



MEETING PAPER

Subject: Trees at Uplands Road North

Meeting: Agenda Item 10 – Parks and Open Spaces Committee

Date: Tuesday 30 May 2023

~~CONFIDENTIAL~~/NON CONFIDENTIAL

Background/Introduction

The Town Council had been contacted due to fears of branches falling from two oak trees at Uplands after a branch, which was understood at the time to be from one of these trees, had fallen into a garden. The resident contacting the Town Council had failed to establish ownership responsibility after contacting SCC and ESC.

Details

At a meeting on 21 March, the committee were asked to consider what powers it has to undertake tree works to trees on land not in its ownership and to note the recent Sheffield legal case which called for the councillors to stand down due to unauthorised tree works being undertaken. GPOC would enable the council to undertake activity that an individual can unless there is a statutory authority already undertaking the work/service. An individual could not undertake tree works on land they do not own.

The resolution of the committee was to:

Cllr Pearce proposed the decision be deferred until after the elections and for officers to seek a legal opinion on whether the Town Council has the authority to make a discretionary decision on the case, and to seek further advice in the interim if there is a legal impediment; seconded by Cllr Youngman. Cllr Brooks queried if the proposal could be amended to obtain a second opinion from a different arborist. Cllr Pearce felt that was unnecessary as this Sub-Committee had not stipulated that the works only be undertaken on the grounds of health and safety. A vote was held with all Councillors in favour. The Deputy Clerk noted that the Highways Engineer had suggested to register the land as the owner may come forward, and had confirmed that the regular routine inspections would continue and if any health and safety concerns were perceived then the necessary works would be undertaken. Cllr Pearce requested his previous proposal, to ask Suffolk Highways if they can provide a quote to do the work on the Town Council's behalf, be followed up alongside the attempt to register the land.

A submission was made to SALC on the legal status of the Town Council undertaking work on land/trees not in its ownership. The response was as follows:

We have liaised with NALC who state the only way you would be able to maintain the trees is if the Council was to 'occupy' the land with a view to claiming ownership after 12 years. To do so would require fencing it off or putting up signs, cutting the grass etc. If you were not interested in pursuing ownership but for some reason wanted to deal with the tree maintenance, you could effectively unoccupy it after doing so.

Otherwise, you would not be able to use the GPOC as this is not something any person could legitimately do (they would be trespassing).

You have not described or identified the land in question so I don't know whether this is relevant or not, but you would need to liaise with Highways if the land in question happened to be 'highway waste' land. If you wish to pursue this any further you would need to submit a formal enquiry with detail of the actual land, what it is etc., or of course you are able to do this direct with NALC (as a direct access council).

Since then, a written submission has been made to NALC detailing to the best of our knowledge what the land is and asking for their advice on how long the 'occupation' would need to be in place before the works could lawfully take place *. A response is awaited.

Also, Suffolk Highways have been contacted again to ask for a reinspection of the trees to assess any danger from the trees. A response is awaited and they had been chased again. Suffolk Highways were unable to provide a quote to undertake the works

Recommendations/Decision

If the sub-committee is so minded, a recommendation is made to AID to consider the costs of 'occupation of the land' to enable the trees works to be undertaken. This will include erection of fencing, signage and maintenance of the land, subject to any time period specified by NALC. **This recommendation would be subject to NALC additional advice being received as mentioned at * above.**

These costs will be in addition to the cost of the tree works which have previously been quoted at approx. £1400 plus TPO application, approval of the TPO application and any costs for traffic management whilst the works take place.

Alternatively, the sub-committee makes a recommendation for a resolution by AID to accept that there is currently no legal power the town council can use to carry out these works and that the all works are addressed by Suffolk Highways and only when Suffolk Highways consider there is a health and safety need.