

**Meeting: Cabinet**

**Date: 17 September 2019**

**Wards Affected: All**

**Report Title: Ash Dieback Financial Allocation**

**Is the decision a key decision? No**

**When does the decision need to be implemented? ASAP**

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## **1. Proposal and Introduction**

- 1.1 Ash Dieback is a highly prevalent disease with no known cure and little natural resistance, which will decimate the Ash Tree population in the UK over the next 2 to 3 years. Torbay has a total tree population numbering in the region of 818,000 and approximately 11% of this stock is Ash, with an estimated 11.8% of the total tree cover across the Bay.
- 1.2 The proposal is that funding is allocated to undertake the removal of Ash Trees within Torbay Council Land that are obviously diseased and pose a serious risk to people, property or traffic.
- 1.3 Expenditure will be initially prioritised to a maximum £200,000 expected to be spent by March 2021. This funding to be allocated from the Insurance Reserve as the spend will limit the potential for future claims. If additional expenditure in excess of the £200,000 is required in 2021/22 then the Director of Corporate Services in consultation with Chief Finance Officer, will allocate further funding from the Insurance Reserve. The Council will continue to lobby to central government funding to support this national issue.
- 1.4 Trees on private land within Torbay are not the responsibility of Torbay Council, but that of the landowner who like Torbay could face significant fines and prosecution if their trees are not kept in a safe condition and cause harm to persons, traffic and infrastructure. Guidance will be made available for private landowners which is likely to be similar to Devon's advice, explaining if the tree is on your land it's your responsibility. The Council is unable to offer a chargeable service for the removal of ash trees on private land as this will conflict with the Council's statutory duties regarding Tree Preservation Orders and conservation areas.

- 1.5 Torbay as part of the Devon Ash Dieback resilience Forum are supporting the bid from Devon Wildlife Trust to the Lottery Commission which was submitted on the 19<sup>th</sup> August. This bid for £690k is mainly to inspire communities to rebuild flourishing treescapes for the future and Torbay is one of the 5 priority areas chosen as part of this bid.

Part of the action to be taken is:-

- 125 events and workshops, annual Treewee festivals and 360 landowner visits will inspire community action.
- Three community nurseries and micro-nurseries will distribute free trees.
- 45,000 people will act to enhance local treescapes, planting / nurturing 250,000 trees outside woods.
- 150km+ of hedgerow will be created or enhanced.

## **2. Reason for Proposal and associated financial commitments**

- 2.1 As a unitary authority Torbay Council will regrettably have to take action should it be shown that infected trees pose a significant risk to people, property or traffic. Unfortunately this will result in the loss of some of our landmark trees and the general removal of the Ash population throughout the Torbay.
- 2.2 To identify the areas where possible intervention might be needed an assessment of areas of Torbay that are considered high risk targets and where Ash are adjacent to those targets needs to be carried out. Each tree has to be assessed on its individual merits, but latitude will be given to the removal of adjacent infected trees to ensure best economic value.
- 2.3 Torbay Council's tree asset management system identifies 1,046 Ash trees with an estimated removal value of £400 per tree need to be removed based on 2.2 above. Therefore the estimated cost of removal of these immediately identifiable trees is £418,400 based on current data. This clearly is a significant impact on council resources, with no external supporting funding being available.
- 2.4 For clarity this will not be the final cost as surveying is still being undertaken of areas of council owned woodland where individual Ash have not been included in previous records, a good example of this is Chapel Woods in Torquay, where an initial investigation has identified several trees that overhang the main A3022 Newton Road as well as some private dwellings to the back of these woods.
- 2.5 The educated inspection rule is to carry out intervention works once the tree has been identified as between 15% to 35% canopy loss. Any higher values than this the tree becomes unstable and removal costs are considerably higher as it becomes unsafe for the tree to be climbed and a much wider area needs to be cordoned off during felling.
- 2.6 To control and manage both the risk and cost of this disease a triage form has been produced to log the complete details with photos of all trees identified to be removed and the specific reason for its removal.
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### **3. Recommendation(s) / Proposed Decision**

- (i) that the risk and cost of Ash Dieback is managed via a phased and triaged approach and the Director of Corporate Services be requested to allocate £200,000 from the Insurance Reserve, so as to mitigate the risk to the public and third party property and ensure that Torbay Council is not subject to legal claims and likely prosecution; and
- (ii) that the Interim Director of Place be requested to ensure that when reviewing the Council's Tree Risk Management Strategy, a specific section is included on Ash Dieback and other emerging biological threats due to climate change, and a plan of how the Council can work towards further mitigating loss of trees and what processes are available to replenish lost tree stocks going forward.

### **Appendices**

Appendix 1: Defra Report

Appendix 2: Torbay Council's consultant report

Appendix 3: Saving Devon's Treescapes MOA

Appendix 4: Council fined over falling tree

Appendix 5: Witley to sue parish council for £500k

## Section 1: Background Information

<b>1.</b>	<p><b>What is the proposal / issue?</b></p> <p>To agree a programme of tackling this disease within Torbay's stock of trees which is approximately 90,000 Ash trees, 1,046 have currently been identified as critical ones that from initial assessments urgently need to be removed.</p> <p>This initial identified high risk stock needs additional funding as the current Tree Budget (E3104) is not sufficient to manage these critical trees, and the estimated cost for these trees is in the region of £418,000.</p> <p>This could be phased over two financial years and once the critical trees have been dealt with, the Tree budget may need further support to be able to manage the situation going forward, but this is wholly dependent on the outcome of the woodland surveys that should be complete soon so that the full extent of required funding is known.</p>
<b>2.</b>	<p><b>What is the current situation?</b></p> <p>This is a National issue which has affected nearly every corner of the UK, there is no cure and it is likely that 85% of the Ash trees in Torbay will succumb to this disease, and the rest of the country will have similar attrition rates.</p> <p>There is very little if any natural resilience to this disease so the proposed action is the only realistic option.</p> <p>To not act quickly will only compound this issue, due to the way that the disease attacks a tree and makes it very brittle, which means that it cannot be climbed to facilitate safe felling. This could at least double the costs as each tree would need a much larger safety Zone when being removed, as branches would be difficult to remove prior to felling. Also additional equipment such as access platforms, like Cherry pickers may also be required.</p> <p>DEFRA have made it clear that this is not a central government issue, but that of the landowners, impacting on Local Authorities who have huge stocks of Ash trees on their land. DEFRA have also made it Clear that there will be no Central Government funding for this disease which can be seen from the attached letter (Appendix 7)</p>
<b>3.</b>	<p><b>What options have been considered?</b></p> <p>No other options have been considered as there unfortunately are none, unless Torbay is prepared to risk the guaranteed prosecution through severe</p>

	injury, damage to property or even Death of some of its residents and visitors.
<b>4.</b>	<p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</b></p> <p>The new Partnership's proposed Priority 3, A Climate fit for the future, 3.1 protecting the Natural Environment, can be reassured that mitigation measures are being put in place to replace lost trees within Torbay.</p> <p>Appendix 3 is a proposed Memorandum of Understanding from the Director of the Wildlife Trust a Mr Peter Burgess, who along with many other local partners is proposing to generate a fund for replacement trees from the National Lottery Heritage Fund to the value of £690k, with a modest investment of £10k from Torbay Council, and other partners.</p> <p>The project is entitled "Saving Devon's treescapes" and on the 20<sup>th</sup> August the Devon Wildlife trust submitted their bid to the National Lottery Heritage Fund.</p>
<b>5.</b>	<p><b>How does this proposal contribute towards the Council's responsibilities as corporate parents?</b></p> <p>Torbay Council has a responsibility to ensure that everyone is safe while on or around Land that is owned by them as Land owners.</p>
<b>6.</b>	<p><b>How does this proposal tackle deprivation?</b></p> <p>N/A</p>
<b>7.</b>	<p><b>How does this proposal tackle inequalities?</b></p> <p>N/A</p>
<b>8.</b>	<p><b>How does the proposal impact on people with learning disabilities?</b></p> <p>N/A</p>
<b>9.</b>	<p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>All residents and visitors of Torbay will be affected by this proposal through the significant loss of Natural amenity value given by the trees.</p>

10.	<p><b>How will you propose to consult?</b></p> <p>A communications plan will be developed and will look very similar to the one developed by the Devon Ash dieback resilience forum as Torbay is a member of this body, so that everyone in Devon receives the same message.</p> <p>This can be easily uploaded onto Torbay's web pages and access to its pages can also be publicised in a formal press release once our policy has been formally decided.</p> <p>When woodland or single trees are being removed press releases including links to information about Ash Dieback will be posted, to help minimise retrospective customer contact, where it may not be obvious that the trees being removed are already diseased or are likely to become so, and then pose a threat to life or property.</p>
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**Section 2: Implications and Impact Assessment**

11.	<p><b>What are the financial and legal implications?</b></p> <p>The additional funding required following the initial assessment is £418,000 to be equally divided over two financial years. This is likely to increase once the woodland surveys are complete in the next few weeks.</p> <p>The Legal implications if no action is taken is almost guaranteed criminal prosecution, with a possibility of a custodial sentence for council officers as well significant fines. Examples of this can be seen in Appendix 4 and 5, and these are just isolated cases.</p> <p>If no action is taken the cases in Torbay will not be isolated one offs, but almost definitely many which will cost the council considerably more financially than doing nothing, as well as the likelihood of criminal manslaughter cases and gross negligence.</p>
12.	<p><b>What are the risks?</b> The Legal implications as stated in 11 above and serious injury or Death to residents or visitors, as well as likely damage to third party property.</p>
13.	<p><b>Public Services Value (Social Value) Act 2012</b></p> <p>N/A</p>
14.	<p><b>What evidence / data / research have you gathered in relation to this proposal?</b> See DEFRA report Appendix 1 and the Report from our Tree</p>

	Consultant who has established the critical trees that need urgent removal (Appendix 2)
15.	<b>What are key findings from the consultation you have carried out?</b> See Item 10 above
16.	<b>Amendments to Proposal / Mitigating Actions</b> N/A

## Equality Impacts

17.	Identify the potential positive and negative impacts on specific groups		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			There is no differential impact
People with caring Responsibilities			There is no differential impact
People with a disability			There is no differential impact
Women or men			There is no differential impact
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			There is no differential impact
Religion or belief (including lack of belief)			There is no differential impact
People who are lesbian, gay or bisexual			There is no differential impact
People who are transgendered			There is no differential impact
People who are in a marriage or civil partnership			There is no differential impact
Women who are pregnant / on maternity leave			There is no differential impact



	Socio-economic impacts (Including impact on child poverty issues and deprivation)			There is no differential impact
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	To undertake the proposed action will reduce the risks to Residents and visitors to an acceptable level which can be defended in court	To do nothing will put all residents and visitors at serious risk of Injury, death and damage or total loss of property	
<b>16</b>	<b>Cumulative Impacts – Council wide</b> (proposed changes elsewhere which might worsen the impacts identified above)	N/A		
<b>17</b>	<b>Cumulative Impacts – Other public services</b> (proposed changes elsewhere which might worsen the impacts identified above)	N/A		