



**Committee:** APPEALS COMMITTEE  
**Date:** THURSDAY, 9 DECEMBER 2010  
**Venue:** LANCASTER TOWN HALL  
**Time:** 2.30 P.M.

## AGENDA

1. **Apologies for Absence**
2. **Appointment of Vice-Chairman**
3. **Minutes**  
Minutes of the Meeting held on 22 September 2010 (previously circulated).
4. **Items of Urgent Business authorised by the Chairman**
5. **Declarations of Interest**  
Matter for Decision
6. **Tree Preservation Order No. 474 (2010) - Trees established within Low Mill, Caton (Pages 1 - 33)**  
Report of Head of Governance

## ADMINISTRATIVE ARRANGEMENTS

### (i) **Membership**

Councillors Sheila Denwood (Chairman), Chris Coates, John Harrison, Helen Helme, David Kerr, Janie Kirkman and Bob Roe

### (ii) **Substitute Membership**

Councillors Shirley Burns, John Gilbert, Karen Leytham, Ian McCulloch and Roger Sherlock

### (iii) **Queries regarding this Agenda**

Please contact Jane Glenton, Democratic Services - 01524 582068 - [jglenton@lancaster.gov.uk](mailto:jglenton@lancaster.gov.uk).

### (iv) **Changes to Membership, Substitutions or Apologies**

Please contact Members' Secretary, telephone (01524) 582170, or email [memberservices@lancaster.gov.uk](mailto:memberservices@lancaster.gov.uk).

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

Published on Tuesday, 30 November 2010

## APPEALS COMMITTEE

### TREE PRESERVATION ORDER NO. 474 (2010) 9 DECEMBER 2010

#### HEAD OF GOVERNANCE

##### PURPOSE OF REPORT

To enable Members to consider the objections received to Tree Preservation Order No. 474 (2010) located at Low Mill, Caton, and thereafter whether or not to confirm the Order.

**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) (as amended)**

#### RECOMMENDATIONS OF HEAD OF GOVERNANCE

**That Members consider the objections to Tree Preservation Order No. 474 (2010) located at Low Mill, Caton, and decide whether or not to confirm the Order.**

##### **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. 474 (2010), which has been made in relation to individual trees located at Low Mill, Caton.
- 1.3 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.
- 1.4 The report of the City Council's Tree Protection Officer (Pages 3 to 5).

Appended to the report are:

- Appendix 1 – *Copy of the original Tree Preservation Order No. 474 (2010) (Pages 6 to 10).*
- Appendix 2 – *Tree Evaluation Method for Preservation Orders (TEMPO) (Page 11).*

- Appendix 3 – *Objectors to Tree Preservation Order No. 474 (2010)* (Pages 12 to 22).
- Appendix 4 – *Supporters of Tree Preservation Order No. 474 (2010)* (Pages 23 to 30).
- Appendix 5 – *Letter from Clerk to Caton-with-Littledale Parish Council* (Pages 31 to 32).
- Appendix 6 – *Aerial Photograph of the Site* (Page 33).

## 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. 474 (2010).

## 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. 474 (2010)
  - (a) Without modification
  - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 474 (2010).

## 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. 474 (2010).

<b>CONCLUSION OF IMPACT ASSESSMENT</b>
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<b>(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b>
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Not applicable.
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<b>LEGAL IMPLICATIONS</b>
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A Legal Officer will be present at the meeting to advise the Committee.
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<b>FINANCIAL IMPLICATIONS</b>
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Not applicable.
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<b>BACKGROUND PAPERS</b>	<b>Contact Officer:</b> Jane Glenton
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Tree Preservation Order No. 474 (2010)	<b>Telephone:</b> 01524 582068
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	<b>Ref:</b> JEG
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Our Ref: TPO474/2010/MK

**Regeneration & Policy Service**  
Development Management  
PO Box 4  
Town Hall  
Lancaster  
LA1 1QR

Date: 12<sup>th</sup> November 2010

## Appeals Committee (TPO)

Trees subject of the Appeals Committee – Trees established within Low Mill, Caton, subject of **Tree Preservation Order no. 474 (2010)**.

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 with Low Mill, Caton which is a private residential complex developed around the former mill 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 25<sup>th</sup> August 2010.

2.2 **Brief Site Description:** The site is part of a residential development designed around the former mill buildings. There is substantial landscape planting designed by John Collis. The design and planting is of a high standard and as such has received formal recognition in the past.

2.3 The river Lune runs to the north of the site where there is a public footpath enjoyed by walkers, and dog walkers alike. Trees within the site can be seen from this public vantage point.

### **3.0 Identification and condition of the trees:**

3.1 The trees in question are the subject of Tree Preservation Order no. 474 (2010) (Appendix 1). They have been identified as T1-T5, G1-G10 for the purpose of this report and for the Tree Preservation Order.

3.2 There is a wide range of deciduous and evergreen tree species, including redwood, pine, cherry, birch, willow, lime, oak, holly, maiden hair tree, and walnut. The full list of tree species is listed within the 1<sup>st</sup> Schedule of the order.

3.3 Many trees are young, semi-mature and early-mature. They are in a good overall condition and are free from major pests or disease which would generally be expected for trees of this age range.

3.4 Collectively the trees provide a range of important greening and intermittent screening between different components of the residential complex.

3.5 The trees are an important and significant resource for a range of wildlife.

3.6 There appears to be an ongoing difference of opinion between some residents and the relevant management board within the complex in relation to trees.

3.7 Lancaster City Council was contacted and asked to consider trees within the site for protection with a Tree Preservation Order. Concerns had been expressed that healthy trees had been removed in the past and that more trees were under consideration for removal.

3.8 Residents had contacted the Council earlier in the year expressing similar concerns, however it was decided at that time that residents would try to resolve their concerns with the relevant residents committee.

### **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 16 was achieved supporting the action of serving a Tree Preservation Order (appendix 2).

4.2 Trees within the site can be seen from a public vantage point to the north. The canopies of trees links to wider tree populations, and are now an integral part of the local landscape. The trees make a significant contribution to the amenity value of the complex and contribute to the character of the area beyond the boundary lines of the site. Trees within the site provide the following:

- visible landscape features
- greening and intermittent screening within the residential complex
- can be seen from a public vantage point
- make an important contribution to the character of the area
- 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 cite the following reasons.

Trees :

- important visual amenity
- provide greening and screening
- important wildlife resource
- under threat from removal

The trees are a hugely important component within the site, they have sufficient amenity value and importance within the landscape to justify their protection with TPO no.474 (2010). However, a tree preservation order does not prevent works being undertaken that are appropriate and reasonable and in the interest of good arboriculture practice.

#### **5.0 Objection to TPO no. 470(2010)**

5.1 Lancaster City Council has received x8 letters either objecting to TPO no.474 (2010) or supporting (appendix 3) formal letters of objection to the order. We also received and formal enquiry sent on behalf of the Parish Council which were addressed in my letter dated 6<sup>th</sup> October 2010.

5.2 Lancaster City Council has received x8 letters supporting (appendix 4)the formal protection of trees within the site with TPO no.474 (2010).

**Maxine Knagg BSc (Hons) Arboriculture**  
Tree Protection Officer, Development Management  
Lancaster City Council

CITY COUNCIL OF LANCASTER  
TREE PRESERVATION ORDER NO. 474 (2010)

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

A.M. Kenworthy 13/09/2010

RELATING TO TREES LOCATED AT

LOW MILL  
CATON  
LANCASHIRE

TOWN HALL  
LANCASTER  
LA1 1PJ

(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 for 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.

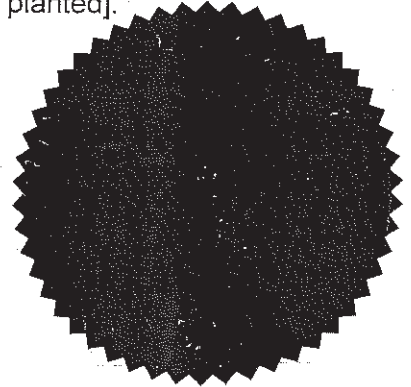
**Application to trees to be planted pursuant to a condition**

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].

Dated this 7<sup>th</sup> day of September 2010

The Common Seal of the [City Council of Lancaster was hereunto affixed in the presence of -

Corporate Director (Regeneration)



if the Council's Standing Orders do not require the sealing of such documents:

Signed on behalf of the City Council of Lancaster

*[Handwritten signature]*

Authorised by the Council to sign in that behalf

**CONFIRMATION OF ORDER**

This Order was confirmed by the City Council of Lancaster with/without modification on the \_\_\_\_\_ day of \_\_\_\_\_  
OR

This Order was confirmed by the City Council of Lancaster, subject to the modifications indicated by \_\_\_\_\_  
on the \_\_\_\_\_ day of \_\_\_\_\_

Authorised by the Council to sign in that behalf



## SCHEDULE 1

## SPECIFICATION OF TREES

**Trees specified individually**  
(encircled in black on the map)

Reference on map	Description	Situation
T1	Dawn Redwood	N of Low Mill
T2-T45	Pine	N of Low Mill

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

Reference on map	Description	Situation
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**Groups of trees**

(within a broken black line on the map)

Reference on map	Description (including number of trees in the group)	Situation
G1	2 Pine, 2 Birch, 1 Larch 2 Cherry and 1 Alder	S of Low Mill
G2	7 Cherry, 5 Birch, 2 Willow 2 Rowan, 2 Pine and 1 Alder	SE of Low Mill
G3	3 Rowan, 1 Pine and 1 Cherry	SE of Low Mill
G4	2 Birch and 1 Cherry	E of Low Mill
G5	3 Willow, 7 Cherry, 6 Birch 2 Poplar, 6 Whitebeam, 1 Sweet Chestnut, 1 Larch, 2 Pine, 2 Hornbeam, 7 Alder and 3 Lime	N of Low Mill
G6	1 Beech, 2 Lime, 1 Rowan, 1 Tulip Tree, 1 Birch and 1 Maidenhair Tree	N of Low Mill
G7	1 Cherry, 1 Ash and 1 Birch	N of Low Mill
G8	2 Lime, 4 Oak, 4 Holly, 19 Birch, 1 Cedar, 2 Hornbeam, 1 Willow, 1 Ash, 4 Elm, 2 Rowan 9 Cherry, 2 Redwood, 1 Elder, 1 Walnut, 2 Amelanchier and 4 Oak	W of Low Mill
G9	1 Tulip, 2 Willow and 1 Elder	SW of Low Mill

G10

1 Rowan and 2 Birch

W of Low Mill

**Woodlands**

(within a continuous black line on the map)

Reference on map

Description

Situation

# Tree Preservation Order no. 474(2010)

Low Mill, Caton  
[Additional Information]

# LANCASTER CITY COUNCIL

Promoting City, Coast & Countryside



### Legend

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### Map Information

Scale:	1: 1250
Date:	27.8.2010

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 25.8.10 Surveyor: MK

Tree details  
 TPO Ref (if applicable): 474(2010) Tree/Group No: T1-T4 G1-G10 Species: Various (see report)  
 Owner (if known): Residents Location: Low Mill, Cator  
 Low Mill.

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

Score & Notes 5  
 Many trees planted after re-development of site into residential properties.

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

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

Score & Notes 5  
 Many trees are young - early mature, in good health with significant remaining life potential.

\* 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

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 3  
 Visible public vantage points - public footpath to north + limited mill lane.

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 1

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 2 opposing views within residential complex as to management of site trees.

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:  
 16

Decision:  
 SEVERE TPO.

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Document is Restricted

# Low Mill

Caton  
[Additional Information]



# LANCASTER CITY COUNCIL

Promoting City, Coast & Countryside



## Legend

- Annotation
- Aerial Photos 2000

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### Map Information

Scale:	1: 4755
Date:	12.11.2010