Cheshire East Council

Working for a brighter future together

Highways and Transport Committee

Date of Meeting:	2 March 2023
Report Title:	Highway Tree Safety Inspection Policy and Code of Practice
Report of:	Tom Moody, Director of Highways an Infrastructure
Report Reference No:	HT/69/22-23
Ward(s) Affected:	All Wards

1. Purpose of Report

1.1 The purpose of this report is to bring forward the following new documents for adoption into formal Council practice:

- Highway Tree Maintenance and Inspections Policy
- Code of Practice for Highway Tree Safety Inspections

1.2 The purpose of this report is to also clarify the Department's position on the planting of trees on the highway.

2. Executive Summary

2.1 Routine safety inspections are undertaken across the Highway Network to ensure it is safe and fit for purpose, prior to the tree pilot undertaken during 2021/22 this included highway trees.

2.2 The introduction of a specific Highway Tree Maintenance and Inspection Policy together with a Code of Practice for Highway Tree Safety Inspections ensures that the Council's highway tree stock is maintained in a safe and sustainable manner and in line with best practice, helping to keep the traveling public safe whilst maintaining an asset that is key to helping the Council deliver on its de-carbonisation and climate change goals.

3. Recommendations

3.1 That the Highways and Transport Committee approve that the Policy for Highway Tree Maintenance and Inspections is adopted as policy and subsequently implemented operationally.

3.2 That the Highways and Transport Committee approve that the Code of Practice for Highway Tree Safety Inspections is adopted as policy and subsequently implemented operationally.

3.3 Authority is delegated to the Head of Highways to make and approve technical amendments to The Policy for Highway Tree Maintenance and Inspections and The Code of Practice for Highway Tree Safety Inspections as required and to update the Highways and Transport Committee on any significant changes at a future meeting.

4. Reasons for Recommendations

4.1 The adoption of these documents aligns with the Cheshire East Corporate Plan 2021-2025 aim of being 'A thriving and sustainable place' under the priorities of:

- 'A transport network that is safe and promotes active travel'.
- 'Reduce impact on the environment'.
- 'Be a carbon neutral council by 2025'.

4.2 On 13th April 2021, Cabinet approved the adoption of the Council's Tree Risk Management Strategy (TRMS) which recognises that the Council must manage trees within its ownership by managing risk to a level that is as low as reasonably practicable. The TRMS outlines the Council's approach to how it will manage the risks associated with trees by undertaking regular tree inspections and any remedial action in a proportionate and cost-effective manner according to their priority in relation to public safety.

4.3 The implementation of the TRMS is the responsibility of the individual service areas and the Policy for Highway Tree Maintenance and Inspections and the Code of Practice for Highway Tree Safety Inspections implement the principals of the TRMS.

5 Other Options Considered

5.1 The Council's Highways Team has previously undertaken a basic level of tree inspection as part of the routine highways safety inspections; however, it is considered that in order to align with the TRMS this updated approach must be adopted and as such there are no other options to consider.

6 Background

6.1 The Council is responsible for over 2,700km of roads in the Borough, many of these are tree lined, with trees that are either owned by the Council, as the Highway Authority, or adjacent landowners whose trees are within falling

distance of the highway. As such, under the Highways Act 1980, the Council has a responsibility to ensure these trees are in as safe a condition as is reasonably practicable.

6.2 In 2021 the Council approved its TRMS, to set out its approach to managing trees within its ownership by managing risk to a level that is as low as reasonably practicable. The TRMS is informed by the National Tree Safety Group's document 'Common Sense Risk Management of Trees' and the Health and Safety Executive's Sector Information Minute 'Managing the Risk from Falling Trees'.

6.3 The TRMS ensures a consistent approach to recording defects and managing tree risk across all Council departments and asset groups and sets certain standards such as how driven inspections should be undertaken including inspections being undertaken for the sole purpose of identifying tree defects.

6.4 In response to the TRMS, the department have developed a Highway Tree Maintenance and Inspections Policy and a Code of Practice for Highway Tree Safety Inspections.

Pilot Exercise

6.5 In order to inform the zoning exercise undertaken as part of the development of the policy and code of practice and to help inform the likely cost of the approach outlined in the TRMS, a pilot exercise was undertaken...

6.6 The Cabinet report approved in April 2021 'Tree Risk Management Strategy' committed that 'The first full survey of all of the council's land ownership should be completed within 3 years, starting with all areas within zones 1 and 2 (highest priority).

6.7 As part of the Pilot, a survey has been undertaken by Highways and to the end of January 2023 a total of 653km (24%) has been inspected, this inspection regime has identified defects on 344 trees, of which 216 relate to tree defects on private land that could impact on highway safety and 128 relating to trees on the public highway.

6.8 The Council has completed action to address 117 tree defects with the remainder to be addressed within the timescales set down within the tree risk assessment process. To date 139 private trees have been completed with 73 still within timescales set down within the tree risk assessment process. The Council is working with the landowners on those that are overdue and where necessary to maintain safety on the public highway, will take action to remove those trees and recover the costs.

6.9 It is anticipated the first full survey of the highway network will be completed by April 2024. The survey has focussed on the road network that would form zones 1 and 2 from the TRMS and targeted areas of known high density or numbers of trees. This information has been used to develop the expected financial cost of implementing the proposals.

6.10 Where trees with tree defect were identified on private land, through powers under the Highways Act 1980, landowners were informed of their obligation to address the defect along with the powers that the Council hold to address the issue and recharge the costs if necessary.

Inspection Policy

6.11 The Highway Tree Maintenance and Inspections Policy sets out the Council's approach to inspecting and maintaining the highway tree asset on the adopted highway, it has been developed to implement the Council's overarching TRMS.

6.12 The Highway Tree Maintenance and Inspections Policy that is subject to approval will be implemented from 1st April can be found in Appendix 1 of this report.

Code of Practice for Highway Tree Safety Inspections

6.13 The Code of Practice for Highway Tree Safety Inspections takes guidance from the TRMS, Highway Tree Maintenance and Inspection Policy and the risk-based principles of Well Managed Highway Infrastructure (WMHI). WMHI offers guidance on the inspection and management of highway trees.

6.14 This Code of Practice has been developed to outline how the Council's Highway Tree Maintenance and Inspection Policy will be delivered and outlines the standard for highway tree safety inspections on the adopted roads of Cheshire East. This includes identifying the inspection frequency for each category of road, together with the proposed response time to address identified defects.

6.15 As part of the completion of the full network survey by April 2024, inspection frequencies specific to the highway tree asset will be set using the site zoning principle described in the TRMS. This adopts a minimum of three zone categories (High, Medium or Low), inspection frequencies will vary from every year for zone 1 – high use, this includes areas of the network with high volumes of traffic and public access, through to every 6 years for zone 3 – low use that will include secondary / unclassified roads. Zones will be defined giving consideration to the below:

- Frequency of use such as the Network Hierarchy, taking into account the risk-based approach identified in WMHI.
- Number of users and exposure time
- Location such as urban or rural, town centre, speed limits, junctions
- Facilities such as shops, schools, transport infrastructure.
- This zoning will be reviewed every 3 years

6.16 Based on initial estimates approximately 1,183km of the highway network (approximately 44% of total network length) will be categorised as zone 1, where inspection will be every year or every two years (when considering age, condition, species characteristics etc.

6.17 Defects identified through the Code of Practice will have 3 distinct categories:

- Category A: Emergency Works - Made safe within 24 hrs.
- Category B: Essential Works –Works Completed within 6 months.
- Category C: Works to trees that are not considered high risk, works to abate nuisance – No specific time scales.

6.18 The approach does not identify each tree on a road and as such streets where there are no tree defects must be positively recorded.

6.19 The Code of Practice for Highway Tree Safety Inspection that is the subject of his report will be implemented from 1st April can be found in Appendix 2.

Tree Planting

6.20 The Council does not currently have a formal approach to highway tree planting; however, it is recognised that trees planted on the highway have many benefits and help the Council to achieve its carbon reduction and environmental goals. As such consideration will be given to tree planting on a case-by-case basis with consideration given to but not limited to the below factors and requirements:

- The location being part of the publicly maintained highway network.
- Consultation has been undertaken with all neighbouring/adjacent property owners and they are in agreement with the proposed planting.
- The proposed trees being of a suitable species.
- There is a minimum of 1.1metres verge width or more to provide space for the tree to be planted on the grass verge.
- Planting of trees in an existing hard surface, such as tarmac, slabs or paving will generally not be permitted.
- Trees will be planted a minimum of 3m from the edge of the carriageway, depending upon species.
- Once mature, the tree will not impact any of the available footway width to ensure pedestrians can pass safely and without obstruction.
- Planting a tree where underground services are present will not generally be considered.
- As the tree grows and matures, it will not conflict with any nearby street lighting, overhead cables or underground pipes/services.
- The tree will not block sight lines at bends or junctions or block the view of the traffic signals or signs, as it grows.
- An appropriate licence to plant will be required (S142 of the Highways Act 1980) including agreement on future maintenance.
- The trees must be installed by an appropriate contractor with necessary street works permit.
- For trees installed as part of new developments, consideration will form part of the technical approvals and include commuted sums for future maintenance.

7. Consultation and Engagement

7.1 Given the operational nature of the documents no formal consultation has been undertaken. However, the accompanying appendices (Highway Tree Safety Inspection Policy and Code of Practice) were developed following the adoption of the Corporate Tree Risk Management Strategy, all council services and service delivery partners with responsibilities for tree risk were consulted during the development on the strategy.

8. Implications

8.1 Legal

8.1.1 The Highway Authority has a legal duty to maintain the highway. Under Section 41 of the Highways Act 1980; it may be exposed to the possibility of actions for breach of statutory duty if it fails to maintain a highway.

8.1.1 The Highways Authority also has a responsibility for any other road or footpath to which the public has access, which includes safe passage. As such the Council potentially has liabilities in relation to trees along all highways where the public can pass/re-pass. It should be noted that the policy in this report only proposes inspection of trees within or adjacent to the adopted highway.

8.1.2 The Highway Authority has the power to ensure appropriate maintenance works are undertaken. The maintenance of trees, hedgerows and other structures outside the boundary or extent of the way is the responsibility of the owner or occupier, subject to any other interests in the land. Where a tree or other vegetation overhangs a highway or any other road or footpath is identified as a potential danger to the public, the Council has the power to serve a notice on the owner or occupier of the land to cut it back. If works are not carried out within the timeframe stated on the notice, the Council may carry out the works itself and recover the costs.

8.1.3 The strategy provides a balanced approach to tree management. It will enable the Council, as highway authority, to discharge its duties and responsibilities.

8.2 Finance

8.2.1 The cost of implementing the safety element of the tree risk management strategy is £325,000 per annum, this includes the cost of inspecting the network, addressing the issues that will be identified and also implementing the subsidence elements of the TRMS. This is to be funded through £150,000 contribution from the corporate Tree Risk Management Budget and £175,000 from the existing Highway Revenue Budget.

8.2.2 The funding is estimated based on historic information and the process and works are funded through the corporate Tree Risk Management Budget and Highways Revenue Budget. There is a risk that if higher levels of defects are recorded that need to be dealt with for safety then the additional costs over those allocated with have to be funded through the existing Highway Revenue Budgets and as such less work, such as repairs to the highway, will be able to be undertaken across the service.

8.2.3 There is a possibility that once an entire inspection cycle of the network has been completed, then the frequencies may be able to be slightly reduced hence reducing the cost in future years.

8.2.4 It is thought that once the initial wave of defects have been identified the number of defects will reduce in future years; however this will largely depend on the impacts of climate change and the prevalence of diseases such as Dutch Elm Disease etc and as such this will increase costs. Future budget provision will be made as part of the annual business planning process with allocation based on the inspection requirements and estimated repairs with works prioritised and actioned in accordance with the Code of Practice.

8.3 Policy

8.3.1 The application of this Policy and Strategy aligns with the Tree Risk Management Strategy and as such helps to strength the Council's approach to keeping the travelling public safe.

8.3.2 The Strategy supports the vision set out in the Council's Corporate Plan 2021-25 for an open, fairer, greener Cheshire East. The plan prioritises safe neighbourhoods and safer roads and includes an action to introduce a borough wide tree policy.

8.4 Equality

8.4.1 An equality impact assessment was undertaken for the adoption of the Tree Risk Management Strategy and concluded that there is no negative impact on specific groups. The strategy prioritises trees that present a risk to public safety as a whole rather than specific groups or individuals. It is considered that the recommendations to adopt and implement the policy and code of practice are operational and that there are no further equality implications of this report.

8.5 Human Resources

8.5.1 There are no direct implications within the Council; however, within the supply chain there will be the need to recruit an Inspector and an additional driver.

8.5.2 At present the tree inspection pilot is resourced by an external consultant and a fixed term resource who co-ordinates the works. This fixed term resource will need to be made permanent.

8.5.3 The physical tree works are undertaken by an external sub-contractor.

8.6 Risk Management

8.6.1 An effective Tree Risk Management Strategy and tree risk management regime will significantly reduce the Council's risk of prosecution and / or civil claims and will minimise the Council's liability in such actions in relation to the highway tree asset and those trees within falling distance of the highway.

8.7 Rural Communities

8.7.1 There are no specific implications for rural communities, however the strategy will apply to the whole borough including all rural communities.

8.8 Children and Young People/Cared for Children

8.8.1 There are no implications for children and young people.

8.9 Public Health

8.9.1 The Highway Tree Risk Management Policy and Strategy is aimed at reducing a risk to public safety.

8.10 Climate Change

8.10.1 Trees are part of the solution to the climate change emergency through carbon sequestration. Through the Carbon Neutral Action Plan the Council is aiming to increase tree planting within the Borough. The Highway Tree Risk Management Policy and Strategy aims to balance the risk from our trees on the Highway Network with the ecological, environmental and social benefits that trees bring.

Access to Information	
Contact Officer:	Mike Barnett, Head of Highways
Appendices:	Appendix 1 - Highway Tree Maintenance and Inspections Policy Appendix 2 – Code of Practice for Highway Tree Safety Inspections
Background Papers:	Tree Risk Management Strategy Decision - Tree Risk Management Strategy (effective from 24th April 2021)