

**REPORT FROM: HOUSING, HEALTH AND ENGINEERING SERVICES  
MANAGER**

**TO: COLNE AND DISTRICT COMMITTEE**

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## **BLUCHER STREET TREE IN WATERSIDE**

### **PURPOSE OF REPORT**

To inform members of the situation regarding a tree outside 12 Blucher Street, Colne, and to try to resolve the issue.

### **RECOMMENDATIONS**

- (1) That members note the report.
- (2) That if the Committee decides that the tree should be removed, that a maximum of £1,250 be allocated from the Area Committee's capital programme to remove the tree, replace it with a smaller container tree and reinstate the land.

### **REASON FOR RECOMMENDATIONS**

- (1) To come to a resolution concerning the tree outside 12 Blucher Street.

### **BACKGROUND**

1. The Engineering Department at Pendle Council undertook a scheme to the build-outs on Blucher Street in 2010. This was done with funding from Elevate for regenerating the area and was a one-off scheme for which funding no longer exists.
2. At the time we asked residents whether they wanted the existing tree outside 12 Blucher Street to remain or be removed.
3. This particular tree was problematic because the roots were directly above a service pipe and so we could not replace it with a smaller tree if it were to be removed. So we asked residents whether they wanted to keep the tree.
4. Residents agreed to keep the tree at the time.

## **ISSUE**

5. Since 2017, a request has been made to remove the tree.
6. This is because the tree has grown; it is not pruned or maintained at all and there is a worry that the roots will affect house foundations. There is also an ongoing problem of leaves falling into guttering and causing blockages.
7. Pendle Council officers and Waterside councillors have visited the site and established that the tree is not unsafe or diseased but agree that it is very large for a street tree and so they sympathise with the resident.
8. However, Waterside councillors are reluctant to remove any trees. This is because a lot of mature trees at the bottom end of Blucher Street were removed as part of the build-out scheme in 2010 and it would leave the street very bare.
9. There is no budget for the removal of the tree.
10. This issue was raised with the Office of Andrew Stephenson.

## **PROPOSAL**

11. Councillors are considering removing the tree outside 12 Blucher Street and planting a smaller tree in a container to replace it. There may be the option to plant other trees in containers around Waterside to replace those that were removed in 2010 to improve the street scene.
12. As there is no funding set aside for the works, this report is submitted to explain the situation and to request funding from the Area Committee's capital programme.
13. The estimated cost for removing the tree outside 12 Blucher Street and reinstating the surface is £500.
14. The estimated cost for the planter including soil, the tree and planting up is £750.

## **FOLLOW-UP**

15. The Housing, Health and Engineering Services Manager submitted a report to the Committee with the regard to the removal of a tree on Blucher Street, Colne, in October.
16. It was resolved:  
  
"That the Housing, Health and Engineering Services Manager be requested to submit an update report to the next meeting of this Committee, providing details of the tree species and the potential effects its removal could have on nearby properties."
17. The Principal Environment Officer was tasked with providing information in order to answer councillors' questions.
18. The tree is a Hornbeam (*Carpinus betulus*). Looking at the structure of the tree, it looks like it is of the fastigiata variety. These trees are grown to keep a compact oval shape that is evident in this tree. This variety does get tall but unlike the wild variety, its crown does not spread wide. The Hornbeam has very low water demands, thrives in poor soils and is drought-tolerant. The species is not readily associated with root damage to properties.

However, that is not to say that if planted inappropriately that they will not cause any damage. This type of tree is often seen as ideal for street planting.

19. Using British Standard methodology (BS 5837: 2012) for calculating the root protection area of a tree, the roots of the tree could be as close as a metre from the front wall of number 12 and a metre and half from the house opposite. However, this should be taken as a worst case scenario as it is impossible to determine the root structure and barriers without carrying out excavations or using ground-penetrating radar systems. There are no signs of damage to the properties, the road or pavement surfaces.
20. It is noted that the tree is said to have been planted over services. Tree roots have the potential to cause damage to any service that is within the root area. Again, it would be difficult to determine the effect of the roots on the services without knowing exactly what the services are, the depth and their construction.
21. Overall the tree appears to be in good condition. There are a couple of wounds on the stem of the tree. These appear to be the result of accidental damage or vandalism. However, the tree has reacted well to the injuries and they do not seem to be a problem at this stage.
22. Taking into account the distance of the roots away from the buildings, the species of the tree and the construction of the houses, it is the opinion of the Principal Environment Officer that the removal of the tree will have little or no impact on the properties.
23. The alternative management to removal of the tree is to carry out a crown-reduction, removing around a third of the canopy. However, the tree will react by putting out compensatory growth resulting in the Council entering into a cyclic maintenance regime with the associated budget implications. This will not to alleviate the residents' concerns. The cost of one instance of this type of work is likely to be similar or more than that quoted for the removal of the tree.
24. Falling leaves are not a legal nuisance (which has a very specific meaning) and it is the responsibility of the homeowner/resident to remove the leaves from their property. The residents have no legal right to ask the Council to carry out work to prevent leaf nuisance.
25. The tree is in excess of 20 years old and it is unlikely that the residents would have a right to light as defined in the Rights to Light Act 1959.
26. Lancashire County Council's Highways Management Plan determines when they will carry out works to trees in the highway. They will not carry out works to trees to:
  - i. remove overhanging branches that are not touching property;
  - ii. prevent roots entering a drain that is already damaged;
  - iii. improve natural light in a property;
  - iv. improve natural light to a solar panel;
  - v. improve the view from a property;
  - vi. remove or reduce leaf fall, honeydew or other sticky sap, blossom, fruit, berries, nuts or bird droppings;
  - vii. remove or reduce the incidence of bees, wasps and wild animals; or
  - viii. prevent interference with TV/satellite reception.

Pendle Council take a similar position with trees that are growing on our land. As a result, the removal of the tree to alleviate the residents' concerns should be strongly resisted.

27. Where the tree is likely to cause damage to the services and we are aware of such, then the landowner as a legal duty to act to prevent the nuisance. As the tree was subject to the

improvement works carried out by Pendle Council, there could be some duty of care responsibilities on our part. With this in mind, it would be acceptable to remove the tree for this reason.

28. From the Engineering Department's point of view, the tree is definitely located over services. This was established when we did the build-out works in 2010.
29. However, as stated above, there is no evidence that the services have been damaged to date and it would be difficult to establish whether the roots are near to the services without expensive investigation. We would know if the services were damaged as residents would be experiencing problems.
30. If we remove the tree, we would cut it at the base and leave the roots in the ground and reinstate the surface. This is because removing the roots would cause more damage than leaving them in the ground where we know they are not currently causing issues. Once the tree is cut down, the roots will no longer spread.

## **IMPLICATIONS**

**Policy:** The tree outside 12 Blucher Street is in the highway, which is Lancashire County Council's responsibility. However, Pendle Council completed the build-out scheme in 2010 with LCC's permission and it is therefore Pendle Council's responsibility although there are no funds.

**Financial:** There is no budget set aside to remove the tree or for additional trees in containers and therefore the funding will need to be allocated from the Area Committee's capital programme if this work is to be carried out.

**Legal:** We may need to seek permission from LCC Highways to place trees in containers across streets in Waterside.

**Risk Management:** If agreed, the tree would be removed by a specialist tree contractor.

**Health and Safety:** The tree is very large but is not dangerous or diseased.

**Sustainability:** If it is agreed to install trees in containers across Waterside, future maintenance would need to be considered.

**Community Safety:** None.

**Equality and Diversity:** None.

## **APPENDICES**

None.

## **LIST OF BACKGROUND PAPERS**

None.