



Rushcliffe  
Borough Council

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**Direct dial** 0115 914 8320  
**Email** democraticservices@rushcliffe.gov.uk

**Our reference:**  
**Your reference:**  
**Date:** Monday, 2 October 2023

To all Members of the Cabinet

Dear Councillor

A Meeting of the Cabinet will be held on Tuesday, 10 October 2023 at 7.00 pm in the Council Chamber, Rushcliffe Arena, Rugby Road, West Bridgford to consider the following items of business.

This meeting will be accessible and open to the public via the live stream on YouTube and viewed via the link: <https://www.youtube.com/user/RushcliffeBC>  
Please be aware that until the meeting starts the live stream video will not be showing on the home page. For this reason, please keep refreshing the home page until you see the video appear.

Yours sincerely

Gemma Dennis  
Monitoring Officer

## AGENDA

1. Apologies for Absence
2. Declarations of Interest

[Link to further information in the Council's Constitution](#)

3. Minutes of the Meeting held on 12 September 2023 (Pages 1 - 8)
4. Citizens' Questions  
To answer questions submitted by citizens on the Council or its services.
5. Opposition Group Leaders' Questions  
To answer questions submitted by Opposition Group Leaders on items on the agenda.

Rushcliffe Borough  
Council Customer  
Service Centre

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NG2 5LN

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**Opening hours:**  
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8.30am - 5pm  
**Wednesday**  
9.30am - 5pm  
**Friday**  
8.30am - 4.30pm

**Postal address**  
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Council  
Rushcliffe Arena  
Rugby Road  
West Bridgford  
Nottingham  
NG2 7YG



## NON-KEY DECISIONS

6. LGA Corporate Peer Challenge (Pages 9 - 12)

The report of the Chief Executive is attached.

7. Adoption of Tree Management and Protection Policy 2023-2028 (Pages 13 - 50)

The report of the Director – Development and Economic Growth is attached.

8. UKSPF and REPF Proposed Grant Pots 2024/25 (Pages 51 - 58)

The report of the Director – Development and Economic Growth is attached.

9. Assigning Strategic Significance for Biodiversity Net Gain Assessments (Pages 59 - 70)

The report of the Director – Neighbourhoods is attached.

10. Rushcliffe Borough Council 50 Years Anniversary Plans (Pages 71 - 74)

The report of the Director – Neighbourhoods is attached.

### Membership

Chair: Councillor N Clarke

Vice-Chair: Councillor A Brennan

Councillors: R Inglis, R Upton, D Viridi and J Wheeler



Rushcliffe  
Borough Council

## Meeting Room Guidance

**Fire Alarm Evacuation:** In the event of an alarm sounding please evacuate the building using the nearest fire exit, normally through the Council Chamber. You should assemble at the far side of the plaza outside the main entrance to the building.

**Toilets:** Are located to the rear of the building near the lift and stairs to the first floor.

**Mobile Phones:** For the benefit of others please ensure that your mobile phone is switched off whilst you are in the meeting.

**Microphones:** When you are invited to speak please press the button on your microphone, a red light will appear on the stem. Please ensure that you switch this off after you have spoken.

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## Recording at Meetings

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Rushcliffe Borough Council is committed to being open and transparent in its decision making. As such, the Council will undertake audio recording of meetings which are open to the public, except where it is resolved that the public be excluded, as the information being discussed is confidential or otherwise exempt

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## **MINUTES OF THE MEETING OF THE CABINET**

**TUESDAY, 12 SEPTEMBER 2023**

Held at 7.00 pm in the Council Chamber, Rushcliffe Arena,  
Rugby Road, West Bridgford  
and live streamed on Rushcliffe Borough Council's YouTube channel

### **PRESENT:**

Councillors N Clarke (Chair), A Brennan (Vice-Chair), R Inglis, R Upton, D Virdi and J Wheeler

### **ALSO IN ATTENDANCE:**

Councillors T Birch, G Fletcher, N Regan, J Walker and G Williams

### **OFFICERS IN ATTENDANCE:**

L Ashmore	Director of Development and Economic Growth
G Dennis	Monitoring Officer
P Linfield	Director of Finance and Corporate Services
K Marriott	Chief Executive
H Tambini	Democratic Services Manager

#### **17 Declarations of Interest**

There were no declarations of interest made.

#### **18 Minutes of the Meeting held on 11 July 2023**

The minutes of the meeting held on Tuesday, 11 July 2023 were agreed as a true record and signed by the Chair.

#### **19 Citizens' Questions**

There were no citizens' questions.

#### **20 Opposition Group Leaders' Questions**

Question from Councillor J Walker to Councillor Upton

"Why was the Strategic Distribution and Logistics Preferred Approach not part of the original consultation in January 2023 and how much will with this new consultation cost the Council?"

Councillor Upton thanked Councillor Walker for her question and responded by stating that strategic distribution was never intended to be included as part of the January consultation, as the logistics study was only completed in August 2022, and officers then needed to undertake a significant amount of sites assessment work, which was always going to go beyond January 2023. There

was therefore a benefit in going out to consultation in January, without the strategic distribution and logistics, rather than wait, to keep the overall Plan preparation timetable, and that had proved to be the case. The new proposed consultation, which was subject to approval by Cabinet this evening would not incur any additional costs to the Council, beyond those already budgeted for.

Councillor Walker asked a supplementary question to Councillor Upton.

“Was this always the intention to come through this way or was it decided after January to undertake the second consultation?”

Councillor Upton responded by stating that the review of the Local Development Plan was an extremely long process, so a timeline had been set, and he considered that to try and consult on everything in one consultation would be too complicated and was content with the process that was being followed.

Question from Councillor Birch to Councillor Inglis

“Could you please inform residents how many times the Conservative Party have ever brought motions to Council with regards to Bingham's parking?”

Councillor Inglis responded by stating that as the leading Group, the Conservative Group would not bring a motion, it would bring a report on such a matter, as it had in particular on the agenda this evening, and he confirmed that no motions had been brought to Council on this issue.

Councillor Birch asked a supplementary question to Councillor Inglis

“Given that in 2019, the Conservative Party, including the Rushcliffe Conservative Party held the majority on Rushcliffe Borough Council, Bingham Town Council, Nottinghamshire County Council and Newark and Sherwood District Council, in other words, all four councils that could conceivably be necessary to help build a new car park, why did the Rushcliffe Conservatives not seek a solution to the car parking crisis in Bingham when it had the chance?”

Councillor Inglis responded by stating that there was considerable history related to the provision of this car park and the feasibility of it all. Councillor Inglis confirmed that Bingham Town Council had taken full ownership of, and Rushcliffe Borough Council had not been invited to get involved.

## 21 **Revenue and Capital Budget Monitoring 2023/24 - Financial Update Quarter 1**

The Cabinet Portfolio Holder for Finance, Councillor Viridi presented the report of the Director – Finance and Corporate Services, which set out the budget position for revenue and capital as at 30 June 2023.

Councillor Viridi stated that given the various financial challenges faced by the Council, the overall position was relatively positive, and it was noted that the report had been considered by the Corporate Overview Group, with no

significant issues arising.

In respect of revenue, Councillor Virdi confirmed that there was an overall revenue budget efficiency of £0.55m, with the key issues relating to that highlighted in Table 1 of the report. Cabinet was advised that whilst there were some adverse variances, in particular as a result of a one off legal property dispute, Streetwise operations and the Crematorium, action was being taken to ensure that the financial profile for those improved. In respect of Streetwise, reducing vehicle hire charges was being investigated, and at the Crematorium ways to increase usage and revisiting charges also were being looked at. Councillor Virdi referred to Paragraphs 4.9 and 4.10 of the report, which detailed the pay and inflationary pressures faced by the Council, together with the cost of living crisis, which would affect the Council's Medium Term Financial Strategy and budgetary planning process going forward. However, Cabinet noted that on a more positive note, Business Rate income was higher than budgeted, which had helped to offset some of the variances.

In respect of capital, Councillor Virdi referred to the key variances in relation to the Capital Programme, with an estimated underspend of £6.457m, with details of those particular areas highlighted in Paragraph 4.7 of the report.

Councillor Virdi referred to Paragraph 4.5 of the report and to Appendix E, relating to the Special Expenses budget, which showed a £6.5k variance, which had primarily been in relation to costs incurred from a traveller encampment.

Councillor Virdi concluded by reminding Cabinet that this was early in the financial year, with the Council continuing to face many risks and challenges, and it was imperative that it continued to keep a tight control on finances, remain resilient and manage its sustainability.

In seconding the recommendation, Councillor J Wheeler referred to the importance of properly scrutinising finances and referred to the difficult position being faced by many other councils, and it was pleasing that Rushcliffe was in a strong financial position. It was acknowledged that changes occurred, with projects moving during the year and it was reassuring that the report detailed how those projects would be delivered going forward.

**It was RESOLVED that the report be approved, and that:**

- a) the expected revenue budget efficiency for the year of £0.55m and proposals to earmark the for cost pressure (paragraph 4.1 of the report) be noted;
- b) the capital budget efficiencies of £6,457m be noted; and
- c) the expected outturn position for Special Expenses to be £6.5k over budget (paragraph 4.5 of the report) be noted.

## 22 **Greater Nottingham Strategic Plan: Strategic Distribution and Logistics Preferred Approach**

The Cabinet Portfolio Holder for Planning and Housing, Councillor Upton presented the report of the Director – Development and Economic Growth, which outlined the Greater Nottingham Strategic Plan: Strategic Distribution and Logistics Preferred Approach.

Councillor Upton advised that Broxtowe, Gedling and Rushcliffe Borough Councils, together with Nottingham City Council were preparing a revised Greater Nottingham Strategic Plan (GNSP), which, when adopted for Rushcliffe, would replace the Local Plan Part 1: Core Strategy. Cabinet was advised that in January all four councils undertook a preferred approach consultation, which focused on housing and employment need, with the results still being analysed. The councils were now seeking approval to undertake an additional six week consultation to focus on strategic distribution and logistics. As previously stated this evening, Councillor Upton advised that it had not been considered appropriate to combine the strategic distribution and logistics consultation with the earlier one, as the report from the specialist consultant had not been received until August 2022, and officers had needed significant time to undertake site assessments before the consultation. Cabinet noted that if both consultations had been combined, it would have delayed the Plan preparation timetable.

Councillor Upton advised that the consultants' report had concluded that there was a residual need of 131-147 hectares of strategic logistics land required across the wider study area, and a Call for Sites exercise was undertaken, with 10 sites identified in Rushcliffe, details of which were highlighted in Appendix 2 of the report. A two stage assessment was undertaken, and Councillor Upton advised that two sites were considered possible within Rushcliffe, the Ratcliffe on Soar Power Station site and the Nottingham Gateway site. Following further detailed assessment, it was proposed that two sites should be allocated; the Ratcliffe on Soar Power Station site for up to 180,000 sq.m, and the former Bennerley Coal Disposal Point within Broxtowe Borough. Cabinet was reminded that the Power Station site already had planning consent following the adoption of the Local Development Order (LDO), which included up to 180,000 sq.m of storage and distribution.

Councillor Upton concluded by advising that subject to approval by all four councils, the consultation would take place in late September or early October 2023, and the responses would be included in the preparation of the final draft of the revised Strategic Plan.

In seconding the recommendation, Councillor Inglis referred to the emotive issue of strategic distribution and logistics location and their effect on the surrounding landscape; nevertheless, he considered that a modern economy needed those facilities, and the review of the Local Plan Part 1 had included strategic distribution and logistics within it. Councillor Inglis referred to the conclusions of the specialist consultants that there was a need for more provision in the GNSP area, and noted the two sites, which had been identified and put forward. Councillor Inglis supported the inclusion of the Ratcliffe on Soar Power Station site, as it was part of the Freeport and it had recently been



granted an LDO and he hoped going forward that this would continue the Council's aim of attracting major business investment and employment to Rushcliffe.

Councillor Clarke agreed that this was a valuable opportunity to promote employment in both Rushcliffe and the Greater Nottingham area and it would be beneficial to everyone in Rushcliffe.

**It is was RESOLVED that:**

- a) the Greater Nottingham Strategic Distribution and Logistics Preferred Approach, be approved, in so far as it relates to Rushcliffe Borough, for public consultation; and
- b) the Director – Development and Economic Growth be granted delegated authority to approve any minor changes required to the Preferred Approach document and the evidence base prior to consultation.

**23 Bingham Car Parking**

The Cabinet Portfolio Holder for Environment and Safety, Councillor Inglis presented the report of the Director – Development and Economic Growth, which provided an update on car parking in Bingham.

Councillor Inglis thanked the Director – Development and Economic Growth and the Corporate and Commercial Properties Officer for the excellent report, which provided a very detailed and comprehensive overview of the history and current position of car parking in Bingham.

Councillor Inglis advised that parking provision was a statutory responsibility of the Nottinghamshire County Council (NCC) and stated that Bingham Town Council (BTC) had full ownership of their long-term car park, with Rushcliffe Borough Council (RBC) owning and operating three public, town centre car parks, with 165 spaces, operated by NCC. Cabinet was advised that BTC had approached RBC in July 2022 requesting some project support to help its long-term ambition, arising from its 2015 Parking Strategy and the 2018 Bingham Masterplan to a perceived need for addition car parking for Bingham on a potential site owned by it. RBC had agreed to help with £25k funding and officer support, and the partnership work had been ongoing since then.

Councillor Inglis stated that significant challenges with key stakeholders needed to be overcome, especially Network Rail, which would be a key factor to gaining its support for a new long-stay car park and for a Business Plan to support the viability of such a project when, surprisingly, and also appreciating the car parking issues, the data suggested in Paragraph 4.4 of the report that Bingham already had twice as many parking spaces per resident than West Bridgford and more than Cotgrave, Radcliffe and Keyworth.

The recommendation to establish a Strategy Group was welcomed by Councillor Inglis as a way forward in consolidating NCC, RBC and BTC working together to find both short and longer term solutions, and to maximise the parking provision for everyone across the whole town.

Councillor Inglis concluded by referring to the work already undertaken by BTC and in particular the Town Clerk, Jo Riddle, and all that she had done so far. Cabinet was reminded that there were no easy solutions or answers, with many hurdles to overcome, and it was hoped that by accepting this report the project would be taken further.

In seconding the recommendation, Councillor Brennan reiterated previous comments, thanked officers and reminded Cabinet that at a previous meeting she had referred to the complexity of this issue, and the need for positive engagement with a number of partners. Councillor Brennan stated that the report clearly showed that a great deal of work had already taken place, and this was now an era of positive cooperation with all stakeholders, which was welcomed. It was acknowledged that problems remained with some key partners, and it was a complex issue, with no easy solutions; however, the report set out some very positive ways forward, with clear action points to agree.

Councillor Clarke referred to the many hurdles to be overcome and stated that he was very confident with the new membership of both Borough and Town councillors that there now appeared to be a more positive, confident aim to drive this issue forward, looking at all aspects of car parking, including the possibility of other sites. If it was not possible to use this site, it was appropriate to look for other sites and that should form part of the work of the new Group, to ensure flexibility and find the best solutions for Bingham.

Councillor J Wheeler endorsed this comprehensive report, which corrected some local miss-information, and he welcomed the suggested approach going forward and referred to the positive collaboration between councillors, including local Ward Councillors who were in attendance this evening. Reference was made to the other stakeholders involved and how important it was to ensure that correct processes and procedures were followed to allow a positive result for Bingham.

Councillor Clarke reminded Cabinet that the County Council would become involved, and it was important to recognise that all parties were now working together with the same aims.

**It was RESOLVED that:**

- a) work completed to date to support Bingham Town Council's ambition for a new long-stay car park for the town be recognised;
- b) the challenges presented by Network Rail's current lack of support for the scheme and the delay this presents to delivering a long-stay car park at the preferred site be recognised;
- c) the next steps as outlined in the report (paragraph 4.32), as a short-term solution to improve town centre parking, which could become a long-term solution if successful be supported;
- d) concurrently to c), the Director – Development and Economic Growth be

asked to work with Bingham Town Council to progress an outline business case for a long-stay car park at the Butt Field site, subject to the caveats set out in paragraph 4.36 of the report, the outcome to be brought back to Cabinet; and

- e) a Bingham Car Park Strategy Group be set up to comprise membership from Rushcliffe Borough Council, Bingham Town Council and Nottinghamshire County Council as set out in the Terms of Reference in paragraph 4.40 of the report.

#### 24 **Exclusion of the Public**

It was resolved that under Regulation 21(1)(b) of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

#### 25 **Property Transaction**

The Cabinet Portfolio Holder for Finance, Councillor Viridi presented the report of the Chief Executive, which provided an update on a property transaction

The recommendation was proposed by Councillor Viridi and seconded by Councillor Brennan.

**It was RESOLVED that** the contents of the report, which includes a financial impact to the Council, which is reported in the Revenue and Capital Budget Monitoring 2023/24 – Financial Update Quarter 1 report be noted.

The meeting closed at 7.36 pm.

CHAIR

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**Cabinet**

**Tuesday, 10 October 2023**

**LGA Corporate Peer Challenge**

## **Report of the Chief Executive**

### **Cabinet Portfolio Holder for Strategic and Borough-wide Leadership, Councillor N Clarke**

#### **1. Purpose of report**

- 1.1. The Corporate Peer Challenge (CPC) is a part of the Local Government Association's (LGA) sector support programme. It involves 'peers' from within local government spending time with a council to provide a friendly, but critical challenge to the council and its work. It aims to highlight areas of good practice, as well as identify areas for improvement and ongoing support.
- 1.2. The Council has invited the LGA to conduct a Corporate Peer Challenge. This will take place during 15-18 January 2024.
- 1.3. This report sets out the purpose and scope of the CPC, in addition to the obligations the Council is required to meet as part of the CPC process.

#### **2. Recommendation**

It is RECOMMENDED that Cabinet:

- a) considers the content of the report, outlining the Council's participation in a Corporate Peer Challenge;
- b) commits to meeting the obligations, as set out in paragraph 4.6 of this report, and
- c) requests a report back to Cabinet following the conclusion of the Corporate Peer Challenge, which sets out the findings, recommendations and resulting action plan.

#### **3. Reasons for Recommendation**

The CPC is a valuable tool for improvement, made freely available to all councils every five years. Having last participated in 2018, now is the right time to make use of this opportunity once again to receive impartial, transparent and expert advice, to help the Council identify areas for improvement to continue to deliver high quality services for our residents.

#### 4. Supporting Information

- 4.1. The CPC is a valuable tool for improvement, made freely available to all councils every five years. The process has recently been improved, taking on board recommendations from the [Independent Evaluation of Sector-Led Improvement](#).
- 4.2. The Council's CPC will take place on-site during 15-18 January 2024. In advance of the on-site visit, the CPC team will be provided with a pack of information, including a position statement (setting out the Council's perspective on how it operates and where its challenges are) and a selection of key documents (e.g. Medium Term Financial Strategy, Corporate Strategy and performance data). Once on-site the team of Councillor and officer peers will spend time at the Council, meeting with officers, Councillors and external stakeholders, with a view to understanding how the Council operates, what it does well and where it could improve. The CPC team will provide robust, strategic and credible challenge and support.
- 4.3. The CPC team is expected to comprise:
- Conservative Leader peer
  - A member peer from another political party or Independent
  - Chief Executive peer
  - Executive Director/Manager x 2
  - LGA Peer Challenge Manager
  - LGA Project Support Officer
- 4.4. The CPC will cover six core themes:
- **Local priorities and outcomes** – Are the Council's priorities clear and informed by the local context? Is the Council delivering effectively on its priorities and achieving improved outcomes for all its communities?
  - **Organisational and place leadership** – Does the Council provide effective local leadership? Are there good relationships with partner organisations and local communities?
  - **Governance and culture** – Are there clear and robust governance arrangements? Is there a culture of respect, challenge and scrutiny?
  - **Financial planning and management** – Does the Council have a clear understanding of its current financial position? Does the Council have a strategy and a clear plan to address its financial challenges?
  - **Capacity for improvement** – Is the organisation able to support delivery of local priorities? Does the Council have the capacity to improve?
  - **The Environment** – This theme was requested by the Council, in addition to the five core themes above which every CPC will cover. This will take a comprehensive view on the Council's approach to the topic, including but not limited to climate change, commitment to net-zero, energy generation, waste management, finance.

- 4.5. At the end of the CPC visit on 18 January, the Peer team will provide a presentation to Councillors and officers to share headline feedback and recommendations. This will be followed by a report detailing the strengths of the Council, the issues considered, areas for further improvement and key recommendations. The LGA will provide a draft report within three weeks of the CPC's last day and a final report within three months of the CPC.
- 4.6. In order to take part in a CPC, the Council must commit to doing the following:
- publish the final report within three months of the CPC taking place
  - develop and a publish a detailed action plan that responds to the report's findings within five months of the CPC
  - take part in a progress review within 12 months of the CPC, where the Council's Executive Management team will update peers on its progress against the action plan and discuss next steps.
- 4.7. A report will also be brought back to Cabinet following the conclusion of the CPC, setting out the key findings, recommendations and resulting action plan.

## **5. Alternative options considered and reasons for rejection**

The Council could choose not to participate in a CPC, as it is not required to do so. However, it is good practice to do so approximately every five years. It is an opportunity to receive robust, independent advice about how the Council could make improvements to better serve its residents. Not participating would not be in the best interests of the Borough or its residents.

## **6. Risks and Uncertainties**

There are no risks associated with this report

## **7. Implications**

### **7.1. Financial Implications**

There are no financial implications associated with this report.

### **7.2. Legal Implications**

There are no legal implications associated with this report.

### **7.3. Equalities Implications**

There are no equalities implications associated with this report.

### **7.4. Section 17 of the Crime and Disorder Act 1998 Implications**

There are no crime and disorder implications associated with this report.

## 7.5. Biodiversity Net Gain

There are no biodiversity net gain implications associated with this report.

## 8. Link to Corporate Priorities

Quality of Life	The CPC will help the Council to identify where it could make improvements to enhance residents' quality of life
Efficient Services	The CPC will help the Council to identify where it could operate more efficiently, with a focus on financial planning and management
Sustainable Growth	The CPC will have a focus on local priorities and outcomes, which will take into consideration our approach to development and sustainable growth
The Environment	The Council has requested that the environment be considered as a sixth key theme in the CPC, reflecting its level of priority to the Council

## 9. Recommendation

It is RECOMMENDED that Cabinet:

- a) considers the content of the report, outlining the Council's participation in a Corporate Peer Challenge;
- b) commits to meeting the obligations, as set out in para 4.6 of this report, and
- c) requests a report back to Cabinet following the conclusion of the Corporate Peer Challenge, which sets out the findings, recommendations and resulting action plan.

<b>For more information contact:</b>	Kath Marriott Chief Executive 0115 914 8291 <a href="mailto:kmariott@rushcliffe.gov.uk">kmariott@rushcliffe.gov.uk</a>
<b>Background papers available for Inspection:</b>	None
<b>List of appendices:</b>	None





**Cabinet**

**Tuesday, 10 October 2023**

**Adoption of Tree Management and Protection Policy 2023 - 2028**

## **Report of the Director – Development and Economic Growth**

**Cabinet Portfolio Holder for Planning and Housing, Councillor R Upton**

### **1. Purpose of report**

- 1.1. In January 2022, the Growth and Development Scrutiny Group resolved to 'support the drafting of a Tree Protection Policy and Tree Management Policy setting out the Council's role, function and priorities, including appraisal of planning applications and the investigation to strengthening protection and enforcement.'
- 1.2. The purpose of the Tree Management and Protection Policy 2023-2028 is to provide guidance on how the Council will manage its own trees, respond to requests for work to trees from members of the public, and how the Council deals with its statutory duties in relation to trees, hedgerows and planning applications.
- 1.3. The purpose of this report is to recommend that the Tree Management and Protection Policy is adopted and published on the Council's website, along with a revision to the Council's points-based assessment that is used to assist when deciding whether trees are suitable to be protected by a Tree Preservation Order.

### **2. Recommendation**

It is RECOMMENDED that Cabinet:

- a) approves adoption of the Tree Management and Protection Policy 2023 – 2028, and.
- b) approves the use of the amended Conservation Area Tree Notification and Tree Preservation Order evaluation sheet.

### **3. Reasons for Recommendation**

- 3.1. If adopted, the Policy will set out guidance for officers, Councillors and the public in relation to a range of common tree issues and statutory obligations. The Policy should provide a useful guide to the management of Council owned trees along with the protection of trees within the Borough until 2028, when it will be reviewed and updated.

- 3.2. The legislation covering Tree Preservation Orders allows for significant discretion when deciding whether or not trees warrant protection. Officers rely on the Council's Corporate Strategy, Government policy and their own professional training when considering these issues. It is often useful to document and record the thought process when protecting trees and the Council uses a points-based assessment to do this. Feedback from the Growth and Development Scrutiny Committee was that greater consideration needed to be given to the wildlife value of the trees and the updated assessment gives additional weight to this.

#### **4. Supporting Information**

- 4.1. The Policy is split into two sections. The first covers the management of Council owned trees and gives consideration as to how the Council will respond to common complaints and requests to work relating to trees. The Policy takes a pragmatic approach and recognises that the Council aims to be a 'good neighbour' when its trees border residential properties or businesses, but the work will need to be prioritised and scheduled accordingly, and residents ideas of what constitutes good management may not accord with the Council's. For example, height reduction of trees can often be counterproductive as it results in increased growth.
- 4.2. The second part of the Policy considers the Council's statutory duties in relation to tree and hedgerow protection, planning matters and also the less desirable effects of trees and vegetation, such as high hedge complaints due to loss of light, or where residents are concerned trees could cause damage. The Policy flags up key pieces of Government advice whilst also specifying the Council's own interpretation of this and how it will be used.
- 4.3. At the 2022 scrutiny meeting, officers advised that the primary purpose of a Tree Preservation Order was to protect trees, which enhance the public realm, and this was primarily through their visual appearance, but Government advice was that "where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order". Feedback from the scrutiny group was that greater consideration should be given to the wildlife value of trees when considering making Tree Preservation Orders.
- 4.4. The current point-based assessment considers the aesthetic value of the tree, its condition, the impact on the public if removed and the proximity and effect it will have on buildings, along with a consideration to the health and safety risk if a tree were to fail. A reference to wildlife value is made, but there is no provision for this to affect the scoring.
- 4.5. The revised assessment adds more detailed descriptions to the scoring for aesthetic value, condition, impact on the public if removed and the proximity and effect on buildings to try and ensure consistent scoring and a better understanding of how and why it is applied. The updated assessment also

revises the health and safety assessment with a view to it again being more specific and based on how often the adjacent land is occupied or used, rather than any specific evaluation of the tree. Finally, the assessment allows ancient, heritage or native species trees appropriate to the local landscape character to be given an additional point. Non-native trees outside of Conservation Areas are considered to be neutral, whereas non-native trees in Conservation Areas, unless it is a heritage or ancient tree are deducted a point.

- 4.6. The overall changes to the assessment should make it easier to protect native trees and slightly harder to protect ornamental or non-native trees in Conservation Areas unless it is a heritage or ancient tree, for example, Wellingtonia or Cedars were often planted in the past as status symbols in Halls or Manor Houses and have value despite them being non-native.

## **5. Alternative options considered and reasons for rejection**

There is an alternative points-based assessment that was developed by Forbes-Laird Arboricultural Consultancy Ltd. The use of this was considered, but it could not be amended to take into account the Council's Corporate Priorities in relation to the protection of trees.

## **6. Risks and Uncertainties**

The Policy covers the main issues that affect our trees but there is a risk of new disease and pests becoming prevalent before it is reviewed in 2028, but this would not prevent the Council reacting to future challenges accordingly.

## **7. Implications**

### **7.1. Financial Implications**

There are no direct financial implications for the Council arising from this report other than the officer time in preparing the relevant documents and publishing them to the website. The changes to the assessment of trees with a view to making Tree Preservation Orders should even itself out as it will make it easier to protect native trees whilst making it harder to protect more ornamental or non-native trees in Conservation Areas.

### **7.2. Legal Implications**

There should be no direct legal implications as the Policy acknowledges all current legislation relating to trees and hedges.

### **7.3. Equalities Implications**

There are no direct equalities implications arising from matters covered in this report.

#### 7.4. Section 17 of the Crime and Disorder Act 1998 Implications

There are no direct community safety implications arising from matters covered in this report

#### 7.5. Biodiversity Net Gain Implications

There are no direct biodiversity net gain implications arising from matters covered in this report.

### 8. Link to Corporate Priorities

Quality of Life	Trees make an important contribution to the character of the Borough and studies have shown that human interaction with trees and open space can have physical and mental health benefits
Efficient Services	There are no links to efficient services in this report bar the fact it will guide officers' decisions
Sustainable Growth	The Policy gives consideration to protecting trees in relation to planning applications
The Environment	The protection and management of trees is intrinsic to maintaining the environment of the Borough

### 9. Recommendation

It is RECOMMENDED that Cabinet:

- a) approves adoption of the Tree Management and Protection Policy 2023 – 2028, and
- b) approves the use of the amended conservation area tree notification and Tree Preservation Order evaluation sheet.

<b>For more information contact:</b>	Leanne Ashmore Director of Development and Economic Growth  LAshmore@rushcliffe.gov.uk
<b>Background papers available for Inspection:</b>	<a href="#">Growth and Development Scrutiny Group - Wednesday, 26th January 2022, 7.00 pm</a>  <a href="#">Tree Preservation Orders and trees in conservation areas - GOV.UK (www.gov.uk)</a>
<b>List of appendices:</b>	Appendix 1. Tree Management and Protection Policy 2023-2028 The original tree assessment is contained with Appendix A of the Policy. The revised assessment is contained in Appendix B.

# **Rushcliffe Borough Council Tree Management and Protection Policy 2023 - 2028**



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## **Introduction and Vision**

Trees are key to our natural environment by absorbing Carbon Dioxide and producing Oxygen, they are a habitat and food source for wildlife. They provide shade and reduce temperatures in the summer and allow light and solar gain in the winter, whilst filtering pollutants, slowing rainwater runoff and binding soil together with their roots. Their appearance enhances our towns and villages and makes a key contribution to the character of the Borough and many of our conservation areas. Access to trees and open spaces has been proven to enhance people’s mental health and wellbeing.

Climate change will increasingly have an impact on our trees and whilst the change takes place over a long period of time, given that even short-lived trees live for 80 years or more and species such as Oak and Yew can live for hundreds of years, the trees planted today will certainly be affected by changes occurring now and in the future.

Trees are living organisms and change over time. As they grow, they may require formative pruning and ongoing management to control their shape and size, as they mature deadwood can start to form and trees can also suffer from diseases and fungal decay and need managing accordingly.

Many of the Councils trees are located on public open space next to residential properties and they can cause concern to residents. When it comes to pruning trees, a balance needs to be struck as it can introduce decay and disease and for certain species of tree it can lead to increased growth. Trees drop leaves and fruit, produce pollen and seeds, these along with bird droppings and Aphid’s sticky ‘honey dew’ is often perceived to be an inconvenience to those living in close proximity. Trees can block views and sunlight to properties, and it has been established through case law that a tree overhanging private land is a legal nuisance. The Antisocial behaviour Act allows residents to complain to the Council about loss of light from evergreen high hedges. Trees can easily lift pavers and tarmac and can occasionally cause more serious damage to properties through failure, subsidence or damage to drains. The above can lead to requests to the Council to prune or remove trees and can give rise to disagreements between neighbours.

The Council has a duty to consider trees in planning applications and there are numerous pieces of legislation that the Council can use to protect trees and hedgerows as well as deal with some neighbour disputes and concerns over dangerous trees and this document sets out how these will be used.

Rushcliffe Corporate Strategy sets out 4 priorities: Efficient Services, Quality of Life, Sustainable Growth and the environment it is considered the management of the Council's own trees and the application of legislation designed to protect and retain important trees and hedgerows feeds into all 4 priorities and this policy document sets this out in more detail.

The Council seeks to manage and enhance our tree stock in a responsible manner with a view to enhancing their visual appearance and wildlife value whilst considering the challenges set out above. Trees and hedgerows should be managed to promote visual amenity, biodiversity and climate mitigation in a safe and responsible manner. Alongside this the Council will utilise legislation to protect trees and hedgerow with the aim of enhancing the character and amenity of the Borough.

The Policy will be reviewed in 5 years, or sooner if there are changes to BS5837 or any of the primary legislation affecting trees.



## **Part A**

### **Management of Trees Owned by Rushcliffe Council**

Rushcliffe Borough Council receives numerous enquiries each year from members of the public requesting works to be carried out on Council owned trees. In regard to such enquiries the Council endeavours to be a considerate neighbour, but work identified in routine surveys will be prioritised. Work on trees that pose a direct risk to health and safety is the priority of the Council and would be addressed before 'good neighbourly' issues such as pruning of overhanging branches etc.

The Council will undertake site visits where concerns have been raised in regard to trees to assess their health, condition and their proximity to adjacent properties. The Council will look to undertake work if it is in the best interests of the trees and in accordance with best practice. However, residents often have different ideas of what constitutes good tree management, and it will not be possible to comply with all requests, especially when dealing with complaints where there is a perceived nuisance or inconvenience from trees. The Council does not aim to routinely prune trees and residents should not expect to see trees pruned annually, or every few years.

Pruning trees is often only a temporary solution and some types of pruning on certain species of trees can be counterproductive. On species such as Willow, Maple/Sycamore, Lime and Poplar, it can result in a dense proliferation of new growth that can relatively quickly result in larger and denser canopies. Large scale reductions often require a degree of pollarding which can require the work to be carried out on a cyclical basis, whilst this can allow trees to be retained, it can result in increased maintenance requirements in the medium term. Wherever possible the Council will avoid pollarding trees apart from where it allows the retention of trees with structural defects, or those in decline. Where pollarding is required, the Council will consider felling and replanting as an alternative.

Pruning can affect the natural appearance of trees and it can also introduce pruning wounds which can lead to decay an increased risk of failure in the medium to long term. It is also ineffective at controlling perceived nuisance from falling leaves, seeds and bird droppings.

There is no maximum height to which the Council allows its trees to attain unless there is a reason to control the size and natural growth characteristics in order to reduce an unacceptable risk to health and safety, or to prevent damage to a structure. Wherever practical, Council owned trees will be left to attain their natural size, shape and form.

The Council maintains over 3000 individual trees and many groups and woodlands, given the number of trees maintained it isn't possible for us to consult residents or community groups when it comes to proposed tree work.

The following list sets out how the Council will evaluate requests for work to be carried out on Council owned trees.

## **Dead, Dying and Dangerous Trees**

The Council will remove dead, dying and dangerous trees and this work will be prioritised over others. Just because a tree is within falling distance of a property or structure doesn't mean the tree is a danger. For a danger to be present there has to be a degree of foreseeability due to the presence of a structural defect, poor health, or disease.

## **Dangerous Branches**

A dangerous branch is one which is dead, shows signs of decay or damage, or weak attachment to the tree. Where a dangerous branch is identified it will be removed or reduced to a safe point. The Council will focus on the removal of dead branches which are over 50mm diameter or over 3m in length. Dead wood where appropriate will be retained on site – (see Dead Wood section below)

## **Damage to Property**

Where it can be demonstrated that a tree is the primary cause of direct or indirect damage to property the Council will act to rectify the problem. Direct damage may include tree roots lifting paving stones, or trunks or branches damaging garden walls or fences. Indirect damage may include subsidence due to soil shrinkage resulting from water extraction by tree roots. In cases of damage to property it must be clearly demonstrated that the tree is the principal cause of the damage. In relation to subsidence this will require the following from a qualified engineer or surveyor:

- A description of the property, including a description of the damage and the crack pattern, the date that the damage first occurred/was noted, details of any previous underpinning or building work, the geological strata for the site identified from the geological map.
- Details of vegetation in the vicinity and its management since discovery of the damage. Include a plan showing the vegetation and affected building.
- Measurement of the extent and distribution of vertical movement using level monitoring. Where level monitoring is not possible, state why and provide crack-monitoring data. Data provided must be sufficient to show a pattern of movement consistent with the presence of the implicated tree(s).
- A profile of a trial/bore hole dug to identify foundation type and depth and soil characteristics
- The sub-soil characteristics including soil type (particularly that on which the foundations rest), liquid limit, plastic limit and plasticity index.
- The location and identification of roots found. Where identification is inconclusive, DNA testing should be carried out.
- Proposals and estimated costs of options to repair the damage.

## **Obstruction of Light to Houses or Gardens**

The Council is under no obligation to prune deciduous trees if they are causing loss of light to houses or gardens. The only exception to this is evergreen hedges which tend not to grow on Council land. The Council will only consider pruning trees if it can be demonstrated that there is a significant loss of light throughout the day. Where Council owned trees block light at certain times in the day such as in the morning or afternoon, it reserves the right not to carry out work but will aim to be a considerate neighbour where the work is appropriate.

Reducing the height of trees is often not an effective solution and the Council will resist this as it can encourage trees to grow and produce dense foliage. The Council will usually consider pruning trees away from buildings or gardens or lifting lower branches to allow more light under the canopy.

Whilst the Council aims to be a good neighbour, there are times when trees make such a contribution to the general amenity of the area that work to trees will be resisted. An example would be the mature trees which border West Bridgford Park, as this is our most popular and well used open space and trees make a key contribution to the mature character of the park.

## **Overhanging Branches**

Overhanging branches are considered a legal nuisance and adjacent property owners are entitled to abate this nuisance by cutting back branches to the boundary line. Residents can carry out such work to Rushcliffe trees without notifying us, but any work beyond the boundary or access to our land to facilitate the work would require the Council's permission. When pruning back branches there is a duty to offer these back to the tree owner, Rushcliffe does not expect these branches to be returned and advises residents to dispose of them in a responsible manner by taking them to a recycling site or using their green waste bin. The Council encourages the work to be carried out by a competent tree surgeon to a good standard (British Standard 3998:2010 'Tree Work - Recommendations'). Residents should expect to prune back minor vegetation, especially if Council owned hedges or shrubs border their land. The Council will aim to be a good neighbour when it comes to pruning back large overhanging branches from trees.

## **Falling Leaves or Debris and Aphid Problems**

Unlike overhanging branches, falling leaves, seeds, cones, bird droppings or Honey Dew (the sticky liquid produced by aphids) are not considered to be a legal nuisance. Such matters are a fact of life to be tolerated, but the Council is aware that they can be an inconvenience. The Council is not legally responsible for such issues which are all natural occurrences. Pruning trees in such circumstances is not likely to provide an effective solution or anything beyond a short-term reduction and the Council will resist work in such circumstances. This applies to:

- Falling leaves, fruit, bird droppings, sap or blossom.
- Trees drying out lawns or soil.
- Leaves in gutters, drains or flat roofs.

- Algae or moss on surfaces.
- Allergies caused / exacerbated by trees. Unless suitable medical advice is provided to demonstrate a serious underlying health condition.

### **Branches Obscuring Signs or Street Lighting Columns**

Where trees are blocking streetlights, road signs or similar and could jeopardise public safety, the Council will first aim to carry out work to alleviate the problem whilst retaining the tree. In extreme cases, or situations where regular pruning will be required the Council will consider removal of the tree with a view to planting a more suitable species or replacement elsewhere. The Council encourages other Council's and landowners to consider pre-existing trees when installing such infrastructure.

### **Branches Affecting Telephone and Power Lines**

Trees rarely cause damage to phone lines which have armoured cables. Where branches are simply touching or rubbing against cables such work would be considered a very low priority. If trees are pulling or pushing cables or resulting in intermittent connections then work to clear the cables will be implemented. Power companies maintain their own power lines and Rushcliffe will not prune back trees from them. When requests from power companies to prune Council owned trees are received, officers will work with them to facilitate such work in the interests of maintaining a reliable network.

### **Solar Panels**

There is no legal requirement to prevent or negate the shading of solar arrays by trees and this is not a legal 'nuisance' as defined in law. The Council will not normally consider tree work solely to alleviate issues relating to solar panel arrays when trees were growing before the panels were installed. Residents should take into account existing trees when implementing such schemes and not expect the Council to prune or remove trees following the installation of solar panels.

### **Television Reception**

The Council will not normally carry out works to trees or remove trees in order to improve television reception as there is no legal right to receive such a signal. Given the increasing prevalence of streaming services, alternatives to satellite and aerial reception are now available. Aerials and satellite dishes should be carefully sited at the time of installation with consideration given to how neighbouring trees may grow in the future. Residents should look to reposition or raise aerials and dishes before contacting the Council.

## **Ivy**

It is a common misconception that Ivy "damages" trees, and whilst this is not the case and it has many wildlife benefits, there can be disadvantages to having it grow in trees.

Generally, a healthy tree will outgrow and provide sufficient canopy shade to restrict Ivy growth. It can, however, compete and swamp weaker trees such as old Hawthorns and Elder, it can also grow on trunks and major limbs of trees with light canopies such as Ash, but the outer foliage of trees tends to remain free of Ivy. Ivy uses trees for support, but doesn't take any nutrients from the tree itself, it is not parasitic.

Large growth of Ivy on trees can increase the 'sail area' of the canopy which can lead to an increased risk of failure, especially in winter storms when deciduous trees have shed leaves whilst Ivy remains evergreen. Ivy may obscure other problems such as cavities, or fungal growth which can make assessing mature trees difficult or impossible.

Ivy is important to wildlife. Nectar, pollen and berries of Ivy are an essential food source for insects and birds. It also provides shelter for insects, birds, bats and other small mammals.

In low-risk locations Ivy should be retained due to its wildlife benefits. In higher risk locations, or where Ivy appears to be outcompeting trees a section of Ivy stems can be cut and removed from around the base of the tree. When carrying out such work it is important not to cut or damage the bark of the tree.

All plants will be competing for water in summer months. The RHS advises in relation to Ivy that "Its own root system below ground supplies it with water and nutrients and is unlikely to be strongly competitive with the trees on which it is growing. It is also found mainly on established or mature trees where, unlike young trees, some competition can be tolerated." Generally, where trees with Ivy growing on them show signs of decline this is more a reflection of the tree's health rather than the effects of the Ivy.

## **Dead Wood**

Dead wood is a valuable part of healthy woodland and parkland habitats. Standing dead wood provides valuable habitat for some of our rarest invertebrates and a source of food for birds such as woodpeckers. Fallen dead wood is also a valuable habitat.

The value of deadwood has to be offset against other priorities and the safety of users of our land. Particularly on our nature reserves and informal wildlife areas the Council will aim to leave standing deadwood where reasonably practical. The Council will remove fallen deadwood from areas of grass but will create log habitat piles and leave chippings and brash in areas of informal woodland and groups of trees.

## **Resident Funded Tree Work**

The Council will not accept offers of sponsorship to carry out tree works which would not be in the interest of the tree. Sponsorship will only be considered where the works would normally form part of the Council's scheduled work programme but where adjoining property owners are keen to see the work implemented promptly. No tree works would be considered which did not comply with BS 3998 (see below) and the Council would have to approve the choice of contractor.

Except in the case of overhanging branches (see above) any unauthorised works to Council owned trees carried out by any person without the permission on the Council would be treated as trespass and if carried out to a poor standard vandalism and criminal damage.

## **Bird Nesting Season**

It is an offence to damage or destroy a nest or roost when in use. The bird nesting season is not set in law, but it is generally considered to run between the 1<sup>st</sup> March and early August. Where possible the Council will avoid carrying out tree work in the bird nesting season, but works may be extended into the nesting season when trees are not in leaf, or are just starting to come into leaf, as this makes prior inspection for nests readily achievable. Work during the summer months is only undertaken where it is essential or urgent, or where it is small scale such as epicormic growth removal. Such work will only take place where an unequivocal assessment for nesting birds has been made. The Council owns a number of roadside hedgerows that always grow in the summer months and cause an obstruction to highways users. When this occurs, pruning is left as late as possible, before checks are made for nesting birds, then only the new growth is lightly trimmed with a view to carrying out more significant pruning in the winter.

## **Bats**

Bats are protected in the UK. Under the Wildlife and Countryside Act it is an offence to damage or destroy a roost, or intentionally or recklessly disturb a bat at a roost. Bats can roost in trees in woodpecker holes, cavities, cracks or fractures, flaking bark, dense Ivy cover with stems over 50mm as well as bird and bat boxes. Trees growing within hedgerows are an important feeding and navigational resource for bats.

The Council will follow the guidance set out in BS8596 in that a scoping survey for potential roost features (PRF) will be carried out when considering tree work, staff carrying out such work will receive appropriate training. If no features are found work will proceed, if features are identified, a secondary non-specialist assessment of the PRF will be carried out and if roosts cannot be ruled out a bat specialist will be consulted.

Where work needs to take place to a tree where a roost is unconfirmed the following mitigation will be put in place:

1. Work will only be carried out between late August and early October or between March and April.
2. If a climber's entry into the tree has the potential to disturb, remove or destroy a feature with bat potential, such as a large section of loose bark, an alternative method of entry should be investigated, such as a Mobile Elevated Work Platform (MEWP) or ladder.
3. Work should be conducted in a sensitive manner, and where reasonably practicable, timber with bat potential should not be directly sawn through. If such timber is removed, it should be lowered to the ground and be left at the base of the tree for at least 48 hours. Where it is impractical to lower potential bat roosts, piles of brash or logs can be used to soften the impact of them hitting the ground.

## **Ash Die Back**

The appearance of the *Hymenoscyphus fraxineus* fungus in Britain has meant that the future of common Ash (*Fraxinus excelsior*) as a tree species is under serious threat. The disease is present in all counties of England, and experience in mainland Europe suggests that the majority of Ash trees in woodlands infected with the disease will decline and die over the next 10 to 15 years. There is growing evidence that once trees are infected by *H. fraxineus*, and the disease has progressed to the point where basal lesions are exhibited, the trees become susceptible to colonisation by secondary pathogens such as *Armillaria* spp. (honey fungus) or *Inonotus hispidus*. These secondary pathogens can result in decay and brittle wood and may ultimately be the final cause of tree decline and death. Discussions with tree surgeons has highlighted they are cautious about felling Ash trees which have been retained beyond the point where significant dieback is present due to the wood becoming increasingly brittle.

Rushcliffe is fortunate that Ash die back has been slower to establish in this area than many parts of the Country, but the presence of the disease in the Borough is becoming increasingly apparent. This will increasingly impact on the Council's own trees and the many thousands of Ash across the Borough. The loss of Ash will have a significant impact on landscape character as Ash is the dominant hedgerow tree in rural parts of the Borough.

The Council has 260 individual Ash trees and many more will be found in areas of woodlands and copse of trees it manages. One such site is Sharphill Wood, parts of which are dominated by Ash and the loss of Ash trees here could have a dramatic effect on its appearance in the medium term.

The Council will aim to inspect its Ash trees every year and will look at opportunities for succession or replacement planting in the local vicinity.

## **Other Operations**

From time to time it may be necessary for the Council to carry out work on trees in response to its development priorities. Development priorities may include site or neighbourhood redesign, or the redevelopment of parks, gardens and other green spaces. Where trees are removed, the Council will seek to replace them with species appropriate to the location and site conditions.

Trees in woodlands and other heavily wooded areas may also be thinned out periodically to encourage the growth of the most appropriate specimens and species.

Given the extent of tree work carried out each year the Council generally does not consult prior to carrying out tree work.

## **Standards**

All works to Council trees will be carried out in line with British Standard 3998: 2010 'Tree Work – Recommendations'. All personnel undertaking these works will wear the appropriate Personal Protective Clothing and be adequately trained. Contractors will have adequate insurance and carry out risk assessments and method statements before commencing work.

## **Tree Inspections**

Rushcliffe Borough Council is carrying out a rolling programme of tree inspections by independent experts in order to ensure that its tree stock is safe and in a healthy condition. The survey records information on all Council owned trees and identify any tree which may pose a risk to health and safety. In the case of unsafe trees remedial actions will be taken based on priority. Other works will be organised in line with the priorities identified by Council staff. Appropriate re-inspection dates will be set for all trees dependent on their age, condition, location and species.

## **Replacement Planting**

Each year the Council carries out a programme of tree planting works and also supports tree planting through the free tree scheme to residents within the Borough and the community tree scheme which provides, and where requested, plants and maintains trees for communities within Rushcliffe. At the end of February 2023, the Council has delivered 11,476 trees since 2018 through these schemes which aim to enhance the local amenity, enhance wildlife habitat and support the sequestration carbon dioxide.

When trees are felled, the authority endeavours to plant replacements where appropriate, but this is not always possible if trees are removed due to them causing damage or outgrowing their location. If trees have been removed due to them causing issues or concerns to residents there is little point in planting a tree in the same location and the Council will look to plant trees where they will be most suited



for long term retention and have the most beneficial impact on public amenity and wildlife value. For this reason, the Council will not always plant replacement trees in the same location as felled trees. The Council is willing to work with residents if they identify locations where trees can be planted or if concerns are raised about the removal of a tree.

The Council seeks to plant the 'right tree in the right place', this means planting species that are in keeping with the local landscape character and using trees which will be able to grow to maturity without causing issues to adjoining properties or structures. The Council supports the planting of native trees but given climate change and the risk of imported diseases and pests a greater range of species needs to be planted to ensure a robust tree population. The Council will plant both native and non-native species in residential locations. In sites managed for wildlife purposes or in rural locations the Council will use locally sourced native trees wherever possible.

When planting trees close to gardens, boundaries, buildings and dwellings, consideration will be taken to identify whether there is enough physical space to allow the tree to establish and flourish without causing excessive shading or physical problems. Similar considerations will also need to be given when planting trees close to structures such as footpaths, roads, streetlights and existing vegetation.

The Council does not water whip planting, this is usually due to the low cost of such plants which are often planted in larger numbers, they also have a better proportion of roots to canopy which makes them more resilient than larger standard trees.

Where heavy standard trees are planted on Council land, a programme of watering is implemented over the following 2 years with the trees receiving less visits in the second year. This is usually sufficient to ensure establishment, but in periods of drought trees may fail and replacements will be planted. Residents are encouraged to water trees near their houses and the Council would like to thank volunteers who have done this in the past.

## **Highway Trees**

It should be noted that all the trees in the pavements in West Bridgford are located within the adopted highway and as a result are maintained by Nottinghamshire County Council. Concerns over trees within pavements and those relating to private vegetation obstruction roads or pavements or causing a damager to highways users should be reported to [Nottinghamshire County Council](#) as should concerns over the replacement planting of trees.

## **Rushcliffe Nature Conservation Strategy**

This tree strategy sits alongside the Council's [Nature Conservation Strategy](#) which makes the following recommendations:

The Council will seek to work towards achieving the national targets for woodland and urban tree cover and woodland access. Promote appropriate new woodland

planting and / or regeneration, particularly linked to existing woods. Ensure planning policies on trees and woodland are implemented and work toward national targets. Develop schemes to establish new trees, carbon offset and community orchards. Promote sympathetic woodland management. Use tree preservation orders for threatened valuable amenity trees. Enable Rushcliffe tree wardens to protect and enhance trees. Achieve at least 20 hectares of new woodland cover (approx. 20,000 trees) within this plan period. Encourage use of locally sourced and locally native trees. Protect veteran trees.

As part of the nature conservation strategy the Council will look to use trees to increase the sequestration of CO2 through establishing and managing trees on Council controlled land where appropriate and supplying trees to communities and the public.

## **Veteran and Ancient Trees**

The Council will seek to record veteran and ancient trees located on our own land and will seek to protect and preserve these trees where their safe retention allows. The Council recognises that many ancient and veteran trees are located on well managed sites but will consider the use of Tree Preservation Orders if the trees are considered to be at risk. The Council's updated points-based assessment for Tree Preservation Order will give greater weight to veteran tree and heritage trees. The Council encourages the public to identify and record such trees on the [Woodland Trust's Ancient Tree Inventory](#).

The Woodland Trust defines an ancient tree as "one that has passed beyond maturity and is old, or aged, in comparison with other trees of the same species." Ancient trees will age in different ways depending on their species. The oldest trees, such as Yews and Oaks have very long ancient stages sometimes hundreds of years long. Other types of trees live shorter lives and have short ancient phases such as Birch or Willows as they are less resilient to decay.

Ancient trees will often have canopies growing downwards or flattening due to the aging process and natural retrenchment. A large trunk girth when compared with other trees of the same species, often with a hollow or decayed trunk, stag headed or retrenched canopies, cavities and decay. There is an important distinction between natural retrenchment and trees suffering from drought, diseases or wounding damage which may result in quicker dieback or where the canopy as a whole is affected.

A veteran tree may exhibit some of the characteristics of ancient trees, but not necessarily as a result of time but of its life or environment.

Veteran and Ancient trees are considered in more detail on the [planning pages](#) of this document.

Heritage trees are those with historic or cultural value, whilst many will be old this is not a requirement, and it is considered that all ancient trees are heritage trees.

## Part B – Statutory Functions



# Tree Preservation Orders

## **Amenity**

Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

'Amenity' is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.

Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order, they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

Government advice allows Council's to consider other matters "such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order."

When considering the amenity value of trees the Council will rely on Officer judgment in the first instance, but where decisions are borderline or need to be documented the Council has a point-based assessment (See Appendix A) that takes into account the following 4 criteria before subtracting points if trees are likely to pose a risk of damage or injury.

- Aesthetic value
- Condition
- Impact on public if removed
- Proximity and effect on buildings.

The Council's points-based assessment gives consideration to wildlife, but currently does not allow this to feed into the scoring system and it is considered that given the increasing value the public and Council place on the wildlife value of trees this should be amended. It is proposed that veteran trees and native species in keeping with the local landscape character receive an additional point, non-native trees outside of conservation areas should be neutral, whereas species of trees which are not in keeping with the character of conservation areas should be deducted a point, such as Leylandii or Purple Leaved Plums. There may be occasions where non-native trees would still be in keeping with the character of a conservation area, for example a large Cedar or Wellingtonia tree in the grounds of a Hall.

Such assessments are always subjective, and it is proposed that the descriptions of the various categories are amended to make the process more transparent as set out in Appendix B.

## **Expediency**

The Council will follow the following Government advice and will make TPO's where it considers trees to be at risk.

*“It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.”*

Most TPO's are made as a result of planning applications, but conservation area tree notices, tree felling, the sale of land and requests from the public are other reasons TPO's have and will be made. The Council's default position is to engage and work with developers when applications are received. The Council does not automatically protect trees when planning applications are received but is prepared to make TPO's at all points of the planning process.

When the Council receives requests to protect trees from members of the public, Parish Council's or local Councillors; officers will inspect the tree and carry out an assessment of the amenity value. In such circumstances, pre-emptive protection of trees in conservation areas will be treated as a lower priority given that the conservation areas afford trees with a level of protection in that prior notice needs to be given to the Council before work takes place.

### **TPO Applications**

The Authority's consent must be obtained prior to any work being carried out to trees that are protected by a TPO. Certain [exemptions](#) do apply, such as the removal of deadwood or the felling of dead, or dangerous trees, or where the County Council have served notice on owners requiring work to clear a highway.

The Council's Landscape Officer should be informed where possible prior to such works and often an exchange of emails or a site visit will allow the work to proceed. Where work needs to be carried out in an emergency the Council should be notified as soon as possible afterwards. The Council recommends anyone carrying out work under this exemption keeps a photographic record as the onus of proof lies with the landowner/person carrying out the work.

Anyone may apply for to work on a protected tree and whenever the Authority refuses consent, or grants consent subject to conditions, the applicant has the right to appeal to appeal the decision through the [Planning Inspectorate](#).

To be valid, an application for works to trees covered by a Tree Preservation Order must:

- be made to the authority on the standard application form published by the Secretary of State and available on the Planning Portal website or from the authority;



- include the information required by the form (the guidance notes for the standard form help applicants provide the necessary information);
- be accompanied by a plan which clearly identifies the tree or trees on which work is proposed;
- be accompanied by such information as is necessary to clearly specify the work for which consent is sought;
- state the reasons for making the application; and
- be accompanied, as applicable, by appropriate evidence describing any structural damage to property or in relation to tree health or safety.

The Council reserves the right to not register applications or refuse applications where the details of work are vague or not specific. The amount of reduction proposed should be stated in terms of the intended branch reduction or the height and spread of the tree after pruning, rather than what percentage of the overall crown is to be removed.

Applications for TPO consent will be determined on their own merits, in the light of the amenity value of the tree(s), the reasons put forward for the application and any other material considerations. The following Government advice will be taken into account and the Council would expect the level of information submitted to support such applications to vary accordingly.

*'In general terms, it follows that the higher the amenity value of the tree or woodland and the greater any negative impact of proposed works on amenity, the stronger the reasons needed before consent is granted. However, if the amenity value is lower and the impact is likely to be negligible, it may be appropriate to grant consent even if the authority believes there is no particular arboricultural need for the work.'*

### **Conditions**

The Council will use conditions where appropriate. Primarily this is to ensure the standard of work is carried out in accordance with the best practice set out in BS3998:2010 and to enforce replacement planting.

### **Appeals**

Anyone may apply for TPO consent and whenever the Authority refuses consent or grants consent subject to conditions, the applicant has the right to appeal to the Planning Inspectorate. Further advice is available [online](#).

### **Review of TPO's**

Past Reviews of TPO's have been focused on identifying Orders which were ineffective or not confirmed and digitising records. Rushcliffe aims to update and review TPO's with the aim of revoking Orders that are no longer effective, modifying those which are out of date and converting 'area' orders into more appropriate individual, group or woodland classifications where officer time allows.

### **Enforcement**

Anyone who contravenes an Order by damaging or carrying out work on a tree protected by an Order without getting prior permission from the local planning authority is potentially guilty of an offence and may be subject to legal action and a fine.

Penalties for carrying out unauthorised works to trees protected by TPOs or in Conservation Areas can be severe, currently a fine of up to £20,000 per offence if convicted in the magistrates' court and an unlimited fine if convicted in the crown court.

When deciding whether or not to prosecute the Council will take into account the individual circumstances of the case, the condition, health and structure of the trees and its public amenity value, alongside the extent of work and the standard to which it was carried out, the chance of a realistic prosecution and whether it is in the public interest to proceed. Whether or not the Council decides to prosecute it will always aim to secure replacement planting. Particularly if the tree felling was connected to a site which could be developed the Council may require the planting of a semi-mature tree/s to provide sufficient visual impact.

### **Replacement Planting**

There is also a duty requiring landowners to replace a tree removed, uprooted or destroyed in contravention of an Order (the same applies to trees in conservation areas). This duty also applies if a tree outside woodland is removed because it is dead or presents an immediate risk of serious harm. The local planning authority may also impose a condition requiring replacement planting when granting consent under an Order for the removal of trees. The authority can enforce tree replacement by serving a 'tree replacement notice'

When felling trees under the dead or dangerous exemption there is a duty to plant a replacement. Tree owners can ask the Council to waive this duty. In general, the Council will expect replacements to be planted, but there are circumstances where tree planting will not be appropriate, such as where planting would not be appropriate, for example if a tree had been removed as it was causing damage, or where such planting is not likely to establish due to competing growth from other trees. The duty to plant replacements is flexible and it can allow trees to be planted in a different part of a garden and different species can be used.

## Conservation Areas

Conservation areas are areas of special architectural or historical interest the character or appearance of which it is desirable to preserve or enhance. There are many factors which will contribute to the character of such areas, but trees make an important contribution to many of those in the Borough. Bar some exemptions, work to trees in a conservation area requires prior written notice to the Council. The notice is intended to give the Council 6 weeks to either make a TPO, otherwise the work needs to be permitted. All notifications of proposed works to trees within a conservation area are determined on their own merits in the light of the amenity value of the trees, the stated reason for the proposal and any other material consideration.

Notification can be in any written format and the Council will accept emails. A notice must describe the work proposed and include sufficient details to identify the tree or trees. Where a number of trees or operations are involved, it should make clear what work is proposed to which tree. A plan is not mandatory but can be helpful, the same applies to photos.

People should not submit a section tree notice until they are in a position to present clear proposals. They should consider first discussing their ideas with an arboriculturist or the authority's landscape officer. The Council will refuse to register notices where it is not clear which trees are referred to or where the extent of work is not clear or specific.

A conservation area notice is a more informal process than a TPO application and the Council does not consult interested parties but will inform Ward Councillors and Parish Council's when making a decision.

The same exemptions relating to TPO's apply to conservation area tree notices, but in addition there is an exemption to work to small trees:

- the cutting down, topping or lopping or uprooting of a tree whose diameter does not exceed 75 millimetres; or
- the cutting down or uprooting of a tree, whose diameter does not exceed 100 millimetres, for the sole purpose of improving the growth of other trees (e.g. thinning as part of forestry operations).

When considering conservation area tree notices the Council has 3 options.

- Make a TPO to prevent the work taking place.
- Allow the 6-week notice period to elapse at which point the work can proceed.
- Issue a decision allowing the work to proceed within the 6-week timescale.

When allowing work to proceed the Council cannot use conditions in the same way that TPO applications allow but felling trees under the dead or dangerous exemptions requires replacements to be planted in the same way.

The Council maintains a register of conservation area notifications and decisions as it is required to by the Act.



## Planning

### National Planning Policy Framework (NPPF)

The NPPF sets out the Government's planning policies for England and how these should be applied. It provides a framework within which locally prepared plans for housing and other development can be produced. The NPPF makes a number of references to trees and the Council will take into account these when considering planning applications:

*131. Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.*

*174. Planning policies and decisions should contribute to and enhance the natural and local environment by:*

*b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;*

*180. When determining planning applications, local planning authorities should apply the following principles*

*c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*

*d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*

### Local Plan

Rushcliffe's Local Plan has a number of policies relating to trees and woodlands which are given consideration during the planning process.

### POLICY 37 TREES AND WOODLANDS

1. Adverse impacts on mature tree(s) must be avoided, mitigated or, if removal of the tree(s) is justified, it should be replaced. Any replacement must follow the principle of the 'right tree in the right place'.
2. Planning permission will not be granted for development which would adversely affect an area of ancient, semi-natural woodland or an ancient or veteran tree, unless the need for, and public benefits of, the development in that location clearly outweigh the loss.
3. Wherever tree planting would provide the most appropriate net-gains in biodiversity, the planting of additional locally native trees should be included in new developments. To ensure tree planting is resilient to climate change and diseases a wide range of species should be included on each site.

### **The Use of TPO's in Relation to Planning Applications**

Planning applications are often a catalyst for making TPO's. The Council aims to be selective when it comes to protecting trees. However, TPO's are more likely to be made in relation to planning applications if pre-emptive tree work takes place, trees are not given full consideration in planning applications, or where the Council is aware that developers have a poor track record for protecting or retaining trees during previous developments. The Council may not protect trees if they are already located within a conservation area as this provides a level of protection, or in relation to planning applications that demonstrate from the outset consideration towards through surveys and considered design. The Council may protect trees if planning refusal is likely and it is considered that unprotected trees could be at risk, or alternatively where permission is granted, but where the Council wants to demonstrate to future occupiers that trees are important and should be retained.

The starting point for development sites which contain trees should be a tree survey in accordance with BS5837:2012, 'Trees in Relation to Design, Demolition and construction – Recommendations'. The tree survey should be completed and made available to designers prior to and/or independently of any specific proposals for development. Tree surveys undertaken after a detailed design has been prepared are less ideal, but can identify significant conflicts: in such cases, the nature of and need for the proposed development should be set against the quality and values of affected trees. The extent to which the design can be modified to accommodate those trees meriting retention should be carefully considered. A late tree survey could delay the project or result in increased costs, it will also be essential to any tree protection condition the Council utilises if permission is granted.

Planning applications should clearly show trees to be retained and removed. The position of trees and their root protection areas should be clearly plotted on site layout plans.

When granting planning permission, the Council will often use conditions to ensure retained trees are protected during construction. Expert advice is essential to producing tree protection measures. All tree protection should follow the best

practice set out in BS5837. The extent of tree protection on sites will vary depending on the scale of development, the size of the site and the number of trees. As a minimum this should include protective fencing around retained trees, ground protection where access is required within root protection areas and method statements for construction designed to mitigate impact on roots. Storage areas and site access should be considered, and necessary protection incorporated. As should the position of any new services or drainage. It is essential that such protection measures are implemented in full and retained throughout the construction period.

Accidental damage by vehicles and machinery to trees might include bark damage to the trunk, or branches being torn off. Such damage might immediately harm the look of a tree and leave it vulnerable to infection by decay fungi.

Damage to the roots of a tree is at least as serious, but often is not immediately noticeable. Wounding the bark of larger roots may lead to infection by decay fungi and may affect a tree's stability in the ground. Killing smaller diameter roots will decrease a tree's ability to take up water and nutrients. This will reduce the tree's vigour and lead to die-back in the crown. Because the tree has reserves of stored energy, it may be several years before the damage to roots shows in the parts of the tree above ground.

The great majority of roots are close to the surface, in the top 600mm of soil. Roots can be severed during the excavation of trenches or the scraping of topsoil, or they can be killed indirectly.

The most common cause of damage to trees on development sites is soil compaction. Compacting the soil reduces space between the soil particles that hold air and water, and the roots suffocate. A single pass of a heavy vehicle over the rooting area of a tree can lead to irreversible damage, particularly if the soil is wet. Such spaces can also be harmed by increasing soil levels as this also causes compaction and can exclude or reduce water and air and harm roots. Air and water are also excluded if impervious surfacing is laid over the rooting area.

Protective fencing should be in accordance with BS5837 as detailed in Appendix C. However, the Council will also allow herras fencing bolted to robust posts driven into the ground as per the images in Appendix D. Any fencing installed should be secured in position so it can't be easily moved. Appropriate signage should also be attached to the fencing indicating its purpose and advising it shouldn't be repositioned. The use of steel fencing pins and plastic barrier mesh, or highway barriers will not be acceptable as these can be easily relocated.

The construction of basements can pose a significant risk to trees, firstly from the excavation which can damage roots, but also from the sheer volume of soil it generates. Tree protection plans for such developments should set out storage areas of such spoil. Raising soil levels around trees can compact the ground and starve the roots of water and oxygen which can cause long term damage to trees which may not become apparent for some time.

Foundation design can be used to minimise harm to roots through the use of piles and beams or cantilevered foundations. For such methodologies to succeed,

architects, arborists and engineers need to work together to reach an appropriate solution. Pile and beams are often suggested as a possible solution and whilst these can be effective, the beams need to be laid at, or above, ground level and the impact on finished floor levels needs to be taken into account in the design process.

Creating new vehicular access to a site can impact on trees it is desirable to retained given they are frequently located in a prominent location at the front of a site. The best practice set out in BS5837 should be followed to construct porous surface above existing ground levels. Highway visibility splays also need to be taken into account as these can often affect trees and hedgerows at the front of a site.

Developers should consider the timing of work and aim to avoid vegetation removal in the bird nesting season. The netting of hedgerows with the intention of preventing birds nesting in them to enable work to take place in the bird nesting season is not best practice and the Council does not support this. Any developer considering netting hedgerows should also consider their duty under the Wildlife and Countryside Act 1981 to not kill, injure or take a wild bird which could occur if they were to be caught up in poorly maintain nets. The Council has allowed hedgerows to be coppiced as an alternative where planning permission is likely to be granted early in the nesting season, as such work is not considered to be removal and would enable the hedgerow to regenerate if the development did not proceed. Any developers considering this course of action should liaise with the Council beforehand to ensure such work will be appropriate.

### **Planning Enforcement in Relation to Trees**

The Council's policy for planning enforcement is set out on the link below. Unauthorised works to trees protected by a Tree Preservation Order or in a Conservation Area are considered high priority. Whilst development operations which are not in accordance with approved plans or conditions of a planning permission are considered a medium priority.

[Planning Enforcement Policy - Rushcliffe Borough Council](#)

## **Hedgerow Regulations 1997**

The above regulations require owners of hedgerows in agricultural settings to notify the Council if they intend to remove hedges in part or whole. The Regulations specifically exclude hedgerows within or marking the curtilage of a residential property.

A number of exemptions apply where prior notice is not required to be given to the Council. Anyone wishing to use such an exemption is advised to discuss the work with the Council beforehand to ensure that the relevant exemption applies.

Upon receipt of a notice the Council has 6 weeks to determine whether or not the hedge meets the criteria to be considered 'important' under the Regulations. The Council will do this by consulting the Parish Council, Local Councillors, the Nottinghamshire Biological and Geological Record Centre and Nottinghamshire County Council as well as carrying out its own investigation.

If the Council can demonstrate the hedgerow meets the criteria to be considered important it will take into account the reasons for the work and the Government's advice that there is a 'strong presumption in favour of retaining important hedgerows.' If the Council cannot demonstrate a hedgerow meets the criteria to be considered 'important' it has no option but to allow the removal to take place.

If hedgerows are deemed to meet the criteria to be considered important, the Council will give little weight to notifications to maximise the efficiency of farming or to allow the use of larger machinery.

The Council will take enforcement action against any unauthorised removal of hedgerows, whether or not prosecution takes place, with the aim of enforcing the planting of a mixed species native hedgerow at 6 plants per metre in a double staggered row.

Both hedgerow retention notices and replanting notices can be appealed with more information available on the links below.

[Countryside hedgerows: protection and management - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/countryside-hedgerows-protection-and-management)  
[Appeal a hedgerow notice: When you can appeal - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/appeal-a-hedgerow-notice-when-you-can-appeal)

## High Hedge Complaints

The Anti-social Behaviour Act 2003 allows homeowners to complain to the Council about loss of light to their garden or property from a neighbouring evergreen high hedge. To be considered an evergreen hedge has to be at least two or more evergreen trees or shrubs in a row which are a barrier to light and access and over 2 metres in height.

A complaint is intended to be a last resort and residents are expected to have tried to come to a mutual agreement with their neighbour before approaching the Council. Complaints will be rejected where insufficient attempts have been made to resolve the issue and anyone considering a complaint should keep records of communication with the hedge owner.

The Council charges a fee for such complaints, this is £350, but is reduced to £100 if the complainant receives a form of state benefit.

The Council will closely follow the guidance set out in the Government Document, [High Hedge Complaints: Prevention and Cure](#). The Council will provide basic advice to residents considering making a complaint, but due to the need to treat both parties impartially Officers will generally not carry out site visits before a complaint is made. The only exception to this will be where there is some doubt about whether or not the hedge meets the criteria to be considered under the Act.

The Council will reject a complaint if it considers it to be invalid. There is no specific right of appeal to such a decision. If the complainant considers that the Council has not applied the legislation correctly, they can refer the matter to the Council's complaints officer.

The Council will consider offering refunds at its discretion if a high hedge complaint is resolved prior to site visits being undertaken. Complaints resolved after site visits have been undertaken will not be considered for refunds given the amount of staff time that has been invested at this point.

When considering such complaints, the Council aims to issue a decision within 4 weeks of visiting the complainant's and hedge owners' property.

When issuing decisions, the Council will advise both parties of their right to appeal to the Planning Inspectorate and the strict timescale which applies.

The Council will not consider complaints relating to Bamboo and Ivy as these are a grass and climbing plant respectively. Complaints cannot be made in relation to Beech or Hornbeam trees, whilst they retain their autumnal leaves these are brown/dead and are not considered to be evergreen.

In accordance with Government advice, where a single hedge affects multiple neighbouring properties, the Council will consider separately and individually the impact of the hedge on each property that is affected. Separate complaints should,

therefore, be submitted by the owner or occupier of each of the affected properties, together with the requisite fee.

## **Dangerous Trees on Private Land**

The Council has discretionary powers under the Local Government (Miscellaneous Provisions) Act 1976 to deal with trees in private ownership which are likely to pose danger to persons and/or property. The Council is not obliged to act and the responsibility for the tree remains with the relevant landowner. The Act allows the Council to serve notice on a tree owner requiring work and will only do so if there is a clear imminent risk of failure or damage due to a tree affecting a property or an obvious defect or disease. It does not enable the Council to become involved where private trees are causing a nuisance, or if there is a perceived threat due to the tree being 'too big' or within falling distance of a property without showing any obvious defects.

The Act allows owners of trees to notify the Council if they require assistance to make a tree safe. In this instance the owner of the tree would need to demonstrate why they are unable to appoint a local tree surgeon to carry out the work. If the Council carried out work it would recover reasonable costs for the work and administration.

The Act also allows a landowner to notify the Council requesting a tree on adjacent land be made safe if it is 'likely to cause damage.' In this circumstance the Council would expect the resident adjoining the tree to have communicated with the relevant landowner about the issue before approaching the Council.

The Council will undertake work to remove a danger arising from privately owned trees only as a last resort when there is a clearly foreseeable risk. When carrying out such work the Council will recover the cost of implementing it and reasonable expenses occurred.

In cases of subsidence damage residents should contact their household insurer, rather than the Council. This is because there are many factors which need to be investigated and taken into account and an insurance company will be in a position to appoint the relevant firms to carry out such investigations and make a case to the tree owner.

### **Felling Licence**

To help protect Britain's trees and woodland, a felling licence from the Forestry Commission is required to fell trees over a specific quantity. In any calendar quarter you may fell up to 5 cubic metres (m<sup>3</sup>) of growing trees on your property without a felling licence, as long as no more than 2m<sup>3</sup> are sold. It's an offence to fell trees without a licence if an exemption does not apply. Not all exemptions are listed here but felling licences do not apply to trees in gardens, or to trees on public open spaces.

Everyone involved in the felling of trees (the owner, agent and timber merchant or contractor) must ensure that a licence has been issued before any felling is carried out, unless they are certain that one of the exemptions apply. If there's no licence or other valid permission, or if the wrong trees are felled, anyone involved can be prosecuted.

For more details please visit [GOV.UK guidance on tree felling](https://www.gov.uk/guidance/tree-felling)



## Appendix A.

RUSHCLIFFE BOROUGH COUNCIL CONSERVATION AREA TREE NOTIFICATIONS AND TPO CONSULTATIONS TREE EVALUATION SHEET											
<b>Ref No.</b>											
<b>Location of Tree</b>											
<b>Species</b>											
<b>1. Aesthetic Quality</b>		<b>3. Condition</b>									
Excellent	4	Excellent	4								
Good	3	Good	3								
Fair	2	Fair	2								
Poor	1	Poor	1								
Unsightly	0	Dying/Dead	0								
<b>2. Impact on public amenity if removed</b>		<b>4. Proximity and effect on buildings</b>									
Very severe adverse impact. Severe adverse impact.	4	Able to grow to full mature extent.	4								
Moderate impact (or only visible from a limited no of properties).	3	Able to grow to reasonable maturity without significant impact on properties	3								
Little impact or no change.	2	Spread will eventually affect properties with nuisance impact – shade, debris, soil depletion etc.	2								
Improvement (or not visible to public).	1	Will eventually affect buildings with structural implications.	1								
Note: in the case of development future amenity can be taken into account.	0	Buildings already affected.	0								
<b>Total Score</b>		Maximum possible total	16								
<p><b>A tree with a score of 11 or above will be considered for a TPO although a score of 0 or 1 in any category will negate this.</b></p> <p><b>HEALTH AND SAFETY</b></p> <p>This scoring system does not take into account damage or injury which could be caused if a tree located close to buildings, gardens, roads, or places of public access should fall or shed branches. Regardless of the tree's condition or type this possibility must be considered. An assessment should be made of the damage which could be caused, scoring as follows :</p> <table border="0"> <tr> <td>Damage to property or physical injury highly unlikely</td> <td>0</td> </tr> <tr> <td>Limited structural damage possible but unlikely to cause injury</td> <td>1</td> </tr> <tr> <td>Moderate risk of damage or injury</td> <td>2</td> </tr> <tr> <td>Significant risk of damage or injury</td> <td>3</td> </tr> </table> <p>This assessment is inevitably subjective and should be based on the trees at the current time but must err on the side of caution. A tree scoring 2 or 3 should not be subject to a TPO. A score of 1 should be subtracted from the final total of 1 to 4 above and could be the deciding factor in borderline cases.</p> <p><b>Wildlife</b></p> <p>In some locations where ecological considerations are particularly important a non-native or ornamental species may not be regarded as appropriate for protection when a locally native species of tree would be. This will be a matter for consideration in each case.</p>				Damage to property or physical injury highly unlikely	0	Limited structural damage possible but unlikely to cause injury	1	Moderate risk of damage or injury	2	Significant risk of damage or injury	3
Damage to property or physical injury highly unlikely	0										
Limited structural damage possible but unlikely to cause injury	1										
Moderate risk of damage or injury	2										
Significant risk of damage or injury	3										

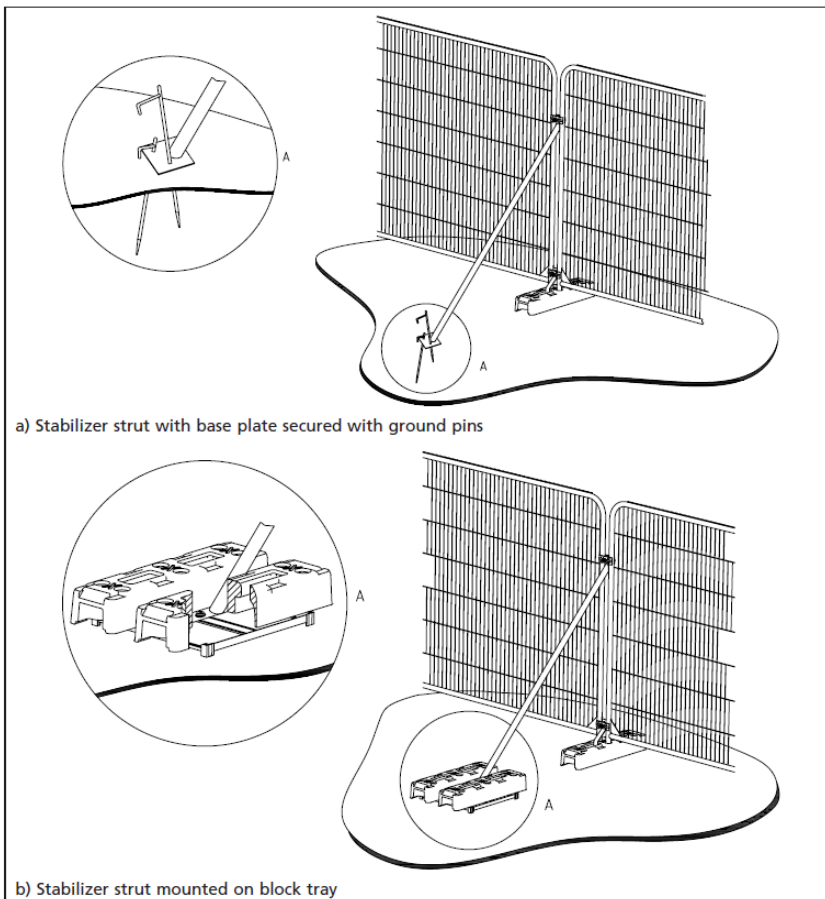
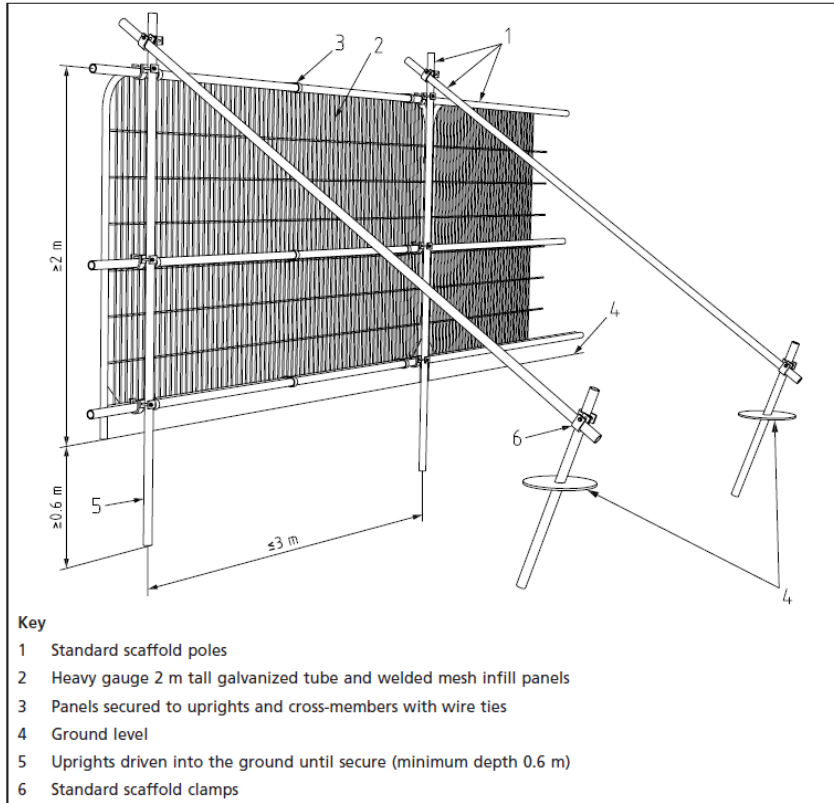
## Appendix B.

<b>RUSHCLIFFE BOROUGH COUNCIL</b>			
<b>CONSERVATION AREA TREE NOTIFICATIONS AND TPO <b>AMENDED</b> TREE EVALUATION SHEET</b>			
<b>Location of Tree</b>			
<b>Species</b>			
<b>1. Aesthetic Quality</b>		<b>3. Condition</b>	
<b>Excellent</b> , large/mature, good examples of the species, balanced, can also include veteran trees which may be retrenched.	4	<b>Excellent</b> . No obvious defects, trees with 50+ useful life ahead.	4
<b>Good</b> , medium sized or early mature trees with good shape and high potential.	3	<b>Good</b> . Minor defects to be expected with age of the tree. 25+ year useful lifespan.	3
<b>Fair</b> , semi mature trees with good form. Larger trees with poor shape	2	<b>Fair</b> , some defects which do not require the removal of the tree or could be rectified through pruning. 10+ year useful lifespan.	2
<b>Poor</b> . Young trees. Suppressed. Poor past pruning.	1	<b>Poor</b> , structural defects which will limit ability of tree to be retained. Less than 10 years useful lifespan.	1
<b>Unightly</b> . Poor form, affected by past failure or dieback.	0	<b>Dying/Dead</b> .	0
<b>2. Impact on public amenity if removed</b>		<b>4. Proximity and effect on buildings</b>	
<b>Very severe adverse impact</b> . Large trees in prominent locations, visible from wide area or distance. Screen unsightly structures.	4	Able to grow to full mature extent without the need for pruning to control size.	4
<b>Severe adverse impact</b> . Large trees clearly visible but not prominent, medium trees in prominent locations.	3	Able to grow to reasonable maturity without significant impact on properties, some loss of light could be experienced. Tree proportional to the size of garden it is located in.	3
<b>Moderate impact</b> . Medium trees visible but not prominent, small trees in prominent locations.	2	Spread will eventually affect properties with nuisance impact – shade, debris, soil depletion across entire garden.	2
<b>Little impact or no change</b> . Removal may open up positive views of trees or buildings which will mitigate loss. Trees long way from public viewpoints, obscured or very limited public viewpoints.	1	Will eventually affect buildings with structural implications.	1
<b>Improvement</b> (or not visible to public).	0	Buildings already affected.	0
All views are from public vantage points, future amenity can be taken into account.			
<b>Total Score</b> Category 1-4 above		Maximum possible total	17
<b>Health and Safety Score</b> (see below)		<b>A tree with a score of 11 or above will be considered for a TPO although a score of 0 or 1 in any category will negate this.</b>	
<b>Wildlife Score</b> (see below)			
<b>Total</b>			
<b>HEALTH AND SAFETY</b>			
This scoring system does not take into account damage or injury which could be caused if a tree located close to buildings, gardens, roads, or places of public access should fall or shed branches. Regardless of the tree's condition or type this possibility must be considered. This assessment is inevitably subjective and should be based on the trees at the current time and remember trees owners have a general duty of care but must err on the side of caution. The scores below should be subtracted from the above scores and could be the deciding factor in borderline cases.			
Damage to property or physical injury not likely			<b>0</b>
Limited structural damage possible, low use areas where the public or residents will not be present for long periods of time.			<b>1</b>
Trees overhang or dominate properties or roads where there is high public use or car parking throughout the day.			<b>2</b>

<b>Wildlife/Heritage</b>	
Ancient, heritage or native species appropriate to local landscape character.	1
Non-native trees outside of conservation area.	0
Non-native trees in conservation areas, unless it is a heritage or ancient tree.	-1

# Appendix C.

Fencing in accordance with BS5837.



## Appendix D.

Alternative Tree Protective Fencing.



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**Cabinet**

**Tuesday, 10 October 2023**

**UKSPF and REPF Proposed Grant Pots 2024/25**

## **Report of the Director – Development and Economic Growth**

**Cabinet Portfolio Holder for Business and Growth, Councillor A Brennan**

### **1. Purpose of report**

- 1.1. As outlined in previous reports to Cabinet and Scrutiny (July 2022, January 2023 and March 2023), the Council has an allocation of UK Shared Prosperity Funding (UKSPF) and Rural England Prosperity Funding (REPF). This is Government funding that replaces European Structure Investment Funds. The funding is to be spent over three years (2022 to end of March 2025). The Council is currently delivering projects with year two (2023/24) funding, including directly commissioned activity and a grant pot for local communities and businesses.
- 1.2. It is proposed that in year three (April 2024 to end of March 2025) an amount of UKSPF and REPF is allocated for a grant pot to support the delivery of projects across the Borough. This report reflects on lessons learned from the year two grant pot and proposes a grant allocation for year three.
- 1.3. Subject to Cabinet approval, it is proposed that the grant pot be opened in November 2023, to enable projects to start on 1 April 2024 and have a full year of delivery.

### **2. Recommendation**

It is RECOMMENDED that Cabinet:

- a) supports the proposals as outlined in the report for UKSPF and REPF grant pots;
- b) requests a further report to Cabinet in early 2024, outlining proposals for the remaining UKSPF to be spent in 2024/25; and
- c) delegates sign off of grant awards and reallocation of grant funding between priorities (Business Support and Communities and Place) for UKSPF and REPF to the S151 Officer and Director – Development and Economic Growth in consultation with the Cabinet Portfolio Holder for Business and Growth, following officer recommendations based on assessment and moderation.

### **3. Reasons for Recommendation**

In 2022/23, it was agreed by Cabinet that an allocation of UKSPF and REPF was used for a grant pot. This enabled local groups and businesses to progress projects delivering outcomes across the Borough. The grant pot was oversubscribed demonstrating that there is a demand in the Borough. It is recommended therefore that, taking account of lessons learned from the current grant pot, a further allocation of funding is made in 2024/25.

### **4. Supporting Information**

#### **Lessons learned**

- 4.1. As approved by Cabinet in February 2023, a grant pot for local community groups and businesses to access was made available through the Council's allocation of UKSPF and REPF. To enable a range of projects to be progressed, the Council kept the application criteria as broad as possible, allowing projects across all Government's identified interventions.
- 4.2. Once the grant pot was open, officers from the Council spoke to all interested parties on a one-to-one basis to discuss project ideas (over 100 organisations). This was to provide advice on eligibility and once agreed that a project was eligible, the application form was issued. After the closing date, all applications received went through a rigorous assessment process, which included a number of stages, including a briefing with the Cabinet Portfolio Holder Business and Growth. Decisions were made by the S151 Officer and Director – Development and Economic Growth, and all grant funding allocated.
- 4.3. For those that were not successful, feedback was offered, and some have taken up this offer. The main reason, which was pointed out to all those who had feedback is that the grant pot was oversubscribed. Some projects that could not be supported in year two therefore could reapply in 2024/25, subject to a grant pot being created.
- 4.4. To review lessons learned from the process, a short survey was circulated to all organisations that were spoken to. This highlighted some areas for further consideration and enhancements to the year three grant pot process including:
  - Review and streamline guidance – the document included a long list of interventions produced by Government, which could be overwhelming for some to identify where their project ideas could fit and some of terminology used was not in plain English.
  - Review the application form to make it simpler where possible.
  - Consider having separate business and communities grant pots as language used made sense to some groups more than others.
  - Business Support Grants – there was a gap for smaller non-high street businesses due to the match requirements requiring a relatively high level of investment (minimum project value was £12,500).



- Allow more time for assessment of applications – this is for officers of the Council to enable the required due diligence to take place, which took longer than anticipated and so this will be built into the timeline.

4.5. Based on the lessons learnt, it is proposed that rather than one grant pot, there are separate pots for community groups and businesses. It is thought this will help both groups and mean guidance/criteria etc can be more tailored to the organisations applying for the grants. The detail of the grant pots is outlined later in the report.

### **UKSPF and REPF funding year three**

4.6. The financial allocation of UKSPF and REPF across the three years was determined by Government. Allocations were weighted to year three (2024/25) reflecting the fact that the people and skills theme was only applicable in year three (this subsequently changed but was not reflected with a change in allocations) and that capital projects supported through REPF can take time to deliver.

4.7. The allocation for year three is therefore larger than previous years and is outlined in the following table:

	Total allocation	Funding already allocated	Remaining funding to allocate
<b>Communities and Place</b>	£679,000		£679,000
<b>Business Support</b>	£605,000	£143,000	£462,000
<b>People and Skills</b>	£350,000	£50,000	£300,000
<b>UKSPF Total</b>	<b>£1,634,000</b>		
<b>REPF</b>	£446,000		£446,000
<b>TOTAL</b>	<b><u>£2,080,000</u></b>		<b><u>£1,887,000</u></b>

4.8. For reference funding for previous years was:

- Year 1 – UKSPF - £312,071 (REPF was only introduced in year two)
- Year 2 - UKSPF - £624,151 and REPF £150,000

4.9. The allocated funding in the above table is part of joint commissioning done with other districts in Nottinghamshire. The delivery of Business Support has started, led by East Midlands Chamber and final arrangements for the people and skills commission are currently being progressed.

4.10. The allocations in the above table are based on the Investment Plan submitted to Government in 2022. Cabinet should note that funding can be moved between themes (e.g. from Business Support to People and Skills) but anything over 30% (of total allocation over the three years) would need the approval of Government.

### Proposal for communities grant pot

4.11. As outlined above, it is recommended that the grant pot be split with separate Communities and Business pots. This will allow guidance and application forms to be more specific and therefore more accessible for the target audience.

4.12. For the Communities Grant Pot it is proposed that there are two pots:

UKSPF and REPF Pot	Smaller Grants Pot
<ul style="list-style-type: none"> <li>• Joint UKSPF and REPF grant pot as interventions are largely the same</li> <li>• Delivered via a call for projects (November 2023 to January 2024)</li> <li>• Grants between £5k and £40k</li> <li>• Projects can be applied for under any of the Government interventions</li> <li>• 30% match funding desirable but this can be in kind (e.g. volunteer time)</li> <li>• Mix of capital and revenue projects (REPF is capital only)</li> </ul>	<ul style="list-style-type: none"> <li>• First come first served grant pot – open from 1 April 2024</li> <li>• Projects from £1k to £5k</li> </ul>
UKSPF allocation - £100,000 REPF allocation - £220,000	UKSPF allocation - £30,000
Total allocation to community grants - £350,000	

4.13. The UKSPF and REPF Pot is the same in terms of eligibility criteria as year two, with the amendments to guidance and application form as informed by the Lessons Learned Review.

4.14. The additional Smaller Grants Pot will enable smaller organisations to access grants and will involve a simpler application and assessment process and allocated on a first come first served basis. This is new for this year but mirrors, in its process, the High Street Grant Pot that was available for businesses in the Borough in this financial year and has proved to be very popular.

### Proposal for business support grant pot

4.15. For businesses it is proposed that there are three grant pots:

REPF	UKSPF	High Street Businesses
<ul style="list-style-type: none"> <li>• Delivered via a call for projects (November 2023 to January 2024)</li> <li>• Open for all interventions allowed</li> <li>• £5k to £40k</li> </ul>	<ul style="list-style-type: none"> <li>• Delivered via a call for projects (November 2023 to January 2024)</li> <li>• Target investment priorities/outcomes:               <ul style="list-style-type: none"> <li>• Tourism and visitor economy</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• First come first served</li> <li>• Funding for:               <ul style="list-style-type: none"> <li>• Shop front and premises improvements,</li> <li>• Digital – social media, website etc.</li> </ul> </li> </ul>

<ul style="list-style-type: none"> <li>• Match requirement 60% from the business and 40% from REPF</li> <li>• Capital only (as specified by Government)</li> <li>• Rural areas only – excludes West Bridgford</li> </ul>	<ul style="list-style-type: none"> <li>• low carbon and energy efficiency</li> <li>• supporting growing businesses</li> <li>• £1k to £40k</li> <li>• Match requirement 60% from the business and 40% from UKSPF</li> <li>• Capital and revenue projects</li> </ul>	<ul style="list-style-type: none"> <li>• low carbon and energy efficiency</li> <li>• Capital and revenue projects</li> <li>• £1k to £5k</li> <li>• 30% match requirement from the business and 70% from UKSPF</li> </ul>
Allocation - £226k	Allocation - £50k	Allocation - £50k
Total business grant pot - £326,000		

4.16. As the table sets out there are some changes from the year two grant pot reflecting some of the comments made in the survey responses. This includes:

- Splitting the UKSPF and REPF to allow more targeted and clearer promotion of the offer to rural businesses to encourage more applicants.
- Targeting investment priorities/outcomes so businesses can more easily understand what the grant can be used for and to ensure the awards bring wider benefits to the Borough.
- Reducing the minimum grant amount in UKSPF to £1,000 to make it more accessible to smaller businesses (this has not been done for REPF as this is capital only and so projects are likely to be larger).

### Timeline

4.17. As outlined, subject to Cabinet approval, it is intended that the grant pot for year three is launched in November 2023. This will provide time for applications and assessment and ensure that projects can commence from 1 April 2024. As all funding has to be spent by the end of March 2025, it is important projects have as long as possible to deliver:

- November 2023 - Launch of grant pot
- End of January 2024 – grant pot closes
- Mid-March 2024 - notify applicants
- April 2024 – grant funded projects commence
- April 2024 – launch of High Street Grant Pot and Small Community Grant Pot.

4.18. In addition to the grant pot, work is currently underway to identify a long list of projects that could be supported with remaining funding which would be directly commissioned by the Borough Council. This will include the additional people and skills priority which is new in Rushcliffe for year three. The following table sets out proposed grant allocation and amount remaining to be allocated:

	Total to allocate	Proposed Grant pot	Total remaining
<b>Communities and Place</b>	£679,000	£130,000	£549,000
<b>Business Support</b>	£462,000	£100,000	£362,000
<b>People and Skills</b>	£300,000	£0	£300,000
<b>UKSPF Total</b>	£1,441,000		£1,211,000
<b>REPF</b>	£446,000	£446,000	£0
	£1,887,000	£676,000	£1,034,000

4.19. It is proposed that a further report is brought to Cabinet in January 2024, to outline proposals for this remaining allocation and also outlining the recipients of existing grants and the spread of grants throughout the Borough. This will follow an update to either Growth and Development Scrutiny Group and/or a session for all Councillors.

### **Governance**

4.20. Grant applications will be assessed by officers and moderated by members of the internal UKSPF and REPF Project Board. The Cabinet Portfolio Holder for Business and Growth will be consulted as part of the process via monthly briefings. Sign off for all grant awards will sit with the S151 Officer and the Director – Development and Economic Growth.

4.21. Rushcliffe’s Strategic Growth Board acts as the Partnership Board, which was required to be established for the purposes of UKSPF. This Board meets quarterly, and it is proposed that at each Board meeting an update on UKSPF/REPF is provided to members.

### **5. Alternative options considered and reasons for rejection**

5.1. There is the option to not have a grant pot in the final year of UKSPF funding. However, having a grant pot enables local groups to bring forward projects across the Borough, bringing wider benefits for all. Whilst it is resource intensive for officers, it is felt this is worth it for the range of initiatives that will be enabled.

5.2. As outlined with REPF, this can only be a Capital Grant Pot.

### **6. Risks and Uncertainties**

6.1. There is a risk that funding will not be spent within required timeframes (end of March 2025). By releasing the grant pot early and through close monitoring of successful projects this risk can be mitigated and funding reallocated if required.

6.2. There is a risk that there will be a limited number of applicants to the grant pot. It is not anticipated this will be a problem due to the response in year two and the pot being oversubscribed. This could be more challenging for the Business

Grants, but by separating the pots, greater promotion and making the guidance simpler, it is expected that this will be mitigated.

## **7. Implications**

### **7.1. Financial Implications**

The grant funding available in year three is outlined in the report. There are no financial implications for Council budgets as all projects will be delivered utilising UKSPF and REPF funding. The UKSPF allows for 4% of the total allocation over three years to be used for management/administration of the grant. Some of this has been used to pay for additional staff to support delivery and the remainder will be used to contribute towards the existing officer resource required to successfully deliver UKSPF. Revenue and capital allocations will be included in the Council’s MTFS once finalised as will the previous year allocations.

### **7.2. Legal Implications**

Subsidy Control has been considered and the four-limb test applied in respect of funding under this scheme. In the majority of cases it is felt that the awards will not be caught by the Subsidy Control regime. Where a subsidy has been identified, these are low value and covered by the exemption under Minimal Levels of Financial Assistance. Applicants are required to disclose any previous subsidies they have received in the relevant period (previous three years) and officers are issuing Confirmation Statements, where needed. Officers will continue to monitor, review and consider applications with the Subsidy regime in mind and seek further advice, where required, from Legal Services.

### **7.3. Equalities Implications**

As in year two, all grant applicants will be asked to complete an Equality Impact Assessment to ensure they are considering the impact and opportunity created by their project.

### **7.4. Section 17 of the Crime and Disorder Act 1998 Implications**

There are no crime and disorder implications associated with this report.

### **7.5. Biodiversity Net Gain Implications**

There are no biodiversity net gain implications associated with this report.

## **8. Link to Corporate Priorities**

Quality of Life	<p>The UKSPF and REPF are part of Government’s levelling up ambitions and is focused on:</p> <ul style="list-style-type: none"> <li>• Communities and place</li> <li>• Business support</li> <li>• People and skills</li> </ul>
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	The range of interventions that can be supported means the funding has the potential to bring lots of benefits to many communities and businesses across the Borough
Efficient Services	There are no links to this priority in this report
Sustainable Growth	Business support is a priority for the UKSPF and REPF and an area of focus for the Council is on sustainable/green growth to ensure benefits to businesses will bring wider benefits to the Borough
The Environment	There are no links to this priority in this report

## 9. Recommendation

It is RECOMMENDED that Cabinet:

- a) supports the proposals as outlined in the report for UKSPF and REPF grant pots;
- b) requests a further report to Cabinet in early 2024, outlining proposals for the remaining UKSPF to be spent in 2024/25; and
- c) delegates sign off of grant awards and reallocation of grant funding between priorities (Business Support and Communities and Place) for UKSPF and REPF to the S151 Officer and Director – Development and Economic Growth in consultation with the Cabinet Portfolio Holder for Business and Growth, following officer recommendations based on assessment and moderation.

<b>For more information contact:</b>	Catherine Evans Service Manager Economic Growth and Property 0115 914 8552 <a href="mailto:cevens@rushcliffe.gov.uk">cevens@rushcliffe.gov.uk</a>
<b>Background papers available for Inspection:</b>	Report to Cabinet in July 2022 Report to Growth and Development Scrutiny Committee in January 2023 Report to Cabinet in March 2023
<b>List of appendices:</b>	None



**Cabinet**

**Tuesday, 10 October 2023**

**Assigning Strategic Significance for Biodiversity Net Gain Assessments**

## **Report of the Director – Neighbourhoods**

### **Cabinet Portfolio Holder for Planning and Housing, Councillor R Upton**

#### **1. Purpose of report**

- 1.1. This report asks Cabinet to consider how “Strategic Significance” will be determined in Rushcliffe under the requirements of the Environment Act 2021.
- 1.2. Whilst the duty to secure Biodiversity Net Gain (BNG) is a legislative requirement, consideration of strategic significance is determined by local strategies and policies; Councillors need to satisfy themselves that the proposals set out in section 4.5 below and Appendix 1 meet the requirements of Rushcliffe Borough Council.
- 1.3. BNG was considered by the Growth and Development Scrutiny Group on Wednesday, 19 July 2023, when the Group resolved to approve the proposals for assessing strategic significance and recommended to Cabinet that careful consideration be given to the officer resources required to carry out this work before being adopted by Council.

#### **2. Recommendation**

It is RECOMMENDED that Cabinet considers and, if satisfied, approves the proposals for assessing strategic significance under Biodiversity Net Gain.

#### **3. Reasons for Recommendation**

To ensure that the Council’s strategic biodiversity aims are delivered within Rushcliffe, following the implementation of mandatory Biodiversity Net Gain requirements, expected to commence in January 2024, following an announcement made by Government on 27 September 2023.

#### **4. Supporting Information**

- 4.1. On 9 November 2021, the Environment Act 2021 received Royal Assent. The Act contains several nature and biodiversity related issues, including provision for making “biodiversity gain a condition of planning permission in England”. BNG is a way of contributing to the recovery of nature whilst developing land. It

is a mechanism to ensure the habitat for wildlife is in a better state than it was before development.

- 4.2. The mandatory scheme requires developers to deliver a minimum of a 10% biodiversity improvement following development in the majority of cases. The Local Planning Authority is able to introduce policies requiring more than a 10% gain; however, these will need to be justified. It is recommended that the Local Plan would be the most appropriate place to introduce any such policies and until the next Local Plan is brought forward, 10% gain is used within Rushcliffe.

### **BNG metric**

- 4.3. To demonstrate BNG, a biodiversity metric (spreadsheet), published by the Secretary of State / Natural England, must be completed by a competent person. Further guidance from Government on the definition of a 'competent person' is not yet available. A simplified version of the metric is available for small developments.
- 4.4. The metric must be used to assess the baseline biodiversity value before development, based on appropriate ecological surveys and the expected value post development (including all on-site enhancements and any off-site enhancement or credits purchased). On-site measures are prioritised and incentivised in the metric.

### **Strategic significance**

- 4.5. The BNG metric includes a multiplier depending on the strategic significance of the site that will provide the BNG. The sites that are "formally identified in a local strategy" gain the highest score multiplier; sites that are at a "location ecologically desirable but not within a local strategy", gain a middle score multiplier and "area/compensation not in local strategy / no local strategy" gain no score multiplier.
- 4.6. It is proposed that sites regarded by Rushcliffe Borough Council as strategically significant and benefiting from the "formally identified in a local strategy" multiplier in the biodiversity metric are development sites which are within or immediately adjacent to:
  - **Designated Priority Sites** - designated as Sites of Special Scientific Interest, Local Nature Reserves or Local Wildlife Sites. Current sites are shown on the map in Appendix 2
  - **Listed Green and Blue Infrastructure Sites** - identified in the Greater Nottingham Blue and Green Infrastructure Strategy January 2022, which have biodiversity value. Current sites are shown on the map in Appendix 2
  - **Focal Areas** - identified within the Rushcliffe Biodiversity Opportunity Mapping report (published by Nottinghamshire Biodiversity Action Group / Notts County Council) Current areas are shown on the map in Appendix 3
  - **Sites with a reasonable wildlife value** - sites that are managed with nature conservation as a major priority, as identified in the Rushcliffe Nature Conservation Strategy. Current sites are listed in Appendix 4



- 4.7. It is proposed all BNG provided within Rushcliffe Borough outside of those areas listed above will be regarded as “location ecologically desirable but not within a local strategy”. BNG outside of Rushcliffe Borough will be regarded as “area/compensation not in local strategy / no local strategy”.

## **5. Alternative options considered and reasons for rejection**

- 5.1 The Council could decide to do nothing until the publication of the next Local Plan (from 2028 onwards); however, this would leave the Council in a position where it would be unable to influence where Biodiversity Net Gain is delivered in Rushcliffe, until this Plan is adopted.
- 5.2 The Council could look to develop and publish a Supplementary Planning Document; however, this would take time to develop and could end up being subsumed into the publication of the next Local Plan.

## **6. Risks and Uncertainties**

- 6.1 The final secondary legislation, guidance and metric for Biodiversity Net Gain has not yet been published by the Government. There is potential that once the Government publishes its final version of the final secondary legislation, guidance and metric, the strategic significance requirements could change, and these proposals could be obsolete.
- 6.2 Developers could object to the criteria used to set out the strategic significance used by Rushcliffe.

## **7. Implications**

### **7.1. Financial Implications**

- 7.2. The consideration of strategic significance is a requirement for the consideration of Biodiversity Net Gain and therefore no financial implications are expected beyond the need to consider Biodiversity Net Gain implications from November 2023.

### **7.3. Legal Implications**

The proposals will support the implementation of Biodiversity Net Gain mandated under the Environment Act 2021. The proposals will also help the Council address its Biodiversity Duty also mandated under the Environment Act 2021. The proposed method for assessing strategic significance under Biodiversity Net Gain, is intended to fit within the existing Biodiversity Assessment criteria under the current Metric 4 published rules (published by Natural England).

### **7.4. Equalities Implications**

It is not expected there will be any equalities implications from these proposals.

## 7.5. Section 17 of the Crime and Disorder Act 1998 Implications

It is not expected there will be any Crime and Disorder Act 1998 implications from these proposals.

## 7.6. Biodiversity Net Gain

This report and the recommendation have a direct impact on the Council's fulfilment of its biodiversity duty.

## 8. Link to Corporate Priorities

Quality of Life	Access to nature, green spaces, wildlife and biodiversity are important factors in supporting local residents' quality of life
Efficient Services	No direct link
Sustainable Growth	The development will assist the Council's development management processes to deliver Sustainable Growth
The Environment	The proposals will assist the Council to address its biodiversity duty and biodiversity aspirations and help to address the worlds biodiversity emergency

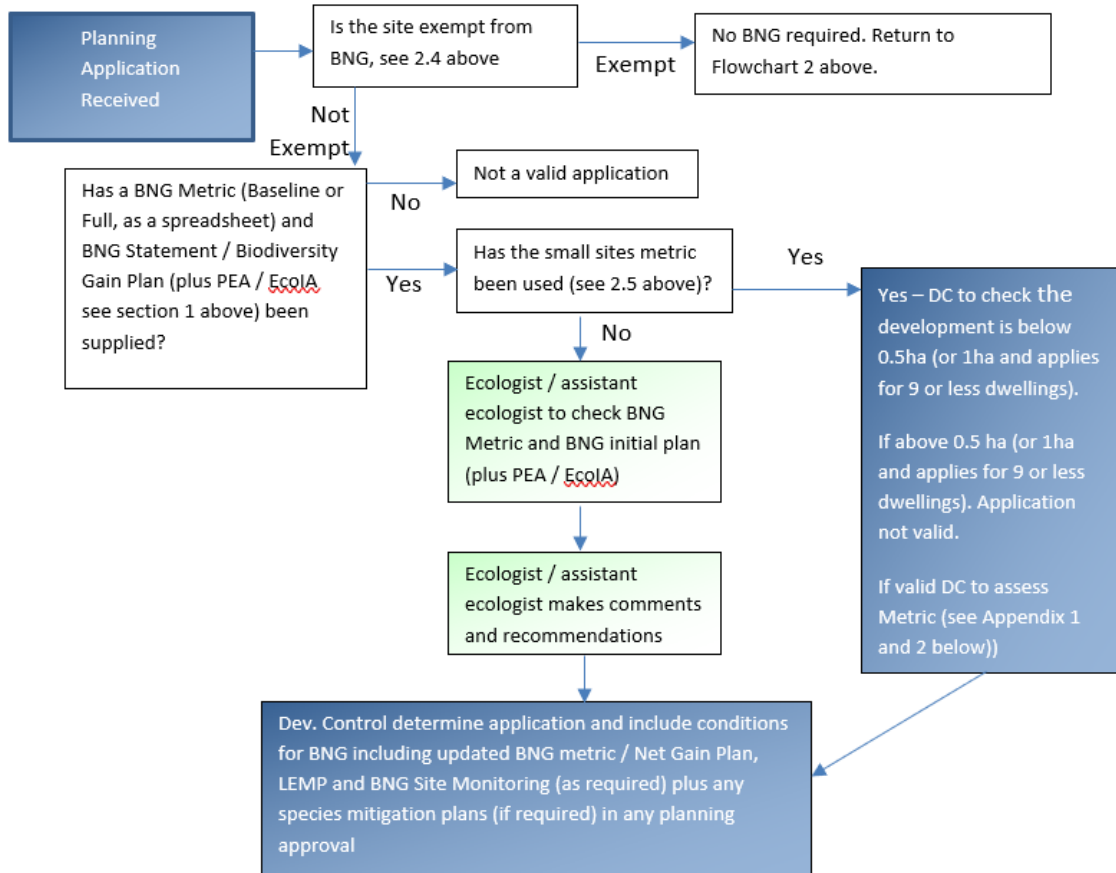
## 9. Recommendation

It is RECOMMENDED that Cabinet considers and, if satisfied, approves the proposals for assessing strategic significance under Biodiversity Net Gain.

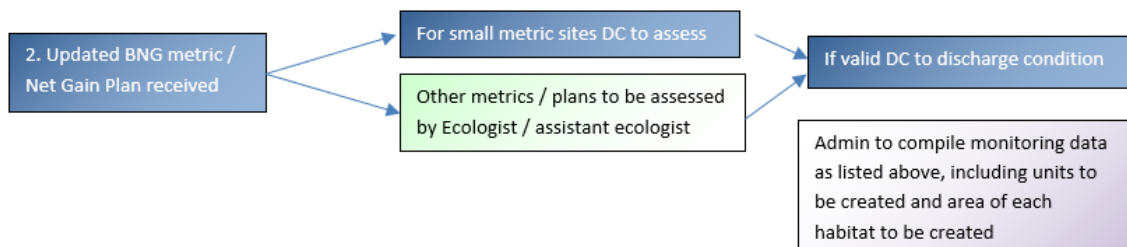
<b>For more information contact:</b>	David Banks - Director Neighbourhoods
<b>Background papers available for Inspection:</b>	Draft Minutes of the meeting of the Growth and Development Scrutiny Group - Wednesday, 19 July 2023, online at <a href="https://democracy.rushcliffe.gov.uk/documents/g122/Printed%20minutes%2019th-Jul-2023%2019.00%20Growth%20and%20Development%20Scrutiny%20Group.pdf?T=1">https://democracy.rushcliffe.gov.uk/documents/g122/Printed%20minutes%2019th-Jul-2023%2019.00%20Growth%20and%20Development%20Scrutiny%20Group.pdf?T=1</a> Metric 4 User Guide, published by Natural England online at <a href="https://publications.naturalengland.org.uk/file/6188841413902336">https://publications.naturalengland.org.uk/file/6188841413902336</a> Government announcement about BNG made 27/09/2023 online at <a href="https://www.gov.uk/government/news/biodiversity-net-gain-moves-step-closer-with-timetable-set-out">https://www.gov.uk/government/news/biodiversity-net-gain-moves-step-closer-with-timetable-set-out</a>
<b>List of appendices:</b>	Appendix 1 – Flow Chart of proposed BNG procedures at Rushcliffe

	<p>Appendix 2 – Map of Nature Conservation designated sites in Rushcliffe</p> <p>Appendix 3 – Map of Focal Areas in Rushcliffe identified by the Biodiversity Opportunity Mapping exercise</p> <p>Appendix 4 - Rushcliffe Sites regarded as Nature Reserves 2020 from Rushcliffe Nature Conservation Strategy</p>
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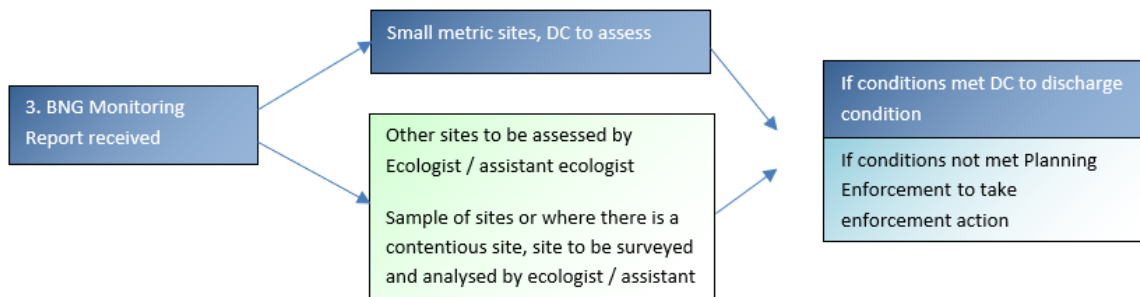
## Appendix 1 – Flow Chart showing the proposed BNG procedure at Rushcliffe



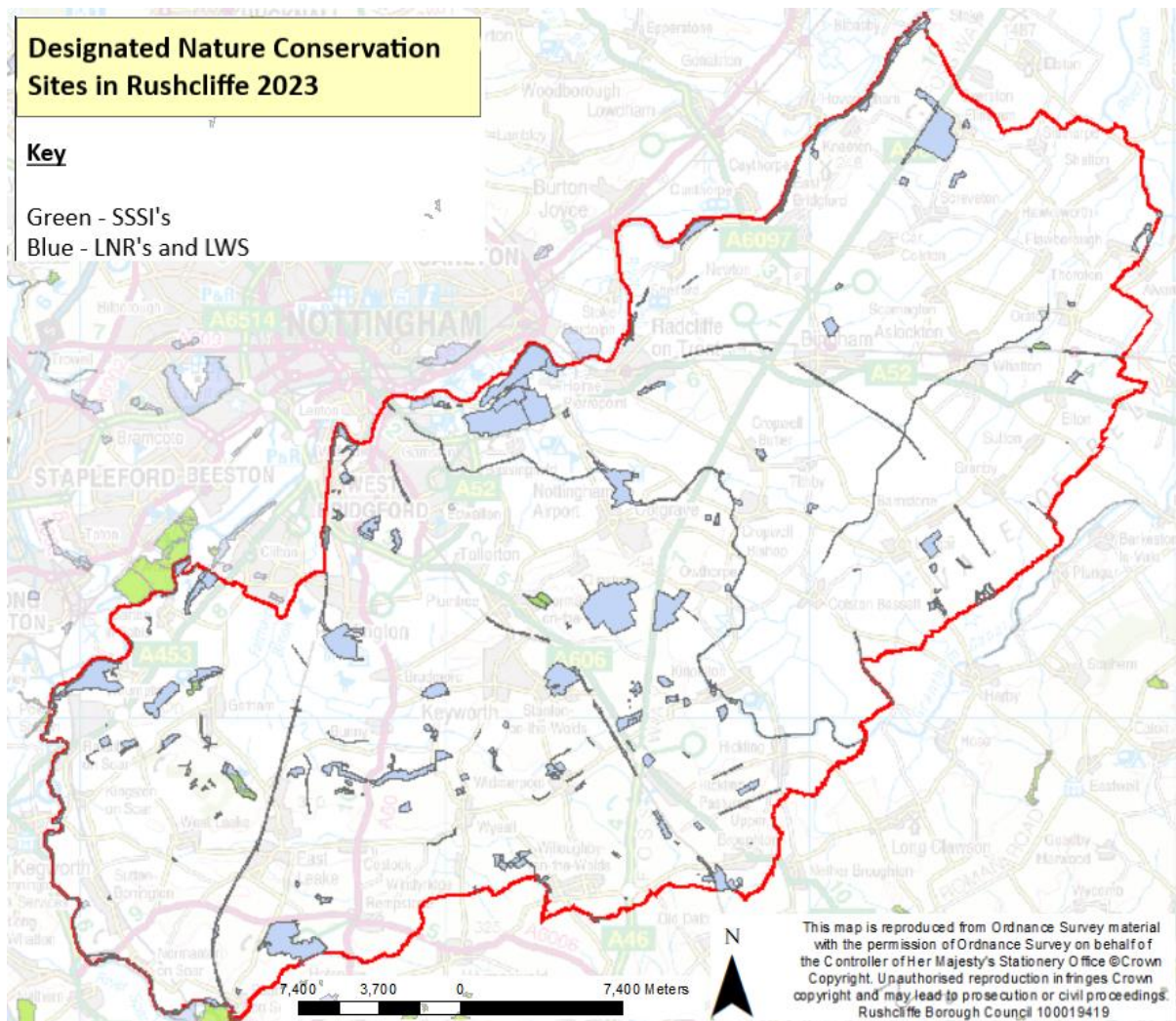
### 2. Discharge of Conditions



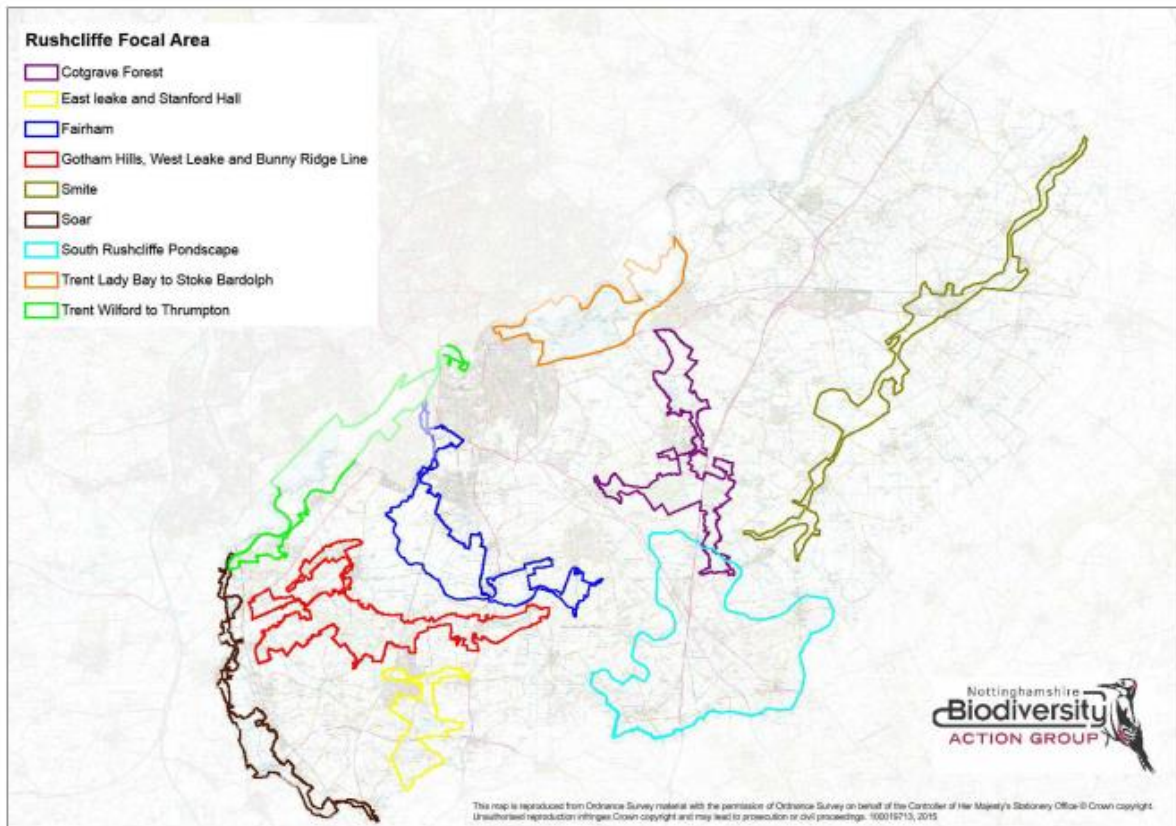
### 3. Ongoing site monitoring post development



## Appendix 2 – Map of Nature Conservation designated sites in Rushcliffe



### Appendix 3 – Map of Focal Areas in Rushcliffe identified by the Biodiversity Opportunity mapping exercise



**Appendix 4 - Rushcliffe Sites regarded as Nature Reserves 2020 from Rushcliffe Nature Conservation Strategy**

<b>Site</b>	<b>Ownership (Management)</b>	<b>Area Ha</b>	<b>Designation</b>	<b>Habitats</b>	<b>Management Plan (last update)</b>	<b>Public Access</b>
Bingham Linear Walk	Bingham Town Council (Friends Group)	12	LWS; LNR	Grass; Wood	Yes	Yes
Bridgford Street Wildflower Meadow, East Bridgford	East Bridgford Parish Council (East Bridgford Wildlife and Biodiversity Group)	0.5	-	Grass	Yes	Yes
Bridgford Street Copse, East Bridgford	Southwell Diocese of the Cof E (East Bridgford Wildlife and Biodiversity Group)	0.5	-	Wood	Yes	Yes
Bunny Old Wod	Nottinghamshire Wildlife Trust	16	LWS	Wood	Yes (2019)	Yes
Collington Common, West Bridgford	Rushcliffe Borough Council	1.4	-	Grass	Yes	Yes
Costock Pond	Costock Parish Council	0.8	-	Pond; Grass	Yes	Yes
Cotgrave Country Park	Nottinghamshire County Council (Friends Group)	60	LWS	Grass; Pond; Lake; Wood; Reedbed	Yes	Yes
Dewberry Hill, Radcliffe-on-Trent	Nottinghamshire County Council (Radcliffe-on-Trent Parish Council / (Radcliffe on Trent Conservation Group))	8.6	LWS	Grass; Wood	Yes	Yes
Gotham Railway Path	Gotham Parish Council	0.9	-	Wood; Grass	?	Yes



Site	Ownership (Management)	Area Ha	Designation	Habitats	Management Plan (last update)	Public Access
Gotham Sandbanks Nature Reserve	British Gypsum (Gotham Nature Reserve Trust)	1.05	SSSI; LWS	Grass; Wood	Yes	Yes
Grantham Canal	Canal & River Trust	25	SSSI; LWS	Pond; Marsh; Reedbed	Yes	Yes
Green Line, West Bridgford	Rushcliffe Borough Council	1.4	LWS	Grass; Wood	Yes	Yes
Gresham Marsh, West Bridgford	Environment Agency	8.8	LWS	Grass; Marsh; Reedbed	Yes	Yes
Greythorne Dyke Open Space, West Bridgford	Rushcliffe Borough Council	2.67	-	Grass; Marsh; Wood; Reedbed	In preparation	Yes
Holme Pierrepont Country Park	Nottinghamshire County Council (Holme Pierrepont Leisure Trust /Serco)	109	Part LWS	Grass; Wood; Pond	?	Yes
Keyworth Burial Ground	Keyworth PC	1.05	-	Grass	Yes	Yes
Keyworth Meadows	Keyworth PC (Friends Group)	1.25	LWS; LNR	Grass; Pond	Yes	Yes
Langar Community Wood	Naturescape	4.7	-	Wood	Yes	Yes
Langar Village Pond	Langar Parish Council	0.02	-	Pond	?	Yes
Lily Ponds, Radcliffe-on-Trent	Radcliffe-on-Trent Parish Council (Radcliffe on Trent Conservation Group)	4.7	Part LWS	Grass; Pond	Yes	Yes
Meadow Covert	Rushcliffe Borough Council	2	LNR	Wood	Yes	No



Site	Ownership (Management)	Area Ha	Designation	Habitats	Management Plan (last update)	Public Access
Wood, West Bridgford						
Meadow Park, East Leake	Rushcliffe Borough Council (ELPC / Friends Group)	18	-	Grass; Stream	Yes	Yes
Orston Millennium Green	Orston Parish Council	1	-	Grass; Pond	Yes	Yes
Orston Plaster Pits	Girl Guides	4.72	SSSI	Pond; Grass; Woodland	Yes	Guides
Queens Wood	Aslockton Parish Council	0.3	-	Woodland	Yes	Yes
Rushcliffe Country Park, Ruddington	Rushcliffe Borough Council	85	LWS; LNR	Pond; Grass; Wood; Lake; Reedbed	Yes	Yes
Sharphill Wood, Edwalton	Rushcliffe Borough Council (Friends Group)	9.6	LWS; LNR	Wood	Yes	Yes
Sheldon Field, Cropwell Butler	National Playing Field Association (Sheldon Field Management Committee)	10.4	-	Grass	Yes	Yes
Skylarks, Holme Pierrepoint	Notts Wildlife Trust	47	LWS	Grass; Wood; Lake; Reedbed	Yes (2026)	Yes
Springdale Wood, East Bridgford	Woodland Trust (Friends Group)	1.4	-	Wood	Yes	Yes
Stone Pit Wood, Gotham	Rushcliffe Scout District	3.1	LWS	Wood; Grass	Yes	Yes
Sutton Bonnington Diamond Wood	Nottingham University / Woodland Trust	19	-	Wood	In preparation	Yes

Site	Ownership (Management)	Area Ha	Designation	Habitats	Management Plan (last update)	Public Access
Sutton Bonnington Diamond Wood	Nottingham University / Woodland Trust	10	-	Wood	In preparation	Yes
Sutton Bonnington Spinney and Meadow	Sutton Bonnington Parish Council	2.5	LNR	Grass; Wood	Yes	Yes
The Hook, Lady Bay	Rushcliffe Borough Council (Friends Group)	15	LNR	Grass; Stream	Yes	Yes
Upper Saxondale Community Nature Reserve	Upper Saxondale Resident Association	3.2	-	Grass; Wood	Yes	Yes
Wilford Claypits, West Bridgford	Rushcliffe Borough Council (Notts Wildlife Trust)	4.3	SSSI; LWS	Pond; Marsh; Grass; Wood; Reedbed	Yes (2013)	Yes
Willoughby Wood, Willoughby on the Wolds	Woodland Trust	2.5	-	Wood	Yes	Yes
Wilwell Farm Cutting, Ruddington	Rushcliffe Borough Council (Notts Wildlife Trust)	7.5	SSSI; LNR	Marsh; Grass; Wood; Reedbed	Yes (2013)	Yes



**Cabinet**

**Tuesday, 10 October 2023**

**Rushcliffe Borough Council 50 Years Anniversary Plans**

## **Report of the Director – Neighbourhoods**

### **Cabinet Portfolio Holder for Business and Growth, Councillor A Brennan**

#### **1. Purpose of report**

- 1.1. The Local Government Act of 1972 reformed local government in the United Kingdom and came into force in April 1974.
- 1.2. The 1974 reorganisation saw Nottinghamshire adopt a two-tier local government structure, with a County Council and eight district councils: Ashfield, Bassetlaw, Broxtowe, City of Nottingham, Gedling, Mansfield, Newark and Sherwood, and Rushcliffe. In 1998, the City of Nottingham became a unitary authority, and these arrangements have since remained unchanged.
- 1.3. The District of Rushcliffe encompassed two former districts, Bingham Rural District and West Bridgford Urban District and part of a third district namely Basford Rural District. The new district was named after the ancient Rushcliffe Wapentake, which had covered part of the area. Rushcliffe means "cliff where brushwood grows" in old English. The new Rushcliffe district was granted Borough status from its creation, allowing the Chair of the Council to take the title of Mayor.
- 1.4. 2024 marks 50 years since the formation of Rushcliffe as a Borough and the authority would like to mark the occasion by delivering a number of projects throughout the year to commemorate the golden anniversary of the Borough.

#### **2. Recommendation**

It is RECOMMENDED that Cabinet approves proposals to undertake a series of initiatives to commemorate the past 50 years.

#### **3. Reasons for Recommendation**

The 50th Anniversary of the formation of the Borough of Rushcliffe provides an ideal opportunity to recognise the contribution that the Council has made to local, regional and national government, and to celebrate some of the key dates, events and individuals who have given up their time to make a real difference to their communities.

## **4. Supporting Information**

- 4.1. To mark this important milestone in local government and to ensure prudent use of Council resources the celebration will focus primarily on a Rushcliffe Arena atrium-based displays. In addition, a wider communication and media toolkit will be produced, providing social media posts and graphics, a new gold version logo campaign and associated promotional material, which can be used throughout 2024.
- 4.2. The Rushcliffe Arena atrium-based display at the Council's Civic headquarters will provide a historical timeline of the key events since 1974 aided by archive film footage and ephemera to make an interactive experience charting the history of the Borough.
- 4.3. The Borough's existing events programme for 2024 will contain a 50th Anniversary theme with opportunities to mark the anniversary at events such as the Taste of Rushcliffe Food Festival, Lark in the Park, the Celebrating Rushcliffe Awards, and the Christmas lights switch on.
- 4.4. Using existing resources, the Communications Team will create a suite of marketing materials including a Gold Shimmering 'R' logo and gold strap line, with the words 'Celebrating 50 years of Rushcliffe', a dedicated section in Rushcliffe Reports, and a social media photography campaign calling for photo, film, and other material to celebrate the history of Rushcliffe from local residents.

## **5. Alternative options considered and reasons for rejection**

The Council could resolve not to mark the 50th Anniversary of the Borough of Rushcliffe; however, this would be a lost opportunity to celebrate the history and culture of the Borough and the community it represents.

## **6. Risks and Uncertainties**

- 6.1. Due to the current climate of increasing costs and inflation there is a risk going forward that the cost of this celebration could increase, which could cause pressure on budgets or negatively impact quality of service provided. This has been mitigated by using existing resources and events to mark the celebration.
- 6.2. It is uncertain if Central Government or the Local Government Association intend to mark the 50th Anniversary of Local Government in England and if this would have any implication on the project plans that the authority has produced.

## **7. Implications**

### **7.1. Financial Implications**

The authority recognises that in a cost-of-living crisis the Council needs to strike the right balance between marking the 50 Year Anniversary of the Council and prudent financial management, so a budget allocation of £5,000 has been

allocated towards marking this event, with the majority of activity contained within existing resources.

## 7.2. Legal Implications

There are no legal implications contained within this report.

## 7.3. Equalities Implications

The 50 Year Anniversary celebrations present an opportunity to celebrate the diversity of the Borough and how it has evolved since 1974 into a multicultural society and celebrate the shared cultural way of life that the Borough has to offer.

## 7.4. Section 17 of the Crime and Disorder Act 1998 Implications

There is no Section 17 crime and disorder implication contained within this report.

## 7.5. Biodiversity Net Gain Implications

There are no biodiversity net gain implications contained within this report.

## 8. Link to Corporate Priorities

Quality of Life	Celebrating the 50th Anniversary of Rushcliffe as a Borough provides an opportunity reflect on the milestone of what the Borough has achieved and to look to the future on how we can continue to enhance the quality of life for our residents
Efficient Services	No direct link
Sustainable Growth	No direct link
The Environment	No direct link

## 9. Recommendation

It is RECOMMENDED that Cabinet approves proposals to undertake a series of initiatives to commemorate the past 50 years.

<b>For more information contact:</b>	Dave Banks Director of Neighbourhoods Tel: 0115 9148438 <a href="mailto:dbanks@rushcliffe.gov.uk">dbanks@rushcliffe.gov.uk</a>
<b>Background papers available for Inspection:</b>	Nil
<b>List of appendices:</b>	Nil

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