

Agenda Item No. 4(a)

DERBYSHIRE COUNTY COUNCIL

**MEETING OF CABINET MEMBER – HIGHWAYS, TRANSPORT AND
INFRASTRUCTURE**

9 December 2014

Report of the Strategic Director – Economy, Transport and Environment

**PETITION – POSITIVE TREE MANAGEMENT POLICY FOR MATLOCK
BATH**

- (1) **Purpose of Report** To inform the Cabinet Member of investigations undertaken following receipt of a petition from Matlock Bath Parish Council regarding a “Positive Tree Management Policy” for Matlock Bath.
- (2) **Information and Analysis** At the meeting on 21 January 2014, the Cabinet Member acknowledged receipt of a petition from Matlock Bath Parish Council regarding a Positive Tree Management Policy for Matlock Bath. The petition contained 244 signatories.

The petition stated:

“We the undersigned call on Derbyshire Dales District Council and Derbyshire County Council to produce and implement a policy that actively encourages positive tree management. The conservation areas within the civic parish of Matlock Bath have suffered massive tree growth from both existing and self-set trees within recent times to the detriment of other natural and historic features of the area. A positive tree management policy must rectify this and develop a vision for the future. It should give clear guidance to both the planners and landowners on positive tree management.”

The issue of tree management, in relation to Matlock Bath, is complex because of the range of statutory designations and protections placed on different woodlands, groups and individual trees. It has taken some significant research to fully understand these complexities and has delayed the preparation of this report. The main issues are summarised below:

- There are a number of Sites of Special Scientific Interest (SSSI) within the Parish that cover woodland areas. Matlock Woods SSSI covers an area of 18.85ha, which incorporates the woodlands of High Tor, Lovers’ Walks and Hagg Woods. Matlock Woods are one of the best examples in Derbyshire and the Peak District of ash-elm woodland, with their

typical association of shrubs and ground flora. The age, structure and species composition of these woods strongly suggests that they are a remnant (although modified) of the ancient woodland cover of the limestone dales.

- The woodlands in Matlock Bath are particularly important for having the largest population in the area of the two native lime trees, small-leaved lime (*Tilia cordata*) and large-leaved lime (*Tilia platyphyllos*). These trees occur both as true species and as a wide range of naturally occurring hybrids. The age variation is also very wide, some of the limes being over 200 years old. Lime occurs largely on the steepest slopes, particularly on cliffs and among limestone outcrops, and is frequently associated with yew (*Taxus baccata*). Wild service tree (*Sorbus torminalis*), an uncommon species in Derbyshire, has been recorded in Hagg Wood since 1960.
- Special Areas of Conservation (SAC) are designated under the provisions of the European Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Flora and Fauna. Matlock Woods has been approved as an SAC, as it contains habitat types and/or species, which are rare or threatened within a European context. As a consequence of this protection, any management plans or operations for this area have to be developed and approved in consultation with Natural England.

The County Council's responsibilities in terms of tree management within the parish fall within two main areas:

- i. As the Highway Authority it has the responsibility to ensure highway safety. Trees growing within the highway, i.e. the carriageway and footway, are inspected by qualified tree inspectors on a regular basis and work undertaken where it is deemed necessary and proportionate to the risk.
- ii. Trees growing on private land adjacent to the highway are the responsibility of the landowner. Where highway or tree inspectors identify issues with trees on adjacent private land, that are overhanging the highway or are within falling distance, the landowner is informed and a request made to undertake appropriate works. The County Council aims to provide as much advice and assistance to tree owners as possible in order to ensure work is carried out safely and within a reasonable timeframe. However, failure of tree owners to comply with requests for tree work can result in the County Council taking enforcement action.

There are also a number of Tree Preservation Orders (TPO) covering trees within the Parish made by Derbyshire County Council. These are as follows:

Derbyshire County Council Orders

TPO 25 Matlock Bath Woodlands W1-W21.

TPO 77 Cromford Court, Matlock Bath W1-W3, A1-A3.

TPO 87 Trees at South Parade, Matlock Bath G1.

The existence of a TPO does not necessarily prevent works taking place to a tree. What it does do is make it an offence to wilfully damage, destroy, fell, top, lop or uproot a tree without first obtaining the consent of the Council with limited exceptions. Any work undertaken without consent and not falling within a relevant exception is an offence, liable to prosecution.

Officers manage all enquiries relating to Derbyshire County Council TPOs and process applications to undertake works promptly.

Derbyshire Dales District Council (DDDC) also has responsibilities for trees within in the Parish. It has a number of TPOs made by itself under the same legislation as Derbyshire County Council's TPOs. Its orders are as follows:

Derbyshire Dales District Council Orders

TPO 25, 27, 54, 120, 131, 155 and 156.

A significant proportion of Matlock Bath is designated as a Conservation Area by DDDC and anybody wishing to carry out works to trees within a Conservation Area must first give six weeks' notice to the District Council as local planning authority in writing. Trees with a stem diameter of less than 75mm at a distance of 1.5m above ground level are exempt, provided that they are not additionally protected by a TPO. Within the six weeks period, the District Council will consider whether to make a TPO.

Finally, DDDC is a significant landowner of woodland in the Parish with its ownership of Derwent Gardens, Lovers Walk, High Torr and Pic Torr.

Officer Comment

It is welcomed that Matlock Bath Parish Council is interested in positive management of trees within the Parish. However, it is difficult to see how the creation of a new policy will effect a material change in the management of trees in the Parish.

The majority of the trees are in private ownership, Derbyshire County Council has some limited powers, in respect of threes overhanging or likely to cause a danger to users of the highway to enter land and undertake remedial works. There is no similar power under TPO legislation which is more regulatory and punitive to control management and prevent felling. The Authority cannot

compel private landowners to undertake tree management works, however much it may wish too.

The County Council employs a small team of tree officers and inspectors (four staff) who cover all of Derbyshire. Given their remit and responsibilities, they do not have sufficient capacity to proactively promote tree management in the Parish with private landowners. Therefore, it is difficult to support their involvement in the development of such a plan.

Likewise, the available budget for the management of highway trees is small and has to be directed to those that pose a real threat to highway safety. There are insufficient resources available to target a prolonged management effort in a single parish.

DDDC will be in a similar position with regard to enforcing tree management in the Parish as it is bound by similar legislation. However, as a significant landowner of woodlands in the Parish, it may choose to explore the implementation of proactive tree management if appropriate.

There are woodlands of significant national and international biological value in the Parish which are protected for good reason and managed to preserve their unique flora and fauna. Natural England has drawn up management plans for many of these areas already and any new management policy or plan must ensure this protection continues in the future.

The recent establishment of the five year Heritage Lottery Fund (HLF) landscape partnership DerwentWise, may provide opportunities for projects to look at implementing some tree clearance to reveal iconic views and tackle woodland management in less sensitive areas within the Parish (e.g. Scarthin Rock – Arkwright Society). The project is hosted by Derbyshire Wildlife Trust and it may be able to help the Parish Council realise some schemes.

(3) **Financial Considerations** There are no financial considerations associated with this report.

(4) **Legal Considerations** The County Council has powers relating to trees relating both to its role as Highway Authority and as a local planning authority.

As Highway Authority, the County Council has the power to require works to trees that overhang a highway or other road or footpath so as to endanger or obstruct the passage of vehicles, pedestrians or horseriders, or obstruct or interfere with the view of drivers of vehicles or the light from a public lamp. Where such works are not undertaken in accordance with a notice served, the County Council may seek consent from the landowner, or failing that, a warrant from the Magistrates court, to carry out the works required.

The County Council may be responsible for the maintenance of trees growing in the highway, although in certain circumstances that responsibility may lie within another landowner, in which case the County Council's powers as Highway Authority are as set out above.

Trees subject to a TPO made by the County Council under the provisions of the Town and Country Planning Act 1990 (or earlier legislation) will be subject to a requirement to seek consent for works, with limited exceptions. Such orders provide no basis for generally requiring works to protected trees.

District Council also have discretionary powers to deal with dangerous trees under Section 23 of the Local Government (Miscellaneous Provisions) Act 1976.

Other Considerations

In preparing this report the relevance of the following factors has been considered: legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

(5) **Key Decision** No.

(6) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(7) **Background Papers** Held on file within the Economy, Transport and Environment Department. Officer contact details – Richard Bonner, extension 39657.

(8) **OFFICER'S RECOMMENDATIONS** That:

8.1 The request for a policy for the positive management of trees in Matlock Bath Parish be noted and that a response is drafted outlining the existing work undertaken by the County Council in managing trees in the Parish, the limitations in terms of legislation, staff and resources that prevent further proactive work being implemented and finally advise an approach to the DerwentWise project to explore the development of possible practical projects.

8.2 The local Member and petitioners be informed accordingly.

Mike Ashworth
Strategic Director – Economy, Transport and Environment