

APPEALS COMMITTEE

2.30 P.M.

8TH SEPTEMBER 2010

PRESENT:- Councillors Sheila Denwood (Chairman), Chris Coates and Janie Kirkman

Apologies for Absence

Councillors John Harrison, Helen Helme, David Kerr and Bob Roe

Officers in attendance:-

Angela Parkinson

Maxine Knagg

Tom Silvani

Senior Solicitor

Tree Protection Officer

Democratic Support Officer

1 SITE VISITS

Prior to the commencement of the meeting, site visits to the proposed wind turbine site at Lancaster University, Land between 1 Highdale Place and 18 Hurstleigh Drive in Mossgate Park, Heysham, and land adjacent to Escow Beck, off Low Road in Halton were undertaken, in response to objections received to Tree Preservation Order No's 467 (2010), 470 (2010) and 472 (2010).

The following members were present at the site visits:

Councillors Sheila Denwood (Chairman), Chris Coates and Janie Kirkman.

Officers in attendance:

Maxine Knagg and Tom Silvani.

2 MINUTES

The Minutes of the meeting held on 22 September 2009 were signed by the Chairman as a correct record.

3 ITEMS OF URGENT BUSINESS AUTHORISED BY THE CHAIRMAN

There were no items of urgent business.

4 DECLARATIONS OF INTEREST

There were no declarations of interest.

5 TREE PRESERVATION ORDER NO. 470 (2010): LAND BETWEEN 1 HIGHDALE PLACE, AND 18 HURSTLEIGH DRIVE, MOSSGATE PARK, HEYSHAM

The Chairman, with the agreement of the meeting, agreed to rearrange the agenda in order that the items for which appellants were attending the meeting could be considered first.

Present at the meeting to consider the matter were the appellants.

The Committee considered an appeal against a decision of the Council under Section 198 of the Town and Country Planning Act 1990, making an order in respect of a group of trees located at land between 1 Highdale Place and 18 Hurstleigh Drive, Mossgate Park, Heysham. G1 was comprised of the report and the Tree Protection Order. G1 was comprised of semi-mature, and early-mature trees, including species of lime, birch, ash, rowan, hawthorn and sycamore.

Collectively, the trees provided important greening and screening between properties and the footpath. They were also considered an important wildlife resource. Lancaster City Council had received information from a concerned member of the public, reporting that a number of trees had been removed from the area.

The amenity value of the trees within the site had 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.

The appellants elected a representative to speak in relation to their objections to the Tree Preservation Order. The main points highlighted were as follows:

- That, contrary to the claims made in the report, they had not removed any trees or shrubs from the group of trees identified as G1, only pruned the branches.
- That their primary concern was for the group of 5 or 6 Hawthorns which only 5 feet away from the garden fence. These had been pruned every other year since the appellant had moved into the property and it was believed that they would have knocked down the fence had they been left untouched.
- Some of the trees had grown taller than the house, and during high winds some of the branches would blow into the wall and roof of the properties.
- That they had no intention of removing the trees, only pruning them to protect the fences surrounding their properties.

Members directed questions to the appellants.

The committee discussed who was responsible for the upkeep of the land, it was believed that the land remained the responsibility of the developer, Mack Construction. The land had not been tended to by Mack Construction for a period of 6 years, however adjacent land was tended to every two weeks and it was not clear as to why the area of land in question was not being tended to.

The Tree Protection Officer informed the Committee that it was considered 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. The Tree Protection Officer stated that the site was an important visual amenity which provided greening and screening in a heavily urbanised area. The site also provided an important wildlife resource, and was considered to be under threat from removal.

It was the Tree Protection Officer's view that further tree removals from within this site would have a detrimental impact on the amenity value of the local area and as such trees should be protected by serving a Tree Preservation Order.

The Tree Protection Officer addressed the concerns which the appellant had raised.

The Tree Protection Officer agreed that work was needed to maintain the trees, but that any work carried out on the trees would have to be of an appropriate standard. It was considered that the work which had been carried out was not of the appropriate standard.

It was the Tree Protection Officer's view that should the TPO be confirmed by the committee this would assist the appellants case should they wish to approach the owner of the land and ask them to carry out appropriate maintenance work on the trees which met currently expected standards.

Members directed questions to the Tree Protection Officer.

(The Committee adjourned to consider the evidence. The Tree Protection Officer, and the appellants left the meeting at this point.)

Members considered the options before them:

- (1) To confirm Tree Preservation Order No. 470 (2010)
 - (a) Without modification
 - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 470 (2010)

It was proposed by Councillor Chris Coates and seconded by Councillor Janie Kirkman:

"That Tree Preservation Order No. 470 (2010) be confirmed without modification."

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

Resolved:

That Tree Preservation Order No. 470 (2010) be confirmed without modification.

(The Committee reconvened to give their decision. The Tree Protection Officer and the appellants returned to the meeting at this point.)

Summary of decision:

The committee have considered the report of the Council's Tree Protection Officer and the representations made this afternoon. The Committee have voted in favour of confirming the TPO No 470 without modification. The committee hopes this will give weight to persuade the landowner to agree a management plan with the Council which will address the concerns raised.

6 TREE PRESERVATION ORDER NO. 472 (2010): LAND ADJACENT TO ESCOW BECK, OFF LOW ROAD, HALTON

Present at the meeting to consider was the appellant.

The Committee considered an appeal against a decision of the Council under Section 198 of the Town and Country Planning Act 1990, making an order in respect of a group of trees located on land adjacent to Escow Beck, off Low Road, Halton, identified as T1, T2 and G1 for the purpose of the report and the Tree Protection Order. T1 and T2 were oak trees, G1 was a group comprised of 4 hawthorn trees. The trees appeared to be in good condition, leaves were of normal size, shape and colour.

There was evidence that a single oak tree had been felled recently. Lancaster City Council had received information from a concerned member of the public, that a mature oak tree had recently been felled and that they were concerned that further tree works may be undertaken.

The amenity value of the trees within the site had 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.

The appellant spoke in relation to his objections to the Tree Preservation Order. The main points highlighted were as follows:

- That he had lived in the house for 26 years and had always strived to maintain the garden for the benefit of his family and others.
- That he was aware of the amenity value of the land and the house, which was over 300 years old and in itself a historical landmark.
- That he understood the importance of allowing trees to grow in a controlled way and had always attempted to manage trees on his land.
- That he had conducted his own evaluation of the trees using the TEMPO system, and having sought expert advice, believed that the score awarded could be much lower.
- Although the trees did contribute to the amenity of the area, they did not contribute significantly as they were only visible from within his land and from a single public highway.
- That there were a number of dead branches on the trees.
- That he was concerned that the roots of the trees could damage the septic tank and pipes, which provided for three properties in the area.
- That the TPO should not have covered both the oak trees and the hawthorn trees, they should be considered separately.
- That he had very real concerns about the security of the banking. The banking had collapsed in the past and the cost of repair had been considerable.
- That it was not his intention to fell the trees, but he wished to have the permission to manage them appropriately.

Members directed questions to the appellant.

The Tree Protection Officer informed the Committee that it was considered 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. The Tree

Protection Officer stated that the site was an important visual amenity which could be seen from the public highway, and provided links to trees adjacent to the River Lune. The site also provided an important wildlife resource, and was considered to be under threat from removal.

It was the Tree Protection Officer's view that further tree removals from within this site would have a detrimental impact on the amenity value of the local area and as such trees should be protected by serving a Tree Preservation Order.

The Tree Protection Officer addressed the concerns which the appellant had raised.

The TEMPO system was a tool which was used to document the process of evaluation. It was agreed that to a degree the outcome depended on the assessor but reiterated that the system was designed to be used by an expert, and would expect that a layman using the system would not produce the same scores as a trained arboriculturalist. Even if the TEMPO system produced a low score, a TPO could still be issued if it was deemed appropriate by the assessor.

The trees were considered to contribute significantly to the amenity of the area, and were biologically important, it could be seen from aerial images of the area that the trees fit with the character of the wider area.

Without details, it was difficult to know exactly what had caused the previous collapse of the banking; however it was generally considered that trees would help to protect the structure and reduce erosion of the embankment.

Regarding dead branches, this was expected of a tree of this age, and provided important benefits to wildlife. The tree T1 could be seen to contain many crevices, which were very important for wildlife, particularly birds.

It was unlikely that the roots from the trees could damage the septic tank and pipes, as they would be rooting on the other side of the beck and would not root up to the height of the tank.

It was considered that because of the felling of an oak tree, all the trees within the site were under threat, and it had been not been deemed appropriate to serve the TPO only on the oak remaining oak trees.

Members directed questions to the Tree Protection Officer.

(The Committee adjourned to consider the evidence. The Tree Protection Officer and the appellant left the meeting at this point.)

Members considered the options before them:

- (3) To confirm Tree Preservation Order No. 472 (2010)
 - (a) Without modification
 - (b) Subject to such modification as is considered expedient.
- (4) Not to confirm Tree Preservation Order No. 472 (2010)

It was proposed by Councillor Chris Coates and seconded by Councillor Janie Kirkman:

- “(1) That Tree Preservation Order No. 472 (2010) be confirmed with modification.
- (2) That the trees identified as G1 be excluded from the Tree Preservation Order.”

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

Resolved:

- (1) That Tree Preservation Order No. 472 (2010) be confirmed with modification.
- (2) That the trees identified as G1 be excluded from the Tree Preservation Order.

(The Committee reconvened to give their decision. The Tree Protection Officer, and the appellant returned to the meeting at this point.)

Summary of decision:

The committee have considered the report of the Council's Tree Protection Officer and the representations made this afternoon. The Committee have voted in favour of confirming the TPO No 470 with modifications. The Order is confirmed with regard to Trees T1 and T2 but the Order is rejected in respect of G1.

7 TREE PRESERVATION ORDER NO. 467 (2010): THE PROPOSED WIND TURBINE PROJECT SITE, LANCASTER UNIVERSITY, BAILRIGG LANE, LANCASTER

The Committee considered an appeal against a decision of the Council under Section 198 of the Town and Country Planning Act 1990, making an order in respect of trees located at the proposed wind turbine project site, Lancaster University, Bailrigg Lane, Lancaster. The trees in question have been identified as T1 – T7, and three woodland areas identified as W1, W2 and W3.

It was reported that the Tree Protection Officer had provided a consultation response to Planning Application no: 10/00039/FUL. A full objection was made to the extent of the proposed tree removals. The Tree Protection Officer had determined that the proposed tree removals would have a detrimental and long-term adverse impact on the existing individual trees, hedgerows and woodlands which could not be mitigated by proposed replacement planting.

The amenity value of the trees within the site had 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.

It was considered that trees within the site and off site contributed significantly to the local amenity as they were highly visible landscape features which made an important contribution to the character of the wider area. They were considered to be important historically and biologically as many of the trees were of veteran status or potential veteran status. The trees also provided an important wildlife resource.

The Tree Protection Officer advised the committee that the future of the site was uncertain, as a new planning application could be submitted at any time. If the TPO were confirmed then the site would be protected against any future developments

It was advised that although Lancaster University had a good previous record in managing trees on its land, if a future planning application were granted the site would be handed over to a developer and without the TPO it would be difficult to control what happened on the site.

Members directed questions to the Tree Protection Officer.

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

Members considered the options before them:

- (5) To confirm Tree Preservation Order No. 467 (2010)
 - (a) Without modification
 - (b) Subject to such modification as is considered expedient.
- (6) Not to confirm Tree Preservation Order No. 467 (2010)

It was proposed by Councillor Janie Kirkman and seconded by Councillor Chris Coates:

“That Tree Preservation Order No. 467 (2010) be confirmed without modification.”

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

Resolved:

That Tree Preservation Order No. 467 (2010) be confirmed without modification.

(The Committee reconvened to give their decision. The Tree Protection Officer, returned to the meeting at this point.)

Summary of decision:

The committee have considered the report of the Council's Tree Protection Officer and the representations made this afternoon. The Committee have voted in favour of confirming the TPO No 467 without modification

Chairman

(The meeting ended at 4.45 p.m.)

**Any queries regarding these Minutes, please contact
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