

Save Stoke Lodge Parkland

Chairman's Tenth Annual Report on behalf of the Committee

(To be presented at the 2020 AGM)

I am pleased to submit my tenth Chairman's report on behalf of the Committee.

Ours is a voluntary Community Group ruled by its Constitution and I must firstly thank the Committee for their ongoing work and support and secondly, and importantly I must thank the Membership for their unprecedented contribution to all of the issues listed below and your continued support including responses to the calls for their help and involvement which enables us deliver such a powerful community voice.

My Report will be in seven parts and covers the period since our last AGM held on Friday 12th April 2019 (the Treasurer will report separately on financial matters): -

1. The Town or Village Green Applications (1), (2) & (3)
2. Outstanding Planning Applications
3. The Perimeter Fence
4. The Public Rights of Way Application
5. The Children's Play Facilities
6. Arboreal issues
7. The Sustainability of the House and Gardens (incl Arboretum)

Please note that previous Annual Reports are available on our web site: www.stokelodgetvg.co.uk on the "About us" page.

1. The Town or Village Green Applications (1), (2) & (3)

Our initial Town or Village Green Application dated 4th March 2011 was effectively ended on 3rd May 2018 by the Judgement from the High Court Judge Sir Wyn Williams which disappointingly found in favour of Cotham's Appeal which requested that BCC's Public Rights of Way & Greens Committee (PRoW&GC) reconsider their decision to grant registration of the Land at Stoke Lodge as a Town or Village Green (TVG). Unsurprisingly on 25th June 2018 BCC's PRoW&GC met to reconsider its previous decision to grant TVG Registration and inevitably given the composition of the committee the decision was overturned and Registration was denied.

However, we remain committed to delivering the "Aims and Objectives" set out in our Constitution for maintaining "unfettered access" to this important community asset.

On 14th September 2018 Emma Burgess (on behalf of WLSL) submitted an application to register Stoke Lodge as a TVG and this application was confirmed as "*Duly Made*" on 10th January 2019. See website www.welovestokelodge.co.uk.

At our last AGM held on 12th April 2019 we passed the proposition that: -

“Whist not changing our constitution (copy attached). We confirm that the Committee, in addition to its other duties, should continue to provide help and support to WLSL where possible by continuing to advise the membership of any WLSL initiatives together with any request for help and/or support. All in accordance with clause 2) [paragraph 7] of our constitution.”

Accordingly, this has been our focus since the last AGM. During this period BCC have done all in their power to delay and frustrate the process in support of Cotham Academy. However, WLSL have doggedly and determinedly pushed BCC to comply with their own standing orders and have engaged Andrew Garland QC to reinforce their arguments on a legal basis. See WLSL website www.welovestokelodge.co.uk and click on the 3 bars at the top left-hand corner.

The main stumbling block at the moment is that BCC are trying to find ways of preventing the Application(s) being heard at the PRow&GC where standing orders require, where the land in question is owned by BCC, the appointment of an Independent Inspector to provide a recommendation on the validity of the Application, to form the basis of the Committees debate and ultimate decision.

BCC is trying to frustrate the process by requesting more and more legal arguments from the interested parties which should be the prerogative of the Inspector.

Whenever WLSL have requested help from their membership we have conveyed that message to you, our membership. And I pay tribute here to the support our membership has continued to display in this vitally important local issue. We have also donated funds from our reserves to WLSL to assist with legal costs.

On 23rd July 2019 Kathy Welham submitted a further application to register Stoke Lodge as a TVG and this application was confirmed as “*Duly Made*” in January 2020.

2. Outstanding Planning Applications

Cotham Academy’s revised planning application to construct a new multi-purpose sports pavilion was rejected by BCC’s Development Committee in December 2018. On 20th Feb 2019 Cotham issued an appeal to the Planning Inspectorate to review that decision. On 24th May 2019 the Planning Inspectorate upheld the decision of the Council’s Development Committee and rejected Cotham’s appeal. Many thanks to all our membership who objected so vigorously to this Application.

Consequently, Cotham have pursued a strategy to reinstate the previous planning consent dating back to the 1960’s, which was the basis of current the “ruin”. Arguing that they can refurbish the existing without any additional planning consent.

However, time and tide have moved on and building regulations and accepted building materials have moved on since the 1960’s. Their current proposals which have been

modified to change the changing facilities from one based on 40 users to 120 users fails to take account of modern Health and Safety requirements, particularly, access and egress, room size, sanitary provisions and the presence of asbestos. Cotham seem hell bent on proceeding. But we understand they have been persuaded to undertake an "Asbestos" study and report to confirm if the proposed works are feasible and sustainable.

We understand that there is a further impediment pending to their plans, i.e. the matter of how they fund the works. We understand that the Sports Funding Agency is reviewing the time limit and appropriateness of the funds provided for this project. Particularly bearing in mind the discrepancies between the case presented by Cotham to BCC and separately to the Funding Agency. My thanks to all members who have written on this matter.

3. The Perimeter Fence

On 14th January 2019 Cotham started to erect the long threatened, unauthorised and ill-conceived perimeter fence at Stoke Lodge. The fence was completed after 8 weeks of hell in the freezing cold on 14th March 2019. However, without the help and persistence of the community holding Cotham to account and making a fuss about: - root protection zones, adherence to method statements (after they were submitted and approved), proper arboreal supervision, badger protection, setting out and avoiding the buried gas main. Then the resulting fence line and consequential damage to protected trees would have been much much worse. I must also make special mention of the team manning the banner(s) on Parry's Lane and the photographic record keeper(s). I must also thank the Police for their patience and understanding.

In my view the rationale for this fence does not bear scrutiny, unless Cotham wish to develop, exploit and commercialise the site. I also question the use of "*permitted development*" as a sustainable legal basis to permit this work to be undertaken without due process and public consultation in accordance with BCC planning process.

WLSL are leading the legal challenge on this matter and have referred the matter to the Local Government Ombudsman. Unfortunately, their first report failed to take account of all the evidence. This was referred back to the Ombudsman who accepted that there were shortcomings and appointed a Senior Inspector to review the findings. Unfortunately, his findings also failed to address certain of the more important failings by BCC identified by WLSL.

We continue to support WLSL in their challenge on this matter and the TVG Application(s) which should see the fence removed.

Meanwhile Cotham continue to adopt an authoritarian approach to providing access to the field, which they continue to deny is enshrined in their lease. And BCC fails to recognise its Health and Safety responsibility to maintain and provide safe access and egress to the perimeter walkway generated by Cotham.

Please continue to enjoy the field when you can.

4. The Public Rights of Way Application

On 1st May 2018 Professor Alan Preece submitted an application to the Public Rights of Way committee to register 4 pathways across Stoke Lodge as “Public Rights of Way” they go from Cheyne Road to Druids Hill roundabout, from Cheyne Road to the Adult Learning Centre, from West Dene to the Adult Learning Centre and from West Dene to Cheyne Road.

This application was registered by BCC as “Duly Made” on 7th June 2018. and is being processed by them in accordance with BCC procedures. Importantly, the PRow officers have collected their own evidence and have confirmed that the application had been added to the list of pending Applications awaiting deliberation by Officers and subsequent consideration by the PRow Committee for adoption or rejection.

Alan has also been advised that the process to prepare a report for the PRow Committee would be held pending a decision on TVG2.

My thanks to all those who provided Statements and I’m sure Alan will shout when he needs further assistance.

5. The Children’s Play Facilities

These facilities continue to be very popular and provide the opportunity for youngsters to let off steam in a safe and delightful setting.

We note that BCC continues to conduct annual safety audits on the equipment, which is good. However, given the budget deficit in BCC, when a safety officer reports a piece of equipment as being unsafe it is then scheduled for removal, not repair, and if replacement equipment is required it must be funded privately. So please be alert and report any concerns to Bruce Quilter or Martin Bennet so that we can maintain this hard-won facility.

My thanks as always to Bruce and Martin and their BS9 helpers.

6. Arboreal issues

Please see attached separate Report from the Neighbourhood Tree Champion, Stephanie French (pages 6 – 12).

7. The Sustainability of the House and Gardens

Four of our Committee members sit on working group with Jenny Wilkes from the Adult Learning Centre to aid her with decisions relating to access to the buildings and the land associated with the House.

Recent initiatives include the provision of a Sensory Garden and current initiatives include “Safe” access to the site and the play facilities. Additionally, Jenny is working with a member of the community to investigate Disabled, non-intrusive, pathways within the arboretum in conjunction with a Community Infrastructure Levey (CIL) Grant, she has also engaged the part-time services of a gardener.

Jenny is also considering **if** and how access along the fence line from the Arboretum to the entrance to the rear car park by the walnut tree can be incorporated whilst complying with H&S legislation particularly bearing in mind the proximity of the old barns.

Since the Adult Learning Centre (ALC) was transferred back into education it has gone from strength to strength and is now financially self sufficient no longer requiring a subsidy from BCC. This is obviously very good news for the future of the ALC and a testament to Jenny and rest of the team at the centre.

David Mayer
Chairman
Save Stoke Lodge Parkland

4th March 2020

Arboreal issues

This report is no easier to write than it was last year. I am doing so by copying chunks of last year's report (apologies) as most of the issues remain unchanged, and indeed there are some worse things to report to you.

a. Tree issues that are nothing to do with Cotham School

Last Year: "Some work needs to be done on some of the trees. I walked around the trees with Emma Burgess and Phil Burton (BCC "Geographical Area" Tree Officer.) It became clear he was being guarded in his conversation even though we tried hard to stick to tree issues and not the merits or de-merits of the Fence."

"The White Poplar on the Ebenezer Lane boundary near the Oak is mostly dead...."

It died and fell on the Fence in a storm. How did it know to do that? It is being replaced with a Black Poplar and that should be done by the end of March – or so we (the Bristol Tree Forum and I) have been promised. I do not know why it has not been planted yet and questions as to why from BTF to Trees at BCC have not been answered. The end of the tree planting season is March 31st and trees planted earlier in the season (November to March) have a greater chance of survival. Maybe some objections have been raised?

Update: Questions have just been answered. Legal Services BCC advised Trees BCC to obtain permission for planting the tree.

The advice from our colleagues in Legal states that under the terms of the Academy Lease, you would have to obtain permission from Cotham School to plant any trees on the site. You will have to go back to Sandra Fryer and Allison Crossland at the School and get their agreement before you can proceed.

Dear Allison,

As you may recall, a large poplar growing on the North West corner of the playing fields was lost last year when it was blown down in a storm.

At the time, the council agreed to replace it at their own expense with another poplar to be planted in about the same position.

I understand that, as per the terms of their lease with Cotham School, they have approached you for permission to do this, but have not heard back.

Can you throw any light on this, please? As the planting season is nearly over, we are anxious that this be resolved as soon as possible.

I am told that the planting will not involve any cost to the school.

I look forward to hearing from you.

Mark

Hi Mark

Nathan Allen, Our Facilities Manager has responded to the council advising that the school has no objection to their proposed location.

We have not heard anymore following that communication.

Regards

Allison

(I would not normally do so much verbatim reporting but a member of SSLP Committee asked to see the writing.)

“The Black Poplar on the Stoke Paddock Road boundary has many dead branches lodged within it.....” **I have not checked to see if these have been removed..**

“The replacement Cedar of Lebanon in the “Arboretum” died, and has been replaced.....” **Well, the replacement died too. There was some concern about fungal infection spreading from the carved Cedar – not because any fruiting bodies had been seen close to the now dead replacement, but some were seen in an area fanning out from the carved Cedar. I had an exchange of emails with John Atkinson, BCC Trees, and he said it would be replaced by another Cedar and he would inspect the site himself and get our geographical Tree Officer’s opinion too. Whether this happened or not I do not know, but another Cedar of Lebanon has been planted and it is alive so far. If it too dies a replacement tree will be planted, but it will not be a Cedar of Lebanon.**

Last year: “More recently (6th March) I have asked Phil Burton about possible works to trees around Stoke Lodge Playing Field.”

“ The narrow pathway between the Pavilion (West Dene entrance) and the Corsican Pine (T8, TPO 1192) is coming under pressure from pedestrians. Group 7 trees are along that border, amongst them a Holly, an Ash and a Sycamore. Apart from those three named trees most of the rest of the trees are tall shrubs and self-seeded Ash and Sycamore. Some of the branches of these shorter trees are getting bent and snapped. Some of the residents would like permission to cut back some of the lower branches (not the three named trees) to reduce some of the obstruction. They would make heaps of the wood for habitat. Would that be possible. They are happy to do the work themselves.”

No response.

“In this area is a Black Mulberry. It is in Group 3, TPO 1192, although not separately identified. For the last couple of years it has looked rather tired - we do not know how old it is. The trees came into England in the 1600s, but ours is not that old. It looks like a tree that should be drawn for an illustrated version of Grimm's Fairy tales. Growing very tightly against it and now with branches intermingling with those of the Mulberry is what looks like an Elder (also not named in G3). Might the removal of the opportunistic Elder improve the chances of the Mulberry? It would be great to try and improve its future. It may not have many more years.

If you feel the Elder could be removed, I'm sure we could find a work party to do it and thus this would cause no expense for the Council. We should be grateful for your opinion.”

Answer: No, you are not to do anything to this tree and nothing is going to be done to it by BCC Trees either.

“While we were with you we discussed the access gates through the fence and how vehicles passing through them will put much pressure on the roots of precious trees. The gates seem to have been put as much in line as was possible with splendid old trees with TPOs on them. You said to talk to Tom Luck about that and I will, but I'll copy you in to the e mail.

with thanks

Stephanie”

There has been no reply. The BTF has repeatedly asked Trees and Planning at BCC about the issue of vehicles and equipment now driving over the roots of TPO trees, and answer has not come. (see later in the report)

b. Tree issues that should not be anything to do with Cotham School.

Last year: The dead Oak and the Cedar of Lebanon (down by Badger’s Corner) SHOULD both have TPOs, although the Cedar of Lebanon, a replacement for a dead Ash in Group 4 TPO 1192 that died with Honey Fungus, has yet to be marked as such on any BCC map. These trees we believe are under threat of removal/moving by Cotham. If they move the Oak then they should replace it? The Cedar could be moved, but it is my belief that such action would require a Planning Application as moving it is not required by the erection of the Fence (contentiously done under Permitted Development). If anyone sees plant or workman on the Field working on these two trees please send out an alert.

I still not heard anything about conferring TPOs on the “replacement for TPO trees” on the Parkland. These are the Cedar of Lebanon by Badger’s Corner and the Oak on the path by the White Hut and indeed the Cedar of Lebanon by the carved Cedar.

Sorry – but you might be interested to read (my underlining, my red font)

“Under section 206 of the Town and Country Planning Act 1990 landowners have a duty to replace a tree removed, uprooted or destroyed in contravention of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. This duty also applies under section 206 if a tree (except a tree protected as part of a woodland) is removed, uprooted or destroyed because it is dead or presents an immediate risk of serious harm.

The duty transfers to the new owner if the land changes hands.

Replacement trees should be of an appropriate size and species and planted at the same place as soon as the owner of the land can reasonably do this.

Unlike a replacement tree planted under a condition, a replacement tree planted because of the duty under section 206 is automatically protected by the original Order. The local planning authority has powers only to enforce

the duty to plant one tree to replace one other. But the authority and landowner may agree on planting, for example, one tree of a different species or two trees of a smaller species to replace one of a large species. In these circumstances the authority is advised to vary the Order to bring it formally up to date.

It may not be necessary (or practical) for the replacement tree to be planted in the exact position of the original tree. But the place should at least correspond with the original position described in the Order and shown on the map. Where the Order includes the area classification, although the position of every tree will not be shown, the authority is advised to specify replanting as near as is reasonably practical to the original tree's position.

The duty on the owner of the land is to plant a replacement tree as soon as they reasonably can. However, the authority should carefully consider the circumstances of the case (such as the number of trees involved or the time of year) when deciding what timing would be reasonable.

With the BTF I have been working to try to get the replacement trees on Stoke Lodge afforded their TPOs which the Council is obliged to confer upon them under the regulations, but so far without any success – without any response even.

Last Year: "I wrote to Tom Luck (6th March), as advised by Phil Burton, about the passage of vehicles over the roots of TPO trees and whether any protection is required for them. Again I apologise for the amount of reading, but it is the best way to inform you of what we are asking, and why."

"Dear Tom,

I'd like to talk to you about the gates in the fence providing access into the field at Stoke Lodge.

There is not a vehicle access that does not threaten a precious tree, or more than one. Richard Ennion banned all vehicles other than emergency vehicles from coming on to the field, and I wish that were still true, but it seems not.

The trees under threat are:

3 trees, T1, T2 and T3 TPO 451, which are three Pine trees, and a Sycamore T14 TPO 1192. They are at risk as Cotham School vehicles are using the entrance at Parry's Lane on their way to the old white maintenance shed which now has a different unknown use and which also leads to gates in the new fence.

The Austrian Pine, T2, the Copper Beech T4 and the Walnut T3 on TPO 1236 are in direct line with a double gate on the southern stretch of the fence. These trees have intermingling crowns and presumably intermingling roots, and also very low branches.

The Walnut tree T17 on TPO 1192 which is but a few feet away from a gate in its root protection zone.

For years these trees have lived in peace with their roots, but recently have had construction vehicles passing over them frequently and also have even more recently had mowers (large red tractors) and white line painting vehicles driving over them. At one time the mowers were visiting daily. We anticipate that mowing vehicles will visit frequently during the summer.

We do not yet have a clear picture of the pressures on the gates at Parry's Lane but we anticipate mini-buses, construction vehicles and mowers, based upon recent usage. These trees and their roots need some protection.

The branches of the Walnut T17 (1192) are low and are being knocked aside by tractor sized mowers. Do they really have to use that entrance which, apart from the damaging the Walnut tree, travel at fast speeds quite unnecessarily through the Adult Learning Centre car park, often full of pedestrians? There has been one very near miss already, with the police having to speak to the lorry driver.

The trees at the Parry's Lane entrance are under great threat. Very reluctantly and rather late in the day a temporary trackway was put down by Cotham School, but today this was taken up. Although the fence now passes between T9 and T13 (TPO 1192) without any gates, so that vehicles cannot pass between those trees (and then pass underneath T7, a huge Turkey Oak) nevertheless the entrance at Parrys Lane will still be used, with vehicles then passing along the track to the white shed, threatening T1, T2, T3 (451) and T14 (1192), and we do not know if the gravel is adequate protection for all those trees and their roots.

The Parks department, who mow the grass under contract to the Adult Learning Service, are now faced with having to enter the playing field with their mowers via the Walnut Tree gate (T17) and leave the field via the gate leading to the Copper Beech, Walnut and Austrian Pine in order to gain access to the "Arboretum" area to mow it. They have no other (current) access as all the trees around the ALS ground are protected and have low branches, as indeed do the Beech, Pine and Walnut. It really is a desperate and worrying situation.

Could Bristol City Council please take control of this situation, assess the risk, and then say what can pass through which entrance without any risk to the trees? Could Bristol City Council say what protection is required if the Leaseholder insists on driving vehicles over the roots of TPO trees as they do currently?

I look forward to hearing from you with thanks Stephanie"

I have not yet received a reply. (see later in the report)

c. Tree issues entirely to do with Cotham School.

Chopping down even more trees

Maybe in response to concerns about access to the Field expressed by BCC to Cotham School (!) work started enlarging the access to the Field by the White Hut. Cotham School felled several quite large Elder trees by the gate into the field, and the contractors put glyphosate filled plugs into the stumps to kill the roots.

Let us just hope that the glyphosate does not spread to the roots of the nearby TPO Sycamore tree whose canopy overhangs one of the felled Elder trees.

The BTF challenged Cotham School directly about that work and the Business Manager claimed that the work was with the knowledge and consent of the Landlord.

BTF approached BCC Planning and BCC Education Depts. only to discover that neither department knew anything about it. Cotham School seems either to have been misled or perhaps a misunderstanding has crept in?

This was at a time when the BTF was in debate with BCC about the management of trees on all education land, as it has become apparent that the management of trees formerly in the ownership of BCC and managed by them, has passed to School Governors if a school is now an Academy. This is seriously alarming – the expertise of School Governors with regard to the management of trees has to be doubted.

BTF has written a blog about it and the other matters that have happened on Stoke Lodge: <https://bristoltreeforum.org/2019/12/10/council-no-longer-manages-trees-on-educational-sites/>

The irony here is that the access to a gate at that point in the Field is over the roots of TPO trees other than the Walnut – though the branches are a bit higher and cannot be clobbered by the canopy roof of the tractor – namely the Pine trees at the corner of Parrys Lane/Cross Elms Lane/Ebenezer Lane.

The digging of the Trench

Cotham School used a mechanical digger to dig a trench for cabling right through the root zone of a TPO tree – The large Ash near the pavilion.

Individuals and BTF protested loudly to BCC Planning, who at first stated that this had not happened, and anyhow, if it had, it was with the knowledge and consent of the Landlord (BCC) and that the contractors would be working with due regard to guidelines concerning how to work amongst the roots of TPO trees

Only when provided with formal statements, photographs and a video did BCC Planning capitulate (note how they were either misled themselves or were initially content to mislead the public – the taxpayers) and required Cotham School to re-excavate the trench using air spades and then use a special mulch with tree root feed and fungi to refill the trench.

The future and ongoing issues:

- We still await replies to the requests e mailed to BCC Tree Officers and Planning about the lack of TPOs on the replacements for TPO trees and about the risk to trees due to the vehicular access to the Field over the roots and through the canopies of TPO trees.

- We got nowhere with the Mayor about the lack of Planning Applications for work on TPO trees even if the work is under Permitted Development. Apparently, the Planning Department of BCC is quasi-judicial and the Mayor cannot interfere. Yet he chose to interfere with a Planning Decision made in Newfoundland Road that affected trees – I don't understand what the difference is. Perhaps someone can explain to me.
- We got nowhere writing to the Secretary of State for Local Government re: The legality of allowing work under Permitted Development on TPO trees and their roots without planning permission having been sought. "Had permission been granted conditions could have been set and enforced" was our argument. After having been sent this very detailed letter by the BTF, the Department of Local Government just said they could not comment or intervene, and the BTF should either go to the Ombudsman or obtain their own legal advice. WLSL included the issue of PD and TPO regulation in their presentation to the Ombudsman.
- Councillor Asher Craig has been approached by the BTF and is making enquiries about the safety of leaving all trees in the care of School Governors across the city.
- Trying to get the failures in communication between Planning, Trees and Education at BCC resolved when it comes to permissions being granted to work on trees, and to responsibilities for the maintenance of trees, sorted. Either permissions which have been stated by CS to have been sought and granted have not been sought, or the departments at BCC just do not communicate with each other, so they mislead BTF and the Community when questioned about it.

(Stoke Lodge is of course a rather different and unusual case in the city because BCC has always retained the control over the trees, their management, and what should, or shouldn't, happen to them.)

It is all heart-breaking.

Stephanie