



SHEFFIELD TREE ACTION GROUPS (STAG)

Press Release

14 January 2019

TREE CAMPAIGNERS REJECT COUNCIL SCHEME

**Too many healthy trees still condemned for questionable reasons
Campaigners will be back on the street on Tuesday 15 January**

Following a month of intensive debate and consultation in the Sheffield Street Tree campaign, the city's tree protectors have resoundingly rejected Sheffield City Council's scheme to 'phase' the removal of healthy trees. Campaigners plan to be out on Chatsworth Rd on Tuesday to show their solidarity while STAG continues to work with contractors Amey on identifying trees that might escape the Sheffield Council chop.

In December, following months of talks with tree campaigners and with highway contractors Amey, Sheffield City Council (SCC) announced a new plan for the city's street trees. This was widely reported as an end to the disputes on our streets. In fact, tree campaign negotiators warned the Council about the faults of the new scheme and, now it is public, it has become apparent that active tree campaigners across the city are unanimous in rejecting it.

Chris Rust, a member of the STAG negotiating group, said:

During the talks we tried to explain to SCC that their ideas were not likely to win over campaigners. However they were determined to push on with the scheme they had worked out beforehand, rather than discuss what might gain agreement. Once the confidential discussions were over and the plan was made public we had a storm of feedback from tree campaigners. They are not prepared to stand by and see healthy trees felled.

We are angry that the announcement of the scheme was stage-managed by SCC's professional spin doctors. Journalists were prevented from seeing the SCC/STAG joint statement until after the SCC presentation and questions. With the pressure of deadlines, some crucial facts were concealed until too late, hence the number of misleading stories in the news media. We trusted SCC to run a joint event and they buried our side of the story.

During the week after the SCC announcement there was a rising tide of discussion on tree campaigners' social media groups. Comments included:

so the talks have achieved precisely nothing to save the trees I have helped defend in the past, feeling pretty sick... thanks for trying folks

On my parent's road one out of seven trees has been saved, these talks seem to have achieved nothing

To me, (phasing the fellings) just prolongs the agony. The trees are still on death row.

The feeling was unanimous that, since SCC still plan to chop down a large number of healthy trees, mostly for displacing kerb stones on quiet roads, tree campaigners were just as determined as ever to resist the fellings despite some trees being saved. Local group meetings around the city have been unanimous. Carole Sutherland of Save Gleadless Valley Trees, a group that has seen some of the most bitter confrontations with private security guards and police, said:

We discussed the City Council scheme and had a show of hands. Everyone in the room was adamant that this was a bad deal and we wanted no part of it. The determination to defend our healthy trees is as high as ever. If they come back to cut down healthy trees then of course the protests will continue. Other cities find simple ways to keep mature trees, why can't Sheffield?

Meanwhile campaigners are angry that SCC have resisted calls for an inquiry into what went wrong. Paul Brooke, Co-Chair of STAG, said

The Council have stated that "an inquiry would be a distraction". When is getting to the truth a distraction? During the talks we set out clear evidence of how the public have been misled over the past five years and the Council was not able to refute the evidence we provided. In private they say mistakes were made but we need this to be public. There are people with suspended prison sentences in Sheffield for defending trees that miraculously now don't need to be felled. Campaigners have nothing to hide but it appears the Council and South Yorkshire Police do.

SCC insist they will fell 60 mostly healthy trees in the coming year with 113 more trees 'phased' for felling over the next nine years. Campaigners say the reasons for felling are extremely questionable so they will be back on the street to protest unnecessary fellings.

South Yorkshire Police, who have played a crucial role in enabling fellings, are still reeling from a series of big payouts to tree campaigners wrongfully arrested earlier in the campaign and from the huge cost of policing felling sites in 2017-18. Contractors Amey, in financial trouble and up for sale, are feeling the pain of the costs they incurred trying to push through Sheffield Council's tree plans over the past three years. Nothing is certain.

Tuesday's technical investigations and planned demonstration will be at:
Chatsworth Rd, Sheffield S17 3QG, commencing 9:30am, Tuesday 15 January

Background Information

Contents

1. Link to Joint Statement at end of talks in December
2. STAG's press briefing explaining key issues in the talks and Joint Statement

Joint Statement by SCC, STAG & Amey

following negotiations during October-December 2018

<https://www.sheffield.gov.uk/content/dam/sheffield/docs/roads-and-pavements/managingtrees/Joint%20position%20statement%20SCC,%20Amey%20&%20STAG.pdf>

NB This is not an agreement or deal on SCC plans

It sets out some aspects where there is agreement and gives the different positions of the parties on those aspects where we do not agree.

STAG's December 2018 press briefing on the talks and joint statement

Information relating to the Joint **Position Statement on Mediated Talks between Sheffield City Council, Amey, and the Steering Group for Sheffield Tree Action Groups (STAG SG)** published on 14 December 2018

STAG Steering Group (STAG SG) representatives have been engaged in a series of mediated talks as set out in the Joint Position Statement.

We are pleased that some progress has been made in the talks and that a process of seeking a resolution will continue. A phase of joint investigation and problem solving will take place and further joint work is planned. It is helpful that the Council is now publishing its much publicised new proposals.

We are pleased that the new proposals result in some trees that we were previously told must be felled, being reprieved. The planned actions for joint investigation into other trees may result in more trees being reprieved.

The Joint Position Statement also records areas where we were not able to reach a common understanding. For STAG SG a significant concern is that the Council will not work with us on establishing an independent inquiry.

In this briefing we outline some of the key issues where the Council has misled the public and where as a result STAG considers that an Inquiry is essential.

1. **The Five Year Tree Management Strategy**
2. **Engineering Solutions**
3. **Misrepresentation of Highways Act requirements and STAG proposal for amendment to contract specification for straight kerbs**

1. The Five Year Tree Management Strategy

Summary: SCC have concealed important strategy documents and made public a paraphrased and significantly different version purporting to be the actual strategy. This has misled both public and the courts.

Background

Amey are required in the contract to write a Five Year Tree Management Strategy (5YTMS) document and submit it to the Council with annual updates. These documents were redacted and not available until July 2018.

In January 2016, the Council did release the Streets Ahead Five Year Tree Management Strategy, labelled Version 7. [Published V7 of the 5YTMS](#)

This has a version control front sheet showing the revisions and dates of previous versions. It shows that revisions and development of the 5YTMS occurred between Feb 2013 and July 2013 **but it states that it remained unchanged from Nov 2013 to Jan 2016.**

In it were included 14 supposedly free (to the Council) engineering solutions (3.2) that could be used to retain trees and the 6 D's criteria - Dead, Diseased, Dying, Dangerous, Damaging and Discriminatory - that would be used under the contract to determine if a tree should be considered for removal and replacement.

This document was used in the March 2016 and July 2017 court cases to demonstrate the Council's reasonableness. However, various FOIA answers to campaigners revealed that very few of the 14 free solutions were allowed, many being ruled out in other parts of the PFI contract. This brought into question the validity of the document, and in an answer to a carefully worded FOIA question in April 2018, SCC admitted the document was worthless.

Requests to see prior versions of the strategy document were rejected, the Council saying in response to FOIA questions that the prior versions had been deleted and the Council retained no record of them. Further carefully worded FOIA questions by campaigners revealed that, had these earlier versions been deleted, then the Council officer that had ordered their deletion would need to be put through disciplinary procedures. Only weeks after this FOIA answer, the Council miraculously "stumbled across" the old versions – "stumbled across" being the Council's own words in their FOIA responses. In July 2018 these 'found' documents were published.

Comparing the versions

2012 5YTMS

Contained within the 2012 version of the 5YTMS ([2012 v1 of 5YTMS](#)) is a clear and detailed plan to fell 17,500 trees. It has no reference to the 6 D's categories or the 14 'free' Engineering Solutions. It is clear that this version is likely to have been produced at the contract tender/procurement stage. This makes the Nov 2013 version the critical first strategy jointly agreed following the awarding of the contract.

Nov 2013 5YTMS ([2013 v5 of 5YTMS](#))

In the list of Strategic Goals is this statement:

Minimise future maintenance costs through species selection and appropriate management.

Campaigners have stated repeatedly that maintenance costs were a factor in SCC/AMEY decision making on trees to be felled.

This document no longer contains the list of 17,500 trees estimated for removal.

There is no list of Engineering Solutions and no mention of the later publicised 6 D's criteria; however it lists the Factors for consideration (agreed by the Council and forming part of the contract) for decision making on individual trees. These are:

1. Tree health/condition
2. Species suitability
3. Highway obstruction
4. Damage to surrounding surfaces
5. Third party damage
- 6. Life expectancy**
- 7. Future management options**
8. Landscape impact
9. Engineering solutions
10. Heritage and habitat value

It should be noted that points 6 and 7 do not fit into the later publicised 6 D's and point 7 relates to the Strategic Goal of reducing future maintenance costs.

The actual contract Version 7 of the 5YTMS (Nov 2015) ([2015 v7 of 5YTMS](#))

According to the version control record this is the 'actual' Version 7 that is a contract document (as opposed to the one that the council publicised and relied on in the High Court - [Published V7 of the 5YTMS](#)).

In the Strategic Goals list, the wording "**Minimise future maintenance costs** through species selection and appropriate management" has been removed and a new **Strategic Goal** has been added, stating:

Embrace inclusive mobility in creating a modern highway environment that is fit for the purpose of all.

In the list of Factors for consideration of selection for replacement now includes:

"Inclusive mobility (Equalities Act) implications"

It also now makes reference to the 6 D's by stating

"Sheffield City Council have chosen to capture the sentiment of the above survey considerations [Factors] using more generic terminology, which has been branded as the 6 D's criteria."

None of these changes are accurately reflected in the version control schedule which indicates that no significant changes have been made.

Conclusions

It is clear that between 2012 and 2016 the contractually agreed goals included reducing maintenance costs and the factors used in determining which trees to replace included consideration of maintenance costs and life expectancy of trees. These were key claims made

by campaigners and were rebutted by the Council in its creation of the 'fake' Version 7 of the 5YTMS which it used in the High Court and in the court of public opinion.

Contractually there are no listed Engineering Solutions or 6 D's criteria.

The Council's explanation for releasing the completely different "public version" of version 7 was that they wanted a version more easily read and understood by the public and the false version control references were an error. This does not explain why the spurious 'public' version had five 'strategic goals' which did not appear in the actual strategy, for example "Maximise potential canopy cover..." and "Improve function of highway trees through innovative design strategy."

Given the attempts to deny that the earlier versions existed, and that when they were released, they were so different, this only increases the suspicion that the fake version 7 was an attempt to mislead the public.

It is STAG Steering Group's position that SCC has had the opportunity to set the record straight through this process of talks but has decided to continue to withhold the truth from the public and maintain their lack of transparency about the whole issue.

2. Engineering Solutions

Summary: SCC have made frequent reference to agreed 'engineering solutions', leading the public to believe that these were a significant part of the arrangements for managing street trees. It appears now that this was not true.

A list of Engineering Solutions were set out by the Council in a 'public' version of the Five Year Tree Management Strategy (which is as shown above a fake and non-contractual document) and the Council continues to maintain that these Engineering Solutions are always considered in the decision making process for individual trees.

14 Engineering Solutions

1. Installation of thinner profile kerbs.
2. Excavation of footways for physical root examination prior to an ultimate decision being made on removal.
3. Ramping / Re-profiling of footway levels over roots (within acceptable deviation levels).
4. Flexible paving/surfacing solution.
5. **Removal of displaced kerbs leaving a gap in the channel.**
6. Filling in of pavement cracks.

Alternative Solutions

7. Root pruning.
8. Root shaving.
9. Root barriers and root guidance panels.
10. Excavation beneath the roots damaging the footway.
11. Tree growth retardant.
12. Creation of larger tree pits around existing trees.
13. Heavy tree crown reduction/pollarding to stunt tree growth.
14. Retain dead, dying, dangerous and diseased trees for their habitat value.

During the four days of joint talks SCC have made it clear that engineering solution number 5 above is prohibited by the contract and is not desirable. SCC stated that to change the contract (as set out below in Schedule 2 – Performance Standard 2) would not be possible and that the Dept for Transport would not accept such an amendment unless this was only as a temporary measure.

It is STAG Steering Group’s position that SCC continues to mislead the public by claiming that the Engineering Solutions are and have always been considered

	Service Delivery Output Element	Performance Requirement	Rectification Period	Repeat Period	Adjustment Type	Grace Period	Monitoring Methodology
2.58 (c)	Kerbs and Edgings	The Service Provider shall ensure that no Kerb or Channel Block immediately adjacent to or within a Prestige Area is missing.	1 month	1 month		N/A	Service Inspect
2.58 (d)	Kerbs and Edgings	The Service Provider shall ensure that no Kerb or Channel Block not covered by Performance Requirement 2.58 (c) and no Edging is missing.	1 year	1 year		3 Milestone Years	Service Inspect

	Service Delivery Output Element	Performance Requirement	Rectification Period	Repeat Period	Adjustment Type	Grace Period	Monitoring Methodology
2.60 (a)	Kerbs and Edgings	In relation to Edgings, the Service Provider shall ensure that on each Footway Section Length there is no Undue Deviation from line or level as designed including breakdown of materials.	1 year	1 year		4 Milestone Years	Service Inspect
2.60 (b)	Kerbs and Edgings	In relation to Kerbs or Channel Blocks immediately adjacent to or within a Prestige Area the Service Provider shall ensure that on each Footway Section Length or Road Section Length there is no deviation in any plane exceeding twenty (20) millimetres in any one (1) metre length or which Detracts From The Visual Appearance of the Kerbs or Channel Blocks	1 month	1 month		N/A	Service Inspect

/contd...

3. Misrepresentation of Highways Act requirements & STAG proposal for amendment to contract specification for straight kerbs

Summary: In the talks it was apparent that the 'root cause' for a big proportion of healthy tree fellings is SCC's insistence on adherence to their 'straight continuous kerb' specification. SCC continue to assert that this is necessary to meet their obligations under the Highways Act and their obligations to the public for a high quality highway. They have also asserted that the Department for Transport (DfT) will not agree to a change in the contract specification to allow minor relaxations of the kerb requirements. These assertions are incorrect.

The release of Schedule 2 ([Schedule 2](#)) of the PFI contract in March 2018 also included various obligations about strict straight kerb line requirements placed upon Amey. There are a number of kerb related obligations set out in Performance Standard 2. Specifically Performance Measures 2.58(c) 2.58(d) and 2.60(a).

The Council have admitted in private that this is one of the main root causes of the felling of so many trees. They previously denied this prior to the Schedule 2 release; indeed they stated that most of the fellings were required in order to meet their Highways Act obligations or duties.

The Highways Act does not require strict straight kerb lines, confirmed to campaigners by many independent highways engineers.

Section B.5.46 of the Department for Transport commissioned document "Well-managed highway infrastructure: a code", states:

"extensive root growth from larger trees can cause significant damage to the surface of footways, particularly in urban areas. A risk assessment should therefore be undertaken with specialist arboricultural advice on the most appropriate course of action, if possible to avoid harm to the tree. In these circumstances, it may be difficult for authorities to reconcile their responsibility for surface regularity, with wider environmental considerations and a reduced level of regularity may be acceptable."

Amey staff have admitted in private to campaigners that they could save many or most of the trees if they were allowed to curve the kerbs, leave a kerb stone out or use alternate perfectly legal kerb solutions, but the Council continues to insist on perfectly straight and continuous kerb lines.

STAG SG proposed that:

SCC and STAG jointly approach the Dept for Transport (DfT) to explore the options for a relaxation of the specification. The Council was not willing to do this and stated that a change to the contract would not be acceptable to the DfT. The Council stated that the DfT would only give agreement for a temporary relaxation of the specification to allow a phasing of tree felling, as per its proposal. STAG made the approach to DfT independently.

In joint discussions between STAG SG, the Dept for Environment, Fisheries and Rural Affairs (DEFRA) and the DfT an alternative proposal was put forward by STAG. DfT and DEFRA have confirmed to STAG SG (and this has been passed to SCC) that DfT have no objections to the STAG proposal below.

STAG's suggested amendment to SCC 'Proposal'

SCC propose that a temporary relaxation or 'sub-optimal' solution be applied for the purpose of phasing trees in the CIP 305 cohort. This is based on a consideration that a safe highway that

meets the requirement of the Highways Act is achieved but that the solution falls short of the contract specification requirement.

STAG consider that if the highway can be made safe and to a standard that meets SCC's duties under the Highways Act for a period of years during the phasing, then this solution is all that is required. The reason for felling becomes one of an insistence by SCC on a wording of the contract specification.

STAG therefore suggest that all the trees planned for felling (both in the 305 cohort and in the remaining network) are assessed using an appropriate risk and asset-based process – using CAVAT or I-Tree or an assessment against the guidance for issuing Tree Preservation Orders for example.

A contract variation should be agreed that allows for flexibility in the contract specification (including gaps in the kerb line or pavement gradients etc) within a set distance of any tree and where that tree has met an agreed threshold in a risk and asset-based assessment.

Amending the proposal in this way seeks to prevent trees with a high asset value (mature large canopy trees, War Memorial trees and those with community/cultural value) that pose minimal risk to the network being felled simply to achieve a contract specification (for example, a neat and continuous kerb line). This would reduce the risk of trees being felled as an unintended consequence of seeking to improve the highway network. This properly protects the assets of the Council whilst ensuring that the Council achieves its duties under the Highways Act.