

## Information for meeting between STAG & South Yorkshire Police 20 April 2018, Kenwood Park Hotel

### 1. Proposed talks with Sheffield City Council

It is a priority for tree campaigners to seek constructive talks with SCC and that has been our aim throughout the dispute. SCC often say they are always willing to talk but they have never proposed a meeting, that has always come from STAG, and our experience has been that they are more interested in talking at us than with us.

**In November 2017** STAG met with the Leader and Chief Executive of SCC and proposed a programme of mediated talks to seek a solution to the Street Tree crisis.

SCC declined to take part in such talks and did not make an alternative proposal. We renewed our request this week and so far have had no response.

**Appendix A** describes the proposal made in November and its rationale. STAG local action groups across the city have recently met to discuss their expectations for such negotiations. Our aims remain very similar but with some more pointful aspects in the light of recent events and the relatively small number of healthy condemned trees remaining.

It is still a central point for us that we face too much secrecy and have too many questions about SCC's plans, the contract, the assertions made by Amey about cost and difficulty of retaining healthy trees and an increasing number of disturbing revelations about the history of the project. It seems essential that any constructive talks require willingness to share information more freely and resolve the contradictions that perplex us.

**In the past year three other serious proposals** have been made to SCC but none have been accepted so far.

**In June 2017 Howells Solicitors**, acting for defendants in SCC's request to the High Court for an Injunction, proposed to SCC that Alternative Dispute Resolution (ADR) should be sought. ADR frequently uses mediation. SCC refused that offer despite the high cost of seeking the injunction and pursuing cases against those accused of infringing it.

**Recently Sue Hayman MP**, Shadow Minister for the Environment, revealed that she had offered to SCC that she might act as a mediator in the dispute and she has recently renewed her offer. **Appendix B** provides the text from her press release of 20 March 2018

## 2. New Challenges from STAG to SCC

### 2a. Legal warning letter regarding action to seek rescission of the Streets Ahead PFI Contract following repeated Health and Safety breaches.

For some time campaigners have been warning SCC that they may be required by law to rescind the Streets Ahead contract in view of Amey's concealment, during pre-contract negotiations, of a very serious Health and Safety breach and conviction involving the death of an employee together with repeated Health and Safety breaches in the ongoing contract.

Today (20 April) Solicitors acting pro bono for the campaign have written to SCC to give warning that they have investigated this issue and are now seeking to appoint and brief Council to pursue legal action against SCC.

### 2b. Complaint to National Audit Office - imposing high costs on South Yorkshire Police while refusing to take part in a possible low-cost solution through mediation.

As mentioned above in section 1, over the past year SCC have repeatedly refused to take up proposals of Alternative Dispute Resolution while pursuing expensive and divisive legal actions and eventually standing by while South Yorkshire Police were drawn into a very expensive and difficult action over many months using expensive and scarce resources.

We wrote to the Chief Executive of SCC on 19 March 2018 (**Appendix C**) to complain about this and warned that we would escalate the complaint to the National Audit Office. After one month no reply has been received other than an acknowledgement. In view of the urgency of the situation with no solution in sight for our dispute we will not move on to making a complaint to the National Audit Office.

### 2c Five Year Tree Strategy - New revelations

As revealed in today's Yorkshire Post, Sheffield City Council's *Streets Ahead Five Year Highway Tree Strategy*, which has been cited by SCC as the principal guidance for the tree replacement programme, is in fact overruled by another, secret, document called the '*Highway Tree Replacement Policy*'.

SCC have refused to make this document public. They have frequently claimed that the Five Year Highway Tree Strategy was the definitive document for tree work and we believe that this may have misled both the public and the High Court. STAG is pursuing various avenues to bring SCC to account for this.

<https://www.yorkshirepost.co.uk/news/sheffield-council-keeps-tree-felling-policy-secret-claiming-move-is-for-the-greater-good-1-9126025>

## 2d Evidence of Maladministration in Pre-Contract Risk Assessment

STAG has received information indicating that SCC has ignored and failed to record concerns raised by employee representatives during the risk assessment carried out before the Streets Ahead PFI contract was awarded.

We have evidence that the contentious felling target of 17,500 was known at that time, that employee representatives pointed out that large scale tree felling would lead to big public protests, and that these concerns were ignored and not recorded.

The evidence is in the form of witness evidence from a Trades Union Official, information from SCC via a Freedom of Information request and SCC Cabinet minutes from the pre-contract period.

We plan to make a formal complaint to SCC next week as a first step to pursuing the issue of maladministration with an appropriate authority.

## 2e Release of Essential Documents

STAG is seeking the release of a series of important documents, currently withheld from the public, that are essential for any member of the public seeking to understand the Streets Ahead contract and the Street Tree felling programme, especially in view of recent claims by SCC about the nature of the 17,500 tree felling target. We are requesting SCC to:

- Publish or provide proof of the existence of versions of the Street Ahead 5 Year Tree Management Strategy dated prior to 2016 (currently SCC claim these are 'lost')
- Publish the Highway Tree Replacement Policy from 2012 with each of the annual revisions;
- Publish each version of the Annual Tree Management Programme from 2012 to date;
- Publish the records of any formal agreement for deviation from the Highway Tree Replacement Policy made between SCC and Amey;
- Publish the records of any formal agreement between SCC and Amey to limit the number of trees to be replaced in the CIP or Term of the contract.

As with previous 'hidden' documents we are prepared to go to the Information Commissioner's Office, which has obliged SCC to release important documents in the public interest on previous occasions when they have been withheld despite reasonable requests for their release.

## Appendix A: STAG Proposal to SCC, November 2017

### STAG Proposal to SCC for Mediated Co-Work

We met with Council Leader Julie Dore and Chief Executive John Mothersole last week and requested a planned process of negotiations to see if trees can be saved. They have promised to give the request serious consideration and reply as soon as possible. This week they confirmed that they are continuing to consider the plan.

#### Our framework for discussions with SCC

1. **Mediation is necessary** since previous meetings have not been productive and there has been a loss of trust between us. An independent mediator will give confidence to both parties that they will be heard and their questions or proposals properly considered.
2. **Our single aim is to save healthy trees**, nothing else is significant from our point of view and a separate arrangement should be made to deal with any secondary issues that either party wishes to discuss. It is important that SCC acknowledge our aim and accept that it is worth pursuing.
3. **This should be a planned process, over several meetings** at close intervals to allow full discussion and proper consideration of ideas. Single meetings or meetings with long gaps between will not be productive.
4. **We have a number of areas of discussion** using examples of fellings where we do not believe the rationale or decision process is clear.
5. **We also have questions about some of the policies** adopted by Amey and SCC.
6. **Although we may focus on specific streets or trees** as examples in our discussion, the aim is to come up with principles that can be applied across the city.
7. **By enquiring into the fine detail** of some decisions and policies, we may uncover opportunities for a rethink of some felling plans and help to change SCC's understanding of the situation.
8. **STAG wishes to be open and keep supporters informed of progress.** SCC will have the opportunity to see and suggest changes to any reports that we publish to our supporters and individual council officers will not be named.

#### Proposal for a 'co-working' process made to SCC on 8th November.

At the meeting on 8 November SCC said they were not open to a direct request to change the approach to fellings. They saw no alternative but to carry on with the plans, given the terms of the contract and their belief that the fellings were necessary.

So we needed an approach that SCC might accept and could lead them to see ways to change their plans.

Many of the proposed fellings do not make sense to informed observers, including experts in arboriculture and engineering so we felt that, if those decisions were subjected to careful questioning and requests for evidence, that process might reveal factors that could lead to a change of mind.

This approach is used in many fields of work under the title of 'Root Cause Analysis' (RCA) and we proposed to SCC that RCA could be used as a framework for working together to understand what has gone wrong. SCC understood the principle of this and said they would consider it seriously.

Properly done, Root Cause Analysis will dig down to the 'bedrock' of a decision or policy to reveal whether it has any foundation in fact. We believe that RCA will reveal faulty decisions and/or processes. If so, SCC have the opportunity to acknowledge flaws and consider changing decisions and policies.

One way of describing the process is that you keep asking 'why?' (in an intelligent and informed way) to each response you receive until you reach the point that all the evidence and reasoning is out in the open and the 'root cause' can be seen and agreed. If that root cause is a misinterpretation of data or rules or principles etc it will be visible.

Experts say that it can take five rounds of questioning to arrive at an agreed reliable result. Doing the questioning properly will usually require time in each round for reviewing the previous answers, gathering information and working out the next question. It will require a good team of knowledgeable people to support this work and STAG is consulting with member groups to see who might be able to help.

Because there has been a breakdown of trust between the two parties, the process of setting up and progressing a Root Cause Analysis will require independent mediation/facilitation.

### Next steps

On 8th November, SCC promised to give careful consideration to our proposal and respond as quickly as possible.

If agreed, we expect the initial actions will be to agree with SCC the timetable and arrangements for mediation/facilitation and invite an experienced professional mediator to take part.

Meanwhile we are continuing to work on our plans including:

1. Setting up a team of people to carry out the co-work process with SCC and any negotiations that might arise. Local groups are invited to suggest members to take part.
2. Agreeing with STAG member groups how to ensure clear communication, consultation and inclusion in any negotiating process.

While it is not certain that SCC are ready to take up our offer yet we will continue to be positive and plan for this work.

*Chris Rust & Rebecca Hammond*  
*Co-Chairs, STAG - Sheffield Tree Action Groups*

## Appendix B: Text from Sue Hayman MP website

<https://suehayman.org.uk/update-on-sheffield-trees/>

### Update on Sheffield Trees

March 20, 2018

I wanted to write with an update on the 25 year tree replacement work being undertaken by Sheffield Council in light of recent media coverage and concerns that have been expressed to me.

Firstly, it is crucial to say that in light of unprecedented cuts to local authorities from central government, councils are finding that they have fewer and fewer options available to them across a whole range of services. This has been highlighted most vividly with Tory Northamptonshire County Council going bankrupt and the Leader of the Council resigning, saying she was made a scapegoat by local Conservative MPs and the Government. Labour local authorities across the country continue to lead the way in innovation and in continuing to provide vital services in the face of unrelenting Tory austerity and the crisis in local government funding.

I met with local Sheffield Labour MPs several months ago to receive an update on the situation with regards to the tree felling and street maintenance programme. Since then, both Paul Blomfield MP and Louise Haigh MP have made their concerns public in relation to the Amey contract and the way it is being implemented. Both Labour MPs have raised concerns directly with Sheffield Council and with local police. Due to the importance of this issue, I have kept the Labour Leader's office informed of progress.

I have had conversations separately with Cabinet Member Cllr Bryan Lodge and Leader of the Council Cllr Julie Dore to discuss concerns in relation to the tree felling. My concerns have been followed up formally in a letter where I have also reiterated my offer of assistance in mediating the situation between protesters and the council to try and find a way through.

Nobody wants to see much loved, healthy trees felled. Despite the fact that more trees will be planted by the end of the works than will be removed, I have urged Sheffield Council to exhaust all alternative options to felling the remaining trees and to fully acknowledge the environmental and community significance that these trees have.

My formal offer to help mediate the situation and my request for Sheffield to pause the works to explore other options still stands. Practical solutions and sensible dialogue are what is needed, not jumping on political bandwagons and throwing fuel on the fire as we have seen from Michael Gove. It is extremely disappointing that following a direct request from Paul Blomfield MP for Michael Gove to provide the funding to save the trees in question, that the answer was an emphatic no. This is yet another example of the Secretary of State being full of hot air and bluster on the environment but failing time and again to follow through with meaningful action.

(Continued on subject of PFI contracts)

## Appendix C: Complaint to SCC regarding waste of police funds

Dear Mr Mothersole,

Since the start of January, South Yorkshire Police have become involved in policing the felling work undertaken by Streets Ahead, in particular supervising and monitoring the work of Amey-employed security guards.

Their presence has not enabled Streets Ahead felling work to proceed at an increased pace, quite the contrary. It is arguable that the police presence and the consequent use of force by security guards has increased the willingness of local residents to come out and actively protest, recent felling events have seen 40 or 50 protestors on the street each day on working days when the majority of our supporters have work and other commitments.

The police presence each day has called for more than 30 officers on the street for several hours, as well as control room staff and a fleet of vehicles including a mobile CCTV unit. This is an astonishing amount of public expenditure at a time when policing budgets are under great pressure along with other essential public services.

You will remember that we met on 8 November to discuss possible ways of resolving the dispute between SCC and tree campaign groups across the city. As Co-Chairs of STAG, Rebecca Hammond and I proposed that a programme of mediated discussions could help both parties come to a better understanding of the underlying problems and may identify opportunities for resolution. We did not put any conditions on the discussions other than that they would be entered into in a spirit of co-working and that a mediator would enable the process to be fair and constructive. We explained that there were a number of decisions, statements and policies by SCC that we would wish to ask questions about.

SCCs response was to reject our proposal and although the reply from Cllr Dore expressed a willingness for continuing discussion of some kind, no proposal or suggestion was made.

Our understanding from conversations with Amey managers is that, despite unsustainable costs and very slow progress they feel unable to change direction as the consequences would be even more difficult for them. We know nothing of those contractual arrangements but it seems fairly clear that only an agreement between Amey and SCC, as the main partners, would enable a rethink of priorities.

Meanwhile we believe that the felling decisions for healthy 'Damaging' trees do not take proper account of section 58 of the Highways Act which states that the level of maintenance required is dependent on the specific characteristics of the highway in question. We have also discovered evidence that SCC failed to take account of concerns expressed during the pre-contract risk assessment process, where knowledgeable people involved in your consultation pointed out that the tree felling plans would bring about strong public opposition. Not only were these concerns disregarded but they were not recorded.

We have a number of other grounds for believing that changing the felling plans, even at this late stage, would not incur excessive costs or problems for the good management of the streets in question. We believe that a collaborative, mediated enquiry as proposed by STAG, would have provided a better understanding of all these issues and may well have led to an amicable solution for all parties. The costs involved would have been slight compared to the astonishing policing costs, not to mention the huge costs imposed on your contractors.

In view of the very high continuing policing costs, and the daily use of force against many

local citizens who find themselves in conflict with the law for the first time in their lives, we ask you to reply to this complaint within 10 days. If we feel your answer is not satisfactory we will take the matter elsewhere including the National Audit Office.

I hope that you will be able to find a way to unlock this very difficult problem and of course we would be very happy to meet at any time, however you will understand that the many active campaigners who support our local groups are not in a mood to accept compromises now that so many healthy trees have been felled and so many of their friends have been subjected to violence, some on their own streets.

Yours Sincerely,  
Chris Rust  
Co-Chair, STAG, Sheffield Tree Action groups