



Committee: APPEALS COMMITTEE
Date: WEDNESDAY, 12TH MARCH 2008
Venue: LANCASTER TOWN HALL
Time: 2.00 P.M.

A G E N D A

Please note that there will be site visits commencing at 12.30 p.m. prior to commencement of the Appeals Committee.

1. Apologies for Absence

2. Minutes

Minutes of the Meeting held on 30th January 2007 (previously circulated)

3. Items of Urgent Business authorised by the Chairman

4. Declarations of Interest

Matters for Decision

5. Tree Preservation Order No. 422 (2007) - Land within the curtilage of St. John's Church , Emesgate Lane, Silverdale (Pages 1 - 39)

Report of Head of Democratic Services (incorporating the report of the Tree Protection Officer)

6. Tree Preservation Order No. 425 (2007) - Land within the curtilage of Park Cottage, Deer Park Lane, Hornby (Pages 40 - 77)

Report of Head of Democratic Services (incorporating the report of the Tree Protection Officer)

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Sheila Denwood (Chairman), Shirley Burns, Chris Coates, Janice Hanson, Helen Helme, Janie Kirkman and Bob Roe

(ii) Substitute Membership

Councillors John Barnes, Jane Fletcher, John Gilbert, David Kerr, Karen Leytham and Roger Sherlock

(iii) Queries regarding this Agenda

Please contact Jane Glenton, Democratic Services - telephone (01524) 582068 or email jglenton@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER LA1 1PJ

Published on Monday, 3rd March 2008

APPEALS COMMITTEE**TREE PRESERVATION ORDER NO. 422 (2007):
TREES ESTABLISHED ON LAND WITHIN THE CURTILAGE
OF ST. JOHN'S CHURCH, EMESGATE LANE, SILVERDALE****12TH MARCH 2008****REPORT OF HEAD OF DEMOCRATIC SERVICES****PURPOSE OF REPORT**

To enable Members to consider the objections received to Tree Preservation Order No. 422 (2007): trees established on land within the curtilage of St. John's Church, Emesgate Lane, Silverdale.

This matter will be dealt with in accordance with the adopted procedure for considering matters relating to individual applications, that is, the relevant matters for consideration by the Committee will be presented in the public part of the meeting, and the decision will be made after the exclusion of the press and public, on the basis that, in making its decision, the Committee will receive exempt information in the form of legal advice on possible legal proceedings arising from the decision (Paragraph 5 of Schedule 12A of the Local Government Act 1972).

RECOMMENDATIONS

That Members consider the objections to Tree Preservation Order No. 422 (2007): trees established on land within the curtilage of St. John's Church, Emesgate Lane, Silverdale.

1.0 Introduction

- 1.1 Under Section 198 of the Town and Country Planning Act 1990, the Local Planning Authority may make an Order in respect of a tree or group of trees if it appears that it is expedient in the interests of amenity to make provision for the protection of trees in their area.
- 1.2 In accordance with the Town and Country Planning (Tree Preservation Order) Regulations 1999, objections have been received to Tree Preservation Order No. 422 (2007), which has been made in relation to individual trees identified as T1-T3 and groups G1 and G2 on land within the curtilage of St. John's Church, Emesgate Lane, Silverdale.
- 1.3 The objections are from the occupant of The Vicarage, St. John's Grove, Silverdale and the Diocese of Blackburn.
- 1.4 In accordance with the Regulations, it is necessary to consider the objections, and in order for the objections to be considered objectively, the matter is referred to the Appeals Committee.

1.5 The report of the City Council's Tree Protection Officer is attached (pages 4 to 6).

Appended to the report are:

- Appendix 1 - *Copy of the original Tree Preservation Order No. 422 (2007) (pages 7 to 20)*
- Appendix 2 - *Tree Evaluation Method for Preservation Orders (TEMPO) (pages 21 to 22)*
- Appendix 3 – *Photographs of trees subject of Tree Preservation Order No. 422 (2007) (pages 23 to 25)*
- Appendix 4 – *Aerial photograph and site plan (page 26 to 28)*
- Appendix 5 – *Correspondence and objections in relation to Tree Preservation Order No. 422 (2007) (pages 29 to 39)*

2.0 Proposal Details

2.1 The purpose of the report is to provide Members with details to enable them to decide whether or not to confirm Tree Preservation Order No. 422 (2007).

3.0 Details of Consultation

3.1 There has not been any consultation at this stage.

4.0 Options

4.1 The Options are:

- (1) To confirm Tree Preservation Order No. 422 (2007)
 - (a) Without modification
 - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 422 (2007)

5.0 Conclusion

5.1 In the light of information contained within the report and its appendices, together with legal advice given at Committee and a site visit, Members are requested to determine whether or not to confirm Tree Preservation Order No. 422 (2007).

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Not applicable.

FINANCIAL IMPLICATIONS

Not applicable.

LEGAL IMPLICATIONS

A Legal Officer will be present at the meeting to advise the Committee.

BACKGROUND PAPERS

Tree Preservation Order No. 422 (2007)

Contact Officer: Jane Glenton

Telephone: 01524 582068

E-mail: JGlenton@lancaster.gov.uk

Ref: JEG



Contact: Planning Services
Telephone: 01524 582381
FAX: 01524 582323
Email: mknagg@lancaster.gov.uk
Website: www.lancaster.gov.uk

LANCASTER
CITY COUNCIL

Promoting City, Coast & Countryside

Planning Services
Maxine Knagg
Tree Protection Officer

Palatine Hall
Dalton Square
LANCASTER LA1 1PW

Date: 30th January 2008

Appeals Committee (TPO)

Trees subject of the Appeals Committee – established on land within the curtilage of St Johns Church, Emesgate Lane, Silverdale and subjects of **Tree Preservation Order no.422 (2007)**.

This report has been produced by Maxine Knagg (BSc Hons Arboriculture), Tree Protection Officer, Lancaster City Council.

1.0 Introduction

- 1.1 **Site:** The trees in question are established within the curtilage of above detailed property and are comprised of a two main groups of trees to the north, east and south of the property and a number of individual trees to the west of the site.
- 1.2 **Scope and limitation of this report:** This is an arboriculture report restricted to only those trees subject of the Appeals Committee. The information provided within this report has been gathered by means of a preliminary visual tree assessment restricted to ground level observations and inspection at the time of the site visit. A systematic and objective appraisal of the amenity value of the trees has been undertaken using the *Tree Evaluation Method for Preservation Orders (TEMPO)*. It should be noted that trees are dynamic, living organisms subject to changes in weather, climate, pest and disease, development activities and site conditions.

2.0 Site Visit

- 2.1 **Date:** Undertaken 6th December 2007.
- 2.2 **Brief Site Description:** The site is established within a area of Outstanding Natural Beauty in the village of Silverdale. Trees are clearly visible from the public highway of Emesgate Lane and a number of local residential properties and to users of the church and its grounds.



2.3 **Site Development:** Site development works have been undertaken to the front of the church site, including resurfacing works and re-construction of planted areas. During the works there were no identifiable tree protection systems in place and damaged and exposed tree roots could clearly be identified (Appendix 3).

2.4 Development that involves the disturbance of the ground, whether changes in ground levels, surfacing and or excavation works has significant potential to cause damage to trees within the vicinity of such works. Damage to root systems has the real potential to limit the life potential, health, vigour and stability of affected trees.

2.5 A planning application has been submitted for the re-development of an existing building to the north of the site. This area is heavily wooded with trees. Although, this matter will be considered as a separate planning matter, it is worthy of noting during this Appeal Committee.

3.0 Identification and condition of the trees:

3.1 The trees in question are the subjects of **Tree Preservation Order no. 422 (2007) (Appendix 1)**. The trees have been identified as individual trees **T1-T3** and groups **G1** and **G2** within the Tree Preservation Order.

3.2 **T1** is a young horse chestnut; **T2** a young birch; and **T3** is an early-mature yew tree, all are established to the front of the property, close to the western boundary. Recent development works in this area have resulted in damage to roots systems of trees likely to emanate from **T2**, possibly other trees in addition. Root damage has the potential adversely affect the long-term sustainability of affected trees, with impaired health, vigour and the potential for a loss of stability.

3.3 **G1** & **G2** are groups of young to mature trees including species of holly, sycamore, birch, ash, cherry, yew and beech. Generally, these trees are of a good condition, and state of health and vigour.

4.0 Tree Preservation Order

4.1 The amenity value of trees within the site has been assessed using an objective and systematic approach (Tree Evaluation Method for Preservation Orders - *TEMPO* system). A score of 15+ was achieved supporting the action of serving a Tree Preservation Order (**Appendix 2**).

4.2 Trees within the site contribute significantly to the local amenity by providing the following:

- important visual amenity
- improvements in air quality, screening, privacy, and noise abatement from the public highway
- important wildlife resource

4.3 Lancaster City Council considers it expedient in the interests of amenity to make provision for the preservation of the trees in question **under sections 198, 201 and 203 of the Town & Country Planning Act 1990**.

Trees :

- provide important public amenity benefits;
- under threat from future site development;
- provide important wildlife resource

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

Maxine Knagg BSc (Hons) Arboriculture
Tree Protection Officer, Planning Services
Lancaster City Council

Appendix no.1

Tree Preservation Order no.422(2007)

CITY COUNCIL OF LANCASTER
TREE PRESERVATION ORDER NO. 422 (2007)

---ooOoo---

I hereby certify that this is a true copy of the original order.

A.M. Kendinton 13/12/07

RELATING TO TREES LOCATED AT
ST JOHN'S CHURCH
EMESGATE LANE
SILVERDALE

TOWN HALL
LANCASTER
LA1 1PJ

TOWN AND COUNTRY PLANNING ACT, 1990

CITY COUNCIL OF LANCASTER

TREE PRESERVATION ORDER NO. 422 (2007)

The City Council of Lancaster, in exercise of the powers conferred on them by sections 198, [201] and 203 of the Town and Country Planning Act 1990 hereby make the following Order:-

Citation

1. This Order may be cited as Tree Preservation Order (No. 422) 2007

Interpretation

2. this Order "the authority" means the (Lancaster City Council) and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on (14 December 2007).

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) [or subsection (3) of section 200 (orders affecting land where Forestry Commissioners interested)], and subject to article 5, no person shall:-
 - (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of, any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

5. (1) Nothing in article 4 shall prevent:-
 - (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary:-
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;

- (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
- (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph(a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
- (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
- (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or
- (g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.

(2) In paragraph (1), "statutory undertaker" means any of the following:-

a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,

a relevant airport operator (within the meaning of Part V of the Airports Act 1986, the holder of a licence under section 6 of the Electricity Act 1989, a public gas transporter,

the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,

a water or sewerage undertaker,

the Civil Aviation Authority or a body acting on behalf of that Authority,

the Post Office,

Applications for consent under the Order

6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall:-

- (a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
- (b) specify the work for which consent is sought; and
- (c) contain a statement of the applicant's reasons for making the application

Application of provisions of the Town and Country Planning Act 1990

7. (1) The provision of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part 1 of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting

8. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.
- (2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.
- (3) a direction under paragraph (1) may include requirements as to:-
 - (a) species;
 - (b) number of trees per hectare;
 - (c) the preparation of the relevant land prior to the replanting; and
 - (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9. (1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of:-
 - (a) the refusal of any consent required under this Order; or
 - (b) the grant of any such consent subject to conditions,he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.
- (2) No claim, other than a claim made under paragraph (3), may be made under this article:-
 - (a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
 - (b) if the amount in respect of which the claim would otherwise have been made is less than £500.
- (3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.
- (4) In any other case, no compensation shall be payable to a person:-
 - (a) for loss of development value or other diminution in the value of the land;
 - (b) for loss or damage which, having regard to the statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
 - (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
 - (d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10(application for felling licence and decision of Commissioners thereon) of that Act as if or any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article:-

"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

"owner" has the meaning given to it by section 34 of the Forestry Act 1967.

[Applications to trees to be planted pursuant to a condition

10 In relation to the tree(s) identified in the first column of Schedule 1 by the letter "C", being [a tree] [trees] to be planted pursuant to a condition (being a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees)), this Order takes effect as from the time when [that tree is planted] [those trees are planted]].

[Orders made by virtue of section 300

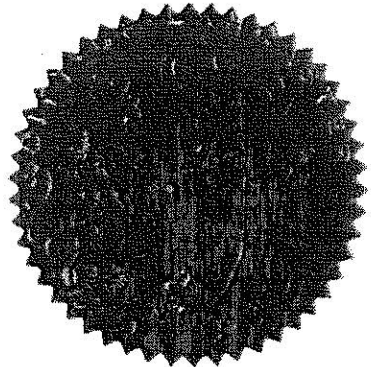
11. This Order takes effect in accordance with subsection (3) of section 300 (tree preservation orders in anticipation of disposal of Crown land).]

Dated this 13th day of December 2007

THE COMMON SEAL of
THE CITY COUNCIL OF LANCASTER
was hereunto affixed in the presence of:-

}
J. Dun

*Corporate Director
(Regeneration)*



SEAL REGISTERED
No. 21520

FIRST SCHEDULE

Trees Specified Individually
(encircled in black on the map)

NO. ON MAP	DESCRIPTION	SITUATION
T1	Horse Chestnut	St John's Church
T2	Birch	St John's Church
T3	Yew	St John's Church

Trees specified by reference to an area
(within a dotted black line on the map)

NO. ON MAP	DESCRIPTION	SITUATION
	NONE	

Groups of trees
(within a broken black line on the map)

NO. ON MAP	DESCRIPTION	SITUATION
G1	Ash, Cherry, Yew, Sycamore Cypress, Beech, Holly	St John's Church
G2	Ash, Holly, Sycamore, Cypress, Birch, Beech	St John's Church

Woodlands
(within a continuous black line on the map)

NO. ON MAP	DESCRIPTION	SITUATION
	None	

SCHEDULE 2

PART I

Provisions of the Town and Country Planning Act 1990 applied
with adaptations or modifications

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 69 (registers)	<p>(a) In subsection (1):-</p> <p>(i) Omit:- "in such manner as may be prescribed by a development order," "such" in the second place where it appears, and "as may be so prescribed", and</p> <p>(ii) substitute "matters relevant to tree preservation orders made by the authority" for "applications for planning permission".</p> <p>(b) In subsection (2):-</p> <p>(i) after "contain" insert "as regards each such order"; and</p> <p>(ii) for paragraphs (a) and (b) substitute:- "(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it".</p> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>
<p>Provision of the Town and Country Planning Act 1990</p> <p>Section 70 (determination of applications: general considerations)</p>	<p>Adaptation or Modification</p> <p>(a) In subsection (1):-</p> <p>(i) substitute:- "Subject to subsections (1A) and (1B), where" for "Where"; "the authority" for "a local planning authority",</p>

	<p>"consent under a tree preservation order" for "planning permission" where those words first appear; and "consent under the order" for "planning permission" in both of the other places where those words appear; and "consent under the order" for "planning permission" in both of the other places where these words appear;</p> <p>(ii) after "think fit", insert- "(including conditions limiting the duration of the consent or requiring the replacement of trees)"; and (iii) Omit "subject to sections 91 and 92,".</p> <p>(b) After subsection (1) insert:- "(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area. (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting)".</p> <p>(c) Omit subsections (2) and (3).</p>
<p>Section 75 (effect of planning Permission)</p> <p>Section 78 (right to appeal Against planning decisions and failure To take such decisions)</p>	<p>(a) In subsection (1) substitute:-</p> <p>(i) "Any" for the words from "Without" to "any"; (ii) "consent under a tree preservation order" for "planning permission to develop land"; (iii) "the consent" for "the permission"; and (iv) "the land to which the order relates for the land".</p> <p>(b) Omit subsections (2) and (3).</p> <p>(a) In subsection (1) substitute:-</p> <p>(i) "the authority" for "a local planning authority"; (ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear; (iii) "consent under such an order" for "planning permission" in the second place where those words appear;</p> <p>(iv) for paragraph (c) substitute:- "(c) give a direction under a tree preservation order or refuse an application for any consent, agreement or approval of that authority required by such a direction; or</p>

is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority"

- (b) Omit subsection (2).
- (c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order".
Substitute:-
"in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served:-
(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
(a) in respect of such a failure as is mentioned in paragraph
(b) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant".
(d) For subsection (4) substitute:-
"(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)".
(e) For subsection (5), substitute:-
"(5) For the purposes of the application of Section 79 (1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question".

Section 79 (determination of appeals)(a)

- (a) In subsections (1) and (2), substitute "the authority" for the local planning authority".
- (b) Omit subsection (3).
- (c) In subsection (4), substitute:-
(i) "sections 70(1), (1A) and (1B)" for "sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5";
(ii) "consent under a tree preservation order" for "planning permission"; and
(iii) "the authority" for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71".
- (d) Omit subsections (6) and (6A).
- (e) In subsection (7), omit the words after "section 78".

PART II

**PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990
AS ADAPTED AND MODIFIED BY PART 1**

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part 1 of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

- (1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.
- (2) The register shall contain, as regards each such order:-
 - (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
 - (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.
- (3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

- (1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order:-
 - (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
 - (b) they may refuse consent under the order.
- (1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.
- (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

Section 75

Any grant of consent under a tree preservation order shall (except insofar as the consent otherwise provides) ensure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78

- (1) Where the authority:-
 - (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
 - (a) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;
 - (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or

- (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

- (3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served:-
 - (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
 - (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.
- (4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).
- (5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

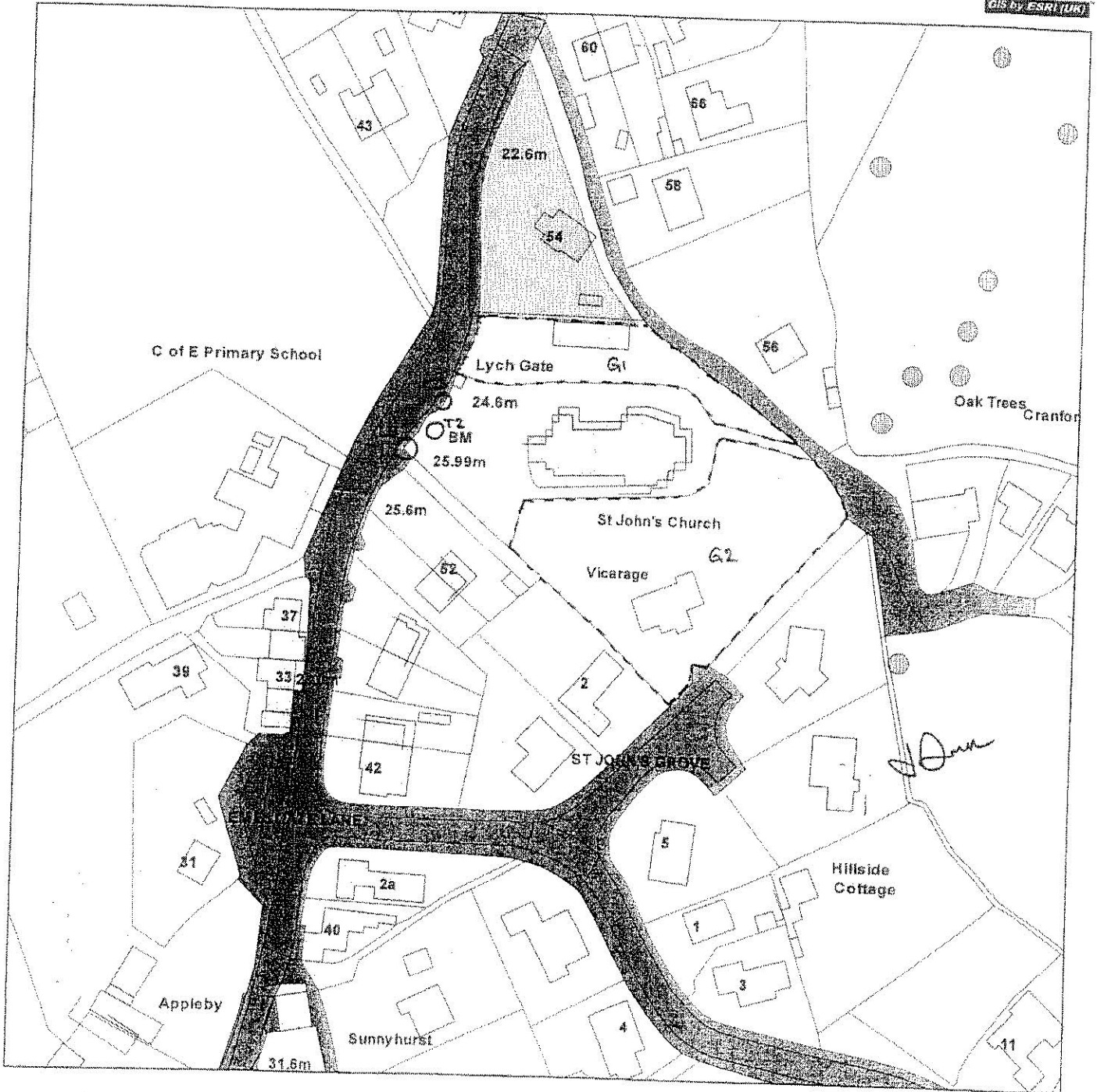
Section 79

- (1) On an appeal under section 78 the Secretary of State may:-
 - (a) allow or dismiss the appeal, or
 - (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),and may deal with the application as if it has been made to him in the first instance.
- (2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

- (4) Subject to condition (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which fails to be determined by the authority.
- (5) The decision of the Secretary of State on such an appeal shall be final.
- (7) Schedule 6 applies to appeals under section 78.

Tree Preservation Order no.422 (2007)

St. John's Church, Emesgate Lane, Silverdale



Scale : 1:1250

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Organisation	Lancaster City Council
Department	Planning Services
Comments	
Date	10 December 2007
St. A Number	

Appendix no.2

Tree Evaluation Method for Preserved Trees (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 6.12.07	Surveyor: Mknagg
Tree details	T1-T3
TPO Ref (if applicable): 421(2007)	Tree/Group No: G1, G2
Owner (if known): —	Location: ST. Johns Church, Evesgate Lane, Silverdale
	Species: Ash, birch, Sycamore, beech, holly, cherry, cypress

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- 5) Good Highly suitable
- 3) Fair Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead Unsuitable
- 0) Dying/ dangerous* Unsuitable

* Relates to existing context and is intended to apply to severe irremediable defects only

Score & Notes	5
Generally trees are of a good condition	

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10* Unsuitable

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

Score & Notes	4
Many trees have a potential longevity of several hundred years; Yew; Sycamore, Ash, beech.	

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees
- 4) Large trees, or medium trees clearly visible to the public
- 3) Medium trees, or large trees with limited view only
- 2) Young, small, or medium/large trees visible only with difficulty
- 1) Trees not visible to the public, regardless of size

- Highly suitable
- Suitable
- Suitable
- Barely suitable
- Probably unsuitable

Score & Notes	4
Trees adj. main public highway + envelope church building	

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes	4
Provide cohesion + significant contribution to tree cover of area.	

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes	3
Development works has damage tree roots - unknown if more works are intended?	

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-10 Does not merit TPO
- 11-14 TPO defensible
- 15+ Definitely merits TPO

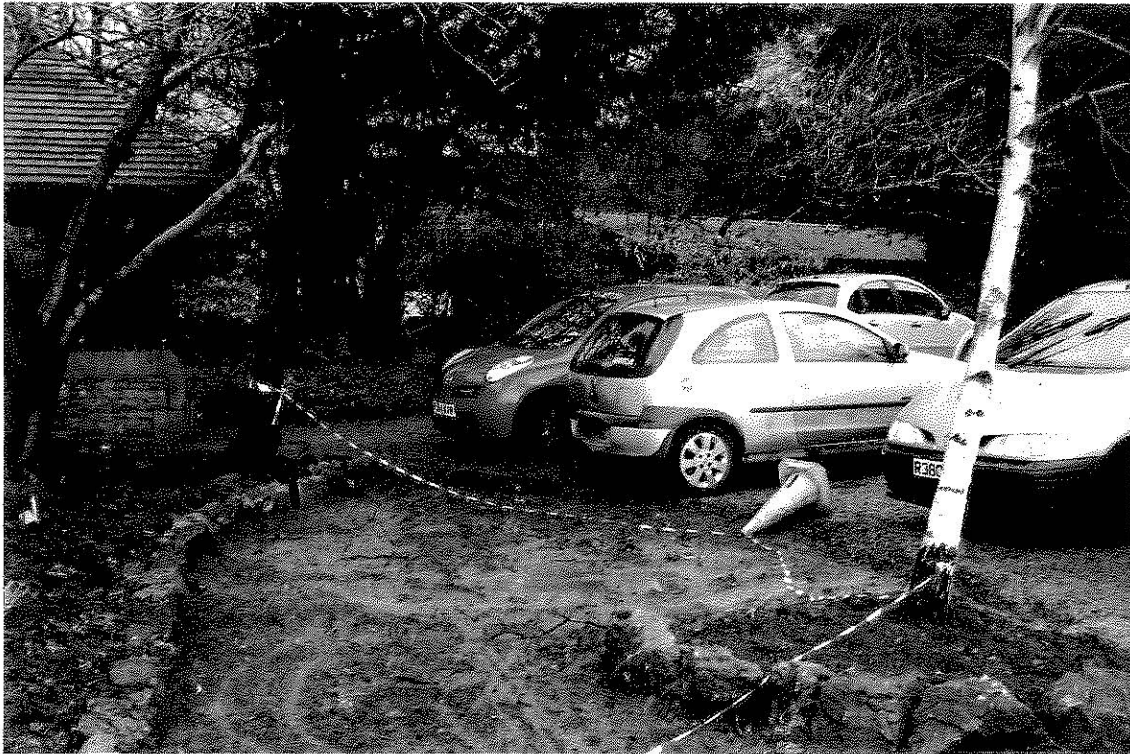
Add Scores for Total:
22

Decision:
SEWE TPO

Appendix no.3

Photographs of trees subject of Tree Preservation Order no.422 (2007)

St. Johns Church, Silverdale



Recent development works +
exposed damaged roots,
to front of St. Johns church,



Trees within G2

6-12-07

St. John's church
Silverdale



Trees within G2.



Exposed damaged roots -
recent development works
to front of church.

Appendix no.4

Aerial Photograph and site plan

St John's Church, Emesgate Lane, Silverdale

TPO no.422 (2007)



Scale : 1:1250

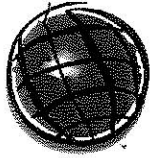
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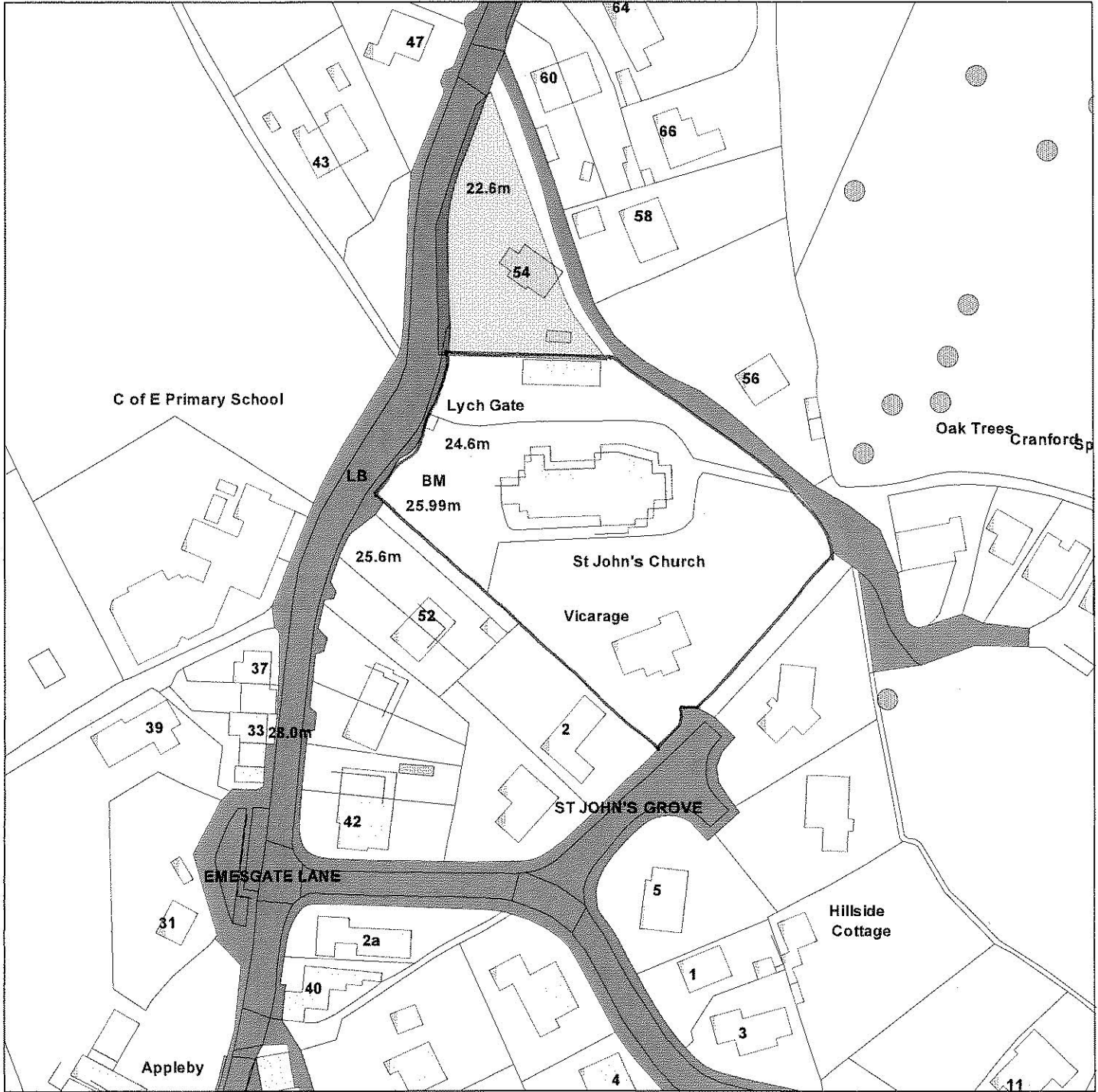
Organisation	Lancaster City Council
Department	Planning Services
Comments	
Date	30 January 2008
SLA Number	LA100025403

St John's Church, Emesgate Lane, Silverdale

TPO no.422 (2007)



GIS by ESRI (UK)



Scale : 1:1250

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Organisation	Lancaster City Council
Department	Planning Services
Comments	
Date	30 January 2008
SLA Number	LA100025403

Appendix No. 5

Correspondence and objections in relation to
Tree Preservation Order No. 422 (2007)

Contact: Planning Services
Telephone: 01524 582381
FAX: 01524 582323
Email: mknagg@lancaster.gov.uk
Website: www.lancaster.gov.uk

~~Simon Paul Wilson~~

The Vicarage
St John's Grove
Silverdale
Carnforth
LA5 ORH

Planning Services

Maxine Knagg
Tree Protection Officer
Palatine Hall
Dalton Square
LANCASTER LA1 1PW

Date: 10th January 2008

Dear ~~Simon Paul Wilson~~

Re: Written objection to TPO no.422 (2007)

Thank you for your letter dated 8th January 2008.

We accept your formal, written objection against the Council's decision to serve Tree Preservation Order no.422 (2007). The written objection is in compliance with the regulation 3 notice and as such a copy will be forwarded to Democratic Services and a date for a formal Appeal Hearing will be arranged in due course. You will receive formal notification and an invitation to make a representation at the hearing should you wish to do so.

In the meantime, we are happy for you to contact Maxine Knagg – Tree Protection Officer directly to make suitable arrangements for a site meeting, when she will be happy to discuss the issues that you have raised in your letter of objection.

Please contact **Maxine Knagg – Tree Protection Officer Tel: 01524 582384** to make arrangements for a site visit on a mutually convenient date and time.

We look forward to hearing from you in the near future.

Yours sincerely

Maxine Knagg
Tree Protection Officer
Tel: 01524 582384

~~Canon Paul W. Warren~~

Telephone: 01524 701268

The Vicarage
St. John's Grove
Silverdale
Carnforth
Lancashire
LA5 0RH

8th January 2008

Dear Ms. Knagg,

Tree Preservation Order No. 422 (2007)

I write to acknowledge your letter dated 18th December 2007 sent to me as the occupier of St. John's Vicarage, Silverdale, giving details of the Tree Preservation Order covering the grounds of both St. John's Church and the Vicarage.

As I explained in my telephone conversation with you this morning, the Parochial Church Council meets tomorrow evening and will doubtless agree a response, probably an objection, which will be sent to you.

I write this letter, as the occupant of the Vicarage, to lodge a formal objection to the imposition of the Order in the area marked G2 on the plan. The Vicarage is surrounded on two sides by quite dense woodland, including saplings, undergrowth, and a

St. John's Church, Silverdale

Priest-in-Charge: ~~Canon Paul Warren MA~~

Tel: 01524 701268

NSM Curate: ~~Rev. Mr. Navey MA~~

Tel: 01524 381046

The Vicarage
St John's Grove
Silverdale
Lancs LA5 0RH

Andrew Dobson
Head of Planning and Building Control
Lancaster City Council
Palatine Hall
Dalton Square
Lancaster
LA1 1PW

11th Jan 08

Dear Mr Dobson,

In response to your letter of 18th Dec re: TPO 422 (2007) we, the Parochial Church Council of St John's Church, Silverdale, wish to register our OBJECTION to the above tree preservation order.

Firstly, please send all future correspondence addressed to Canon Paul Warren, at the address given above. Letters addressed to the Lychgate are unlikely to find a recipient.

Secondly you should be aware that the church grounds and the Vicarage garden are two entirely separate pieces of land, albeit commonly owned by the Diocese of Blackburn. This is not indicated on your plan.

We consider that making a blanket TPO on the entire church grounds is an understandable but wholly inappropriate response to concerns raised by one local resident.

You will have seen during your inspection that the wooded areas of the site have not seen active maintenance for many years. Your letter states that:

"the trees make a significant importance to the amenity of the area" (sic)

We challenge the idea that areas of self-seeded overgrowth where trees are growing into each other, and in some cases have outgrown their context, enhances the amenity of the site. We would welcome a robust explanation of the statement, within the context of a significant public building and place of worship.

St John's church is in a welcome period of growth and regeneration, and one element of this is the formulation of plans for the renovation of the church grounds. The provisional plan has been in the public domain for some months, and clearly states our intention to retain not only the three trees individually listed on the TPO, but also to encourage the other trees on the site by clearing overgrowth and generally following good woodland management. The PCC sub-committee which is dealing with these matters has already made approaches to the National Trust, the AONB and others with expertise in these matters for advice. The development of our management plan is an ongoing process, and public involvement in decision making has been actively sought. The imposition of the TPO suggests that significant trees on the site are in danger, but this is simply not the case.

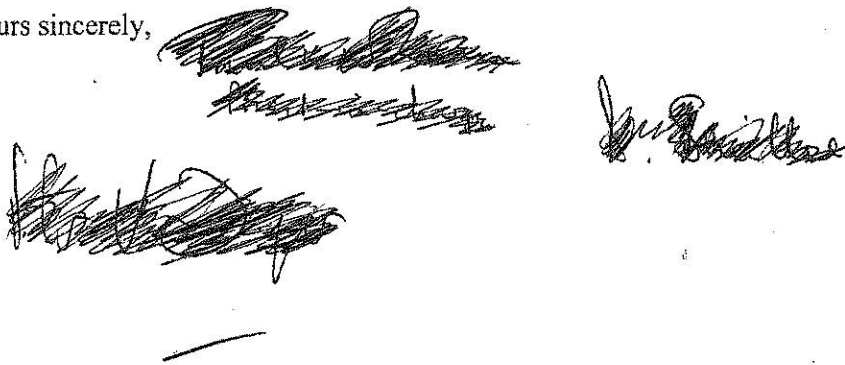
It may well be appropriate to apply TPO's to some individual trees where these genuinely provide a significant visual, functional or ecological benefit, but we believe that this will only be established by considering the site in detail, and in the context of our management plan and what is appropriate for the grounds of a parish church.

It should also be remembered that the church grounds, as well as the buildings, are subject to the planning and development restrictions imposed by the Diocese. No significant changes can be made without applying to Diocese for a Faculty, which may involve application for formal Planning consent where appropriate. We are closely governed by this legislation as we seek to restore and enhance the environs of our church for the benefit of congregation and community.

You will be aware that we currently have a Planning Application pending for the replacement of our Parish Hall. This will undoubtedly have some impact on a small number of trees near the site but these will be dealt with under the terms of that application. The proposed building development is a related but separate issue to the restoration of the grounds as a whole.

We consider that the blanket TPO is an unnecessary imposition which can only serve to inhibit the sensible development and maintenance of the church grounds. Therefore the PCC requests a site meeting at the earliest opportunity with a senior Planning Officer to openly discuss the issues involved, so that we can arrive a shared understanding of our respective positions.

Yours sincerely,



~~De Peter Piper, Churchwarden~~

~~Mrs Diane Smith, Churchwarden~~

for St John's Parochial Church Council

Contact: Maxine Knagg
Telephone: (01524) 582384
Fax: (01524) 582323
Minicom: (01524) 582175
E-mail: ghendren@lancaster.gov.uk
Website: www.lancaster.gov.uk
Our Ref: TPO NO. 422 (2007)
Your Ref:

Letter to:-

Lych Gate, Emesgate Lane, Silverdale
52, 54 Emesgate Lane, S/dale
2 St John's Grove, S/dale
Vicarage, St John's Church, Emesgate Lane, S/dale
LCC Highways Dept

Planning Services

Palatine Hall
Dalton Square
Lancaster
LA1 1PW
DX 63531

18 December 2007

Dear Sir/Madam

IMPORTANT - THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

Tree Preservation Order: No. 422 (2007)
Lancaster City Council:- ST JOHN'S CHURCH, EMESGATE LANE, SILVERDALE

THIS IS A FORMAL NOTICE to let you know that on 13 December 2007 the Council made the above tree preservation order.

A copy of the order is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping any of the trees described in the First Schedule and shown on the map without the Council's consent.

Some explanatory guidance on tree preservation orders is given in the enclosed leaflet, *Protected Trees: a guide to Tree Preservation Orders*, produced by the Department of the Environment, Transport and the Regions.

THE COUNCIL HAVE MADE THE ORDER BECAUSE:-

The trees make a significant importance to the amenity of the area

The Order took effect, on a provisional basis, on 14 December 2007. It will continue in force on this basis for a further 6 months or until the order is confirmed by the Council, whichever first occurs.

Continued

The Council will consider whether the order should be confirmed, that is to say, whether it should take effect formally. Before this decision is made, the people affected by the order have a right to make objections or other representations about any of the trees, groups of trees or woodlands covered by the Order.

If you would like to make any objections or other comments, please make sure we receive them in writing within 28 days of receiving this notice. Your comments must comply with regulations 4 of the Town and Country Planning (Trees) Regulations 1999, a copy of which is enclosed. Send your comments to Lancaster City Council, Planning and Building Control, Palatine Hall, Dalton Square, Lancaster LA1 1PW. All valid objections or representations are carefully considered before a decision on whether to confirm the Order is made.

The Council will write to you again when that decision has been made. In the meantime, if you would like any further information or have any questions about this letter, please contact Maxine Knagg at Lancaster City Council, Planning and Building Control, Palatine Hall, Dalton Square, Lancaster LA1 1PW or telephone (01524) 582384.

Yours faithfully



ANDREW DOBSON
HEAD OF PLANNING AND BUILDING CONTROL

Objections and representations

4(1) *Subject to paragraph (2), objections and representations*

(a) *shall be made in writing and*

- (i) *delivered to the authority not later than the date specified by them under regulation 3(2)c; or*
- (ii) *sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;*

(b) *shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and*

(c) *in the case of an objection, shall state the reasons for the objection.*

4(2) *The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.*

Contact: Planning Services
Telephone: 01524 582381
FAX: 01524 582323
Email: mknagg@lancaster.gov.uk
Website: www.lancaster.gov.uk

Planning Services
Maxine Knagg
Tree Protection Officer

Palatine Hall
Dalton Square
LANCASTER LA1 1PW

Date: 7th December 2007

Re: Proposed New Tree Preservation Order – St.John's Church, Emesgate Lane, Silverdale.

1.0 Introduction

1.1 **Site:** The trees in question are established on land within the curtilage of St John's Church and vicarage, Emesgate Lane, Silverdale.

1.2 **Scope and limitation of this report:** This is an arboriculture report restricted to the trees subject to the proposed new Tree Preservation Order. The information provided within this report has been gathered by means of a preliminary visual tree assessment restricted to ground level observations and inspection at the time of the site visit. An objective appraisal of the amenity value of the trees in question has also been undertaken using a *Tree Evaluation Method for Preservation Orders (TEMPO)*. It should be noted that trees are dynamic, living organisms subject to changes in weather, climate, pest and disease, development activities and site conditions.

2.0 Site Visit

2.1 **Date:** Undertaken 6th December 2007

2.2 **Brief Site Description:** The site is within an Area of Outstanding Natural Beauty and immediately adjacent to Emesgate Lane, a main road running through Silverdale. The trees within this site are a prominent landscape feature and collectively make a considerable contribution to the amenity of the area.

2.3 **Identification and condition of the trees:** The trees in question are young to mature in age classification and are mixed species, deciduous and evergreen trees. For the purposes of the report the trees have been identified as **T1-T3, G1** and **G2**.

- 2.4 **T1** is a young horse chestnut, **T2** a young birch and **T3** an early-mature yew, all are established to the front aspect of the property, close to the western boundary of the site.
- 2.5 Development works have been recently undertaken to the front of the property close to **T2** (birch); changes in ground levels have resulted in the damage and exposure of an extensive area of tree roots. Birch are naturally a shallow rooting species of deciduous tree and development work of this nature has serious implication for such species, likely to threaten the future health and vitality of affected trees, in this instance **T2**.
- 2.6 **G1** is a large group of mixed species deciduous and evergreen trees including ash, cherry, yew, sycamore, cypress, beech and holly. This group extends around the north and eastern boundaries of the church. Age classifications range from young to mature. Trees are generally of good condition, with narrow conical form, typical of trees grown in close proximity to one and another.
- 2.7 **G2** is a large group of trees established from the eastern aspect of the site around to the west, encompassing land around the vicarage of St. John's. Species include ash, holly, sycamore, cypress, birch and beech. Similarly to trees within G1, their condition is generally good with many trees developing an upright form typical of trees grown in close proximity to one and another.
- 2.9 Trees within this site provide important amenity value locally, are a significant landscape feature and valuable wildlife resource, making a significant contribution to the tree cover in the area.

3.0 Tree Preservation Order

- 3.1 The amenity value of the trees in question has been assessed using an objective and systematic approach; the *Tree Evaluation Method for Tree Preservation Orders* (*TEMPO* system) has been used. A score of 15+ was accumulated, supporting the use of a Tree Preservation Order.
- 3.2 Lancaster City Council consider it expedient in the interests of amenity to make provision for the preservation of the trees in question **under sections 198 (201) and 203 of the Town & Country Planning Act 1990**. Lancaster City Council cite the following reasons:
- The trees are prominent landscape features and are clearly visible from the public highway, providing important public amenity.
 - Trees provide screening and visual amenity to the church and adjacent properties.
 - Important wildlife resource.
 - Threat to the health and vitality of trees from recent development works and possible future development within the site.

4.0 Recommendation

4.1 Serve a Tree Preservation Order under sections 198 (201) and 203 of the Town & Country Planning Act 1990.

**Maxine Knagg BSc (Hons) Arboriculture
Tree Protection Officer
Planning Services
Lancaster City Council**

APPEALS COMMITTEE

TREE PRESERVATION ORDER NO. 425 (2007): TREES ESTABLISHED ON LAND WITHIN THE CURTILAGE OF PARK COTTAGE, DEER PARK LANE, HORNBY

12TH MARCH 2008

REPORT OF HEAD OF DEMOCRATIC SERVICES

PURPOSE OF REPORT

To enable Members to consider the objections received to Tree Preservation Order No. 425 (2007): trees established on land within the curtilage of Park Cottage, Deer Park Lane, Hornby.

This matter will be dealt with in accordance with the adopted procedure for considering matters relating to individual applications, that is, the relevant matters for consideration by the Committee will be presented in the public part of the meeting, and the decision will be made after the exclusion of the press and public, on the basis that, in making its decision, the Committee will receive exempt information in the form of legal advice on possible legal proceedings arising from the decision (Paragraph 5 of Schedule 12A of the Local Government Act 1972).

RECOMMENDATIONS

That Members consider the objections to Tree Preservation Order No. 425 (2007): trees established on land within the curtilage of Park Cottage, Deer Park Lane, Hornby.

1.0 Introduction

- 1.1 Under Section 198 of the Town and Country Planning Act 1990, the Local Planning Authority may make an Order in respect of a tree or group of trees if it appears that it is expedient in the interests of amenity to make provision for the protection of trees in their area.
- 1.2 In accordance with the Town and Country Planning (Tree Preservation Order) Regulations 1999, objections have been received to Tree Preservation Order No. 425 (2007), which has been made in relation to trees identified in a single woodland belt (W1) on land within the curtilage of Park Cottage, Deer Park Lane, Hornby.
- 1.3 The objections are from the owners of Lorelei, Deer Park Lane, Hornby and the owners of Deer Park Cottage, Deer Park Lane, Hornby.
- 1.4 In accordance with the Regulations, it is necessary to consider the objections, and in order for the objections to be considered objectively, the matter is referred to the Appeals Committee.

1.5 The report of the City Council's Tree Protection Officer is attached (pages 43 to 45).

Appended to the report are:

- Appendix 1 - *Copy of the original Tree Preservation Order No. 425 (2007) (pages 46 to 60)*
- Appendix 2 - *Tree Evaluation Method for Preservation Orders (TEMPO) (pages 61 to 62)*
- Appendix 3 – *Aerial photograph and site plan (pages 63 to 65)*
- Appendix 4 – *Correspondence and objections in relation to Tree Preservation Order No. 425 (2007) (pages 66 to 77)*

2.0 Proposal Details

2.1 The purpose of the report is to provide Members with details to enable them to decide whether or not to confirm Tree Preservation Order No. 425 (2007).

3.0 Details of Consultation

3.1 There has not been any consultation at this stage.

4.0 Options

4.1 The Options are:

- (1) To confirm Tree Preservation Order No. 425 (2007)
 - (a) Without modification
 - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 425 (2007)

5.0 Conclusion

5.1 In the light of information contained within the report and its appendices, together with legal advice given at Committee and a site visit, Members are requested to determine whether or not to confirm Tree Preservation Order No. 425 (2007).

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Not applicable.

FINANCIAL IMPLICATIONS

Not applicable.

LEGAL IMPLICATIONS

A Legal Officer will be present at the meeting to advise the Committee.

BACKGROUND PAPERS

Tree Preservation Order No. 425 (2007)

Contact Officer: Jane Glenton

Telephone: 01524 582068

E-mail: JGlenton@lancaster.gov.uk

Ref: JEG



Contact: Planning Services
Telephone: 01524 582381
FAX: 01524 582323
Email: mknagg@lancaster.gov.uk
Website: www.lancaster.gov.uk



Planning Services
Maxine Knagg
Tree Protection Officer

Palatine Hall
Dalton Square
LANCASTER LA1 1PW

Date: 30th January 2008

Appeals Committee (TPO)

Trees subject of the Appeals Committee – established on land within the curtilage of Park Cottage, Deer Park Lane, Hornby, Lancashire and subjects of **Tree Preservation Order no.425 (2007)**.

This report has been produced by Maxine Knagg (BSc Hons Arboriculture), Tree Protection Officer, Lancaster City Council.

1.0 Introduction

1.1 Site: The trees in question are established within the curtilage of above detailed property and are comprised of a substantial belt of woodland trees including species of sycamore, oak, yew, lime, beech, horse chestnut and sweet chestnut. A number of the trees are large, mature trees that have become significant landscape features.

1.2 Scope and limitation of this report: This is an arboriculture report restricted to only those trees subject of the Appeals Committee. The information provided within this report has been gathered by means of a preliminary visual tree assessment restricted to ground level observations and inspection at the time of the site visit. A systematic and objective appraisal of the amenity value of the trees has been undertaken using the *Tree Evaluation Method for Preservation Orders (TEMPO)*. It should be noted that trees are dynamic, living organisms subject to changes in weather, climate, pest and disease, development activities and site conditions.

2.0 Site Visit

2.1 Date: Undertaken 17th December 2007.

2.2 Brief Site Description: The site is established in an elevated position, and rural location within the village of Hornby, several miles to the east of Lancaster city.



To the west of the main dwelling house is a substantial belt of woodland trees providing significant tree cover and links to other groups and belts of trees in the vicinity. Trees can be seen from the main public highway in the village, from other residential properties and visitors utilising Deer Park Lane.

- 2.3 **Site Development:** We understand from the property owner, His Honour Judge Appleton that works are proposed to develop a new access drive to the western most aspect of the woodland belt, off Deer Park Lane. Any development that involves the disturbance of the ground, whether changes in ground levels, surfacing and or excavation works has significant potential to cause damage to trees within the vicinity of such works. Damage to root systems has the real potential to limit the life potential, health, vigour and stability of affected trees.

3.0 Identification and condition of the trees:

- 3.1 The woodland trees in question are the subjects of **Tree Preservation Order no. 425 (2007) (Appendix 1)**. The trees have been identified in a single woodland belt (**W1**) within the Tree Preservation Order.
- 3.2 **W1** a woodland belt of trees comprised of semi-mature, and mature species of beech, yew sycamore, sweet chestnut, oak, horse chestnut, and lime. A number of the trees have the potential to develop into important veteran trees; trees that because of their age, size or condition are of exceptional value culturally, in the landscape or for their wildlife value. Generally the woodland trees are of a good condition, health and state of vigour with the potential to continue to provide significant amenity value long into the future.

4.0 Tree Preservation Order

- 4.1 The amenity value of trees within **W1** has been assessed using an objective and systematic approach (Tree Evaluation Method for Preservation Orders - *TEMPO* system). A score of 15+ was achieved supporting the action of serving a Tree Preservation Order (**Appendix 2**).
- 4.2 Trees within **W1** contribute significantly to the local amenity by providing the following:
- important visual amenity
 - improvements in air quality, screening, and privacy
 - cohesion linking others groups and stands of trees within the vicinity
 - important wildlife resource
- 4.3 Lancaster City Council considers it expedient in the interests of amenity to make provision for the preservation of the trees in question **under sections 198, 201 and 203 of the Town & Country Planning Act 1990**. Lancaster City Council cites the following reasons.
- Provide important public amenity benefits;
 - Potential threat from site development in the future;
 - Important wildlife resource.

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

Maxine Knagg BSc (Hons) Arboriculture
Tree Protection Officer, Planning Services
Lancaster City Council

Appendix no.1

Tree Preservation Order no.425 (2007)

CITY COUNCIL OF LANCASTER
TREE PRESERVATION ORDER NO. 425 (2007)

---ooOoo---

I hereby certify that this is a true copy of the original
order.

A.M. Kerchingle

18/12/07

RELATING TO TREES LOCATED AT
PARK COTTAGES
DEER PARK LANE
HORNBY-W-FARLETON

TOWN HALL
LANCASTER
LA1 1PJ

TOWN AND COUNTRY PLANNING ACT, 1990

CITY COUNCIL OF LANCASTER

TREE PRESERVATION ORDER NO. 425 (2007)

The City Council of Lancaster, in exercise of the powers conferred on them by sections 198, [201] and 203 of the Town and Country Planning Act 1990 hereby make the following Order:-

Citation

1. This Order may be cited as Tree Preservation Order (No. 425) 2007

Interpretation

2. this Order "the authority" means the (Lancaster City Council) and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on (19 December 2007).

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) [or subsection (3) of section 200 (orders affecting land where Forestry Commissioners interested)], and subject to article 5, no person shall:-
 - (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of, any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

5. (1) Nothing in article 4 shall prevent:-
 - (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary:-
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;

- (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
 - (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph(a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
 - (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or
 - (g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.
- (2) In paragraph (1), "statutory undertaker" means any of the following:-

a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,

a relevant airport operator (within the meaning of Part V of the Airports Act 1986, the holder of a licence under section 6 of the Electricity Act 1989, a public gas transporter,

the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,

a water or sewerage undertaker,

the Civil Aviation Authority or a body acting on behalf of that Authority,

the Post Office,

Applications for consent under the Order

6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall:-
- (a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
 - (b) specify the work for which consent is sought; and
 - (c) contain a statement of the applicant's reasons for making the application

Application of provisions of the Town and Country Planning Act 1990

7. (1) The provision of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part 1 of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).
- (2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting

8. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.
- (2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that and shall replant it in accordance with the direction.
- (3) a direction under paragraph (1) may include requirements as to:-
- (a) species;
 - (b) number of trees per hectare;
 - (c) the preparation of the relevant land prior to the replanting; and
 - (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9. (1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of:-
- (a) the refusal of any consent required under this Order; or
 - (b) the grant of any such consent subject to conditions,
- he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.
- (2) No claim, other than a claim made under paragraph (3), may be made under this article:-
- (a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
 - (b) if the amount in respect of which the claim would otherwise have been made is less than £500.
- (3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.
- (4) In any other case, no compensation shall be payable to a person:-
- (a) for loss of development value or other diminution in the value of the land;
 - (b) for loss or damage which, having regard to the statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
 - (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
 - (d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10(application for felling licence and decision of Commissioners thereon) of that Act as if or any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article:-

"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

"owner" has the meaning given to it by section 34 of the Forestry Act 1967.

[Applications to trees to be planted pursuant to a condition

10 In relation to the tree(s) identified in the first column of Schedule 1 by the letter "C", being [a tree] [trees] to be planted pursuant to a condition (being a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees)), this Order takes effect as from the time when [that tree is planted] [those trees are planted]].

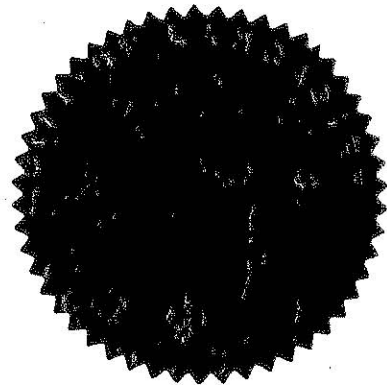
[Orders made by virtue of section 300

11. This Order takes effect in accordance with subsection (3) of section 300 (tree preservation orders in anticipation of disposal of Crown land).]

Dated this 18th day of December 2007

THE COMMON SEAL of)
THE CITY COUNCIL OF LANCASTER)
was hereunto affixed in the presence of:-)

J. Dunn
Corporate Director (Regeneration)



SEAL REGISTER
No: 21531

FIRST SCHEDULE

Trees Specified Individually
(encircled in black on the map)

NO. ON MAP	DESCRIPTION	SITUATION
	NONE	

Trees specified by reference to an area
(within a dotted black line on the map)

NO. ON MAP	DESCRIPTION	SITUATION
	NONE	

Groups of trees
(within a broken black line on the map)

NO. ON MAP	DESCRIPTION	SITUATION
	None	

Woodlands
(within a continuous black line on the map)

NO. ON MAP	DESCRIPTION	SITUATION
W1	Horse Chestnut	SW of Park Cottages
	Sweet Chestnut	"
	Oak	"
	Sycamore	"
	Lime	"
	Beech	"
	Yew	"

SCHEDULE 2

PART I

Provisions of the Town and Country Planning Act 1990 applied
with adaptations or modifications

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 69 (registers)	<p>(a) In subsection (1):-</p> <p>(i) Omit:- "in such manner as may be prescribed by a development order," "such" in the second place where it appears, and "as may be so prescribed", and</p> <p>(ii) substitute "matters relevant to tree preservation orders made by the authority" for "applications for planning permission".</p> <p>(b) In subsection (2):-</p> <p>(i) after "contain" insert "as regards each such order"; and</p> <p>(ii) for paragraphs (a) and (b) substitute:- "(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it".</p> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>
Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 70 (determination of applications: general considerations)	<p>(a) In subsection (1):-</p> <p>(i) substitute:- "Subject to subsections (1A) and (1B), where" for "Where"; "the authority" for "a local planning authority",</p>

"consent under a tree preservation order" for "planning permission" where those words first appear; and
 "consent under the order" for "planning permission" in both of the other places where those words appear; and
 "consent under the order" for "planning permission" in both of the other places where these words appear;

(ii) after "think fit", insert-
 "(including conditions limiting the duration of the consent or requiring the replacement of trees)";
 and

(iii) Omit "subject to sections 91 and 92,".

(b) After subsection (1) insert:-
 "(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.
 (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting)".

(c) Omit subsections (2) and (3).

Section 75 (effect of planning Permission)

(a) In subsection (1) substitute:-

- (i) "Any" for the words from "Without" to "any";
- (ii) "consent under a tree preservation order" for "planning permission to develop land";
- (iii) "the consent" for "the permission"; and
- (iv) "the land to which the order relates for the land".

(b) Omit subsections (2) and (3).

Section 78 (right to appeal Against planning decisions and failure To take such decisions)

(a) In subsection (1) substitute:-

- (i) "the authority" for "a local planning authority";
- (ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear;
- (iii) "consent under such an order" for "planning permission" in the second place where those words appear;

(iv) for paragraph (c) substitute:-
 "(c) give a direction under a tree preservation order or refuse an application for any consent, agreement or approval of that authority required by such a direction; or

is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority"

- (b) Omit subsection (2).
- (c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order".
Substitute:-
"in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served:-
 - (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
 - (a) in respect of such a failure as is mentioned in paragraph
 - (b) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant".
 - (d) For subsection (4) substitute:-
"(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)".
 - (e) For subsection (5), substitute:-
"(5) For the purposes of the application of Section 79 (1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question".

Section 79 (determination of appeals)(a)

- (a) In subsections (1) and (2), substitute "the authority" for the local planning authority".
- (b) Omit subsection (3).
- (c) In subsection (4), substitute:-
 - (i) "sections 70(1), (1A) and (1B)" for "sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5";
 - (ii) "consent under a tree preservation order" for "planning permission"; and
 - (iii) "the authority" for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71".
- (d) Omit subsections (6) and (6A).
- (e) In subsection (7), omit the words after "section 78".

PART II

**PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990
AS ADAPTED AND MODIFIED BY PART 1**

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part 1 of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

- (1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.
- (2) The register shall contain, as regards each such order:-
 - (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
 - (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.
- (3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

- (1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order:-
 - (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
 - (b) they may refuse consent under the order.
- (1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.
- (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

Section 75

Any grant of consent under a tree preservation order shall (except insofar as the consent otherwise provides) ensure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78

- (1) Where the authority:-
 - (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
 - (a) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;
 - (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or

- (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

- (3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served:-
 - (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
 - (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.
- (4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).
- (5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

Section 79

- (1) On an appeal under section 78 the Secretary of State may:-
 - (a) allow or dismiss the appeal, or
 - (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it has been made to him in the first instance.

- (2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

- (4) Subject to condition (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.
- (5) The decision of the Secretary of State on such an appeal shall be final.
- (7) Schedule 6 applies to appeals under section 78.

TOWN AND COUNTRY PLANNING ACT, 1990

CITY COUNCIL OF LANCASTER

TREE PRESERVATION ORDER NO. 425 (2007)

The City Council of Lancaster, in exercise of the powers conferred on them by sections 198, [201] and 203 of the Town and Country Planning Act 1990 hereby make the following Order:-

Citation

1. This Order may be cited as Tree Preservation Order (No. 425) 2007

Interpretation

2. this Order "the authority" means the (Lancaster City Council) and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on (December 2007).

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) [or subsection (3) of section 200 (orders affecting land where Forestry Commissioners interested)], and subject to article 5, no person shall:-
 - (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of, any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

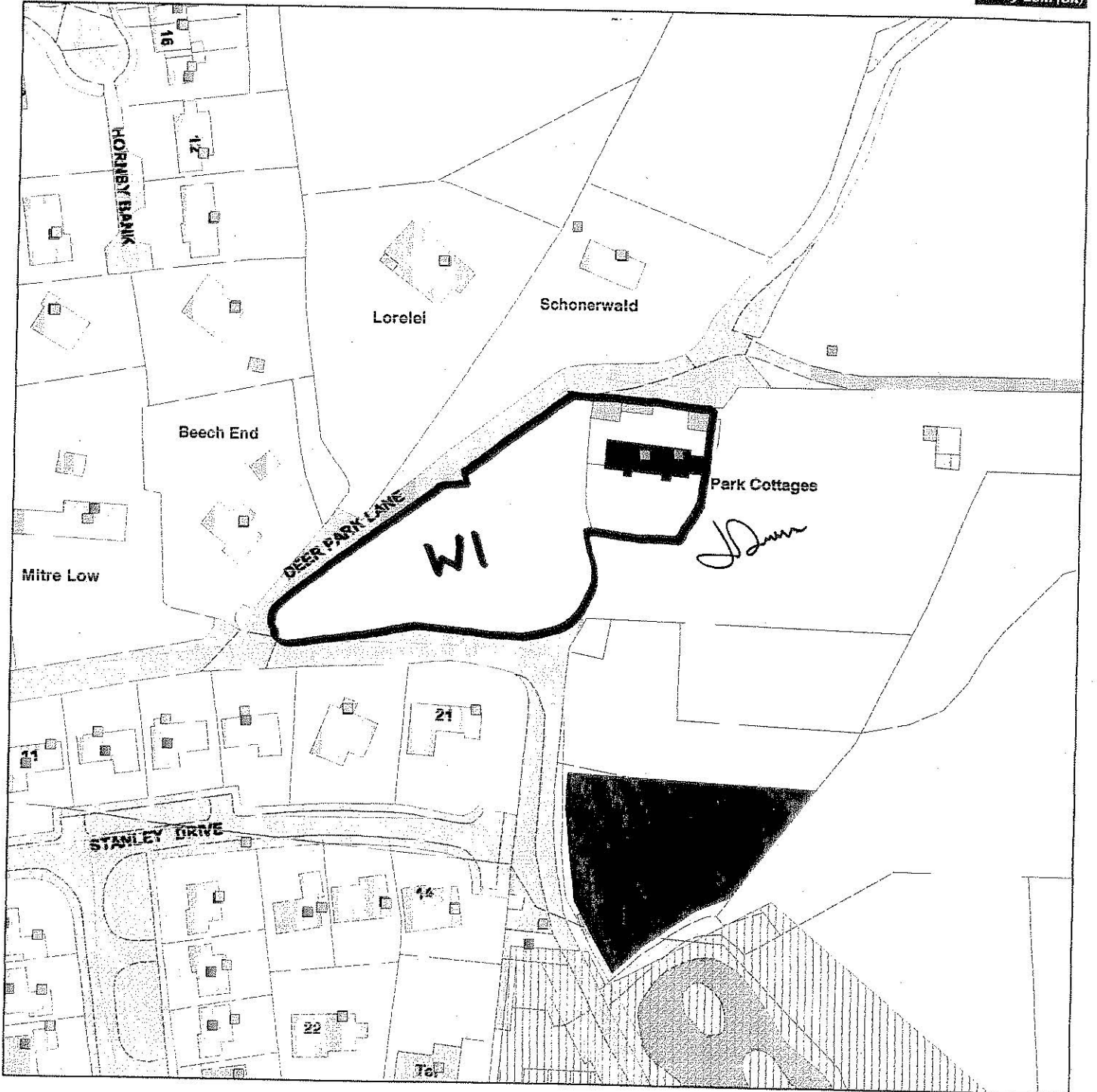
5. (1) Nothing in article 4 shall prevent:-
 - (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary:-
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;

Tree Preservation Order No. 425 (2007)

Park Cottages, Deer Park Lane, Hornby



GIS by ESRI (UK)



Scale : 1:1250

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Organisation	Lancaster City Council
Department	Planning
Comments	
Date	18 December 2007
SLA Number	100025403

Appendix no.2

Tree Evaluation Method for Preserved Trees (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 17-12-07, Surveyor: M. Knags

Tree details
 TPO Ref: 425(2007)/W1 Tree/Group No: W1 Species: mixed deciduous + evergreen
 Owner (if known): Park Cottage oak, Yew, Birch, Sweet Chestnut, HC
 Location: Deer Park, Lane, Hanby Lime, Beech.

Part 1: Amenity assessment

a) Condition & suitability for TPO:

Refer to Guidance Note for definitions

- 5) Good Highly suitable
- 3) Fair Suitable
- 1) Poor Unlikely to be suitable
- 0) Unsafe Unsuitable
- 0) Dead Unsuitable

Score & Notes 5

b) Remaining longevity (in years) & suitability for TPO:

Refer to 'Species Guide' section in Guidance Note

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10 Unsuitable

Score & Notes 5 Many oak in woodland belt.

c) Relative public visibility & suitability for TPO:

Consider realistic potential for future visibility with changed land use; refer to Guidance Note

- 5) Very large trees, or large trees that are prominent landscape features Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or larger trees with limited view only Just suitable
- 2) Small trees, or larger trees visible only with difficulty Unlikely to be suitable
- 1) Young, v. small, or trees not visible to the public, regardless of size Probably unsuitable

Score & Notes 5
 Highly vis. to landscape

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Members of groups of trees important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes 5 Many veteran trees + important for cohesion

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify; refer to Guidance Note

- 5) Known threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only
- 0) Tree known to be an actionable nuisance

Score & Notes 5 Proposed access development through wooded belt

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-10 Does not merit TPO
- 11-14 TPO defensible
- 15+ Definitely merits TPO

Add Scores for Total:
 25

Decision:
 Sewe TPO

Appendix No. 3

Aerial photograph and site plan

Deer Park Cottage, TPO no. 425 (2007)



Scale : 1:1250

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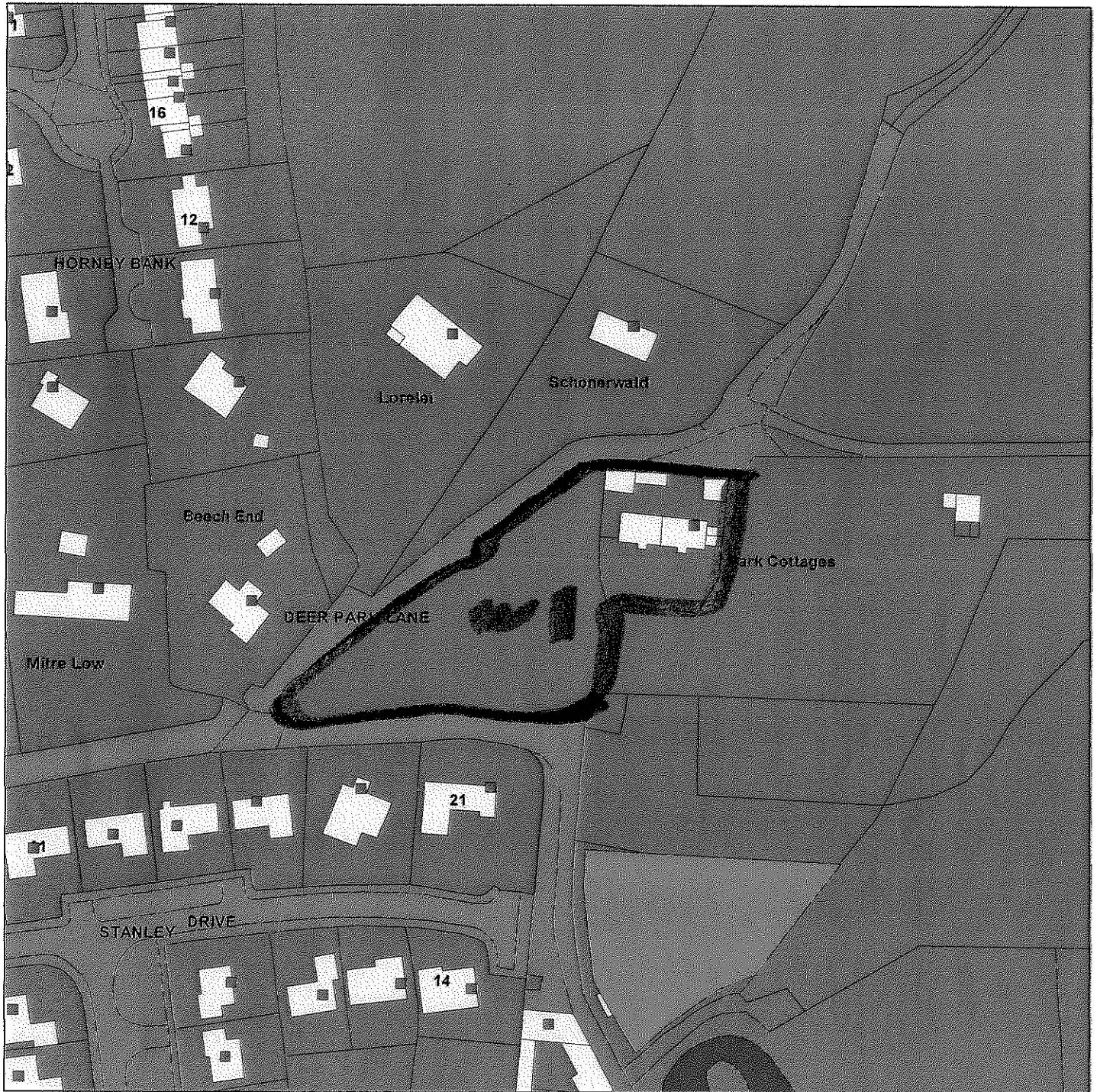
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Organisation	Lancaster City Council
Department	Planning Services
Comments	
Date	23 January 2008
SLA Number	LA100025403

Deer Park Cottage, TPO no. 425 (2007)



GIS by ESRI (UK)



Scale : 1:1250

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Organisation	Lancaster City Council
Department	Planning Services
Comments	
Date	23 January 2008
SLA Number	LA100025403

Appendix No. 4

Correspondence and objections in relation to
Tree Preservation Order No. 425 (2007)

19 Stanley Drive, Hornby, Lancaster, LA2 8NA

10 January 2008

Andrew Dobson
Head of Planning and Building Control
Lancaster City Council
Palatine Hall
Dalton Square
LANCASTER
LA1 1PW

Dear Mr Dobson

Tree Preservation Order: No. 425 (2007)
Park Cottages, Deer Park Lane, Hornby with Farleton

Thank you for your letter of 19 December outlining the above.

The trees cited in this Order were regularly maintained by the previous owner and we would welcome continuance of this practice, especially with regard to the sweet chestnuts.

With regard to maintenance of the trees we would mention the following:

We believe that the property may be the subject of a further planning application for the insertion of a driveway from the front of the property, through the grounds with access onto Deer Park Lane at the bottom of the property. We can see that this would vastly improve Judge Appleton's access which at present is limited and, provided we are happy with the plans when they are submitted, would not wish to stand in his way.

When this happens we accept that it may be necessary to fell a young copper beech tree at the bottom of the property by the lane. If this is not the case, however, we would recommend that this tree be regularly lopped in order to maintain it at a reasonable height and also to preserve it in a healthy state. It already has the potential to reach a great height and width, thereby overhanging the lane and eventually obstructing passing traffic. This traffic does include waggons going to the Lunesdale Kennels, articulated lorries transporting logs from Forestry Commission land, horse boxes and other large vehicles, all of which may eventually be impeded by this tree if it is allowed to grow unlopped. It is also beginning to impinge on overhead cables, and threaten views of properties further up the lane. We would be most grateful if this matter could be clarified with Judge Appleton for the well being of the neighbourhood which balance we feel sure he will want to maintain.

Overall we feel that the satisfactory management of this estate will continue to contribute to the overall natural beauty of the area in which we live and that continuance of this practice by Judge Appleton will ensure this. We thank you for your kind consideration of our comments.

Yours sincerely

[Redacted signature]

[Redacted name]

Contact: Planning Services
 Telephone: 01524 582381
 FAX: 01524 582323
 Email: mknagg@lancaster.gov.uk
 Website: www.lancaster.gov.uk

[REDACTED]
 Deer Park Cottage
 Deer Park Lane
 Hornby
 Lancaster
 LA2 8LF

Planning Services

Maxine Knagg
 Tree Protection Officer
 Palatine Hall
 Dalton Square
 LANCASTER LA1 1PW

Date: 17th January 2008

Dear [REDACTED]

Re: Written objection to TPO no.425 (2007), Deer Park Cottages, Deer Park Lane, Hornby

Thank you for your letter dated 9th January 2008.

We accept your formal, written objection against the Council's decision to serve Tree Preservation Order no.425 (2007). The written objection is in compliance with the regulation 3 notice and as such a copy will be forwarded to Democratic Services and a date for a formal Appeal Hearing will be arranged in due course. You will receive notification and an invitation to make a representation at the hearing should you wish to do so.

If in the meantime, you have any queries please do not hesitate to contact Maxine Knagg, Tree Protection Officer.

Yours sincerely

**Maxine Knagg
 Tree Protection Officer
 Tel: 01524 582384**

PARK COTTAGE, DEER PARK LANE, HORNBY, LANCASTER LA2 8LF
015242 22313

Andrew Dobson,
Head of Planning and Building Control,
Lancaster City Council,
Palatine Hall,
Dalton Square,
Lancaster LA1 1 PW.

9 January 2008.

Your Ref: TPO No 425 (2007)

From: ~~John Appleton and Mrs Appleton~~

Dear Andrew Dobson,

Re: Tree Preservation Order No 425(2007) Park Cottage, Deer Park Lane, Hornby
LA28LF

Written Objections and Representations

Objection to the Order is made as follows:

On 16 December 2007 as a chainsaw operator prepared to cut down a recently planted purple beech (situate at the extreme SW of the site- apex of triangle on your diagram), he was accosted by neighbours.

These neighbours made representations that the tree was protected by a preservation order- not true; was in a conservation area- not true; and would require permission from the council to be removed- not true. These statements were deliberately contrived to frighten him into stopping - and succeeded.

These people then contacted the Tree Preservation Officer. She attended site on the morning of the 17th. This the day of our move into the property. John Appleton was on site to supervise the removal men moving furniture in whilst Mrs Appleton remained at our former residence supervising the move out. After a cursory inspection Miss Knagg said that she proposed to advise the Council to make an order because

"Redevelopment is taking place and I want to have a say in it".

However this is not a ground upon which the order could be made nor is it the ground upon which it purports on its face to have been made. On this basis the order is legally flawed and vulnerable to judicial review proceedings. On the facts her reasoning was also flawed as such development as is taking place does so by virtue of existing planning consents (Ref Nos 07/00278FUL 07/00279/LB).

The order has been made in error. It should be rescinded forthwith.

The tree which occasioned this process is a purple beech planted probably within the last 15 years. No one had ever before planted a purple beech on this site. It is both out of context and out of character with the established tree stock. It was a serious error of judgment to have chosen to plant this foreigner, a choice exacerbated by the location selected.

We acquired this property in April 2007. One of the reasons we so admire the property is the magnificent wooded aspect of the grounds: Beautiful mature trees and all green leaved.

The reason we decided to fell the purple beech go back to 17th March 2007. The existing driveway is dangerously steep. At about 3.30 p.m. that day John Appleton slipped and fell on the drive and sustained a fractured right ankle then spending 6 weeks immobilised in plaster, off work 3 months. An experience not to be undergone a second time nor to happen to anyone else. Better and safer means of access are desirable for health and safety and also in terms of civil liability under the Occupiers Liability/Defective Premises Acts.

Our Architect, Graham Salisbury of Graham Anthony Associates, who obtained the planning consents advised us that a new drive would require a further application for planning consent. Such application is being prepared. It will propose a new access into the property from a gate way situate at the apex of the triangle referred to in paragraph 1 and will require the removal of the purple beech.

Not only is the tree as a purple beech a complete stranger to the existing mature existing tree stock and therefore wholly inappropriate, it would also appear to have been planted without any or any proper foresight as to what it would grow into.

Where it stands, as it increases in size its roots will further encroach on, over and about the water, gas and electricity services buried under the surface of Deer Park Lane, and being only 2 or 3 feet away from the perimeter dry stone wall it will disturb the wall too. Its roots will likely interfere with a nearby substantial surface water drain. Furthermore its branches will grow over the lane and become and remain an obstruction to lawful users of the lane and in legal terms it will be a nuisance to the highway. As if this were not already too lengthy a catalogue of misery, its upper branches already threaten the overhead telephone cables.

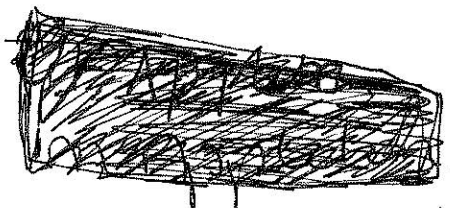
In short there is nothing positive that can be said for the tree. If afforded protection by a preservation order this tree will occasion a constant source of continued administrative time wasting to keep it under control.

In summary: - the neighbours behaved without candour using arguments they well knew to be bogus. They then deliberately involved this council official in an ongoing dispute against other neighbours who want the wretched purple beech cutting down because it takes light from their property and impinges upon their views of the Lune Valley. The council official in too great a haste made the order for illogical and factually wrong reasons, which were also invalid reasons in law. The tree itself, the purple beech, is wholly out of character and context with the existing magnificent green leaved tree stock; it was planted in a position which only a fool would have thought appropriate- a position which will only ever cause increasing disruption and unnecessary administrative involvement.

The order should be rescinded forthwith. It is wholly without merit.

Finally: John Appleton was asked and gave his name to the council official Miss Knagg. He watched her write it down. For an official to thereafter cause to address the communication to Owner/Occupiers, and the letter begin - Dear Sir/Madam- represents an unacceptable level of discourtesy.

Yours sincerely



Contact: Planning Services
Telephone: 01524 582381
FAX: 01524 582323
Email: mknagg@lancaster.gov.uk
Website: www.lancaster.gov.uk

~~Mr. P. Connor & Mrs. H. Connor~~
Lorelei
Deer Park Lane
Hornby
Lancaster
LA2 8LF

Planning Services

Maxine Knagg
Tree Protection Officer
Palatine Hall
Dalton Square
LANCASTER LA1 1PW

Date: 11th January 2008

Dear ~~Mr. & Mrs. Connor~~

Re: Written objection to TPO no.425 (2007), Deer Park Cottages, Deer park Lane, Hornby

Thank you for your letter dated 5th January 2008.

We accept your formal, written objection against the Council's decision to serve Tree Preservation Order no.425 (2007). The written objection is in compliance with the regulation 3 notice and as such a copy will be forwarded to Democratic Services and a date for a formal Appeal Hearing will be arranged in due course. You will receive formal notification and an invitation to make a representation at the hearing should you wish to do so.

In the meantime, we are happy for you to contact Maxine Knagg – Tree Protection Officer directly to make suitable arrangements for a site meeting, when she will be happy to discuss the issues that you have raised in your letter of objection.

Please contact **Maxine Knagg – Tree Protection Officer Tel: 01524 582384** to make arrangements for a site visit on a mutually convenient date and time.

We look forward to hearing from you in the near future.

Yours sincerely

Maxine Knagg
Tree Protection Officer
Tel: 01524 582384

Lorelei
Deer Park Lane
Hornby
Lancaster
LA2 8LF

Andrew Dobson
Head of Planning and Building Control
Planning Services
Palatine Hall
Dalton Square
Lancaster
LA1 1PW

5th January 2008

Dear Mr Dobson


Tree Preservation Order No. 425(2007), Park Cottages, Deer Park Lane, Hornby

With regard to this Preservation Order I would like to register the following objection. I object to a preservation order being placed on the young Beech Tree just inside the boundary wall in the southwest corner of the property. The reasons are:

- The tree is a young tree (approximately 20 years old) which has been planted too near to the boundary walls and will severely encroach over the lane. Large lorries use the lane and therefore branches will need to be lopped to a significant height.
- It is also very close to the overhead telephone cable to my property and other properties further up Deer Park Lane.
- Lopping or pruning of this tree to avoid the above will result in a misshapen tree.
- When this tree reaches full maturity it will reach a height of height of over 100 feet and will have a similar spread. It will severely restrict the view of the Lune Valley from my house, which is one of the main reasons for my buying this house 22 years ago.

The grounds of Park Cottages contain a wealth of mature trees so removing the preservation order from this tree will not have a significant impact on the amenity of the area.

Yours sincerely,



~~David Connor and Hilary Connor~~

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Contact: Maxine Knagg
Telephone: (01524) 582384
Fax: (01524) 582323
Minicom: (01524) 582175
E-mail: ghendren@lancaster.gov.uk
Website: www.lancaster.gov.uk
Our Ref: TPO NO. 425 (2007)
Your Ref:

Formal Notice TPO
Sewed

Letter to:-

Park Cottages, Deer Park Lane, Hornby LA2 8LF
Beech End, Deer Park Lane, Hornby
Lorelei, Deer Park Lane, Hornby
Mr & Mrs Ewens 19 Stanley Drive, Hornby LA2 8NA
Owner/Occupiers 21 Stanley Drive
LCC - Highways

Planning Services

Palatine Hall
Dalton Square
Lancaster
LA1 1PW
DX 63531

19 December 2007

Dear Sir/Madam

IMPORTANT - THIS COMMUNICATION MAY AFFECT YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

Tree Preservation Order: No. 425 (2007)
**Lancaster City Council:- PARK COTTAGES, DEER PARK LANE, HORNBY-W-
FARLETON**

THIS IS A FORMAL NOTICE to let you know that on 18 December 2007 the Council made the above tree preservation order.

A copy of the order is enclosed. In simple terms, it prohibits anyone from cutting down, topping or lopping any of the trees described in the First Schedule and shown on the map without the Council's consent.

Some explanatory guidance on tree preservation orders is given in the enclosed leaflet, *Protected Trees: a guide to Tree Preservation Orders*, produced by the Department of the Environment, Transport and the Regions.

THE COUNCIL HAVE MADE THE ORDER BECAUSE:-

The trees make a significant importance to the amenity of the area

The Order took effect, on a provisional basis, on 19 December 2007. It will continue in force on this basis for a further 6 months or until the order is confirmed by the Council, whichever first occurs.

Continued

The Council will consider whether the order should be confirmed, that is to say, whether it should take effect formally. Before this decision is made, the people affected by the order have a right to make objections or other representations about any of the trees, groups of trees or woodlands covered by the Order.

If you would like to make any objections or other comments, please make sure we receive them in writing within 28 days of receiving this notice. Your comments must comply with regulations 4 of the Town and Country Planning (Trees) Regulations 1999, a copy of which is enclosed. Send your comments to Lancaster City Council, Planning and Building Control, Palatine Hall, Dalton Square, Lancaster LA1 1PW. All valid objections or representations are carefully considered before a decision on whether to confirm the Order is made.

The Council will write to you again when that decision has been made. In the meantime, if you would like any further information or have any questions about this letter, please contact Maxine Knagg at Lancaster City Council, Planning and Building Control, Palatine Hall, Dalton Square, Lancaster LA1 1PW or telephone (01524) 582384.

Yours faithfully



ANDREW DOBSON
HEAD OF PLANNING AND BUILDING CONTROL

Objections and representations

4(1) *Subject to paragraph (2), objections and representations*

(a) *shall be made in writing and*

(i) *delivered to the authority not later than the date specified by them under regulation 3(2)c; or*

(ii) *sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;*

(b) *shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and*

(c) *in the case of an objection, shall state the reasons for the objection.*

4(2) *The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.*

Telephone: 01524 582381
FAX: 01524 582323
Email: mknagg@lancaster.gov.uk
Website: www.lancaster.gov.uk

Planning Services
Maxine Knagg
Tree Protection Officer

Palatine Hall
Dalton Square
LANCASTER LA1 1PW

Date: 18th December 2007

Re: Proposed New Tree Preservation Order – Woodland at Park Cottage, Deer park Lane, Hornby, Lancashire

1.0 Introduction

1.1 **Site:** The woodland in question is established to the front and side aspect of Park Cottage, Deer Park Lane, Hornby.

1.2 **Scope and limitation of this report:** This is an arboriculture report restricted to the trees subject to the proposed new Tree Preservation Order. The information provided within this report has been gathered by means of a preliminary visual tree assessment restricted to ground level observations and inspection at the time of the site visit. An objective appraisal of the amenity value of the trees in question has also been undertaken using a *Tree Evaluation Method for Preservation Orders (TEMPO)*. It should be noted that trees are dynamic, living organisms subject to changes in weather, climate, pest and disease, development activities and site conditions.

2.0 Site Visit

2.1 **Date:** Undertaken 17th December 2007.

2.2 **Brief Site Description:** The site is an area of privately owned woodland established on a sloping landscape, and elevated location above the village of Hornby. The site lies outside of the local Conservation Area and there is currently no tree Preservation Order affecting trees within the property. The trees in question form a significant woodland belt to the west and south of the main dwelling house, providing important visual and public amenity and are a valuable resource for wildlife.

2.3 The current landowner is considering submitting plans to develop a new access to the main dwelling house which would have important implications for the future of a number of trees within the property if undertaken.

- 2.3 **Identification and condition of the trees:** The trees include early-mature to over mature possibly veteran horse chestnut, sweet chestnut, oak, sycamore, lime, beech and yew trees. For the purpose of this report, the woodland has been identified as **W1**.
- 2.4 **W1** a woodland belt established on steeply sloping landscape. The trees provide important screening to the park Cottage and several other private properties on Deer Park Lane.
- 2.5 The woodland is clearly visible to the public, linking to other adjacent groups of trees providing important cohesion and wildlife corridors.
- 2.6 Generally, trees within the woodland are of a good condition and have the potential to remain form many decades to come.

3.0 Tree Preservation Order

- 3.1 The amenity value of the trees in question has been assessed using an objective and systematic approach; the *Tree Evaluation Method for Tree Preservation Orders* (*TEMPO* system) has been used. A score of 15+ was accumulated, supporting the use of a Tree Preservation Order.
- 3.2 Lancaster City Council consider it expedient in the interests of amenity to make provision for the preservation of the trees in question **under sections 198 (201) and 203 of the Town & Country Planning Act 1990**. Lancaster City Council cites the following reasons:
- Trees form a significant belt and are clearly visible from the public highway, and private residential properties.
 - The trees are prominent landscape features, and have important amenity value.
 - Provide cohesion to adjacent woodland areas.
 - Important wildlife resource.

Maxine Knagg BSc (Hons) Arboriculture
Tree Protection Officer
Planning Services