



POLICY & FINANCE COMMITTEE

MONDAY, 17 JUNE 2019

ADDITIONAL PAPERS

Date published: Friday, 14 June 2019

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|----------------|---|
| Agenda Item 16 | GRANT APPLICATION
To receive a report regarding an outstanding General Grant application and to consider the recommendation/s contained therein (to follow).
(Pages 1 - 4) |
| Agenda Item 20 | POLICIES
To receive and consider recommendation to Council of approval of the following policies:

(b) Tree Management Policy (as recommended by the Grounds & Environmental Services Committee of 10 June 2019) (if applicable)
(Pages 5 - 16) |

PLEASE BRING THE ATTACHED PAPERS TO THE MEETING IN ADDITION TO THE PREVIOUSLY CIRCULATED AGENDA.

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Policy and Finance Committee

Date: 17 June 2019

Title: Grant application

Purpose of the Report: To update Committee on a recent grant application and to seek endorsement.

Contact Officer: Sarah Sandiford, Head of Democratic and Central Services

Corporate Objective/s	To consolidate processes and procedures, ensuring operational efficiency.	
Implications:		
Financial		
Human Resources		
Operational/Service delivery		
Legal	√	Local Government Act 1894

1. RECOMMENDATION

- 1.1 To approve the General Grant application for £500 submitted by All Saints Church for the purpose of providing a monthly lunch for senior citizens within the parish.

2. BACKGROUND

- 2.1 The Town Council operates an annual scheme of General Grants, with applications reviewed each year in April/May and in November. Councils are permitted to give community grants through the Local Government Act 1972 (section 137) and the General Power of Competence.
- 2.2 General Grant guidelines and procedures are in place to ensure all relevant legislation including the above is adhered to and that there are safeguards to ensure use of public monies for appropriate purposes which will be of benefit to those living within the parish. The Guidelines were last reviewed in 2016.
- 2.3 Under current guidelines, the maximum amount of a General Grant is £500. Start-up organisations with less than two years of accounts may apply for up to £250.

2.4 The annual budget allocation for General Grants is £10,000.

3. FUNDING TO CHURCHES

3.1 In Spring 2019, an application for a General Grant of £500 was submitted by All Saints Church. The project cited was the provision of disabled access to the North Transcept, a project which was anticipated to take three years and cost in excess of £30,000.

3.2 As a result of lack of clarity within the parish council sector about provision of funding to churches, a Legal Topic Note was issued in January 2018 by the National Association of Local Councils (NALC).

3.3 The guidance issued by NALC makes clear that there is specific legislation in the Local Government Act 1894 prohibiting parish councils from contributing to the expense of executing works including works of maintenance or improvement to property owned by the church or held for an ecclesiastical charity.

3.4 The guidance explores the question of whether later legislation, such as the Local Government Act 1972 and the General Power of Competence, overrides the provisions of the 1894 Act.

3.5 NALC advises that there is an accepted legal principle, applied by the courts, whereby if two statutory provisions are in conflict or overlap, the more detailed provision will prevail over the more general one.

3.6 Taking this principle, NALC concludes that other more recent, more general legislation would not override the specific provisions of the LGA 1894.

3.7 Whilst it accepts there is no case law to resolve this question and that there is no consensus on this issue, NALC states that “a council that considers making a payment in these circumstances needs to consider whether it is prudent to take a course of action that it cannot be certain is legally valid”.

3.8 Advice was also sought, as an additional measure, from the Society of Local Council Clerks on this matter. SLCC concurs with NALC on this matter.

3.9 As a secondary issue, the Committee is asked to note that current General Grant guidelines do specify that projects should be completed within a year.

3.10 The meeting of the Grants Sub Committee at which applications were considered could not make a determination on this application, as legal advice was still being sought. A recommendation was therefore made to the Policy and Finance Committee to consider the application further.

4.0 UPDATE

- 4.1 Following discussion with the applicant, a change of use for the original General Grant application has now been agreed. The General Grant sought (£500) would be used for costs relating to monthly lunches provided by the Church to elderly residents of the parish.
- 4.2 There is no restriction which would apply to the funding of activities taking place within church buildings.
- 4.3 The monthly lunches for older people would be a project meeting the General Grant criteria of providing a tangible benefit to residents within the local community.
- 4.4 All other eligibility criteria of the General Grant scheme are met and all necessary supporting documents were provided as part of the application.

5.0 CONCLUSIONS

- 5.1 The change of project means that the General Grant application from All Saints Church now meets the scheme eligibility criteria.
- 5.2 The committee is asked to consider approval of the General Grant application.

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Policy and Finance Committee

Date: 17th June 2019

Title: Tree Management Policy Review

Purpose of the Report: To endorse the recommendation from the Grounds and Environmental Services Committee in respects of updating the Tree Management Policy to ensure it remains fit for propose.

Contact Officer: Ian Haynes, Head of Grounds and Environmental Services

Corporate Objective/s	None	
Implications:		
Financial	√	Within existing budget
Human Resources		
Operational/Service delivery		
Procedural/Legal	√	Updated due to High Court and Court of Appeal judgements.
Risk/Health and Safety		

1. RECOMMENDATIONS

Should members be minded, the proposals are:

- 1.1 To note the report.
- 1.2 To Consider and Recommend to Council to endorse the revised Tree Management Policy for 2019 - 2022.

2. BACKGROUND

- 2.1 At its meeting held on 4th June 2018, the Grounds and Environmental Services Committee approved and adopted the current Tree Management Policy. The policy identified the Town Council's approach to the management of trees on

land owned by Leighton-Linslade Town Council and intended to act as a point of reference for the public, Councillors and Council employees to ensure a clear, consistent and structured approach to the management of our trees.

- 2.2 Due to a recent High Court and Court of Appeal judgements the Council's current tree management service procedures has been reviewed and it is believed that it requires an amendment.

3. CONSIDERATIONS

- 3.1 The parish trees are of immense environmental and aesthetical value to the Town and its residents. They brighten up our parks and open spaces, provide a habitat for wildlife, act as the Town lungs and even help to reduce the rising temperatures caused by climate change. Leighton-Linslade Town Council recognises these benefits, seeking to preserve healthy trees and encourage the planting of new trees where possible.
- 3.2 Whilst the majority live and grow without incident, a number of trees located in densely populated areas pose challenges and risks that need to be managed. This policy outlines how we intend to increase the number of trees across the parish, how we intend to manage the tree stock effectively, and how we reduce the risk that certain trees pose to the public.
- 3.3 The Town Council is only responsible for trees positioned on land owned by the Town Council.
- 3.4 This tree policy does not cover trees in private ownership which are outside Leighton-Linslade Town Council's control. Trees in private ownership are the responsibility of the private landowner. The policy also does not cover Tree Preservation Orders, Conservation Areas or high hedge legislation which is administered by the Central Bedfordshire Council's Planning Department.
- 3.5 The overall aim of the tree policy is to ensure that our tree stock is retained, enhanced and increased in the most proactive manner whilst ensuring the health, safety and well-being of the public and property.

4. RECOMMENDATIONS

- 4.1 Members are minded to endorse the Tree Management Policy with the new two year rolling inspection programme. In doing so it is believed that the Town Council will continue to have a clear, professional and transparent method for managing the Town Council's tree stock.

5. CONCLUSIONS

- 5.1 It is clear that the tree management policy is still fit for purpose. However, the Town Council has the flexibility and in-house expertise to consider and change our tree inspection regime.

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2019-2022

Tree Management Policy



LEIGHTON-LINSLADE
TOWN COUNCIL

1.0 Introduction

- 1.1 The parish trees are of immense environmental and aesthetical value to the Town and its residents. They brighten up our parks and open spaces, provide a habitat for wildlife, act as the Town lungs and even help to reduce the rising temperatures caused by climate change. Leighton-Linslade Town Council recognises these benefits, seeking to preserve healthy trees and encourage the planting of new trees where possible.
- 1.2 Whilst the majority live and grow without incident, a number of trees located in densely populated areas pose challenges and risks that need to be managed. This policy outlines how we intend to increase the number of trees across the parish, how we intend to manage the tree stock effectively, and how we reduce the risk that certain trees pose to the public.
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2.0 Aim of the Tree Management Policy

- 2.1 The overall aim of the tree policy is to ensure that our tree stock is retained, enhanced and increased in the most proactive manner whilst ensuring the health, safety and well-being of the public and property.

3.0 Management of the Council's Trees

- 3.1 Leighton-Linslade Town Council intends to undertake a rolling 2 year inspection programme of its trees. This information is held on a database of trees and plotted on our geographical information system.

Commented [IH1]: Sentence to be deleted and replaced with below.

- 3.2 This inspection programme is designed to assess the trees' condition and health whilst highlighting any work that may be required to ensure the tree is retained in the best possible condition.

Commented [IH2]:
Witley Parish Council v Cavanagh Judgement and Implications. The judge concluded this lime tree should have been inspected at least every two years and ideally every 18 months when trees were in and out of leaf. Witley Parish Council appealed.

- 3.3 If a tree is highlighted to be dead, dying, diseased or dangerous and is posing an unacceptable risk to public safety, it will be identified for felling.

Rejecting the appeal, the Court of Appeal took the opportunity to reiterate the relevant legal principles as to a landowner's duty in respect of trees. By reference to the judgment in Stagecoach South Western Trains v Hind [2014]

- 3.4 The decision to prescribe work to a tree is calculated on a risk basis. Risk is calculated through the process of a visual tree assessment (Department of Environment, 'Research for Amenity Trees No.4 The Body Language of Trees'). An evaluation of the tree takes into account many factors including:

- Size
- Species
- Presence of structural decay or defects
- Relationship of any fungal infection relative to species

- 3.5 All these factors are considered in relation to the potential target, the damage that could be caused if the tree were to fail and the likelihood of it doing so.

- 3.6 If defects are observed, further detailed examination may be carried out using a range of decay detection equipment before any decision is taken regarding the trees future management.

- 3.7 If a contractor, rather than the Council's own Officers, recommends a tree for felling the Council's Qualified Officer will inspect this tree again prior to the felling taking place to ensure the Officer is confident that this is the correct decision.

- 3.8 In conjunction with the inspection programme, the Council will maintain a rolling maintenance programme carrying out cyclical works and works highlighted by an appointed inspector or the Qualified Officer. This rolling programme will reduce avoidable risks and issues, for example:

- Vehicle and pedestrian collision
- The removal of identifiable risks

- The removal or pruning of trees where its relationship to a property causes excessive problems.
- Obstructing footpaths or driveways by branches or epicormic growth

3.9 Felling and or pruning **will not be undertaken** for the following reasons:

- Blocking light
- Television or satellite signals
- Residents do not '*like*' the tree
- Leaf or fruit drop
- Unproven allegations of subsidence or direct damage
- Construction of dropped kerbs or new driveways
- Perceived threat
- The tree's size; '*its got too big*'
- The tree '*moves in the wind*'
- Bird droppings
- Aphids
- Individuals medical conditions
- Erection of fencing, walls, play areas and sports pitches

3.10 The above is not an exhaustive list but is representative of a large number of customer enquiries. Further to an inspection the Qualified Officer may agree to undertake a variety of pruning operations to remedy complaints provided that the long-term health, appearance, or potential development of the tree is not affected.

3.11 As part of good arboricultural management the removal of trees will be carried out when the removal will benefit the long-term development of adjacent better quality trees i.e. woodland and copse management. Furthermore, formative pruning may be carried out following the Qualified Officer's inspections, for example:

- Removal of crossing, weak or competitive branches
- Crown balancing
- Dead wooding
- Crown lifting
- Crown thinning

3.12 All waste from tree surgery will be recycled, being used in a variety of situations, including: mulches for shrub beds, power station fuel, firewood, habitat piles or dead standing timber where suitable, thereby avoiding the use of landfill sites.

4.0 Wildlife and Conservation

4.1 Tree works shall be carried out whilst ensuring adherence to all wildlife and conservation laws are adhered to including:

- Wildlife and Countryside Act 1981 (amended 1995)
- The Wildlife and Countryside Act 1981(England and Wales) (Amendment) Regulations 2004
- Countryside and Rights of Way Act 2000

- The Town and Country Planning (Trees) (Amendment) (England) Regulations 2008
- The Conservation of Habitats and Species Regulations 2010
- The Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007
- The Hedgerows Regulations 1997

4.2 The Council recognises the different levels of risk represented by a hazard tree when it is located in different sites and will manage them in accordance with Department of Environment Research for Amenity Trees No. 7 'Principals of Tree Hazard Assessment and Management'.

4.3 Higher levels of risk will be acceptable in locations where there is a lower footfall e.g. middle of a woodland area as apposed to a highway situation. This will allow the retention of veteran trees without undue risk whilst encouraging bio-diversity and habitat retention.

5.0 Communicating with the public and members

5.1 The Council will inform Ward Councillors and appropriate 'Friends Groups' of any major tree works such as pollarding or felling before any works are carried out in their ward/park. If there is a large number of trees to fell in one location the Council will also erect notices to inform the public of the proposed works.

5.2 In the event of emergency health and safety work that must be carried out immediately (e.g. storm conditions), an Officer will notify Ward Councillors retrospectively.

5.3 Felling is the last resort and will only be carried out when deemed necessary by the Qualified Officer. However, public safety is paramount and for this reason the public will be informed of tree works, via Ward Councillors and notices, but will not be consulted for approval.

6.0 Council Trees and Development

6.1 Requests for tree works and/or removal of trees from Council owned land to allow development shall be considered by the elected members as part of the decision as to whether to approve the planning application. Officers will not take this decision, although advice will be provided to the elected members.

6.2 Members are encouraged to consider when dealing with planning applications for privately owned land, whether there are Council owned trees on adjacent plots that may be affected by the development before approving the application (e.g. for site access, dropped kerbs or storage of materials).

7.0 Subsidence

7.1 Subsidence is a complex interaction between the soil, building, climate and vegetation that occurs on highly shrinkable clay soils when the soil supporting all or part of a building dries out and consequently shrinks, resulting in part of a building moving downwards. Trees lose water from the leaves through transpiration that is replenished by water taken from the soil by the roots. If the tree takes more water from the soil than is replaced by rainfall the soil will gradually dry out. Trees have a large root system and they can dry the soil to a greater depth, critically below the level of foundations. The amount of water trees can remove from the soil

can vary between different species. This policy seeks to set out the Council's response to subsidence claims against its own trees. The opposite of subsidence is a process called 'heave' and this occurs as a shrinkable clay soil re-hydrates (becomes wet again) and begins to increase in volume exerting upward pressure. Heave can also cause damage to buildings and is just as undesirable as subsidence but occurs less frequently.

- 7.2 All claims regarding subsidence will be referred to the Council's Insurer.
- 7.3 The insurers for the claimant or their consultants must provide evidence of ALL the following items before any works are carried out to Council owned trees.
- Physical damage
 - Presence of live roots of a suitable species
 - Seasonal movement or variation of the damage during different seasons.
- 7.4 If the above evidence is provided, the Council will adhere to the advice supplied by insurers with regard to what, if any, works are required to the trees. If evidence is insufficient any claim will be dismissed.

8.0 Replacement Trees

- 8.1 It is the Council's policy that every tree felled should be replaced to ensure that over the years the Town retains its tree stock for future generations, although it is recognised that it is not always practical or prudent to replace a tree in the same location or with the same species that was previously planted.
- 8.2 The Council will work proactively to manage or facilitate replacement tree planting, which may include but not be limited to, working with the community and friends groups, considering new planting schemes, including memorial trees, community woodlands and by encouraging funding from new developments for tree planting through working with the Planning Department.

Appendix 1

Procedure - Arboricultural Works on Trees.

1. Before any work is undertaken trees will be inspected by the Qualified Officer, or suitably qualified independent surveyors. An inspection sheet must be filled in and filed at the time of inspection.

2. If any work is required to any tree(s) the Qualified Officer must issue a formal work instruction. This instruction must include the following information:
 - a. Location of tree(s)
 - b. Where the tree is difficult to locate a small dot of paint is to be sprayed on the base of the trunk
 - c. Type of tree(s) (Genus and Species or Common Name)
 - d. Details of the work required to the tree(s)
 - e. Priority of works e.g. One Month
 - f. Site Specific Risk Assessments
 - g. Location Maps from Council's G.I.S mapping system clearly showing the location of the tree(s). Two plans to be produced where necessary a) Close up including ID number and b) a generic site plan to provide easily identifiable locations

3. If the tree(s) require felling then the following tasks must be completed:
 - a. Inform Ward Councillors and appropriate Friends Groups at the first opportunity of the felling works and timescales.

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