

<b>CABINET</b>	<b>AGENDA ITEM No. 6</b>
15 November 2021	<b>PUBLIC REPORT</b>

Report of:	Steve Cox, Executive Director Place & Economy, Cambridgeshire and Peterborough	
Cabinet Member(s) responsible:	Cllr Nigel Simons Cabinet Member for Waste, Street Scene and the Environment Cllr Peter Hiller, Cabinet Member for Strategic Planning and Commercial Strategy and investment.	
Contact Officer(s):	Darren Sharpe - Natural and Historic Environment Manager Richard Kay – Head of Sustainable Growth Strategy	01733 453596

**TREE MANAGEMENT: LIMITED REVIEW OF THE TREES AND WOODLAND STRATEGY (INCLUDING REVISED TREE PLANTING TARGETS).**

RECOMMENDATIONS	
FROM:	Deadline date:
<p>It is recommended that Cabinet:</p> <ol style="list-style-type: none"> <li>1. Consider the tree planting and other related recommendations of the Climate Member Working Group, as set out in Appendix 1, taking account of officer commentary in this agenda report (and especially para 4.11), and advise Full Council whether it endorses all or some of the recommendations, prior to Full Council considering the recommendations at its meeting on 8 December.</li> <li>2. Recommends to Full Council that the Trees and Woodland Strategy, in addition to any amendments arising from recommendation 1, be further amended by way of (a) an updated Tree Risk Management Plan, as set out in Appendix 2; and (b) introduction of new operational guidelines in respect of daylight loss and vegetation encroachment, as set out in para 4.24.</li> <li>3. Welcomes the national ‘Queen’s Green Canopy’ scheme, and instructs officers to (a) take all reasonable opportunities to promote the scheme with the public, encouraging the public and businesses to ‘plant a tree for the Jubilee’; (b) determine whether any of the council’s land holdings due to have tree planting introduced over the next two winters be specifically designated (with appropriate signage) as a ‘Queen Green Canopy’ planting (such as a new copse, woodland or orchard), and (c) where appropriate, submit where appropriate tree planting done by the council over the next 2 winters to the national Queen’s Green Canopy database, so that the council’s contribution can be recognised.</li> </ol>	

**1. ORIGIN OF REPORT**

1.1 The report is submitted to Cabinet, with its origin stemming from two main sources:

1. The tree planting targets element of this report is brought to Cabinet following the Council’s instruction (in October 2020, and as updated by Cabinet in February 2021) to

the Climate Change Cross Party Working Group to conduct an audit of Council owned land and produce a revised tree planting target by March 2022.

2. Growth, Environment and Resources Scrutiny Committee, at its meeting of 8 September 2021, made a number of tree related requests for Cabinet consideration.

## 2. PURPOSE AND REASON FOR REPORT

- 2.1 The primary purpose of this report is for Cabinet to determine what, if any, amendments to the Trees and Woodland Strategy are considered appropriate (aided by, in part, by the recommendations of the Climate Change Cross Party Working Group, and thereby recommend such amendments to the next available Full Council meeting. As a reminder, the Trees and Woodland Strategy is a major policy item, and therefore only Full Council can amend its content. The report also considers and makes recommendations on other tree-related matters.
- 2.2 This report is for the Cabinet to consider under its Terms of Reference No. 3.2.1, *'To take collective responsibility for the delivery of all strategic Executive functions within the Council's Major Policy and Budget Framework and lead the Council's overall improvement programmes to deliver excellent services.'*
- 2.4 The outcome of this work has the potential to directly and indirectly support all of the council's corporate priorities.
- 2.5 The tree planting recommendations included in this report will help to improve air quality across the city which therefore could also have a corresponding benefit for Children in Care (as well as the wider populace of Peterborough).

## 3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	<b>YES</b>	If yes, date for Cabinet meeting	<b>15 November 2021</b>
Date for relevant Council meeting if applicable	<b>8 December 2021</b>	Date for submission to Government Dept.	<b>N/A</b>

## 4. BACKGROUND AND KEY ISSUES

- 4.1 Trees are a vital natural resource, and their importance to human welfare and wellbeing (as well as to wider biodiversity wellbeing) is becoming increasingly recognised by society. The Council, as a major landowner, is a custodian of many thousands of trees – indeed, 20% of land owned by the council is covered by trees, ranging from woodlands to single urban 'street' trees. To help manage that tree stock (as well as new planting), the Council has an adopted Trees and Woodland Strategy, the last being adopted by Full Council in 2018. It is nationally recognised in the industry as a 'best practice' example of such a Strategy. Cabinet may wish to remind themselves of its content here: <https://www.peterborough.gov.uk/council/planning-and-development/conservation-trees-and-hedges/tree-management>
- 4.2 The Strategy has been very effective in putting in place clear processes and guidelines as to how the city council will not only discharge its statutory functions in relation to Trees and Woodland, but also establishes guidelines, or 'service standards', in respect of this important resource, a matter which is a very 'public facing' service. The Strategy not only deals with how we will manage our existing tree stock (such as how we will deal with nuisance trees), but also provides the framework for planting new trees, as well as highlighting threats and risks to our trees (eg ash dieback). For the avoidance of doubt, the Strategy is almost entirely targeted at PCC owned land – it is not a district-wide policy or strategy for managing (or planting) trees on private land.

- 4.3 Notwithstanding the success of the current Strategy, for a number of reasons as explained in this report, Cabinet is asked to consider and offer its thoughts on potential changes to the Strategy. Any such recommended changes or comments will then be recommended to Full Council.
- 4.4 This report has four broad elements, as follows:
- Tree Planting on council land – amended targets
  - Tree Risk Management Plan – updated plan
  - Queen’s Green Canopy – council support for the scheme
  - Tree management operational guidelines – additional guidance

#### **Tree Planting Target**

- 4.5 This part of the Report considers whether or not the council should amend its Tree Planting Target. At a meeting of Full Council in October 2020, Council instructed the cross-party Climate Change working group and relevant officers to:

*“1. Carry out an audit of council owned land in the city to identify possible planting opportunities*

*2. Research and recommend much more ambitious tree planting targets for planting on Council land and to submit to Full Council not later than March 2021 amendments to the Trees and Woodland Strategy and the Carbon Management Plan to include the proposed new targets.”*

- 4.6 It became apparent that there was insufficient time and resources to meet the March 2021 target, especially in terms of a comprehensive audit of Council owned land. In February 2021, therefore, Cabinet resolved that it:

*“Supports the work of the Climate Change Cross Party Working Group to identify mechanisms to enable the Council to significantly increase tree canopy cover across the city over the next ten years and to present detailed proposals within a maximum 12 months detailing how this can be achieved.”*

- 4.7 The Working Group has spent a considerable amount of time researching and debating the options, including taking on board expert witness advice.

- 4.8 Attached at Appendix 1 is the Working Group’s agreed set of recommendations, together with a paper explaining the rationale for such recommendations. Cabinet is asked to consider the recommendations, and determine whether it supports some or all of the recommendations. Because the task was set by Full Council, for reporting back to Full Council, the Working Group’s recommendations will be sent to Full Council unaltered. However, Full Council, no doubt, would welcome Cabinet’s views on them.

- 4.9 To assist Cabinet, the view of officers is that the ‘25% by 2035’ tree canopy cover target, as recommended by the Working Group, is an extremely ambitious target. Whether it is deliverable will, as is often the case, be subject to resources. The Working Group consider that the financial impact to deliver the target will be relatively low (£70k per annum is requested, as new additional funding), with the vast majority of the cost (£5-15m est, over approximately 15 years, for the planting and maintenance) will be grant funded.

- 4.10 If the £70k revenue funding is agreed, as requested by the Working Group, and if the new target is worded in such a way as to make it clear that it is subject to grants being secured (which is what is proposed by the Working Group), and if, as is probably the case, that enough PCC land can be found to meet the target, then the recommendations of the Working Group are, in the opinion of officers, potentially deliverable, if somewhat still very challenging. The scale of planting will be something around 10-20x the current rate of planting, for example, and will need to be undertaken for the next 14 years.

- 4.11 However, given the Council’s present financial situation, it is the view of the S151 Officer, based on an assessment of the business case made for the funding that was considered through the

Council's budget governance processes, that the additional £70k revenue funding cannot be supported at this time. As such, officers recommend that Recommendation 6 of the Working Group's recommendations be amended and offered to Full Council as an alternative, as follows (bold and underline highlights the change):

**6. That Council investigates all reasonable options to secure additional external revenue funding**, of around £70,000 per annum, in order to secure (a) additional staffing support (cost c£50,000 pa) to: undertake the work required to bid for funds; to maintain the evidence base to support locations to deliver new planting; undertake ground truthing of sites identified for potential planting; and overall manage the delivery of the ambitious tree planting programme, the scale of which will be similar to that achieved under the Development Corporation programme of the 1970s/80s; and (b) a small funding pot (c£20,000 pa) to be used to help directly deliver the tree planting targets in any particular year where 100% grant funding cannot be secured.

In doing so, none of the other Working Group recommendations would be affected, and the revised planting target (including the caveat of meeting such a target will be dependent on securing grants and other funding) can remain unaltered, and be endorsed by Cabinet to Full Council.

### **Tree Risk Management Plan**

4.12 Part of the function of the Council's Trees and Woodland Strategy is to help facilitate compliance with:

- Occupiers Liability Act 1957 [revised 1984] which requires it "to take reasonable care" to maintain its trees and woods in a reasonably safe condition.
- The Health and Safety at Work Act 1974 which requires the council to have a duty of care to employees and members of the public in respect to safety of the trees in its ownership.

4.13 At Appendix 4 of the Trees and Woodland Strategy is the current Tree Risk Management Plan. As with all risk management, it is important to regularly review such management processes and update any measures to meet legislative changes, case law or general current best practice guidance. A review and update of this Risk Management Plan has recently been undertaken by Aragon Direct Services (whom deliver tree services on the ground for the Council) and relevant Council officers, and it is recommended that the Risk Management Plan be updated and agreed as an amendment to the existing main Strategy. Appendix 2 of this report provides the recommended updated Risk Management Plan.

4.14 In summary, the changes proposed in the Plan (compared with that agreed in the 2018 Strategy) are relatively limited. The main systems of health and safety checks on trees that have been developed over time are proposed to be maintained. The overall aim of the revised Plan continues to be to keep risks presented by trees as low as it is reasonably practical to do so. The main proposed changes, therefore, are:

- To reflect upon recent case law that has subsequently already influenced current operations and thus needs to be formally reflected in the plan.
- To provide a clearer structure to the document, in order to explain the 'what', 'why' and 'how'.
- To introduce a 'high priority tree survey' process for sizeable trees which are within falling distance of a high value target.

The Growth, Environment and Resources Scrutiny Committee endorsed the updated Tree Risk Management Plan at its meeting of 8 September 2021. Cabinet is asked to recommend to Full Council the updated Plan, so that it can be inserted into the Trees and Woodland Strategy.

### **Queen's Green Canopy**

4.15 Next year marks 70 years of the monarch on the throne. To celebrate the anniversary and create a lasting legacy, a UK-wide tree planting initiative named The Queen's Green Canopy (QGC) has been established. The unique scheme involves inviting people to "Plant a Tree for the Jubilee,"

with everyone encouraged to plant trees from October 2021 - when the tree planting season begins - through to the end of the Jubilee year in 2022.

- 4.16 Gillian Beasley and wider officers have been working with Cambridgeshire County Council and the Lord Lieutenant of Cambridgeshire, Julie Spence, to raise awareness of the QGC and to work with residents, groups, schools, businesses and other partners to encourage and support their participation in the scheme. As well as leaving a lasting legacy for the Queen, the tree planting will support the environmental ambitions of the city council, including the target to achieve net zero carbon emissions and create an improved natural environment for residents and wildlife. There is obviously a very clear link with the earlier part of this report on revising our tree planting targets.
- 4.17 Everyone is invited to take part and it is easy to get involved – whether you are an expert gardener or complete novice there is something you can do. This ranges from individuals planting trees on their private land, community planting projects, schools planting trees on their premises and businesses setting up tree planting projects with employees. However, *planting the right tree in the right location* is an essential message we need to get across to all those interested in the scheme. The wrong tree in the wrong location can quickly result in a nuisance, become a health and safety hazard or can go on to damage property.
- 4.18 A national map is hosted on the national QGC website where you can add your planting project and view the contribution being made across Cambridgeshire and Peterborough.
- 4.19 For further national information:
- <https://queensgreencanopy.org/>
- For local information (webpage hosted by CCC, but developed in partnership with PCC):
- <https://www.cambridgeshire.gov.uk/residents/climate-change-energy-and-environment/improving-the-natural-environment/trees-and-woodland/queens-green-canopy-project>
- 4.20 The Leader of the Council has already voiced his full support for the scheme (see council press release of 17 Sept 2021). However, Cabinet is asked to formally endorse the scheme, and instruct officers to undertake best endeavours to promote it to residents, as well as actively take part by planting trees on our own land and logging such sites on the national database.

**Operational guidelines to which Aragon operate to, in respect to encroaching vegetation and loss of daylight**

- 4.21 On 8 September 2021, the Scrutiny Committee had a wide-ranging discussion relating to tree matters, including consideration of whether the Trees and Woodland Strategy had the right policy framework to tackle nuisance trees (such as whether exceptions to standard policy be introduced).
- 4.22 Officers did not recommend making such changes to the Strategy, and this was, following discussion, endorsed by Committee. However, as an alternative way to tackle the ‘nuisance’ issues raised by Scrutiny, officers did recommend greater clarity in the Strategy in respect of operational guidelines to which Aragon work to, specifically in relation to encroaching trees and loss of daylight. Scrutiny Committee endorsed these new proposed guidelines, and recommended them to Cabinet.
- 4.23 Cabinet is now asked to similarly endorse these new guidelines (set out below), and recommend them to Full Council as an amendment to the Trees and Woodland Strategy. Perhaps the most important element of the proposed new guidance, is the introduction of the ‘4 metres’ guidance. In recent years, we have generally operated on a 2m rule, but the revised text below acknowledges that in certain circumstances, and in relation to specific daylight loss, a greater distance of 4m is to be introduced. This new guidance will be monitored for both its effectiveness

(i.e. less complaints / more satisfied customers) and whether or not it significantly puts pressure on the overall tree management budget to implement compared with than the present arrangements. For the avoidance of doubt, no additional finance is being sought to implement this new 4m guidance, as its implementation will be via the existing tree management budget; but if it is demonstrated over a 12 month period that this new guidance diverts too much of the budget from other necessary tree work in order to implement the 4m guidance, then the guidance will be reviewed again. This is not expected to be the case, but will be monitored. The new guidelines are as set out in the next paragraph.

4.24 Text recommended to be inserted into the Trees and Woodland Strategy:

### **Daylight Loss**

*Trees are often perceived to block light to nearby properties. However, pruning or removal of trees will often have a negligible impact on the amount of light reaching a house or garden. The Council will only consider taking reactive action (pruning or felling) in the following circumstances:*

- *The separation between the tree's branches and windows of the main room of the dwelling is less than 4 metres; and*
- *The works are considered compliant with BS3998: Recommendations For Tree Work; and*
- *The trees lost would not have significant landscape impact or would not result in the loss of a significant community asset.*

*For the purposes of this guidance windows to toilets, bathrooms, storerooms and circulation areas are excluded. Equally the guidelines do not apply to sheds, greenhouses, summer houses, garages and workshops. Where a dwelling has a conservatory, the opening between it and the house, not windows to the front or side of the conservatory, is taken as the window position.*

### **Encroaching vegetation (trees).**

*Council owned trees will not be pruned to prevent overhang of a private property unless it is touching the main dwelling or garden buildings. Where cases of this nature are reported it is aimed, following pruning, to provide 2 metre clearance from the structure to the offending branches.*

*The council will advise residents of their common law rights to prune overhanging vegetation to the boundary line of the property (the exception to this would be where the tree is covered by a TPO and consent would first have to be obtained from the Local Planning Authority).*

### **Other Potential Changes to the Trees and Woodland Strategy**

4.25 The aforementioned Scrutiny Committee discussed a number of other potential amendments to the Trees and Woodland Strategy, and one aspect in particular was recommended. The Committee was concerned that the current Strategy operated on the basis that when a council owned tree was felled, a replacement was on the basis of 1 for 1, and the replacement potentially being a very small tree. The precise reference within the Strategy is para 9.2.24, bullet points 1 and 2, which state as follows:

- *Council owned street trees that are removed will be replaced on a one for one basis, using established nursery grown standard trees.*
- *Trees felled owing to them being inappropriate for their location will replanted on a one for one basis, typically elsewhere within the ward. The size of nursery stock used within these location will vary to the planting location.*

4.26 The Committee recommended that the replacement tree policy should not be just based on numbers but on the benefits and impacts such as biodiversity, mitigating the impact of climate change, net carbon benefits and net gain, and should be in line with the current planning policy (whereby developers must replace trees on a development site on a greater than 1-for-1 basis).

- 4.27 Officers opinion is that the practical implementation of this approach would be difficult, as replacing one tree for several trees in a specific location is not always possible. The costs would also be considerably more (once maintenance has been factored in), and no budget is available for this. Moreover, officers are conscious of the substantial (10-20x fold) increase in tree planting as being recommended by the Working Group, which will require widespread planting throughout the city in any event. Attempting to factor in a further large scale tree planting programme via a greater than 1-for-1 replacement policy will place further demands to implement, both financially and officer time. On balance, therefore, Scrutiny Committee's request is therefore not supported by officers, and Cabinet are not asked to recommend any changes to Full Council in this regard.

## **5. CONSULTATION**

- 5.1 Scrutiny Committee was consulted on a number of aspects in the paper, at its meeting of 8 September. The Climate Cross Party Member Working Group has held extensive discussion in respect of the tree planting targets, including some external expert advice sessions. The views of these two Member based forums have been set out in this report at the applicable places.

No other consultation has taken place, other than internal officer discussions.

## **6. ANTICIPATED OUTCOMES OR IMPACT**

- 6.1 It is anticipated that Cabinet will endorse a number of changes to the Trees and Woodland Strategy, and recommend such changes to Full Council. It is also anticipated to endorse the 'Queen's Green Canopy Scheme.

## **7. REASON FOR THE RECOMMENDATION**

- 7.1 There is widespread acknowledgement of the vital role trees play, not only for human benefit but wider planet and biodiversity gains. The recommendations in this report are aimed at further strengthening the council's commitment to tree planting and a high quality tree management service.

## **8. ALTERNATIVE OPTIONS CONSIDERED**

### **8.1 Tree Planting Target**

A wide range of options have been considered for increasing tree planting by the council, as detailed in Appendix 1. The option of planting less trees was rejected from the start of the process, as this would be contrary to the climate and biodiversity emergencies that we face.

#### Tree Risk Management Plan

Other rejected options include:

1. Keep plan as existing. This was dismissed as it was considered that the Council would not comply with best practice guidance or its legal duties.
2. Specify a Plan that exceeds best practice guidance or resources. Although commendable this approach would impose unacceptable financial pressures on the authority.

#### Amendments to Trees and Woodland Strategy (including exceptions)

Rejected options include:

1. Prune any tree that shades or overhangs private property. This would introduce a significant financial burden exceeding existing budget along with the destruction of one of the city's most valuable natural assets.
2. Insert a broad range of exemptions. This would make the role of the Tree Officer untenable

and would impose financial burdens far in excess of existing budgets.

## **9. IMPLICATIONS**

### **Financial Implications**

- 9.1 Unless otherwise stated below, there are no financial implications arising from the recommendations in this report, and can be delivered via existing budgets.

#### Tree Planting Target

Any increase in tree planting will require additional resources, potentially substantial running into £millions (both short term and annual basis for maintenance). Based on the Climate Cross Party Working Group preferred option, these are likely in the region of £5-£15m over the next 10-15 years. However, the Working Group are clear that such sums will be 100% grant funded (other than a £20k 'top up' fund), and acknowledge that the target is set on this basis. In effect, if the grants aren't secured, the planting target will not be met. Accordingly, there are no financial implications for the actual tree planting.

However, the Working Group is specifically seeking additional staffing resource to manage the tree planting programme, at a cost estimated at being £50k pa, on a recurring basis. This cost is not currently planned for in the Medium Term Financial Strategy, and should it be agreed it would present a budget pressure, increasing the requirement to make savings to deliver a balanced budget.

However, given the Council's present financial situation, it is the view of the S151 Officer, based on an assessment of the business case made for the funding that was considered through the Council's budget governance processes, that the additional £70k revenue funding cannot be supported at this time. This can be revisited once the budget has been balanced. In addition, clarity is also sought on the funding sources for ongoing maintenance which is set out as Grant Funding as again the Council does not have the revenue budget to cover this in the event that Grant Funding is not available.

### **Legal Implications**

- 9.2 There is a legal duty to maintain any trees planted on land that the Council owns and is responsible for, as defined in the Health and Safety at Work Act 1974, Management of Health & Safety at Work Regulations 1999, Highways Act 1980 and The Occupiers Liability Act 1957. If Council commits to the planting of additional trees, PCC will be legally responsible for their maintenance.

The loss of daylight on neighbouring properties from Council owned trees may constitute, in some people's mind, a nuisance based in law. It is however reported that to-date that no such cases have been brought to the courts or succeeded in respect of trees. This maybe because a remedy is seldom available.

Where a tree is causing actual harm directly to a person property e.g. rubbing on a shed roof, the resident has the right to abate the nuisance themselves. It is however considered that the Local Authority would take reasonable steps to abate the nuisance in response to harm.

### **Equalities Implications**

- 9.3 There are no known implications, positive or negative

### **Rural Implications**

- 9.4 There are no known implications, positive or negative, though increased tree planting across the administrative area should bring some positive benefits to rural (as well as urban) areas.



## **Carbon Impact Assessment**

- 9.5 If the tree planting targets as recommended by the Working Group are adopted by Full Council, there will be a considerable net benefit to the climate, arising from the sequestration of carbon from the atmosphere through the growing of trees. Very approximately, a tree over its lifetime can absorb around 1 tonne CO<sub>2</sub>. The Working Group are recommending something like 150,000 trees to be planted. Whilst not all such trees would reach maturity, even if a proportion of them do it would capture many 1,000s of tonnes from the atmosphere.

## **10. BACKGROUND DOCUMENTS**

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

- 10.1 Trees and Woodland Strategy 2018

## **11. APPENDICES**

- 11.1 Appendix 1 – recommendations of the Climate Cross Party Member Working Group

Appendix 2 – proposed updated Tree Management Risk Plan

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