

## APPEALS COMMITTEE

3.00 P.M.

30TH SEPTEMBER 2011

**PRESENT:** Councillors Helen Helme (Chairman), Mike Greenall, Janice Hanson, Andrew Kay and Karen Leytham

Apologies for Absence:

Councillor Kathleen Graham

Officers in Attendance:

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

Also in Attendance:

|                  |                            |
|------------------|----------------------------|
| Michael Holgate  | Appellant                  |
| Roger Cartwright | Appellant's Representative |

### 1 **SITE VISITS: TREE PRESERVATION ORDER NOS. 485 (2011) AND 488 (2011)**

Prior to commencement of the meeting, site visits were undertaken as follows in response to objections received to:

Tree Preservation Order No. 485 (2011)

The following Members were present on the site visit:

Councillors Helen Helme (Chairman), Mike Greenall and Karen Leytham

Officers in Attendance:

|              |   |                            |
|--------------|---|----------------------------|
| Maxine Knagg | - | Tree Protection Officer    |
| Jane Glenton | - | Democratic Support Officer |

Tree Preservation Order No. 488 (2011)

The following Members were present on the site visit:

Councillors Helen Helme (Chairman), Mike Greenall, Andrew Kay and Karen Leytham

Officers in Attendance:

|              |   |                            |
|--------------|---|----------------------------|
| Maxine Knagg | - | Tree Protection Officer    |
| Jane Glenton | - | Democratic Support Officer |

### 2 **APPOINTMENT OF VICE-CHAIRMAN**

It was proposed by Councillor Greenall and seconded by Councillor Leytham that

Councillor Denwood be appointed Vice-Chairman of the Appeals Committee for the Municipal Year 2011/12. There being no further nominations, the Chairman declared the proposal to be carried.

**Resolved:**

That Councillor Denwood be appointed Vice-Chairman of the Appeals Committee for the Municipal Year 2011/12.

**3 MINUTES**

The Minutes of the meeting held on 9<sup>th</sup> December 2010 were signed by the Chairman as a correct record.

**4 ITEMS OF URGENT BUSINESS AUTHORISED BY THE CHAIRMAN**

There were no items of urgent business.

**5 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**6 TREE PRESERVATION ORDER NO. 485 (2011) - TREES ESTABLISHED WITHIN BAY VIEW HOLIDAY PARK, DETRON GATE, BOLTON-LE-SANDS**

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 established at Bay View Holiday Park, Detron Gate, Bolton-le-Sands, being Tree Preservation Order (TPO) No 485 (2011).

The trees in question were identified as T1 – sycamore; G1 – a group of x3 hawthorn; G2 – a group of x12 hawthorn; G3 – a group of x6 sycamore and W1 – a woodland/scrubland belt of mainly hawthorn, sycamore and occasional ash. The objection received was in connection with G3.

The Appellant's representative, Mr. Roger Cartwright, advised Members that he was employed by Holgates Caravan and Leisure Parks in connection with the management of their trees and woodlands. He reported that to maintain the amenity of the sites, properly conduct their business and reduce danger and possible nuisance to customers, Holgates Caravan and Leisure Parks' trees and woodlands were responsibly managed.

Mr. Cartwright reported that his client objected only to the TPO in relation to G3. In his opinion, these trees were clearly neither of special amenity value, nor exceptional specimens in good condition, requiring little attention in years to come. Rather, they were growing very near to caravans in an exposed, windy situation and would continue to require expensive and difficult tree surgery and eventual removal.

A TPO on G3 would place an unnecessary extra burden on the management of Holgates Caravan and Leisure Parks because of the frequent bureaucratic procedures that would be necessary to deal with the unpredictable situations that were likely to develop in relation to the safety of those trees. To undertake essential tree work, such as thinning, pruning and coppicing, they would have to make a written application to the

Local Planning Authority on the standard application form published by the Secretary of State to carry out work on protected trees, as required by Chapter 6 of the Addendum to 'Tree Preservation Orders – A Guide to the Law and Good Practice'.

Mr. Cartwright reported that Holgates Caravan and Leisure Parks had responsibly managed trees during the 35 years or so that he had known them. In his opinion, they were exemplary clients, who provided proper silvicultural care of their trees and woodlands without detailed supervision. They made hard decisions to fell and prune trees that were potentially dangerous, thinning woodlands, including reluctantly removing conifers that they themselves had planted as nurse trees and taking the advice of specialists on woodland and habitat management for wildlife. They had received David Bellamy awards for this work.

Members were informed by Mr. Cartwright that Holgates Caravan and Leisure Parks had planted more than 400 new trees in Bay View Holiday Park during the last planting season, and they intended to plant many more, including trees and hedges in the new area this winter, which would eventually improve the overall amenity out of all proportion to the amenity value of the 6 sycamore trees known as G3.

Following Mr. Cartwright's representation, Members directed questions to Mr. Cartwright and the Appellant, Mr. Michael Holgate.

Following questions, the Tree Protection Officer, on behalf of the City Council, advised Members that the Council considered it expedient in the interests of amenity to make provision for the preservation of the trees referred to as T1, G1, G2, G3 and W1 under sections 198, 201 and 203 of the Town & Country Planning Act 1990 (as attached at Appendix 2 to the report). The reasons cited were that the trees, the subject of the TPO, contributed to the character of their locality, were an important visual amenity, provided greening, were an important wildlife resource, and there was a perceived threat of future removal or inappropriate management.

Members were advised that it had been brought to the City Council's attention that trees established along the coastal frontage and outside Bay View Holiday Park had been inappropriately managed and had the upper sections of their canopies removed. This had improved the view from a number of static caravans established within the site.

It was reported that managing trees by 'topping' them did not comply with current standards of best practice (BS 3998 (2010)) *Tree works – recommendations*. The City Council's Tree Policy 2010 did not support the removal or inappropriate pruning of trees to reinstate views or establish new views. Such management was likely to have an adverse impact on tree health, vitality and long-term sustainability. As a result, the visual amenity of affected trees was significantly reduced. Trees damaged in this way were not the subject of a TPO because of their poor structural condition.

Members were advised that there were trees established along the coastline beyond the boundary of the caravan park and a group of x6 large, mature sycamore growing within the cartilage of the caravan park. The amenity values of these trees had been assessed using an objective and systematic approach (Tree Evaluation Method for Preservation Orders – *TEMPO* system). A score of 14 had been achieved supporting the action of serving a TPO.

It was reported that the trees along the coastline were clearly visible from within the

caravan site and from public land along the coastal footpath and beyond. The trees within the caravan site were clearly visible to users visiting and staying at the site. Glimpses of the trees were also visible from the public domain beyond the western boundary of the site. The natural topography of land within the site meant it was difficult to see the trees from the public highway to the east, the A6. This view was limited to a view of the tree tops within the wider landscape.

The trees were generally in good overall condition and were free from significant pests or disease and had the potential to live beyond 20 to 40 years with appropriate care and management. Trees within the site provided visible landscape features, contributed to the character of their locality, were seen from a public vantage point, provided important greening and were an important wildlife resource.

It was reported that the trees were important features within their locality, and had sufficient amenity value and importance within the landscape to justify their protection with TPO No. 485 (2011). A TPO did not prevent works being undertaken that were appropriate, reasonable and in the interest of good arboriculture practice.

The Tree Protection Officer advised that the City Council had received a formal written objection to the TPO affecting G3, which was a group of x6 mature sycamore trees established within the cartilage of the holiday park opposite existing stone buildings. They could be seen from outside the holiday park and made an important contribution to the character of the local landscape. No significant pests or disease had been identified. They were the few remaining mature trees within the site, which had undergone recent development works. The clear public visibility of the trees, their condition, suitability and remaining potential longevity provided sufficient public amenity value to justify their inclusion within TPO No. 485 (2011). They were also an important wildlife resource in the coastal location.

A further question and answer session followed the Tree Protection Officer's presentation.

***(The Committee adjourned at 3.58 p.m. to consider the evidence. The Tree Protection Officer, the Appellant and the Appellant's representative left the meeting at this point.)***

Members considered the options before them:

- (1) To confirm Tree Preservation Order No. 485 (2011)
  - (a) Without modification
  - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 485 (2011).

It was proposed by Councillor Leytham and seconded by Councillor Hanson:

"That Tree Preservation Order No. 485 (2011) be confirmed in respect of T1, G1, G2 and W1, subject to modification to exclude G3 from the Order."

Upon being put to the vote, 4 Members voted in favour of the proposition, with 1 abstention, whereupon the Chairman declared the proposal to be carried.

*(The Committee reconvened at 4.10 p.m. to give its decision and the Tree Protection Officer, Appellant and Appellant's representative returned to the meeting at this point.)*

**Resolved:**

That Tree Preservation Order No. 485 (2011) be confirmed in respect of T1, G1, G2 and W1, subject to modification to exclude G3 from the Order.

**7 TREE PRESERVATION ORDER NO. 488 (2011) - TREES ESTABLISHED WITHIN WRAY PRIMARY SCHOOL FIELD, WRAY-WITH-BOTTON, WRAY**

The Committee considered appeals against a decision of the Council under Section 198 of the Town and Country Planning Act 1990 making an Order in respect of trees established to the north-eastern corner of Wray Primary School Field, Wray-with-Botton, being Tree Preservation Order (TPO) No. 488 (2011).

Councillor Joan Jackson, Ward Councillor representing the Appellants, advised Committee that Mr. and Mrs. Ingram had contacted Mr. Richard Wood, Area Support Officer, of Lancashire County Council concerning the two sycamore trees, which were growing on Wray Primary School Field. The suggested plan of action agreed with the school and with the approval of Mr. Wood was to remove the 2 sycamore trees, which were causing a nuisance, and give space for the 2 oaks and the newly-planted rowan tree to develop. He had advised that it would be acceptable for the two trees to be felled as there was no TPO on them.

Committee was advised by Councillor Jackson that Mr. and Mrs. Ingram objected to TPO No. 488 (2011) on the grounds that it was stated that the trees were visible from Wray Primary School, when they were, in fact, on the school playing field, which was in another part of the village and separate from the school. It was also stated that the trees were viewable from public areas, but the field could only be viewed from public land from a very small access road to a cluster of houses beyond the school field.

It was stated that the trees made a significant contribution to the Conservation Area. The school playing field had a total of 24 mature trees, 7 of which were newly-planted 'woodland' trees and 4 newly-planted fruit trees. Sycamores were fast growing, common trees which, in Mr. and Mrs. Ingram's opinion, would be less significant than many other trees without TPOs, such as oaks. The trees were also growing in a cluster and therefore seemed less significant than isolated trees, which accounted for most of the trees on the school field.

Councillor Jackson reported that the trees were a nuisance and overhung both Mr. and Mrs. Ingram and their neighbour, Miss E. Garnett's property. Problems included aphid residues falling from the canopy and restriction of light.

Following Councillor Jackson's representation, Members directed questions to her.

Following questions, the Tree Protection Officer, on behalf of the City Council, advised Members that the Council considered 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 and Country Planning Act 1990 (as attached at Appendix 4 to the report).

The reasons cited were that the trees, the subject of the TPO, identified as T1 – T3, were an important visual amenity, provided greening, screening and shade, were an important wildlife resource and were under threat from removal.

Members were advised that all trees with a trunk diameter of 75 mm or greater when measured at 1.3 m above ground level were protected in law. Under Section 211 of the Town and Country Planning Act 1990, the Local Planning Authority must be notified in writing and given a period of 6 weeks' notice prior to undertaking intended works to trees growing within a Conservation Area. The site was land used as a recreational facility for the school and was accessed from a number of points by members of the public.

It was reported that Lancaster City Council had received a Section 211 notice detailing intentions to fell x2 sycamore trees from within the school field (as attached at Appendix 1 to the report). The reasons for removal were not cited at that time. However, reasons of encroachment and shading were subsequently identified. Lancaster City Council's Tree Policy (2010) did not support the removal of healthy trees for reasons such as shading to gardens, leaf or fruit litter or to reinstate lost views or establish new views.

The amenity value of 2 sycamore trees and 2 oak trees 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 (as shown at Appendix 2 to the report).

Committee was advised that the trees were clearly visible from within the boundary of the school field, from a number of dwellings that looked onto the field and from the public highway to the east, where the trees could be glimpsed between dwellings and over rooftops where they could be viewed as skyline features. Three of the trees assessed were found to be in good overall condition, free from significant pests or disease and, as such, they had the potential to live beyond 100+ years with appropriate care and management. A fourth tree, a sycamore, had been excluded from the TPO as a result of a large wound to the main stem, rendering it unsuitable. This tree had since been removed by Lancashire County Council, reducing the issues of encroachment and shading in relation to the Appellants' properties.

The Tree Protection Officer advised that the trees provided visible landscape features, greening and partial screening between the use of the field and private dwellings nearby, important shading for groups that used the school field, could be seen from a public vantage point, contributed to the character of the area and were an important wildlife resource. The Council had received a letter of support for the retention and protection of the two sycamore trees which were used as a focal point for outdoor education and play sessions with a local group leader; they provided valuable shade and a sense of the changing seasons.

The trees were important features within their locality and had sufficient amenity value and importance within the landscape to justify their protection with TPO No. 488 (2011). A TPO did not prevent works from being undertaken that were appropriate and reasonable and in the interest of good arboriculture practice.

A further question and answer session followed the Tree Protection Officer's presentation.

***(The Committee adjourned at 4.42 p.m. to consider the evidence. The Tree Protection Officer and Councillor Jackson, Ward Councillor representing the Appellants, left the meeting at this point.)***

Members considered the options before them:

- (1) To confirm Tree Preservation Order No. 488 (2011)
  - (a) Without modification
  - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 488 (2011).

It was proposed by Councillor Leytham and seconded by Councillor Kay:

“That Tree Preservation Order No. 488 (2011) be confirmed without modification.”

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

***(The Committee reconvened at 4.48 p.m. to give its decision and the Tree Protection Officer and Councillor Jackson, Ward Councillor representing the Appellants, returned to the meeting at this point.)***

**Resolved:**

That Tree Preservation Order No. 488 (2011) be confirmed without modification.

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Chairman

(The meeting ended at 4.49 p.m.)

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