

Subject: Grass Cutting: Site Ownership and Maintenance **Status:** For Publication

Report to: Cabinet **Date:** 3rd June 2010

Report of: Director of Customers and Communities

Portfolio

Holder: Environmental Services

Key Decision: Yes

Forward Plan General Exception Special Urgency

1. PURPOSE OF REPORT

1.1 To provide information and awareness of current issues affecting grass cutting operations and potential changes to be considered.

2. CORPORATE PRIORITIES

2.1 The matters discussed in this report impact directly on the following corporate priorities:-

- Delivering Quality Services to Our Customers
- Keeping our Borough Clean, Green and Safe
- Providing Value for Money Services

3. RISK ASSESSMENT IMPLICATIONS

3.1 All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:

- Health and Safety risks to employees carrying out grass cutting and grounds maintenance;
- Risk to reputation – customers expect sites to be maintained;
- Reduced levels of customer satisfaction; and
- Public liability risk from carrying out work on sites that are not owned by Rossendale Borough Council.

4 BACKGROUND AND OPTIONS

- 4.1 Rossendale Borough Council (RBC) has a history of proactively managing the risks associated with grounds maintenance. Examples include a report submitted in 2001 where officers identified a number of sites where excessive gradients prevented safe access to labour and machinery
- 4.2 A large proportion of these areas, and other areas where gradients don't cause a problem, have been, and still continue to be, maintained by the Operations Team with a target frequency of 10 cuts per year between late March and the end of October.
- 4.3 Current staff numbers employed by the Operations Team reflect the workload that a 10 cut frequency produces. The machinery required is a combination of ride on mowers, pedestrian mowers and strimmers, used according to access, site conditions and risk assessments. The frequency of cut produces a standard considered acceptable to customers without excessive expense.
- 4.4 As part of the ongoing drivers to continue to proactively manage risk, as well as improving efficiency and customer satisfaction, following the Grass Cutting Task and Finish Group report in December 2008, the Operations Team has over the past twelve months reviewed current operations. As an outcome of these reviews a number of issues have been investigated and these are detailed below:-
- Cutting bankings, slopes and sites with vertical drops;
There still exist a number of sites where gradients are still excessive for staff and machines
 - Maintenance of sites not owned by Rossendale Borough Council;
Rossendale are maintaining sites outside the ownership of the Council
 - Customer requests to review current practices.
Some residents would like to see a greater quality additional areas cut.

4.5 Cutting bankings, slopes and sites with vertical drops

- 4.5.1 Nationally there have been a number of recent accidents resulting in the death and injury of operatives involved in the mowing of sloping sites, because of this the topic is currently one of interest to the Health and Safety Executive.
- 4.5.2 To proactively manage this, risk assessments of all sites identified with slopes and drops were carried out in 2008 and a subsequent report was submitted by Rossendale Borough Council's Operational Health and Safety Advisor in March 2009. However, new Health and Safety advice in April 2010 means that there is a crucial need to revise these assessments and draw up actions which are in line with current health and safety guidance. There is also an opportunity to consider recent innovations within the industry.
- 4.5.3 Each site requires a detailed risk assessment prior to establishing the optimal solution for safe maintenance and customer expectation. However the options to consider are:

- Use of tractor and side arm flail (whether in house or via contractor).
The purchase of the equipment is £43,000 (£24,000 for tractor and £19,000 for side arm flail), and the equipment would need to be replaced every 3-5 years. These costs are not currently contained with existing revenue or capital budgets. There may be an opportunity of resolving this via the Public Realm Project but this is uncertain at this moment in time;
- Discontinuing mowing on all, or part of the sites with multiple owners;
- Trial and develop new vegetation types on sites which require no maintenance but give an improved visual appearance against long grass (this being white clover); or
- Use shrub plantings as a physical barrier.

4.6 **Maintenance of sites not owned by Rossendale Borough Council**

4.6.1 The Operations Team currently maintain some 117 sites which either fall within the Greenvale Homes area (13 sites) , are in sole private ownership or part owned by the Council or have S106 agreements whereby the developer has failed to pay.

4.6.2 These sites only represent a small percentage (approximately 4%) of overall land but do represent a number of legal and ethical issues.

4.6.3 The estimated costs of maintaining these sites is approximately £15,000 however this figure does not represent a true cash value as this is representative of staff time and each site represents only a small percentage of time for each time, spread over the total contract area. Nevertheless it would be possible to redirect some of the potential time saved to other priorities.

4.6.4 If the council were to seek to acquire land where ownership was dubious, a cost would be incurred for commissioning land searches, correspondence to known owners, or adopting unregistered land. It is estimated that these costs would be approximately £1,500 in officer time, plus £1,000 in administrative fees.

4.6.5 Acquiring or possessing unregistered land would on average take between 2-3 months from start to finish. However. If the land has a registered owner who is not contactable then the process could take up to 8 months to resolve. Based on previous experience, it is estimated that over 50% will be in the 'unregistered' category.

4.6.6 Options in relation to privately owned land are:

- Continue maintenance on all of these sites indefinitely at RBC expense (however there are liability implications with regard to this course of action);
- Issue the land owners a time limited offer of maintenance after which RBC ceases maintenance and take that time to negotiate hand over;

- Where the landowner can be contacted then offer continuation of maintenance at a cost. If the landowner is not prepared to pay then enter in to a formal process of registering the land as an adverse possession, where ownership to the property is acquired without compensation;
- Cease all maintenance at a given date on all privately owned areas regardless of whether land ownership can be established; or
- Acquire the sites through a direct purchase, a CPO or seek to register them at the Land registry. However, the cost of actioning in this manner would make this a financially unviable option.

4.7 Green Vale

4.7.1 With regards to sites owned by Green Vale Homes, the issue of land ownership is not in question as this was clarified during the transfer procedures from RBC to Green Vale. However what is being questioned is the classification of the transferred land. Green Vale has classified some of the sites as highway verges and therefore an LCC Responsibility, whereas LCC feel that the areas in question are not highway verges. In the absence of suitable mediation RBC have continued to maintain Green Vale sites through goodwill until a hand over can be negotiated and agreed.

4.7.2 Options are:-

- Continue maintenance on all of these sites indefinitely at RBC expense;
- Cease all maintenance at a given date on all Green Vale Homes areas and enforce the maintenance under contract; or
- Acquire the site back to RBC ownership from Green Vale Homes.

4.8 Customer requests to review current practices.

4.8.1 A number of sites were removed from the routine maintenance schedule in 2001 for health and safety and budgetary reasons. Since that time there have been six sites which customers have repeatedly requested we review – Venture Street, Bacup; Heathbourne Road, Stacksteads; Knowsley Crescent, Shawforth; Valley View nr Leavengreave playing field; Lodge Lane, Bacup and Market Street, Bacup (note: this site also forms part of the public realm issue).

4.8.2 The banking at Market Street, Bacup was also raised by the Grass Cutting Task and Finish Group, where Members were concerned about the fact it doesn't get cut and recommended at the time that the relevant specialist equipment be purchased to enable cutting to re-commence. Unfortunately no funding was available to facilitate this.

4.8.3 It is still the case that the Operations Team do not have the resources to simply add these on to the schedule as amenity grass and maintain the 10 cut standard across the Borough. Frequency of cuts would need to be evaluated

and essentially reduced on existing sites to allow these areas to be added to the current programme.

4.8.4 The Operations Team has identified crossovers between the potential LCC Public Realm Project and opportunities for dealing with the issues of customer requests, mainly through the ability to utilize equipment required to maintain rural verges. However at the present time the budget allocation for the project is insufficient to purchase this equipment. Without sufficient capital and revenue allocation for the project it is not possible to proceed.

4.8.5 Options are:

- Do not change current practices and do not maintain these sites despite customer requests; or
- Add these sites on to the schedule and risk assess in line with other sites; then evaluate the frequency of cuts on these and all existing sites and fit in to current schedule (at no additional cost, but a change on site in frequency or style of maintenance). This is likely to affect the current maintenance regime on existing maintained sites, and is likely to mean a reduction in overall standards as grass would be cut less often on existing sites, however the additional sites would be cut where they are not at the moment.

COMMENTS FROM STATUTORY OFFICERS:

5. SECTION 151 OFFICER

5.1 The financial implications arising from the report are uncertain in a number of areas amongst others they are:

- Bankings, slopes and drops: until risk assessments are completed and the implications identified it is not possible to identify the financial implications arising.

5.2 The Councils Medium Term Financial Strategy indicates a number of significant financial pressures over the medium term. Any final recommendations must be contained within identifiable and available budget resources.

6. MONITORING OFFICER

6.1 Comments are contained within the report.

7. HEAD OF PEOPLE AND POLICY (ON BEHALF OF THE HEAD OF PAID SERVICE)

7.1 The report has no Human resource implications

8. CONCLUSION

- 8.1 The media and HSE interest combined with the reported acknowledgement that mowing sloping bankings is posing a risk to RBC employees, means that action must be taken to eliminate or reduce this risk
- 8.2 The costs of remedying this situation should be considered low compared to the high human cost of injury or death of an employee. Of other importance would be the financial costs incurred from such an incident, which may include costs of costs of repairs to mowers and other equipment.
- 8.3 However it is important to recognise that there is customer expectation that sites will be maintained and previous removal of sites from the schedule has caused upset in some circumstances, and requests for reinstatement. It is therefore necessary to ensure that an alternative maintenance regime is in place on the various sites where possible.
- 8.4 The report also identifies a number of sites whereby the council has no legal ownership, and therefore no legal responsibility to maintain.

9. RECOMMENDATION(S)

9.1 **Cutting bankings, slopes and sites with vertical drops** **Recommendation options:**

- 9.1.1 The Operations Team complete a detailed risk assessment for each maintained site, focusing on those with slopes, drops or hazards first, develop safe systems of work and cost estimates for implementing these; and
- 9.1.2 Following the completion of this process, a further report is submitted to Cabinet setting out the findings and implications for service delivery.

9.2 **Maintenance of sites not owned by Rossendale Borough Council** **Recommendation Options:**

- 9.2.1 Continue maintenance on all of these sites indefinitely at RBC expense (however there are liability implications with regard to this course of action);
- 9.2.2 Issue the land owners a time limited offer of maintenance after which RBC ceases maintenance and take that time to negotiate hand over;
- 9.2.3 Where the landowner can be contacted then offer continuation of maintenance at a cost. If the landowner is not prepared to pay then enter in to a formal process of registering the land as an adverse possession, where ownership to the property is acquired without compensation;
- 9.2.4 Cease all maintenance at a given date on all privately owned areas regardless of whether land ownership can be established; or

9.2.5 Acquire the sites through a direct purchase, a CPO or seek to register them at the Land registry. However, the cost of actioning this would make this a financially unviable option.

**9.3 Greenvale Homes Sites
Recommendation Options:**

9.3.1 Continue maintenance on all of these sites indefinitely at RBC expense;

9.3.2 Cease all maintenance at a given date on all Green Vale Homes areas and enforce the maintenance under contract; or

9.3.3 Acquire the site back to RBC ownership from Green Vale Homes.

**9.4 Customer Requests to Review Current Practices
Recommendation Options:**

9.4.1 Do not change current practices and do not maintain these sites despite customer requests; or

9.4.2 Add these sites on to the schedule and risk assess in line with other sites. Evaluate the frequency of cuts on these and all existing sites and fit in to current schedule (at no additional cost, but a change on site in frequency or style of maintenance). This is likely to affect the current maintenance regime on existing maintained sites, and is likely to mean a reduction in overall standards as grass would be cut less often on existing sites, however the additional sites would be cut where they are not at the moment.

10. CONSULTATION CARRIED OUT

10.1 With regard to bankings, no formal consultation with customers has been carried out as the matter is one concerning employee safety and law. Customer feedback regarding additional sites and expectations of grounds maintenance standards has been accounted for.

10.2 The RBC legal team has been consulted regarding the implications of carrying out mowing operations on land not owned by the council. Staff have been consulted and involved in the initial risk assessment exercise. Their concerns and previous incidents and accidents have been accounted for.

11. COMMUNITY IMPACT ASSESSMENT

Is a Community Impact Assessment required No

Is a Community Impact Assessment attached No

12. BIODIVERSITY IMPACT ASSESSMENT

Is a Biodiversity Impact Assessment required No

Is a Biodiversity Impact Assessment attached No

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