

## APPEALS COMMITTEE

10.00 A.M.

13TH DECEMBER 2006

**PRESENT:-** Councillors Sheila Denwood (Chairman), John Gilbert and Sylvia Rogerson (substitute for Helen Helme)

Apologies for Absence:

Councillors Chris Coates and Helen Helme

Officers in Attendance:

Maxine Knagg	Tree Protection Officer
Angela Parkinson	Senior Solicitor
Jane Glenton	Democratic Support Officer

**13 SITE VISIT - TREE PRESERVATION ORDER NO. 394 (2006): REAR OF NOS. 14, 13 AND 12 CHURCH BANK, OVER KELLET**

Prior to the commencement of the meeting, a site visit to the rear of numbers 14, 13 and 12 Church Bank, Over Kellet was undertaken in response to objections to the above-mentioned Tree Preservation Order.

**The following Members were present on the site visit:**

Councillors Sheila Denwood (Chairman) and John Gilbert.

**Officers in Attendance:**

Maxine Knagg – Tree Protection Officer  
Jane Glenton – Democratic Support Officer

**14 MINUTES**

The Minutes of the meeting held on 20<sup>th</sup> November 2006 were signed by the Chairman as a correct record.

**15 TREE PRESERVATION ORDER NO. 394 (2006): REAR OF NOS. 14, 13 AND 12 CHURCH BANK, OVER KELLET**

The Committee considered appeals against a decision of the Council under Section 198 of the Town and Country Planning Act 1990, making an Order in respect of four trees, T1 – an early mature Sycamore, T2 – a mature Cherry, G1 – a group comprising two early mature Ash, established within the rear gardens of numbers 14, 13 and 12 Church Bank, Over Kellet.

In accordance with the Town and Country Planning (Tree Preservation Order) Regulations 1999, objections had been received to Tree Preservation Order No. 394 (2006). The objections were from the owners of

(1) 51 Greenways, Over Kellet, who objected to the Order on the grounds that

the trees in question were too tall for the location, took light from their garden and the roots extended into their garden;

- (2) 12 Church Bank, Over Kellet, who objected to the Order on the ground that the mains sewer ran near T2 and the roots of the tree might damage the drain; and
- (3) 13 Church Bank, on the ground that one of the trees in Group 1 and T2 did not warrant a TPO as they did not benefit public amenity.

Members were informed that a timeline had been highlighted in connection with serving the original TPO No. 391 (2006) and this had been revoked. The site had been resurveyed and the trees identified in Order No. 391 (2006) were considered worthy of protection and included in the new Order No. 394 (2006).

The Tree Protection Officer advised Members that the amenity value of T1, T2 and G1 had been assessed using an objective and systematic approach (Tree Evaluation Method for Preservation Orders – TEMPO system). A score of 12 was achieved supporting the action of serving a Tree Preservation Order.

Consequently, the City Council considered it expedient in the interests of amenity to make provision for the preservation of the four trees in question under Sections 198 (201) and 203 of the Town and Country Planning Act 1990 for the following reasons:

- Clearly visible from two public highways and residential properties, contribute positively to local amenity value.
- Provide screening between neighbouring properties.
- Provide important wildlife resource around an urbanised residential setting and in close proximity to Over Kellet Pond (Wildlife Trust).
- Provide an important visual link to other protected trees within the locality and contribute to the overall tree cover of the area.

It was the view of the City Council that damage or removal of the trees would have a detrimental impact on the amenity value of the local area and, as such, they should be afforded protection by the serving of a Tree Preservation Order.

With regard to the objections received, the Tree Protection Officer advised Members as follows:

- (1) *Blockage of light* - the process of photosynthesis, in which the leaves of trees synthesise sugar from light, carbon dioxide and water, and produce oxygen, which is released to the atmosphere. The trees in question create shading for approximately six months a year. Lancaster City Council cannot support the removal of healthy trees because of the natural occurrence of shading in this instance.

*Encroachment of roots* – in the event of encroachment of roots onto neighbouring property, there would be a right to prune in the absence of a Tree Preservation Order. Consequently, if root pruning is undertaken, there is a potential for damage to trees with the loss of stability, the development of

disease and/or attack by pests.

- (2) *Tree roots damaging the drain* – Members were referred to the National Joint Utilities Group's *Guidelines for the Planning, Installation and Maintenance of Utility Services in Proximity to Trees*, paragraphs 3.4.1, 3.4.2 and 3.4.3, as follows:

3.4.1 *Direct damage is caused by the increase in diameter of a root (annual growth) bringing it into contact with the service. Forces which can be generated in this way by the root are small; it is usually the root of the adjacent soil that will distort rather than the service. The risk of damage will depend on the amount of diameter growth; this is greatest in the main structural roots within 3m of the base of the trunk. Services constructed from short segments, e.g. earthenware pipes, especially if they rely on gravity to function (e.g. drains, and where it is desirable to keep water out of the duct (e.g. telecommunications) will be most vulnerable to direct damage. Roots may be found sheathing a service, but they will rarely compress or strangle and then fracture any service. Surface wrappings which are non-toxic and inadequately attached to a service may become colonised by roots and eventually lift off.*

3.4.2 *Root incursion Roots will not penetrate intact services, but they can exploit existing defects, particularly defects in pipe joints, cracks in foul or surface water drains or inadequate pointing of an inspection chamber if internal conditions are conducive to root growth, i.e. moist and aerated, the root may proliferate (divide and grow) and ultimately block the drain or duct. It is only if diameter growth of the root occurs where it passes through the structure that there may be enlargement of the defect, but this is unlikely at a distance of more than 3m from the trunk.*

3.4.3 *Indirect damage is restricted to shrinkable soils especially some clays, but also peat. As such soils dry, they shrink, and this may distort a service supported within this soil. The presence of a tree may increase this drying and contribute to soil movement and also reduce heat dissipation from cables, which can reduce the current carrying capacity. The depth and radial extent of soil drying by tree root activity depends on the species, size of the tree and its management; it is greatest close to the tree and diminishes rapidly with distance and with depth.*

Members were informed that roots grew from their tips and when they came into contact with a solid object would be deflected. Any damage occurring to a drain would already have been in place. An owner would have the means of address through their insurance company, but would need to prove the cause of damage.

- (3) *The trees not benefiting the public amenity* - Members were referred to the reasons cited by the City Council as to the amenity value of the trees, and to the assessment made by Members on the site visit, which had taken place prior to commencement of the meeting.

***(The Committee passed a resolution to exclude the press and public on the basis that, in making its decision, exempt information would be received in the form of legal advice.)***

***(The Committee adjourned at 10.37 a.m. to consider the evidence.  
The Tree Protection Officer left the meeting at this point.)***

Members considered the options before them:

- (1) To confirm Tree Preservation Order No. 394 (2006):
  - (a) Without modification
  - (b) Subject to such modifications as considered expedient.
- (2) Not to confirm Tree Preservation Order No. 394 (2006).

It was proposed by Councillor Denwood and seconded by Councillor Gilbert:

“That the appeal be refused and the TPO confirmed without modification.”

Upon being put to the vote, Members voted unanimously in favour of the proposition, whereupon the Chairman declared the proposal to be carried.

***The Committee reconvened at 10.40 a.m. to give their decision and the  
Tree Protection Officer returned to the meeting at this point.)***

The Democratic Support Officer advised those present of the Committee's decision.

***Resolved:***

That the appeal be refused and the TPO confirmed without modification.

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Chairman

(The meeting ended at 10.42 a.m.)

**Any queries regarding these Minutes, please contact  
Jane Glenton, Democratic Services - telephone (01524) 582068 or email  
jglenton@lancaster.gov.uk**