in the modern built-up environment, there is fierce competition for space. As the tree or trees grow, encroaching roots and overhanging branches can extend beyond the legal boundary into neighbouring properties, causing inconvenience, damage or even injury. When the tree roots enter a shrinkable, clay soil, they can take up sufficient moisture to cause the clay to dry and shrink. As a result, any property foundation built upon the clay may move or subside.

The Council has a dual responsibility, to protect trees in the interests of public amenity, but also to try and ensure that no individual suffers undue loss, distress or damage resulting from Council owned and managed trees. Our current approach is ad-hoc and some residents are experiencing issues such as not being able to open windows or keep properties warm due to tree root damage. Our proposed policy takes a structured approach and enables us to take a consistent approach to the challenges of tree root damage. It also defines the decision-making process.

3. Report

As a tree owner the Council or other landowners are likely to be liable for the subsidence and structural damage caused to its neighbours' buildings, e.g. tree root damage to foundations, and where this can be proven the Council or other landowners could be compelled through court action to 'abate the nuisance', which may include removal of the tree or trees, the reinstatement of property and payment of compensation. As we do not have a current policy, the decision-making process is slow and fragmented. This can cause additional disruption for the residents and for our insurance company who may refuse the claim if we have not taken action in a timely manner.

Epping Forest District has particular challenges as the majority of the District is underlain by London Clay. This is a highly shrinkable deposit which is susceptible to drying shrinkage and subsidence. This is further exacerbated by tree roots taking and removing the water from the ground.

It is proposed that EFDC implements and follows the Essex County Council's Subsidence Flowchart and the Land Ownership and Liabilities Flowchart. The process is thorough and detailed and will provide the information required to make an informed decision as to the best course of action – see **Appendix 1**.

Reason for decision:

Asset management are dealing with an ever-increasing number of structural issues these are having an impact on the condition of our assets and in some instances the lives of our residents. The policy sets out to formalize our approach.

Options considered and rejected:

Officers considered continuing with the ad-hoc approach however that presents a number of risks to the organization.

Resource implications:

The cost for the removal and management of trees sits within the HRA budget.

Legal and Governance Implications:

Our proposed approach applies an appropriate level of governance.

Safer, Cleaner, Greener Implications:

The policy includes the re-provision of tree where a tree has needed to be removed.

Background Papers:

NA

Impact Assessments:

Risk Management:

There is a risk of litigation should the Council not apply an appropriate approach to the management of trees.