

SUBJECT: HARTSHOLME COUNTRY PARK LAKE / RESERVOIR- TREE REMOVALS ON THE DAM WALL

DIRECTORATE: COMMUNITIES AND ENVIRONMENT

REPORT AUTHOR: STEVE BIRD – ASSISTANT DIRECTOR (COMMUNITIES & STREET SCENE)

1. Purpose of Report

- 1.1 To remind Members of the Council's obligations with regards to maintenance of the reservoir in Hartsholme Country Park, and to advise Members of the need to remove trees from the reservoir embankment, some of which fall within a Tree Preservation Order (TPO).
- 1.2 To seek formal consent for the necessary works.

2. Background

- 2.1 The dam is located at the northern end of Hartsholme Country Park and was built by the Lincoln Waterworks Company in the latter half of the 19th century to form a reservoir for the supply of water to the residents of Lincoln. Following a typhoid epidemic in 1904/05 an alternative source of water was sought and a new supply was secured from Elkesley in Nottinghamshire. Since that time the reservoir has been extended to create an ornamental lake, and become a scenic feature of the park. The dam is approximately 320 metres in length and has Skellingthorpe Road running along the top. See Appendix 1
- 2.2 The City of Lincoln Council is responsible for the care of Hartsholme Country Park which includes the maintenance of the dam. As the lake holds in excess of 25,000 cu M of water above sea level, and is in a built up area, it is covered by the terms of the Reservoirs Act 1975 and considered to be 'High Risk'. As such the Council must obtain both annual reports and more detailed 10 year reports from suitably qualified and approved engineers.
- 2.3 The reports contain condition assessments and recommendations for action, with which the Council, as the designated 'Undertaker', must comply.
- 2.4 The engineer's report has asked for the removal of trees and other general vegetation from the north bank of the dam wall, in order that the wall can be seen without hindrance so that a clearer picture can be obtained of its condition, and, should a problem arise, that this would be seen as early as possible. The area concerned is identified in Appendix 1.
- 2.5 The north face of the dam wall is not within Hartsholme Country Park, and instead has alternative ownership. One part has a clear registered owner, the other has unclear ownership.

- 2.6 The north face of the dam wall is partially covered by a TPO. This means that permission has to be given by the Council for any tree works that take place within that area. For clarity the TPO applies to the north-west end of the embankment; the area for which there is no registered owner. There is no protection for the trees in the other area, and as these are outside of Council ownership, its own policy of reporting tree removals from land in its ownership does not apply. They are therefore referred to here for clarity and completeness of picture only.
- 2.7 As owner of the reservoir, and therefore designated Undertaker in terms of the Act, the Council has a duty to take a lead on responding to actions required in the engineer's reports. We have therefore written to the owner of the land, where this has been identified, and notified the engineer that the other area has no clear ownership.
- 2.8 With regards to the area that has clearly identified ownership, the Environment Agency have enforcement powers and so, if the land owner will not take action of their own volition, the Environment Agency will take the matter up and use their powers to bring it to a satisfactory conclusion. The actions available to them for the land without clear ownership are less clear, but may include undertaking the work themselves and taking out a land charge against any possible future owner, or taking action against the Council as Undertaker to carry out the work and recover costs similarly.
- 2.9 This report is therefore concerned with seeking planning permission for the removal of trees under a TPO, in expectation that either the Environment agency or Council will need to take action in due course.
- 2.10 A final note by way of background is that although the Wildlife and Countryside Act would ordinarily dictate a limited window of time to undertake tree removals, looking after the welfare of nesting birds and other wildlife as it does, the Reservoirs Act could take precedence and allow action at other times, on the basis of risk of health and safety to persons. Officers would seek to work closely with the Environment Agency at all times, regardless of when any work might take place, and have confidence that the Environment Agency officers would be similarly concerned of any environmental impacts, regardless of timing.

3. Proposal

- 3.1 The land identified in Appendix 1 is the area in which the engineer's report requires substantive clearance. It will be possible to leave some trees that are more mature and thus deemed to have greater amenity value, and this has been agreed with the engineer, but overall the removal of some 168 trees and shrubs of varying sizes are required.
- 3.2 Appendix 2 provides photographs showing the area and indicating the kind of vegetation involved. There are a variety of self- set species located on the north face of the dam but comprised predominantly of birch, beech, sycamore, ash, oak, yew, holly, willow and hawthorn. The maturity of the trees range from small saplings to mature specimens.
- 3.3 As explained earlier, ownership of the land is split, with 115 of the trees and shrubs being in the area with clear ownership, and 53 falling in the area where ownership has not been identified.
- 3.4 The TPO covers the area for which there is no registered owner, so this report is concerned with the removal of the 53 trees/shrubs on that area only, for the reasons

outlined in the background section of the report.

- 3.5 As per normal practice, all relevant Ward Councillors have been notified of the proposed works prior to the submission of this report.
- 3.6 Although the Council would usually replace any tree that it has become necessary to remove, as these requests relate to land outside its ownership, the policy does not apply. However, should it prove to be the case that the Environment Agency enforce against the Council and seek it to undertake the work and impose a land charge, we will explore options to include replanting at alternative sites within any works costs and add this to the land charge accordingly.

4. Consultation and Communication

- 4.1 All Ward Councillors have been informed of proposed works in this report which are within their respective ward boundaries.
- 4.2 The Portfolio Holder for Remarkable Place has been advised of the contents of this report.
- 4.3 The members of the Hartsholme Country Park Advisory Group have also been informed.

5. Strategic Priorities

5.1 Let's enhance our remarkable place

The Council acknowledges the importance of trees and tree planting to the environment, and has recognised this accordingly by the inclusion of a Remarkable Place strand within its corporate strategy, along with prioritised supporting projects.

6. Organisational Impacts

6.1 Finance

i) Finance

There are no financial impacts arising from this report unless the Environment Agency enforce against the City Council for the unregistered land, in which case there will be a budget pressure as yet undetermined.

ii) Staffing N/A

iii) Property/Land/ Accommodation Implications N/A

iv) Procurement

Should the Council be required to undertake any tree work, then it will be carried out by its grounds maintenance contractor. The staff are all suitably trained, qualified, and experienced.

6.2 Legal Implications including Procurement Rules

The Council is the designated Undertaker under the terms of the Reservoirs Act 1975. As such it has responsibility to undertake routine inspections, as prescribed, and to act on the findings of the reports. It is expected to lead, in so far as it is able, to secure the outcomes of the report, where it is not the land owner.

The Environment Agency is the enforcing agency.

Following changes in legislation in 2015, failure to comply with the safety elements of the report could constitute a criminal offence.

The Council is compliant with all TPO and Conservation area legislative requirements.

6.3 Equality, Diversity and Human Rights

There are no negative implications.

7. Risk Implications

7.1 The engineers report identifies work that are considered to be in the interest of public safety. The Council has no option but to comply with the report findings or risk enforcement action being taken.

8. Recommendation

8.1 That the proposal for works, as set out in this report, be approved.

Is this a key decision?	No
Do the exempt information categories apply?	No
Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?	No
How many appendices does the report contain?	2
List of Background Papers:	None
Lead Officer:	Mr S. Bird, Tel: 873421 Assistant Director (Communities & Street Scene)