

Agenda

Environment and Climate Change Committee

Date: Tuesday, 16 July 2024

Time 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT

Membership:

Councillors Roger Clark, Carole Jackson, Rich Lehmann (Chair), Claire Martin, Charlie Miller, Pete Neal, Chris Palmer, Hannah Perkin, Ashley Shiel, Julien Speed, Paul Stephen, Sarah Stephen, Angie Valls, Ashley Wise and Dolley Wooster (Vice-Chair).

Quorum = 5

Pages

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2. Apologies for Absence

3. Minutes

To approve the [Minutes](#) of the meetings held on 13 March 2024 (Minute Nos. 761 – 768) and [15 May 2024](#) (Minute Nos. 23 – 24) as correct records.

4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIs) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

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Issued on Monday, 8 July 2024

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**Chief Executive, Swale Borough Council, Swale House, East Street, Sittingbourne,
Kent, ME10 3HT**

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Environment Committee Meeting	
Meeting Date	16 July 2024
Report Title	Tree Maintenance Policy 2024 - 2028
EMT Lead	Emma Wiggins - Director of Regeneration & Neighbourhoods
Head of Service	Martyn Cassell - Head of Environment & Leisure
Lead Officer	Steven Gale – Green Space Amenities Officer
Classification	Open
Recommendations	1. Committee to approve the Tree Maintenance Policy 2024 -2028

1 Purpose of Report and Executive Summary

1.1 This report outlines the steps taken to update the Council's Tree Maintenance Policy and identifies the key changes within the updated policy. The tree maintenance policy;

- Describes the process the Council will follow in order to manage their tree stock in an appropriate manner.
- Outlines Surveying methodology and frequency.
- Gives Information on the Council's responsibilities and how we will adhere to them.
- Sets out how the Council will respond to resident enquiries and what tree work residents can conduct themselves.

2 Background

2.1 The Tree Maintenance Policy 2024 - 2028 is an update and continuation of the 2019 - 2023 Tree Maintenance Policy.

2.2 The Council recognises the importance of responding to resident enquires but our responsibility is to ensure that our tree stock is reasonably and proportionally managed whilst presenting as low risk as practically possible. Significant issues can arise due to a lack of inspection and maintenance which could damage the Council's reputation and financial position. With an increasing number of storms and changing climate, trees could pose significantly higher risk than before if not managed appropriately. Regular inspection can also help reduce damage claims made against the Council.

2.3 Leisure and Technical currently have one Greenspace Amenities Officer who is responsible for the management of trees within open spaces, parks, woodlands and cemeteries. The Council has a tree work contract with Elite Arborists that

runs until December 2026 and provides tree work once a week, the annual value of this contract is £36,257.70 In addition to this there is a separate budget of £17,500.00 within the parks and open Spaces revenue budget for unscheduled works. The Council employs a Tree Preservation Officer within the Planning department who is available to offer specialist advice.

- 2.4 The policy provides clarity on all of the above and is intended to clearly set out how the Council manages its trees and how the Council intends to process any enquiries.

3 Proposals

- 3.1 Committee to approve the drafted Tree Maintenance Policy 2024 – 2028
- 3.2 For the pre-existing policy on the Council's website to be replaced with the new one.
- 3.3 Core changes being proposed within the Draft 24/28 Policy include,
- Tree survey methodology: we have changed from a zoning approach to QTRA system (quantified tree risk assessment) which allows us to manage each tree as an individual risk and provides a risk factor rating based on several factors.
 - Work Prioritisation timeframes. There are now 5 categories ranging from immediate action to low priority.
 - The inclusion of how the Council will respond to resident enquiries relating to solar panels.

4 Alternative Options Considered and Rejected

- 4.1 To retain the existing policy for another four years. This was not viewed as appropriate. Whilst there was acknowledgement that the current Policy is robust and fit for purpose, changes made to the Council's surveying methodology and a more robust responses to residents' enquiries required a new Policy.

5 Consultation Undertaken or Proposed

- 5.1 Consultation has been limited to internal discussions within the Greenspace team along with the planning Tree officer.

6 Implications

Issue	Implications
Corporate Plan	<p>Investing in our environment and responding positively to global challenges.</p> <p>2.5 Work towards a cleaner borough where recycling remains a focus and to ensure that the council acts as an exemplar environmental steward, making space for nature wherever possible.</p>
Financial, Resource and Property	<p>Tree Maintenance Resource 2024/25</p> <p>Tree maintenance contract budget £36,257.70</p> <p>Ad Hoc tree maintenance budget £17,500.00</p>
Legal, Statutory and Procurement	<p>Section 5 of the policy identifies the Council's statutory legal obligations; this section of the policy also details tree risks and how we will manage / reduce them.</p> <p>The policy has no procurement specific issues.</p>
Crime and Disorder	<p>Tree maintenance does have a direct impact on some community safety issues – such as feelings of safety and also the usefulness of CCTV if areas are overgrown and reducing lighting. Tree vandalism, predominantly newly planted trees are also targeted in some areas.</p>
Environment and Climate/Ecological Emergency	<p>The benefits of trees are widely reported, environment benefits include rainwater capture, carbon sequestration, urban cooling, filtering pollution and providing cleaner air.</p> <p>Trees also provide vital habitats and eco systems which enhance local biodiversity. Birds, bats, squirrels and other wildlife benefit from significantly from areas of densely populated trees.</p>
Health and Wellbeing	<p>Trees within urban environments provide shade and urban cooling which reduces the likelihood of heat related illness. Trees remove pollutants and provide cleaner air which has been proven to improve health. Studies have also show that the presence of trees reduces stress levels and increases mental wellbeing. Access to local woodlands provide physical benefits through various means such as walking, community groups, volunteer events and many more.</p>
Safeguarding of Children, Young People and Vulnerable Adults	<p>The Policy provides detail of how we aim to reduce the risk trees can pose. There is nothing within the policy that directly relates to safeguarding.</p>

Risk Management and Health and Safety	Section 6 of the Policy details the Council's tree risk management process, including recorded visual tree assessments on all Council owned trees. The trees are given a tree risk rating as per the QTRA methodology. Where remedial works are recommended, these are categorised within 5 priority groups ranging from immediate work to low priority. The Policy states we will prioritise health and safety related work recommendations.
Equality and Diversity	Matters such as equality or diversity are not covered within the Policy.
Privacy and Data Protection	Tree surveying contractors have their own data protection policies in place which are vetted by the Council prior to the award of the tree surveying contract. The data they collect is not of a sensitive nature and no personal / private data is collected or stored as part of the tree surveying contract.

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Tree Maintenance Policy 2024 - 2028

8 Background Papers

None

Tree Maintenance Policy

Draft Policy for 2024-2028



“Three hundred years growing. Three hundred years standing. Three hundred years decaying.”

Lifecycle of English Oak & Sweet Chestnut - Peter Collinson 1776

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Appendix 1: Legal Obligations and Risk

1. Introduction

Trees are an important asset throughout Swale playing a vital role in contributing to the visual amenity and ecological value of both rural and urban landscapes.

Kent is often referred to as “The Garden of England” and Swale while having the three main urban towns of Faversham, Sheerness and Sittingbourne, is predominantly a rural borough. The borough is characterised by the North Kent Downs Area of Outstanding Natural Beauty to the south, North Kent Marshes along the north coast with a central mainland plain of orchards and arable land. Significant areas of the borough have nature conservation designations and trees are present along our mosaic of highways, in public open space and within private land. Important areas of woodland can be found to the south and east of the borough including the fringes of The Blean ancient woodland at Dunkirk.

Against these positives and benefits are problems and risk associated with root damage, obstruction of lighting and danger of falling limbs or whole trees. There is a recent background of increased claims for structural damage so the defence of claims in addition to pure health and safety is increasingly an issue.

A Climate and Ecological Emergency was unanimously declared by Swale Borough Council on 26 June 2019 in response to the change climate. There is a target in place to increase our tree stock by 148,100. Swale Borough Council actively bids for funding to increase planting opportunities across the Borough.

This policy sets out Swale Borough Council's responsibility for trees on its land including open space, woodland, country parks, allotments, car parks, closed churchyards and cemeteries. Swale has a role in managing, maintaining and enhancing the environment and aims to sustain a balanced and healthy tree population while recognising the constraints of budget and prioritising safety first. There are also other public bodies and wildlife charities that look after trees in Swale.



2. Scope

This policy relates to **trees within Swale Borough Council (SBC) ownership** or responsibility, which can predominantly be identified within the boundaries of the following areas:

- Parks and open spaces
- Country parks
- Woodlands
- Amenity land
- Allotments
- Cemeteries
- Closed churchyards (only those formally transferred to SBC)
- Car parks
- Retained development land

As well as the urban area, the Council is responsible for approximately 120ha of woodland across 7 sites: Perry Wood, Oare Gunpowder Works Country Park, Milton Creek Country Park, Rose Hill Wood, The Meads, Thistle Hill and Kings Borough Manor Community woodlands.

The Council has identified and surveyed **6484 individual trees**. **The Council also surveyed 643 groups of trees with an estimated total of 35,000 trees within groups outside of woodlands.** **115 hectares of woodland that fall within the scope of our ownership.**

3. The Value of Trees

Trees, **hedges** and woodlands bring many benefits to the local environment especially in the urban area. They soften and enhance the landscape by providing form, colour and diversity that change with the seasons. They help improve air quality, provide shade, screening, shelter and cooling, **play a part in water management, flood prevention** and offer valuable habitats for a wide range of wildlife.

Trees are complex living organisms that are one of the longest lasting assets of the natural environment. However, they are subject to pests and disease, climatic and site changes that can seriously affect their health. Incidence of Dutch Elm disease and Bleeding Canker of Horse Chestnut has had a dramatic effect on the landscape of local parks and Ash Dieback Disease has the potential to be as devastating. In addition, some species have characteristics that are undesirable or are difficult to manage as they mature. Development, changes to the location and well intentioned, but ultimately inappropriate planting in the past has also left a legacy of problems.

As part of the most recent survey The Council included capital asset value for amenity trees assessment to further understand the monetary value of our tree stock. CAVAT provides a method for managing trees as public assets rather than liabilities. It is designed not only to be a strategic tool and aid to decision-making in relation to the tree stock as a whole, but also to be applicable to individual cases, where the value of a single tree needs to be expressed in monetary terms.

- Standard trees value £159,381,140
- Woodland trees value £13,680,072

4. The Council's role as the Local Planning Authority (LPA) and the impact on trees in Swale

This policy is centred around the management and maintenance of our own tree stock. However, the sections below will help signpost residents to other elements relating to trees, particularly around planning policy.

In addition to this maintenance policy Swale Borough Council has a tree strategy which sets out how the Council plans to develop, protect and enhance all trees within the Borough.

Local Plan

The Swale Local Plan sets out a strategic framework for the Borough over the next four years. Alongside key issues such as employment, housing and population growth it also identifies land use issues including the protection of existing ancient woodland and the potential of creating new open spaces and 'green corridors, often funded by developer contributions.

Tree preservation orders and Conservation Areas

The Council receives a wide range planning applications for prospective developments. We advise applicants on existing trees with preservation orders (TPO's), the issuing of new TPO's to protect a tree or a specific group of trees, related restrictions and finally enforcement issues where TPO's have not been complied with. The Council follows the national planning legislation in order to undertake its duty to investigate.

Hedgerows

Countryside / ancient hedgerows:

The Hedgerows Regulations (1997) protect countryside hedgerows. You could get a fine up to £5,000 if you break the rules for removing them. In serious cases you could get an unlimited fine for removing hedgerows in cases referred to the Crown Court.

Removal of Hedgerows

You should discuss any proposal to remove a hedgerow with your local planning authority (Swale BC) first to make sure it's legal to do so. You must apply to the Council in writing before you remove it.

All of this falls within national legislation and you can view further information at: <https://www.gov.uk/guidance/countryside-hedgerows-regulation-and-management> & <https://magic.defra.gov.uk/>. This includes how to determine if a hedgerow is protected, the process you need to go through to remove or how to report an offence.

If you believe an offence has been committed you should report this to the council who act as the local planning authority, reports can be processed by emailing planningsupport@midkent.gov.uk.

Developer contributions

Planning and Open Spaces Council staff also assess the open space needs for new planning applications such as housing and other large-scale developments, specifying to the developer, the types of trees and shrub varieties, play equipment etc that should be included in their plans. Such requirements usually form planning conditions as part of a planning approval.

The ongoing maintenance of existing open spaces, trees, shrubs and community facilities on such developments are funded by the developer who pay the Council a 'commuted sum' (lump sum) to provide maintenance for 10 years. At the end of the period, the responsibility of the maintenance of the open spaces and facilities transfers to the Council without an increase in the Council budget.

In 2018 the Council agreed in its new Open Spaces and Play Strategy to no longer adopt new open space and landscaping unless it was of strategic value to the Borough. As such it is the developer's responsibility to manage and maintain new open space including trees within new developments.

5. Legal Obligations and Risk

Each year between 5 and 6 people in the UK are killed when trees fall on them. Thus, the risk of being struck and killed by a tree falling is extremely low and as almost the entire population of the UK is exposed, the risk per person is about 1 in 10 million. However, the low level of overall risks may not be perceived in this way by the public, given attitudes in a risk-averse society.

Under both civil law and criminal law, an owner of land on which a tree stands has responsibilities for the health and safety of those on or near the land and has potential liabilities arising from the falling of a tree or branch.

The duty holder who has control over the trees management whether as owner, lessee, licensee or occupier of the land has in general terms a duty to take reasonable care as a reasonable and prudent landowner for the safety of those who may come within the vicinity of a tree and to consider the risks posed by the tree.

See **appendix 1** for further health and safety information.

6. Tree Risk Management

Defendable management is consistent with a duty of care based on reasonable care, reasonable likelihood and reasonable practicality. Being reasonable involves taking actions proportionate to the risk, both proactive and reactive to achieve a balance between the benefits trees provide to the environment and people and on the other hand, risks posed to public safety.

A key objective is to maintain a defendable position at the lowest cost while avoiding the loss of valued trees.

Tree management has both reactive and proactive elements that plan and guide management decisions and practice based on three essential elements:

- Zoning: understanding trees in relation to people or property
- Tree inspection: assessing obvious faults
- Managing risk: identifying, prioritising and undertaking safety work

7. Inspections

The Council undertook a comprehensive survey of all of our trees in 2023, where every tree was assessed and prioritised by five categories from 'immediate action, to medium priority' to 'no action' and by zone. Trees are plotted onto a google suite map and core attributes recorded.

Tree Inspection

During the inspection process the surveyors use The Quantified Tree Risk Assessment Method. Tree safety management is a matter of limiting the risk of harm from tree failure, while maintaining the benefits conferred by trees. Although it may seem counterintuitive, the condition of trees should not be the first consideration. Instead, tree managers consider first the usage of the land on which the trees stand, and in turn this informs the process of assessing the trees. The Quantified Tree Risk Assessment (QTRA) system, developed by Mike Ellison at Cheshire Woodlands, applies established and accepted risk management principles to tree safety management. The system moves the management of tree safety away from labelling trees as either 'safe' or 'unsafe' and thereby away from requiring definitive judgements from either tree assessors or tree managers. Instead, QTRA quantifies the risk of significant harm from tree failure in a way that enables tree managers to balance safety with tree values and operate to predetermined limits of tolerable or acceptable risk by quantifying the risk from tree failure as a

probability. QTRA enables a tree owner or manager to manage the risk in accordance with widely applied and internationally recognised levels of risk tolerance. QTRA further provides a decision-making framework which considers the balance between the benefits provided by trees, levels of risk they pose, and costs of risk management.

Frequency of Inspections

- Urgent – 0-3 months including further investigation methods such as aerial inspection and detailed decay detection.
- Very High - 3 to 6 months.
- High - 6 to 12 months.
- Medium -12 to 24 months.
- Low - 24 to 36 months.
- Low Risk - will receive no, or only informal inspections unless otherwise stated.

In addition to specified formal inspections, it is expected that any Council Officer or contractor will visually inspect trees and report defects whenever on site and that following a significant weather event such as severe gale force winds a visual inspection of high-risk trees will be undertaken.

Who Inspects

Following QTRA process, tree inspection requirements and level will be identified by reference to their size, condition and the level of use within its fall distance.

- *Informal Observations* – people with good local knowledge of the site and its trees. Typically, this will not be a tree specialist but a member of staff, Councillor or the public who understands the way the site is used and the implications/danger should a tree be found falling apart or uprooting.
- *Formal Inspections* – require general tree knowledge and the ability to recognise normal and abnormal appearance and growth of trees for the locality. They will be able to recognise obvious visual signs of ill health and significant structural problems. Staff carrying out these inspections will have undertaken a Tree Inspection course and have experience of working with trees.
- *Detailed Inspections* – Will be carried out by a competent person, experienced in the field of investigation to be carried out, having attained the Certificate of Advanced Tree Inspection and/or qualified to the level of Diploma/Technical Certificate in Arboriculture.

We utilise a range of personnel for the above, including our own staff, those of our ground's maintenance contractor or specialist tree consultants.

Trees will be assessed by means of scheduled, systematic, visual assessment from ground level.

- Consideration of the tree’s location allied to other structures in the landscape/proximity.
- Visual inspection of the tree for symptoms and overall vitality and health.
- If a defect is suspected on the basis of the symptoms, the presence or absence of the defect must be confirmed by thorough examination
- If the defect is confirmed, it must be quantified, remedial action identified and a priority of works recorded.

Prioritisation

Where defects are confirmed as posing unacceptable risk or physical damage to structures following a regular tree inspection, or from direct customer contact, appropriate remedial action should be identified and timescale specified. Action response times are based on specific action times as identified following the condition survey.

Prioritisation	Hazard examples
Category 1- Immediate action, response within 1 hour to make safe	Emergency work, for example a leaning tree in danger of collapse, or a fallen tree causing an obstruction.
Category 2 – Urgent priority action within 28 days	A tree with significant defects such as dead trees, dead branches, snapped branches or a vegetation interference with carriage.
Category 3 – High priority action within 3months	A tree showing significant signs of decline, crown lifting works to trees, dead wooding, removal of epicormic growth.
Category 4 – Medium priority action within 6 months	Removal of stakes, minor crown lifting of canopy, minor dead wooding. Other minor works as dictated by budget.
Category 5 – Low priority action within 12 months or no action required	Routine maintenance work or no action required.

The Council will prioritise actions based on risk and works that are deemed to be necessary for safety reasons will override any other priorities that exist within tree works schedules.

Records

Full and readily accessible records will be made, whether as part of the routine inspection regime, response to a complaint or in connection to maintenance work. The Council currently use Google suite to manage the condition survey data to all Council owned and/or managed trees. Data

recorded will vary depending upon the level of inspection, but will be a positive record, i.e., a report even in the event there is no defect.

<p>Objective 1</p> <p>To ensure the safety of the users of the Council's land</p> <p>Action:</p> <ul style="list-style-type: none"> • SBC will arrange for the inspection of trees on SBC owned land using suitably qualified staff. Safety works will be prioritised and subject to budgetary constraints, will be undertaken within the timescale recommended by the inspector. The felling of trees will only be undertaken when other maintenance techniques have failed or are impractical. • This document and the process of guiding the inspection and maintenance of trees will be reviewed to ensure they meet the current legal duty of care standards.
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8. Type of Works

The following table identifies the type of works typically undertaken to manage the health and health and safety of our tree stock.

Works Undertaken	Description
Remove epicormic growth	Removal of new growth, which usually is from dormant buds breaking directly from the stems or trunk.
Pollard/ re-pollard	Removal of the top of a tree to a prescribed height to encourage multi stem branching. Once pollarded, trees need to be re-pollarded every 5-7 years, depending on species to the initial pollard point.
Deadwood	Removal of significant sized dead branches and stems throughout the canopy of the tree. It is not possible to remove every dead stem, priority must be given to the larger branches more likely to cause damage or injury.
Crown thin	Crown thinning is the removal of smaller branches to provide a uniform density of foliage and an evenly spaced branch structure.
Crown reduction	The reduction in height and/or the reduction in spread by a percentage to the overall crown of the tree.
Fell	Removal usually to ground level of the tree. Treatment or removal of the remaining stump may also be undertaken.
Crown lift	Usually, this task is undertaken to help alleviate low branches on a tree where they might interfere with the movement of people, either by vehicle or pedestrians. It is usual for trees to be crown lifter to 2.4m for pedestrians, and 5m for vehicular traffic.

Enquiries and service requests are logged through the Council's "My CouncilServices" system and acknowledged upon receipt. Response times are advised to the customer, with assessment ranging from immediate to 1 month. Following assessment, the work is prioritised and ordered from contractors to complete.

Enquiry	Timescale
Dangerous	Immediate
Damage caused, damage to, dead branch, fallen, fungal growth, pest infection	Assessment within 10 days
Basal Growth, low branches, overgrown, overhanging, interference	Assessment within 1 month

All birds, bats and active nests and roosts are protected by law by the Wildlife and Countryside Act 1981 from intentional harm. As such inspections are made and work may be delayed by their presence at certain times of year.

Trees can be damaged as a result of poor workmanship, resulting in a reduction in the health of the tree, increased risk and increased future maintenance costs.

Arboriculture contractors require specialist knowledge and skill to adequately undertake maintenance operations. Contractors will as a minimum have appropriate trained staff, the correct equipment with maintenance records, a suitably trained person to undertake risk assessments, a staff training programme and a Health and Safety Policy. This is in addition to any normal contractor requirements of working for the Council

Contractor working and office practices will be subject to regular monitoring and review by the Council.

Objective 2

To maintain and enhance the stock of SBC trees

Action:

- SBC will use qualified arboricultural contractors when undertaking tree maintenance.
- SBC will monitor preferred contractors on a regular basis and ensure that their workmanship, competency, qualifications, and equipment meets required standards.

9. Communication

The Council has a duty to maintain its trees in a safe condition. It also has a responsibility to respond to queries and provide information where its actions impact on the local amenity. Often, concerns can be raised due to a lack understanding or knowledge of proposed or necessary tree works.

The Council will maintain a web page that provides appropriate information and advice to assist the community and clearly identifying the Council's responsibilities and priorities.

We will keep interested parties such Ward Members, Parish Councils, Tree Wardens and colleagues (Planning) informed of any locally sensitive tree works and also where significant programmed works are proposed, a letter drop at least a week in advance to local residents will also be implemented and contractors will display information boards with the Council contact details.

Objective 3

To communicate tree management and maintenance information

Action:

- SBC will maintain a web page that identifies clear information and priorities to assist residents at the first opportunity.
- SBC will provide information on surveys and tree works to organisations and individuals as requested.

10. Nuisance

Nuisance is often difficult to define, screening by trees may be acceptable and welcomed by one person, but cause shading and interference with TV signals for a neighbour.

Trees can be viewed as a nuisance because of leaf fall, seed dropping, shading, branch overhang, TV interference or honeydew deposition. Solutions to these problems are difficult if not impossible short of removal of the tree and maintenance can often worsen the original issue by promoting strong regrowth. There is no legal requirement for an owner of a tree to carry out works to abate this type of nuisance.

Certain types of nuisances fall into the category of legal nuisance and the owner of a tree must take steps to abate the nuisance. Problems associated with root damage and subsidence falls into this category.

Objective 4

To minimise the likelihood of insurance or other claims against SBC

Action:

- SBC will seek appropriate advice from qualified advisors, legal advisors and insurers in respect of action required to mitigate any claim or future claim that may arise.

Works over and above the need to maintain a tree in a safe or healthy condition will be considered on an individual tree basis and will only be undertaken in the severest cases - usually due to insurance claims. Works will not normally be undertaken on a tree to reduce shading, leaf or fruit fall, or to improve TV signal reception.

The table below identifies common cause of nuisance and the Council's response.

Enquiry	Response
Tree overhanging property	We will not prune or fell a tree in Council ownership or managed by the Council to alleviate the nuisance of overhanging branches. Residents have a common law right to cut back encroaching vegetation to their boundary, and to offer the arising's back, although the Council does not have to accept the arising's. Throwing the trimmings back over the boundary could constitute fly tipping.
Tree blocking light	We will not prune or fell a tree in Council ownership or managed by the Council to allow natural light into a property. There is no automatic right to direct sunlight, only daylight.
Tree blocking view	We will not prune or fell a tree in Council ownership or managed by the Council to improve a view for a property.
Tree touching building	If a tree in Council ownership or managed by the Council is touching a property, we will take action to remove the nuisance in a timeframe based on the priority criteria in section 7.

	<p>It will be usual practice to prune the tree to reduce or remove the nuisance, but occasionally it may be necessary to fell the tree. This will only be considered if pruning is not sufficient to reduce or remove the nuisance.</p> <p>It is advised to contact the Council to arrange for removal of the nuisance/arising's. However, residents have a common law right to cut back encroaching vegetation to their boundary. Any works organised by the resident should be carried out by a qualified arboriculturist, after advising the Council that the work is to be undertaken. Before any work is undertaken, it is necessary to check whether the tree is covered by a Tree Preservation Order, and is within a Conservation Area, and the appropriate consent sought.</p>
Tree dropping leaves	<p>We will not prune or fell a tree in Council ownership or managed by the Council to stop or reduce leaf fall. Autumn leaf drop is part of the natural cycle of trees and cannot be avoided by pruning. Council contractors carry out removal of leaves from highways and selected open spaces but will not enter private property to remove leaves.</p>
Tree dropping sap/honeydew	<p>We will not prune or fell a Council owned or managed tree to remove or reduce honeydew or other sticky residue from trees.</p> <p>Honeydew is a seasonal problem caused by aphids (greenfly) feeding on the sap and excreting a sticky residue, which often gets colonised by a black sooty mould. Aphids are almost impossible to remove from a tree, and any pruning would only offer a brief respite from the problem. The flush of growth following pruning would result in an increase in the problem as this would be more prone to aphid infestation.</p>
Tree dropping flowers	<p>We will not prune or fell a Council owned or managed tree to remove or reduce blossom from trees.</p> <p>Spring blossom is part of the natural cycle of trees and cannot be avoided by pruning. Council contractors will remove blossom from highways and footpaths in open spaces as part of their contractual obligations but will not enter private property to remove fallen blossom.</p>
Trees dropping fruit/seeds	<p>We will not prune or fell a Council owned or managed tree to remove or reduce the nuisance of fruit or seeds.</p>

	<p>Production of fruit and seeds is part of the natural cycle of trees and cannot be avoided by pruning.</p> <p>Council contractors will remove fallen fruit and seeds from highways and footpaths in open spaces as part of their contractual obligations but will not enter private property to remove fallen fruit or seeds.</p> <p>Occasionally, there may be significant anti-social behaviour associated with fallen fruit such as fruit being thrown at cars or properties. We will consider removal of the tree and replacement of a more suitable tree species. Where there is evidence of vulnerable adults, children and animals that will be exposed to poisonous fruit or berries, the situation will be investigated, and a decision made on the most appropriate action.</p>
Trees and bird droppings	<p>We will not prune or fell a Council owned or managed tree to reduce or remove bird droppings from trees, or to remove bird droppings from private land.</p> <p>Though bird droppings can be considered a nuisance, it is not a significant reason to carry out pruning or felling works to a tree. All birds, nests and eggs are protected by the Wildlife and Countryside Act.</p>
Trees and insect/animal pest	<p>We will not prune or fell a Council owned or managed tree to remove or reduce insect pests such as bees, wasps or brown-tailed moth, or wild animals.</p> <p>Bees are endangered in the UK, and no action will be taken to control bees. If there is evidence of an active wasp nest in the tree, this should be reported to the Council for eradication if practical to do so. It is not practical to treat a mature tree for brown tailed moth, although smaller trees and shrubs can be treated, based in an individual assessment.</p>
Trees and TV signal	<p>We will not prune or fell a Council owned or managed tree to prevent interference with TV/satellite installation or reception.</p> <p>It may be possible for your satellite or TV provider to suggest an alternative solution to the problem, for example relocating the aerial/dish or means to boost the signal.</p>
Tree “too tall/hasn’t been	<p>We will not prune or fell a Council owned or managed tree because it is considered to be 'too big' or 'too tall' or “hasn’t been pruned for some time”.</p>

<p>pruned” or “may fall in high wind”</p>	<p>There is a common misconception that all trees should be regularly pruned. A tree is not dangerous just because it has grown large within its surroundings. The Council will carry out pruning or felling of trees if there is an identified risk to people or property. Any trees reported as dangerous will be inspected and appropriate work carried out if identified as necessary.</p>
<p>Tree related subsidence damage</p>	<p>If you suspect a Council owned or managed tree is causing subsidence damage to a property, it is advised the resident contacts the Council in the first instance and also alert their insurer to discuss concerns and agree on an appropriate course of action. Any claim will be investigated and, if it is proven the Council's trees is at fault, appropriate action will be taken.</p>
<p>Tree roots- in garden/causing damage</p>	<p>The Council will not prune or remove a tree because there are tree roots in a resident's garden.</p> <p>Residents have a common law right to cut back encroaching roots to their boundary, provided it does not adversely affect the health of the tree.</p> <p>If there is suspected root damage to a property, artificial turf surfaces or drains, the claimant will usually be required to provide supporting evidence through their insurance company.</p>
<p>Tree growing through overhead lines</p>	<p>We will not fell a Council owned or managed tree to remove or reduce interference with overhead wires. There may be instances where the Council will consider undertaking works to prune trees and reduce interference to telephone wires where pruning will be an effective measure as part of our general tree work programme.</p> <p>Any enquiries relating to trees interfering with overhead power cables will need to be referred to the appropriate utility company in the first instance.</p>
<p>Trees causing shade to solar panels</p>	<p>There is currently no legal obligation to undertake pruning to reduce or remove shade nuisance however the council will investigate all solar panel shade enquiries on an individual basis.</p> <p>It would be reasonable for the Council to consider requests to carry out work on trees which are restricting the efficiency of solar panels where the trees have been planted, or have self-seeded, after the panels have been</p>

installed. Where solar panels have been sited in locations where the presence of existing trees restricts the light they receive, or have been sited in locations where pre-existing, immature, trees will grow up to restrict light levels, it would be unreasonable to expect the Council to remove or reduce these trees.

11. Replanting

With concern at the loss of trees and particularly mature specimens, there is often a desire for replacement planting. However, it does not necessarily follow that it is suitable to replant on a site utilised originally some years ago. Factors can change, such as increased utility service provision, increased vehicular or pedestrian access and the presence of diseases.

The Council is committed to the replanting of trees to ensure that the amenity of the area is maintained and enhanced. **Recent applications for external funding have been successful leading to increased tree planting as a response to the Climate Change and Ecological Emergency.** Planting and replanting will only be undertaken following consideration of all the constraints that may make a site suitable/unsuitable.

The Council actively supports and encourages community groups to undertake new tree planting on council managed open spaces, country parks and woodland where there has been gradual loss over time and to increase the overall stock of Council managed trees while recognising the Council's wider financial constraints.

Any planting will be undertaken during the correct planting season (November – March) and with an appropriate species for the particular site.

Objective 5

To maintain and enhance the Public Open Spaces tree stock and ensure that tree species are appropriate to the specific site and where possible enhance biodiversity

Action:

- Where appropriate SBC will undertake the replanting on a 1:1 basis of trees removed.
- SBC will seek appropriate alternative sites and funding opportunities where site constraints and budgets prevent replanting.

12. Resource

The Council will regularly review the resource requirement to deliver against this policy and manage its trees, both in terms of inspections and works arising from both proactive and reactive responses.

Currently one Greenspaces Officer is responsible for managing the Council's tree stock using an allocated revenue budget of £49,480 (2024/25 budget figure). The Council also employs a part time Tree Preservation Officer who is available to offer specialist advice.

13. What can residents do to help?

Residents can assist the Council by informal observation of trees in public open spaces. Whilst we have the monitoring processes and resources stated above, early advice to the Council can be very useful.

- Let us know if you spot any damage or disease.
- Help by watering new trees during dry weather. A couple of buckets of water once a week will make a difference.
- Be careful when cutting around trees. Any damage to the bark will reduce the life of the tree.

Volunteering

There are regular community activities and events organised by SBC and volunteer groups such as the Friends of Oare Gunpowder Works and Friends of Milton Creek Country Park to undertake tree planting, coppicing and tree craft.

Visit:

- <http://miltoncreek.co.uk/events/event/>
- www.gunpowderworks.co.uk

14. Who to contact for Council tree issues

Enquiries and service requests are logged through the Council's "My CouncilServices" system and acknowledged upon receipt.

Online contact form: <https://www.swale.gov.uk/contact-us/>

Tree enquiries relating to Tree preservation orders and conservation areas.
planning@swale.gov.uk

Hedgerow enquiries
planningsupport@midkent.gov.uk

Tree vandalism can be reported to 101 or Swale Borough Council
csc@swale.gov.uk

Customer Services: phone: 01795 417850

15. Review

The Council will review this policy every 4 years to ensure its compliance with recognised guidance and best practice, and to ensure that it meets its legal duty of care.

This document was written with reference to “Common Sense Risk Management of Trees – Guidance on trees and public safety in the UK for owners, managers and advisers” by the National Tree Safety Group (ISBN 978-0885538-840-9).

Appendix 1: Legal Obligations and Risk

Relevant legislation includes:

- The Occupiers Liability Act 1957 & 1984
- Health and Safety at Work Act 1974
- Health and Safety at Work Regulations 1999
- Highways Act 1980
- The Compensation Act 2006
- Wildlife and Countryside Act 1981

The Health and Safety Executive has in its Sector Information Minute 01/2007.5 *Management of the risk from falling trees*, identified the risk as “broadly acceptable”.

Exposure to an element of risk is an unavoidable consequence of trees being in the environment, but in considering management policy, it is necessary to strike a balance between risk and benefit.

Trees can also damage property either directly from the action of roots or from the desiccation of susceptible soils (clay). Exposure to a risk of increasing insurance claims needs to be managed through proactive inspection and maintenance, and with adequate and timely intervention when necessary.

Environment and Climate Change Meeting	
Meeting Date	16 July 2024
Report Title	Swale Waste and Street Cleansing Mobilisation – agreeing a scope for Scrutiny
EMT Lead	Emma Wiggins, Director of Regeneration and Neighbourhoods
Head of Service	Martyn Cassell, Head of Environment and Leisure
Lead Officer	Martyn Cassell, Head of Environment and Leisure
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. To agree that a scrutiny review be carried out that will be presented to the 3 October 2024 Environment Committee. 2. To agree the scope of the review. 3. To nominate five members of the Environment Committee (one from each political party) to form the Scrutiny Panel.

1 Purpose of Report and Executive Summary

- 1.1 This report summarises the mobilisation phase of the new Waste and Street Cleansing service for Swale. It recommends that a scrutiny review is undertaken that will be presented to 3 October 2024 Environment Committee. It details a scope for that review (Appendix I) and asks members to agree that scope along with nominating who will form the panel.

2 Background

- 2.1 The previous Waste and Street Cleansing contract expired on 23 March 2024. The Mid Kent Waste partners (Swale, Ashford and Maidstone Borough Councils) undertook a joint tender process to find a contractor for an 8 year contract.
- 2.2 There had been very little change in the service over the course of the 10 year contract between 2013 and 2023 (the first time the council entered the MKWP) and as we had the same contractor prior to that, little changed in 15 years. In recent years the contract struggled with unbalanced rounds and low satisfaction with street cleansing.
- 2.3 In June 2021 Cabinet agreed the following recommendations and Strategic objectives;
1. To remain within the Mid Kent Waste Partnership (MKWP).

2. To retain an Alternate Weekly Collection (AWC) for co-mingled kerbside recycling and residual waste. To collect food waste weekly and to provide separate chargeable garden waste and bulk waste collection services.
3. To agree to keep the collection services contracted out as the preferred service delivery model and develop a waste collection specification to meet coalition priorities on climate emergency and recycling rates.
4. To keep street cleansing contracted out but to adapt the future contract specification to improve flexibility of resource and improve service.

Objective
Delivering a reliable waste collection service that meets all aspects of the recycling objectives in partnership with KCC
Reducing the carbon footprint of service
Sufficient flexibility and control that should allow for responses to legislative changes
Reliable street cleaning regimes with improved traffic management arrangements/ schedules
Minimising future service costs (or maximising income generation opportunities from disposal arrangements with KCC or legislation changes e.g., Deposit Recycling Schemes/ plastic tax income).

- 2.4 In December 2022 following an extensive tender process, the Environment Committee agreed to award the contract to SUEZ Recycling and Recovery UK Ltd for 8 years.
- 2.5 The new contract commenced 24 March 2024. Disruption was expected and it is common with any new contract for problems to occur, however it is only right that with any major project, a review of what went well, what went wrong and capturing the lessons learnt is undertaken.
- 2.6 A Recovery plan was developed to focus action and improvement which was agreed and monitored by the Member waste working group.
- 2.7 It is proposed that a formal Scrutiny Panel is formed to undertake this work over the summer period, reporting back to October's Environment committee. Members should pay attention to the recommendations and strategic objectives above when considering the service delivery to date.
- 2.8 The Policy team will provide support to Members to enable the process, which will likely involve talking to officers from the departments involved in the mobilisation of the contract, meeting with representatives of Suez, looking at data on performance of the contract and collating information from resident feedback (area committees / online surveys).
- 2.9 Members are asked to consider the following questions in creating the scope of the Scrutiny;

- a) Which five Members of the Environment committee will form the Scrutiny Panel. Consideration needs to be taken to the likely time requirement involved across the summer period? It is proposed not to allow substitutes during the process to ensure the panel are seeing all evidence and to keep consistency.
- b) What time period do you want to look at?
- from start of the project to now (June 2020 – September 2024),
 - from the point of tender award to now (January 2023 - September 2024),
 - or from service roll-out to now (24 March 2024 – September 2024)
- c) Will the scope include waste collections and street cleansing?

2.10 The proposed scope of the Scrutiny Review is found in Appendix I. This gives the key areas of focus but leaves flexibility for the Panel to weave in other areas should they arise during the process.

3 Proposals

- 3.1 To agree that a scrutiny review be carried out that will be presented to the 3 October 2024 Environment Committee.
- 3.2 To agree the scope of the review.
- 3.3 To nominate five members (one from each political party) of the Environment Committee to form the Scrutiny Panel.

4 Alternative Options Considered and Rejected

- 4.1 To not undertake the review – this was not recommended as it is important given the issues the council has experienced, that Members have the opportunity to debate the mobilisation of the new service. All major projects should finish with an evaluation period. It helps record lessons learnt for the future.

5 Consultation Undertaken or Proposed

- 5.1 Ahead of the tender process significant consultation was undertaken with residents, councillors and staff. Residents were asked to respond to a waste survey in 2021, and we received an excellent return with themes that fed into the specification for all three Partners (highlighted in more detail in the June 2021 Cabinet report).
- 5.2 As part of the scrutiny review, there will be consultation with residents.

- 5.3 There could be an online member session to allow all Cllrs to feedback to the Panel or alternatively Cllrs could be asked to submit their key points electronically for the Panel to consider.
- 5.4 There will an item on the Parish Councils Liaison Forum in September.
- 5.5 There will also be an item at each area committee in September to allow open public discussion. Consideration is made on the merits of an online resident survey around fixed questions to allow for accurate analysis.

6 Implications

Issue	Implications
Corporate Plan	Environment – to provide a cleaner, healthier, more sustainable and enjoyable environment, and to prepare our borough for the challenges ahead.
Financial, Resource and Property	There are no financial implications in holding a Scrutiny Review, however considerable officer resources will be required to support and feed into the review.
Legal, Statutory and Procurement	The review may wish to scrutinise the procurement process which was completed in line with our Commissioning and Procurement Strategy and national legislation. The Panel may wish to look at the service Contract.
Crime and Disorder	Despite an understandable frustration from residents who have received disrupted collections, physical and verbal abuse to staff at SBC and contractor has been unacceptable.
Environment and Climate/Ecological Emergency	One of the key benefits of the contract and a strategic objective agreed at the start of the tender process was the environmental gains we will make on the service's carbon footprint.
Health and Wellbeing	The delivery of a successful waste contract is imperative for public health reasons. It is acknowledged that through the mobilisation period there have been instances of vermin, detritus in the streets which is not good for public health and wellbeing.
Safeguarding of Children, Young People and Vulnerable Adults	Some residents require additional services such as clinical and assisted collections. The Panel may wish to focus on whether the disruption impacted those residents.
Risk Management and Health and Safety	Major contract failure risk is one of our corporate risks and has clear mitigating actions set against it. This action has been reviewed throughout the mobilisation period and reported to Audit committee.

Equality and Diversity	The disruption will have impacted some of our more vulnerable residents – assisted and clinical collections
Privacy and Data Protection	n/a

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Scope of the Scrutiny Review

8 Background Papers

[Cabinet 2021](#)

[Environment Committee Dec 2022](#)

[P+R January 2023](#)

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Waste and Street Cleansing - Scrutiny Review Scope

This report sets out the scope terms of reference and scope of the review.

Purpose	<p>To have the opportunity to debate the contract mobilisation.</p> <p>To enable an evaluation period and record lessons learnt for the future.</p>
Methodology	<p>Scrutiny Panel of five Cllrs taken from the Environment Committee to undertake review. No substitutes possible.</p> <p>Review of the contract documentation</p> <p>Exploratory sessions with officers from key departments and representatives of Suez – presentations of information, performance data and question and answer process.</p> <p>Engagement with residents (area committees and resident online questionnaire)</p> <p>Parish Councils (PC liaison forum in Sept)</p>
Areas to consider in scope	<p>Resources / Staffing</p> <ul style="list-style-type: none"> - Recruitment - Training - Culture change - SBC resources - Staff welfare - Fleet / vehicles - New bins/bin delivery <p>Data and rounds</p> <ul style="list-style-type: none"> - Review of data before the contract start - Understand the CORE system (Suez software) - Round routing process - Road access issues - Review bulk bin store / communals - Review litter bin frequencies <p>Contract and Project Management</p> <ul style="list-style-type: none"> - How was the project set up / what ongoing monitoring occurred - Review contract documents - Review process for defaults and rectifications - Recovery Plan <p>Communications (internal and external)</p> <ul style="list-style-type: none"> - Pre-service resident comms (letters/social media) - Process for resident reporting forms

	<ul style="list-style-type: none"> - Webpages - Social media - Review comms plan
Outcome	<ul style="list-style-type: none"> - Councillors receive assurances on project delivery - Residents feel they have been able to have their say - Lessons learnt for the future - Areas identified for improvement - Successes are captured and communicated
Resource	<ul style="list-style-type: none"> - Policy team to support delivery of the Scrutiny Panel - Member involvement (up to 7 full days) - Key departments to be available to present information and answer questions - EMT oversight
Timescale	<p>16th July Environment Committee – scope and membership agreed.</p> <p>Review undertaken from Monday 22 July to Friday 6 September</p> <ul style="list-style-type: none"> • Up to seven full days including panel workshops plus work time to go through resident feedback, documentation review and report compilation. <p>Area Committees 3rd September – 26th September 2024</p> <p>Despatch for Env Committee papers for 3 October is 18th Sept.</p> <p>This means that feedback from Sheppey and Sittingbourne would need to be tabled at the meeting.</p>

Report title, background information and recommendation(s)	Date of meeting	Open or exempt	Lead Officer and report author
Waste and Street Cleansing – a review of new service implementation	3 October 2024	Open	Head of Service: Martyn Cassell Report Author: Martyn Cassell
Grounds Maintenance Contract Savings Report	3 October 2024	Open	Head of Service: Martyn Cassell Report Author: Graeme Tuff/Rob Lucas
Barbeques in Public Spaces - Review	15 January 2025	Open	Head of Service: Martyn Cassell Report Author: Graeme Tuff

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