

<b>Committee(s)</b>	<b>Dated:</b>
Epping Forest Consultative – For Consultation Epping Forest and Commons – For Decision	29 01 2020 10 03 2020
<b>Subject:</b> Vegetation against Property: Policy Development Note SEF 02/20b	<b>Public</b>
<b>Report of:</b> Colin Buttery, Director of Open Spaces	<b>For Decision</b>
<b>Report author:</b> Geoff Sinclair, Head of Operations, Epping Forest	

### Summary

A Strategy and Management Plan for Epping Forest for the period of 2020-30 was approved by your Committee on 18 November 2019. Arising from this a 2020-23 Business Plan is being developed.

This report outlines the Policy Development note (PDN)) that has been prepared on our management of Vegetation Against Property (VAP) where substantial subsidence compensation claims can arise from the impact of our trees on neighbours' buildings. The legal and statutory context and significant management considerations described in the PDN have been outlined along with the management strategy.

### Recommendation(s)

Members are asked to:

- i. Approve the Vegetation against Property Policy Development Note

### Main Report

#### Background

1. On the 18 November 2019 your committee approved a Strategy and Management Plan for Epping Forest for the period of 2020-29. As part of the ongoing development process, existing operational activity in key geographical locations and for key activities is being reviewed.
2. The review process comprises an audit of the City Corporation's (CoL) property management issues alongside other significant management considerations, to provide an overview of current practice and an outline of longer-term aspirations.
3. This report outlines the Vegetation Against Property (PDN) that has been prepared as part of the review.

## **Current Position**

4. Most of Epping Forest has an underlying geology of London clay and/or sand / gravels. The London clay is particularly prone to seasonal shrinkage and expansion, which can lead to problems of subsidence and heave in buildings. Any recovery action against the City of London is likely to be brought either as a private nuisance or a negligence claim. In either case it is necessary to establish causation and foreseeability of damage.
5. Following the receipt of a subsidence claim at Epping Forest the City of London's subsidence procedure for handling claims is carried out and described in the PDN. Alongside meeting the requirements of the COL subsidence process there are four key outcomes that we seek to achieve at Epping Forest when managing subsidence claims:
  - a. The value of the trees as environmental assets is assessed and factored into deliberations;
  - b. The liability of the Forest for any building damage is robustly challenged;
  - c. COL Epping Forest record management is durable and accessible over long periods; and,
  - d. Ongoing COL Epping Forest management responsibilities are identified and built into work programs.
6. As far as practical in managing the claims process the COL Epping Forest seeks to work to the Joint Mitigation Protocol (JMP) standard. The JMP is an industry agreed method of subsidence claims management where trees are implicated as being the cause of building movement. It seeks to establish best practice in the processing and investigation of tree root induced building damage, benchmarking time scales for responses and standards of evidence.
7. Since 1994 48% of subsidence claims to the City Corporation of London have resulted in a payment. Claims have been made in 27 of the 52 compartments that make up the Forest and Buffer Lands, with three compartments (29, 30 and 33) accounting for 46% of claims, reflecting both the proximity of these areas to buildings and their underlying soil type.

## **Proposals**

8. The VAP PDN outlines the legal and statutory context and significant management considerations impacting on this operational area before presenting a management strategy and outline management program.

## **Management Strategy**

9. The overall objectives for managing vegetation against property in Epping Forest are:
  - a. To ensure the COL Subsidence Claims management procedure is met to agreed timeframes;
  - b. To provide a local VAP management procedure to meet record keeping and ongoing management responsibilities;
  - c. To reduce our long-term liability and maintenance costs for managing vegetation against property, including integrating subsidence related works with habitat and access management works.

## **Management Considerations**

10. There are a wide range of management considerations given in the report and these have been summarised below:
  - a. Ecological: Epping Forest's veteran trees have been and will continue to be impacted by subsidence claims. There is also an opportunity to integrate conservation management, such as wood pasture creation, with work to reduce tree cover in 'high risk' areas and thereby liability for subsidence.
  - b. Heritage and community: There is an opportunity to integrate management action for heritage and landscape with those to mitigate subsidence concerns, especially in areas identified as more prone to claims.
  - c. Access: Removal of tree(s) on the land boundary frequently leads to increased unauthorised access onto Forest land, e.g. through garden extensions and dumping. In some locations the reduction in tree cover could complement improved access provision.
  - d. Community Liaison / Consultation: Trees linked to subsidence concerns almost by definition are close to residential areas and likely to be visually prominent. Work to a tree(s) may require prior community liaison and consultation if the tree is particularly valued
  - e. Local Plans: Change of neighbouring land use from open field to residential use will increase risk management liabilities for root nuisance (and tree safety) in areas with shrinkable clay soils.

## **Property Management Context**

11. The main property management issues impacting upon work to manage VAP concerns area:
  - a. Tree Safety: Areas of subsidence concern typically overlap with Tree Safety management zones and there is the potential to integrate management actions for tree safety and subsidence.

- b. Statutory Designations: Many areas affected by VAP issues are within SSSI, SAC and/or Conservation Area designated locations or have Tree Preservation Orders applying.
- c. Invasive / Alien Species: Oak Processionary Moth (*Thaumetopoea processionea*) is increasingly prevalent on the many open grown oaks across the site and poses a risk to human health;
- d. Boundaries: There is an opportunity to integrate management actions for vegetation trespass and wayleave management with those to mitigate subsidence concerns

### **Outline Management Program and Operations Plan spreadsheet**

12. The PDN presents an outline management program which is in essence a continuation of the current practice as described above. An improvement action has been identified where it is proposed that for 2022 a review be completed on the potential to reduce third party liabilities, including root nuisance, through integrated land management actions. Examples of the sort of possibilities are given Appendix 6 of the PDN.

### **Corporate & Strategic Implications**

- 13. City of London Corporate Plan 2018 - 2023: the restoration and maintenance of the internationally and nationally important habitats of Epping Forest directly underscore the *third pillar* of the Corporate Plan, which is to “*shape outstanding environments*”. The development of ISP’s and PDN form part of the operational planning to achieve this aim of the Corporate Plan.
- 14. Open Spaces Department Business Plan 2016-19: The Strategic Vision of this plan is to ‘Preserve and protect our world class green spaces for the benefit of our local communities and the environment.’ and one of the Department Objectives is to ‘Protect and conserve the ecology, biodiversity and heritage of our sites.’ The preparation of the Epping Forest Management Strategy and Management Plan for 2019-29 is a key action in the Departmental Business Plan.
- 15. No negative equality impacts were identified for this proposal.

### **Financial Implications**

- 16. The outline management program has been framed to fit within existing levels of local risk spend.
- 17. Good practice in managing subsidence should reduce our financial liability arising from claims against the COL.

### **Charity**

- 18. Epping Forest is a registered charity (number 232990). Charity Law obliges Members to ensure that the decisions they take in relation to the Charity must be taken in the best interests of the Charity.

## **Conclusion**

19. A PDN has been prepared on Vegetation Against Property management. This identifies the legal and statutory context and other significant management considerations that should be considered.
20. A management strategy is presented along with an outline management programme with an improvement action to reduce our liabilities recommended. The proposals can be achieved through existing Local Risk resources and are likely to reduce the COL's long-term financial liabilities arising from subsidence claims.

## **Appendices**

- Appendix 1 – Vegetation Against Property: Policy Development note (2019)

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