CUCKFIELD PARISH COUNCIL

Queen's Hall, High Street, Cuckfield, RH17 5EL

Item 6: Tree Management Report for Environment & Wellbeing Committee

Background

Cuckfield Parish Council has many 'green site' assets; the Churchyard and Burial Ground, Allotments, Horsefield Green, Cuckfield Village Hall, Courtmead Road and the Queen's Hall Garden all have trees. As landowner, the safety of the tree is the responsibility of Cuckfield Parish Council.

Do we need regular inspections and how often?

To protect the public, and the Parish Council against successful liability claim, the Parish Council needs to demonstrate they have carried out inspections and acted on the findings depending on risk.

A recent case that went to Court of Appeal, Cavanagh vs Whitley Parish Council, found in favour of the claimant, even though the Council carried out three yearly inspections. The judge found the Parish Council negligent in not having assessed the lime tree concerned on a more frequent basis because it was high risk.

Liability

Where a tree is hazardous because of decay or structural weakness and shows external signs of being in such a condition, the landowner or its agents is normally liable under UK laws for any personal injury or other damage it causes by breaking or falling. This liability arises from provisions by which the occupier has a common duty of care to others who enter the land or its vicinity with or without permission (trespassers). The Courts expect the landowner or its agents to make regular inspections of trees that, by reason of their position, could place people or property at risk. It is also expected that they should, if necessary, obtain specialist guidance on the interpretation of symptoms and assessment of tree safety and to take reasonable steps to reduce risk where appropriate. If specialist advice is sought, it should be followed; failure to do so could be interpreted as negligence.

Risk Assessment

No tree is entirely safe, given the possibility that an exceptionally strong wind could damage or uproot even a mechanically 'perfect' specimen. It is therefore usually accepted that hazards are only recognisable from distinct defects or from other failure-prone characteristics of the tree or of the site. The assessment of risk is based on the

value of whatever is judged to be at risk, and the likelihood of its being harmed in the event of mechanical failure in the tree. It is suggested that the following three elements should be considered for all tree inspections:

- What is at risk - people, buildings, vehicles, etc. or location of the tree(s)relative to people and property (zoning);
- The magnitude of the hazard, as estimated from the size and height of the part of the tree most likely to fail.
- The probability of failure, based on the type, position and severity of the defect concerned, the species or cultivar of tree and the nature of the site, or an idea of when the 'failure' is predicted to happen.

'Zoning' a Site

Zoning is a practice whereby areas of land are defined according to levels of use. This prioritises the most used areas into zones, for example let us say three zones: high, medium and low. These could be defined as follows, but you could employ your own version or your tree expert's version as appropriate:

- Low Zone – Low level of occupancy and activity e.g. countryside locations, rural footpaths, woodland, inaccessible areas etc. A low frequency of inspections (in remote areas it might be decided not to inspect at all) might be appropriate here – The frequency of subsequent inspections should be specified by your nominated tree expert.
- Medium Zone – Moderate level of occupancy and activity. Trees in this category fail to meet the criteria of either Low Zone or High Zone. The survey should be based on an inspection regime of, say, two to five years – again the frequency of inspections should be specified by your nominated tree expert.
- High Zone – Located in an area with a probable high level of occupancy and activity. E.g. busy public footpath, a high street, a dwelling house, a public building, a play area etc. High frequency regular monitoring, say annually but it may be necessary to inspect more frequently particularly say, after severe weather events or before a major public event.

The proximity of trees to people and property is a major factor in deciding how rigorously they need to be inspected (if at all) and what sort of remedial action (if any) is appropriate if significant hazards are found. Where substantial numbers of trees are under consideration, the concept of zoning is an important principle of hazard management. Rather than try to detail how you can implement the above, I'm going to suggest you commission an expert to help define zones for you and to undertake an appropriate tree inspection that would assist you in adequately managing risk.

General Aims

In commissioning an expert to undertake an inspection you should set the objectives, where possible the parameters, and the frequency of the next inspection. The following are suggestions, but you might have other issues to consider, like for example provision for sufficient headroom for contract mowers, safety of special events such as fetes or fairs, an on-going issue with branch encroachment as seen on path to Holy Trinity Church. Although most of the trees are within the boundary lines they are close to roads and foot paths. The tree survey should be broadly in accordance with Common Sense Risk Management of Trees (Published by NTSG) and the Forestry Commission's Practice Guide 'Hazards from Trees' A General Guide.

The survey should cover three essential elements:

1. Zoning in relation to people, cars and the Church.
2. Tree inspections and detail description of problems
3. Managing risks to an acceptable level (in accordance with the Health & Safety Executive's 'Tolerability of Risk framework'): identify, prioritise and specify pruning work according to level of risk.

The surveyor should also consider protected wildlife (both flora and fauna) and also the duty on your Council under section 40 of the Natural Environment and Rural Communities Act 2006:

"Section 40: "Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those function, to the purpose of conserving biodiversity "

It should be borne in mind that the risk from trees in most instances is considered to be no more than a routine and recognised risk of life, which most people accept without question. The management of trees in general should proceed on a rational, cost-effective basis and public safety is not the only concern when deciding how to manage trees. Other broader concerns, such as ecological, landscape and aesthetic value, should also be taken into account.

So what else should be included?

Suggested Survey Information to acquire:

1. Plot trunk centres accurately (with 2m tolerance) on scaled plan
2. Assign an individual or group tag number which should relate to the plan
3. State species, age, general condition, height and Diameter at Breast Height (DBH) where appropriate.
4. Assign Target Zone in accordance with use of site.
5. Describe the tree(s) problem(s) and/or the problems it is causing.
6. Accurately detail the works required specifically in relation to described problem(s)
7. Time or urgency when works must be completed by
8. State frequency of next inspection (this should relate to the target zoning in combination with size/height of trees)

Balancing Risks vs Benefits

The tree owner, or agent acting for the tree owner, is not expected to guarantee that the tree is safe – this is an important concept. You only have to take reasonable care such as could be expected of the reasonable and prudent landowner. It is always a question of balancing the benefits against the risks. Statistically speaking, trees are extremely unlikely to fall on people (1 in 10,000,000 chance of being killed by a falling tree as compared to a road accident 1 in 16,800). The Health and Safety Executive (HSE), in producing guidance for HSE Inspectors and local authority enforcement officers, has stated that:

"…public safety aspects can be addressed as part of the approach to managing tree health and tree owners should be encouraged to consider public safety as part of their overall
approach to tree management."

In other words, trees should not be evaluated solely on risk. Trees are but one element of the natural environment which provides benefits ranging across social, economic and environmental areas and it is now broadly accepted that failure to value, consider and enhance those natural elements significantly erodes our society as a whole.