

## Stickling Green Copse:

Included in this report are motions and background information, and withdrawal motions and background information from Cllr Couchman, and reports from parishioners.



**Photograph taken before April 2015**

**May 2015:** Uppercut Trees had been contracted (April 2015) to cut back the over grown trees, etc. around the pump at Stickling Green. Cheque payment no. 1442

**November 2015:** Minutes confirm that the contractor had advised a resident at Stickling Green there were some dead trees further behind the pump.  
A Councillor stated that he had strimmed the ground to the front of the pump and was reminded that this was in the grass cutting contract.

**December 2015:** Two Councillors authorised to remove dead trees in copse at rear of pump.

All other council records show that the area to the front of the pump is maintained by the grass cutting contractors, which includes strimming.

## Motion from Cllr Couchman 29<sup>th</sup> February:

Would you please include the following Motion on the agenda for the next meeting and circulate the background information. Should this letter arrive too late, please include it in the April agenda (it arrived after the March agenda had been published, and no meeting took place to Covid-19).

**Motion:**

The Council considers clearing the thicket of trees and bramble in the corner of Stickling Green between Monks Cottage and the road.

**Background Information:**

Background information.

This thicket appears to have grown up spontaneously over years of neglect. Within living memory the whole area was clear from the road to Monks Cottage. Within the past 20 years the village pump, which is now completely overgrown, was maintained by painting and installing a cover. About three years ago I cut back the brambles and other growth to the pump. Now the brambles and Blackthorn suckers have extended by some 18 feet further towards the road. Most of the trees seem to be dead or dying Elms much covered with Ivy. By removing the undergrowth and most of the trees, a few decent specimens could be retained with the space to grow properly.

It should be born in mind that the well established purpose of a village green is for the recreational activities of humans rather than wild life. I believe that the Council, as owners, has a responsibility to maintain it's property in a suitable condition for those activities.

It is likely that it would be too late this summer to carry out this type of work due to the bird nesting season. However plans could be made for the work to be done in the Autumn; should funds be available in the budget at that time. This would allow the work planned by Mr Walters cutting ivy, to have thinned the area to some extent.

It might also be helpful to conduct a survey of near neighbours to see what their views might be.

**COPSE OF TREES ADJOINING HIGH ELMS, STICKLING GREEN Letter dated April 2020****(A) Introduction**

- This copse ("the Copse") comprises a close grouping of trees that includes elm, blackthorn, elder, sycamore, cherry, snowberry, sumac, prunus, quince (itself a rarity nowadays) and yew. This is a large variety for such a small area of ground. There is also a dense undergrowth of brambles, mainly in the vicinity of the pump.
- It is one of three remaining groups of trees and bushes adjoining Stickling Green ("the Green"), but has suffered from lack of maintenance. The principal problem is overgrown ivy and brambles. While an annual cut would keep the brambles at bay, the ivy growth has been such as to contribute to the demise of some of the trees that now need removing for the sake of the copse's long-term future.

**(B) The importance of the Copse to the Green**

- The principal parts of the Green are maintained as areas of wildflower-rich grassland that contribute to the rich diversity of the village and its hamlets and are appreciated for their intrinsic worth as well as for community recreation.
- It is acknowledged that the Copse may not necessarily be an historic feature of the Green but many of the trees have now become well established over the past 50 years or so.

- Turning the clock back by removing all the trees and laying the area to grass might have a certain attraction at first sight, but carries with it the problems identified in section (D) below.
- The area of the Copse is not suitable (or even large enough) for ball games or any of the traditional recreational activities. Its present and established use as a grouping of trees for the visual enjoyment of all would seem to be the better alternative.
- The fact that community recreation is not possible on the Copse does not prevent it from being a valid part of the Green. It should be noted that in the case of: In the matter of Gleaston Green, Aldingham, Lancashire (quoted at Paragraph 7.22 of Our Common Land – The Law and History of Common Land and Village Greens (6th Edition) published by the Open Spaces Society in 2007) (“the Yellow Book”), the Judge pointed out that:

“The use of the land is looked at as a whole: it is not necessary for games to have been played on every square yard. Thus where part of an area of land had been a swamp, but games had been played on the remainder, it was held by a commons commissioner that the whole of the land was properly a green.”

- There is no legal obligation on the Parish Council to make the Copse (or, indeed, any other part of the Green) usable for community recreation. According to Paragraph 7.26 of the Yellow Book, the landowner of a Green:

“is not obliged, however, to maintain the green in a suitable state for recreation.”

#### **(C) Councillor Couchman’s Motion (“The Motion”) in his letter to the Clerk of 29th February 2020**

- We are grateful to Councillor Couchman for bringing the current state of the Copse to the fore and in particular for drawing attention to the need for action if the current decline of the Copse is to be halted and reversed.
- The extent of the Motion, however, is unclear. It refers to: “clearing the thicket of trees and bramble” which implies complete clearance, whereas the “Background information” section of the Motion refers to: “removing the undergrowth and most of the trees”. It is also unclear as to whether the reference to removing: “most of the trees” means just removing the dead trees, or also includes some of the living trees.
- We would support the extent of the work proposed in the Motion in terms of cutting back the brambles to the pump (to the extent not already included in an existing maintenance contract) and removing the dead trees in the Copse as well as removing the dead tops of trees with a healthy lower growth. At that point the thinned out Copse can be reviewed in order to decide how best to preserve it for the future, and if necessary, whether any programme of additional planting is needed
- We would object vigorously to any general clearance of the area that involves removal of all trees, whether dead or living. However, we do not believe that this is Councillor Couchman’s intention in view of the more detailed works described in the “Background information” section of the Motion but, for the avoidance of doubt, we suggest the Motion be clarified in accordance with the recommendations summarised in Section (E) below.
- While we accept that the primary purpose of the greens in general is for the recreation of humans, rather than wildlife, in the case of Stickling Green, part of that human recreation involves

the ability to appreciate wildlife within a wildlife-friendly habitat, such as is found in the three small copses of trees on its margins.

#### **(D) The option of complete tree removal**

- Removing all the trees and restoring the area to grass, with the aim of going back to: “the way it was” some 50 years or more ago is fraught with problems.
- In the first place, when the Copse area was last laid to grass, the farmer who mowed the Green annually found his machinery unable to cope with the root sucker elm tree growth that was coming out of the ground in the Copse area. This then raises the question as to whether, prior to being laid to grass, there were elm trees on or adjoining the Copse area. We understand that High Elms was built on the site of an orchard so the root suckers would seem not to have been coming from that direction. However, the OS map resulting from the 1877 Survey shows a dense cluster of trees in what is now the rear garden of High Elms. Either this is the former orchard or may have been the group of elms that resulted in the root sucker problem.
- In the second place, “the way it was” argument contains a flaw because around 50 years ago, the current positions of the drive (“the Drive”) to Monk’s Cottage and the footpath (“the Footpath”) adjoining High Elms were reversed (although whether this earlier position of the Drive was authorised legally is debateable, judging by the old OS plan for the area that was revised in 1896 and which shows the former position of the Footpath going around the Copse, but does not show the Drive). Going back to “the way it was” would involve reversing the Drive and Footpath to their previous positions which is clearly impractical, expensive and of no tangible benefit to anyone.
- Thirdly, if the Copse were to be restored to a grassed area but with no changes made to either the Drive or the Footpath, the restored grassed area would be isolated from the rest of the Green by the Drive which was not the case when there was just the Footpath there instead. Isolated grassed areas like this have, historically, attracted the regular attention of motor mowers with the aim of ‘tidyness’, the downside of which is that any chance of their successful integration into the wildflower-rich environment of the rest of the Green becomes lost.
- Fourthly, if some or all of the living trees in the Copse were removed and the area laid to grass, the accompanying disturbance of the soil in removing the root systems would run the risk of undermining the foundations of the Drive and possibly, also, the pump and the recently erected telegraph pole (both in the Copse area) as well as the drainage system of High Elms. Alternatively, if the tree roots of living trees were left in situ, there is the risk that suckers would emerge in the future, thus presenting the newly grassed area with similar problems to those experienced 50 years or so ago. If, on the other hand, the Copse is retained, any unwanted suckers could simply be eliminated on an annual basis with shears or a hedge cutter.

#### **(E) SUMMARY OF OUR RECOMMENDATIONS**

- That (i) the dead trees in the Copse are removed (ii) where trees have healthy lower growth but dead tops, those dead tops are removed and (iii) the brambles cut back to the pump (to the extent not already included in an existing maintenance contract).
- That once this work has been done, a review of the Copse is then carried out to determine whether, and to what extent, any further tree planting is required to fill gaps left by the removal of the dead trees.

- That the Copse is inspected annually to determine the extent of any ongoing maintenance that may be required.

Peter and Jill Walters      Mike Rowley

Grasshoppers                  Cobblers

Stickling Green              High Street

Clavering

April 2020

**Letter from Cllr Couchman dated 26<sup>th</sup> August 2020:**

I noticed on the minutes of the Parish Council meeting on 1 Oth August, Item 11, mention of the Motion I submitted to you on 29th February, about clearing the thicket in the corner of Stickling Green.

I hereby withdraw that motion, as I will not be able to attend to propose it. Also I believe it is of sufficient local concern that it should be held over until it can be considered at an open public meeting which all local residents are free to attend in person.

**Clerk response** – I responded that it would be included as an agenda item, as it was likely that the Council would be meeting virtually until May 2021, which would mean no action taking place on the Copse until autumn 2021, also that parishioners were welcome to join meeting via zoom, or could email or write to me with their views.

**Letter from Cllr Couchman dated 30<sup>th</sup> August 2020**

**Thicket of trees and brambles at Stickling Green**

In response to email dated 28<sup>th</sup> August.

I understand that you are including this in your agenda although I have withdrawn my Motion. Would you please include my withdrawn motion and background paper, along with this letter in the meeting documents.

I have seen some papers written by Mr & Mrs Walters and Mr Rowley. Whilst they broadly agree with my suggestion we have some points of difference.

1. I believe that local residents should be consulted directly and given to opportunity to submit ideas.
2. The concept of a Village Green as I understand it, is for the recreational activities of local people. All sorts of such activities have been defined in legal cases over the years, but never as far as I know, for nature reserve purposes, however good that may be.
3. The suggestion that just some parts of dying trees should be removed is impractical.
4. My suggestion is of a much greater clearance than this but local resident's views should be paramount.

5. The passage quoted from the Open Spaces Society book is incomplete and in fact reads.

*"7. 26 The owner of a green cannot do anything which interferes with the lawful recreational activities of local inhabitants. He is not obliged, however, to maintain the green in a suitable state for recreation, although he could not prevent appropriate maintenance (grass cutting etc) by local inhabitants."*

It is now some six months since my original suggestion but no work appears to have been done removing brambles.

Finally I believe that it is of paramount importance to seek the opinions of all local residents directly; perhaps by a letter to each household.

It should be born in mind that not all residents have the means or inclination to be involved in electronic meetings.

### **COPSE OF TREES ADJOINING HIGH ELMS, STICKLING GREEN Letter September 2020**

We refer to our note of April this year, forwarded to the Parish Council, since when Councillor Couchman has kindly supplied us with his comments on the same, dated 30th August. This note responds to Councillor Couchman's comments (using the same paragraph numbering).

1. While consultation may be desirable:-

- It is not "of paramount importance". If it were, then the statutes under which the Parish Council manage and maintain Village Greens (particularly the Open Spaces Act 1906) would have made consultation a requirement, which is not the case, even when bylaws are being made.
- Any consultation would always be subject to the Parish Council's overriding statutory powers to manage as it sees fit.
- Consultation is not straightforward. The case of Edwards and Jenkins (see paragraph 7.17 of the 'Yellow Book') established that the rights over a Green should be limited to inhabitants of the Parish in question. Because this has been doubted in the case of New Windsor Corporation v Mellor, what we are left with is a range of those with rights over the Green that, at the very least, should include the entire Parish in question and possibly a wider area than this. Accordingly, if consultation were limited (for example) just to those on Stickling Green, this would run the risk of complaint by other users in the Parish that they have not been consulted. Consultation could, therefore, open up more problems than it solves.

2. It is not correct to exclude "nature reserve purposes" from the list of recreational activities enjoyed on a Village Green. In Section (B) of our note (5th bullet point) where we quote from the judgment in the Gleaston Green case, it is clear that a swamp was part of a Village Green, even though games could not be played on it. Exactly the same principle would apply to a copse of trees, or a nature reserve.

3. It is difficult to see how any competent tree specialist would regard removal of the dead tops of trees as "impractical". In any event, advice from the Royal Horticultural Society on tree pruning is to remove damaged or dead areas of a tree before doing any other pruning. Removal of damaged or dead areas is simply a matter of good management that helps to prevent the spread of disease.

4. Councillor Couchman suggests “much greater clearance” and in our note, we have argued against this, with reasons. In any event, in an era where trees are seen as inhibitors of climate change, why remove healthy trees without very good cause?

5. The reason for our note quoting part only of paragraph 7.26 of the ‘Yellow Book’ is that by adding in the final words relating to grass cutting etc by inhabitants, this opens up an entirely new topic unrelated to the point we were making. Since, however, this has now been raised by Councillor Couchman, we need to point out that the maintenance by inhabitants under paragraph 7.26 has no relevance where the Green is owned by a local authority such as the Parish Council. Paragraph 7.27 deals with where a local authority is the owner of a Village Green and here, the statutory powers of management override any management or maintenance rights of inhabitants, even where no bylaws have been made. This is why we specifically excluded the final words of paragraph 7.26. In short, where a Village Green is owned by a local authority, such as the Parish Council, inhabitants have no rights of maintenance whatsoever, other than with the specific consent of the Parish Council.

6. We agree with Councillor Couchman that no work has been carried out to remove the brambles from around the pump at the road end of the copse of trees.

Peter and Jill Walters      Mike Rowley

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