



Committee: APPEALS COMMITTEE
Date: FRIDAY, 30 SEPTEMBER 2011
Venue: LANCASTER TOWN HALL
Time: 3.00 P.M.

Please note that site visits will take place prior to the meeting. The coach will depart from Lancaster Town Hall at noon and from Morecambe Town Hall at 12.20pm.

AGENDA

1. **Apologies for Absence**
2. **Appointment of Vice-Chairman**
3. **Minutes**
Minutes of the Meeting held on 9 December 2010 (previously circulated)
4. **Items of Urgent Business authorised by the Chairman**
5. **Declarations of Interest**

Matters for Decision

6. **Tree Preservation Order No. 485 (2011) - Trees established within Bay View Holiday Park, Detron Gate, Bolton-le-Sands (Pages 1 - 24)**
Report of Head of Governance
7. **Tree Preservation Order No. 488 (2011) - Trees established within Wray Primary School Field, Wray-with-Botton, Wray (Pages 25 - 70)**
Report of Head of Governance

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Helen Helme (Chairman), Sheila Denwood, Kathleen Graham, Mike Greenall, Janice Hanson, Andrew Kay and Karen Leytham

(ii) Substitute Membership

Councillors June Ashworth, Jon Barry, John Harrison, Billy Hill, David Kerr, Vikki Price and Sylvia Rogerson

(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 (01524) 582170, or email memberservices@lancaster.gov.uk.

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

Published on Monday, 19 September 2011

APPEALS COMMITTEE**TREE PRESERVATION ORDER NO. 485 (2011)****30 SEPTEMBER 2011****REPORT OF HEAD OF GOVERNANCE****PURPOSE OF REPORT**

To enable Members to consider the objections received to Tree Preservation Order No. 485 (2011) located at Bay View Holiday Park, Detron Gate, Bolton-le-Sands, 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 5A of Schedule 12A of the Local Government Act 1972) as amended by the Local Government (Access to Information) (Variation) Order 2006.

RECOMMENDATIONS

That Members consider the objections to Tree Preservation Order No. 485 (2011) located at Bay View Holiday Park, Detron Gate, Bolton-le-Sands, 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. 485 (2011), which has been made in relation to individual trees located at Bay View Holiday Park, Detron Gate, Bolton-le-Sands.
- 1.3 In accordance with the Regulations, it is necessary to consider the objection(s), 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 is attached (pages 3 to 4).

Appended to the report are:

- Appendix 1 - *Tree Evaluation Method for Preservation Orders (TEMPO) system (pages 5 to 9)*;

- Appendix 2 – *Copy of the original Tree Preservation Order No.485 (pages 10 to 17);*
- Appendices 3 (pages 18 to 19), 3A (pages 20 to 22), 3B (page 23) and 3C (page 24) - *formal written objections to the order affecting trees identified as G3 x6 large mature sycamore established within the cartilage of the caravan park.*

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. 485 (2011)

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

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. 485 (2011).

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing) Not applicable.	
LEGAL IMPLICATIONS A Legal Officer will be present at the meeting to advise the Committee.	
FINANCIAL IMPLICATIONS Not applicable.	
BACKGROUND PAPERS Tree Preservation Order No. 485 (2011)	Contact Officer: Jane Glenton Telephone: 01524 582068 E-mail: jglenton@lancaster.gov.uk Ref: JEG

Tree Preservation no: 485 (2011)

Site: Bay View Holiday Park, Detron Gate, Bolton le Sands

Reason: Important amenity value, under threat

Appeals Committee (TPO)

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

Introduction

The trees in question are established within the site known as Bay View Holiday Park, Detron Gate, Bolton le Sands. The site is a recreational, holiday facility.

It was brought to the attention of Lancaster City Council that trees established along the coastal frontage and outside the holiday park had been inappropriately managed and had the upper sections of their canopies removed; managing trees in this way otherwise known as 'topping' does not comply with current standards of best practice (BS 3998 (2010) Tree works – recommendations. In effect removing the upper sections of canopies improved the view from a number of static caravans established within the site.

Lancaster City Council does not support the management of trees in this way; Tree Policy 2010 does not support the removal or inappropriate pruning of trees to reinstate views or establish new views. Such management is likely to have an adverse impact on tree health, vitality and long term sustainability. The visual amenity of affected trees is significantly reduced. Trees damaged in this way are not subject of a tree preservation order because of their poor structural condition.

Tree Preservation Order

There are trees established along the coastline beyond the boundary of the caravan park that were not subject to in judicial pruning, in addition there is a group of x6 large, mature sycamore growing within the curtilage of the caravan park.

The amenity values of trees established along the coastline and within the caravan site were assessed using an objective and systematic approach (Tree Evaluation Method for Preservation Orders - *TEMPO* system). A score of 14 was achieved supporting the action of serving a Tree Preservation Order (appendix 1).

Trees along the coastline are clearly visible from within the caravan site and from public land along the coastal footpath and beyond. Trees within the caravan site are clearly visible to users visiting and staying at the site. Glimpses of the trees are also visible from the public domain beyond the western boundary of the site. The natural topography of land within the site means that the trees are not visible from the public highway to the east.

The trees are generally in good overall condition, and are free from significant pests or disease and as such have the potential to live beyond 20-40 years with appropriate care and management.

Trees within the site provide the following:

- visible landscape features
- contribute to the character of their locality
- seen from a public vantage point
- provide important greening
- important wildlife resource

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 (appendix 2).

Lancaster City Council cite the following reasons.

Trees:

- contribute to the character of their locality
- important visual amenity
- provide greening
- important wildlife resource
- perceived threat of future removal or inappropriate management

The trees are important features within their locality; they have sufficient amenity value and importance within the landscape to justify their protection with TPO no.485 (2011). A tree preservation order does not prevent works being undertaken that are appropriate and reasonable and in the interest of good arboriculture practice.

Objection to TPO no. 485(2011)

Lancaster City Council received a formal written objection to the order affecting trees identified as G3 x6 large mature sycamore established within the curtilage of the caravan park (appendix 3, 3a, 3b, 3c). No objections have been received in relation to the trees growing beyond the boundary of the site; as such these trees are not subject to the TPO Appeal hearing.

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

26.08.11

Proposed New TPO Number: 485 (2011)

Site: Bay View Holiday Park, Detron gate, Bolton le Sands

Reason: Important amenity value, under threat

Assessment:

The trees in question are established along an exposed coastal location immediately to the west of Bay View Holiday Park. Trees species include hawthorn, sycamore and ash. The majority of trees are mature and in a satisfactory condition; no significant pests or disease were identified.

For the purpose of this report and the proposed new Tree Preservation Order trees have been 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, hawthorn and occasional ash. There is also an additional group of x6 mature sycamore trees established within the curtilage of the holiday park.

T1, G1, G2 & W1 are all growing along an exposed coastal location. They are highly visible trees which can be seen from the public footpath which follows the coastline. The tree tops can also be seen from within the holiday park. Typically their shape and form have been heavily influenced by their exposure to the maritime climate. These trees are an important component of the coastal landscape.

A number of trees along the coastline have been 'topped' in the recent past; canopies have been partially removed. This action has had an adverse impact on their aesthetic appearance, their remaining life potential and overall amenity value. Remaining trees may be under threat from similar management. The site is currently undergoing a re-development works.

G3 is a group of x6 mature sycamore trees established within the curtilage of the holiday park opposite existing stone buildings. They can be seen from outside the holiday park. They make an important contribution to the character of the local landscape. No significant pests or disease were identified.

Recommendation:

To serve Tree Preservation Order no. 485(2011) affecting trees T1, G1, G2, G3 & W1 under sections 198 (201) and 203 of the Town & Country Planning Act 1990, in the interests of public amenity.

***Maxine Knagg
Tree Protection Officer
Regeneration & Policy Services***

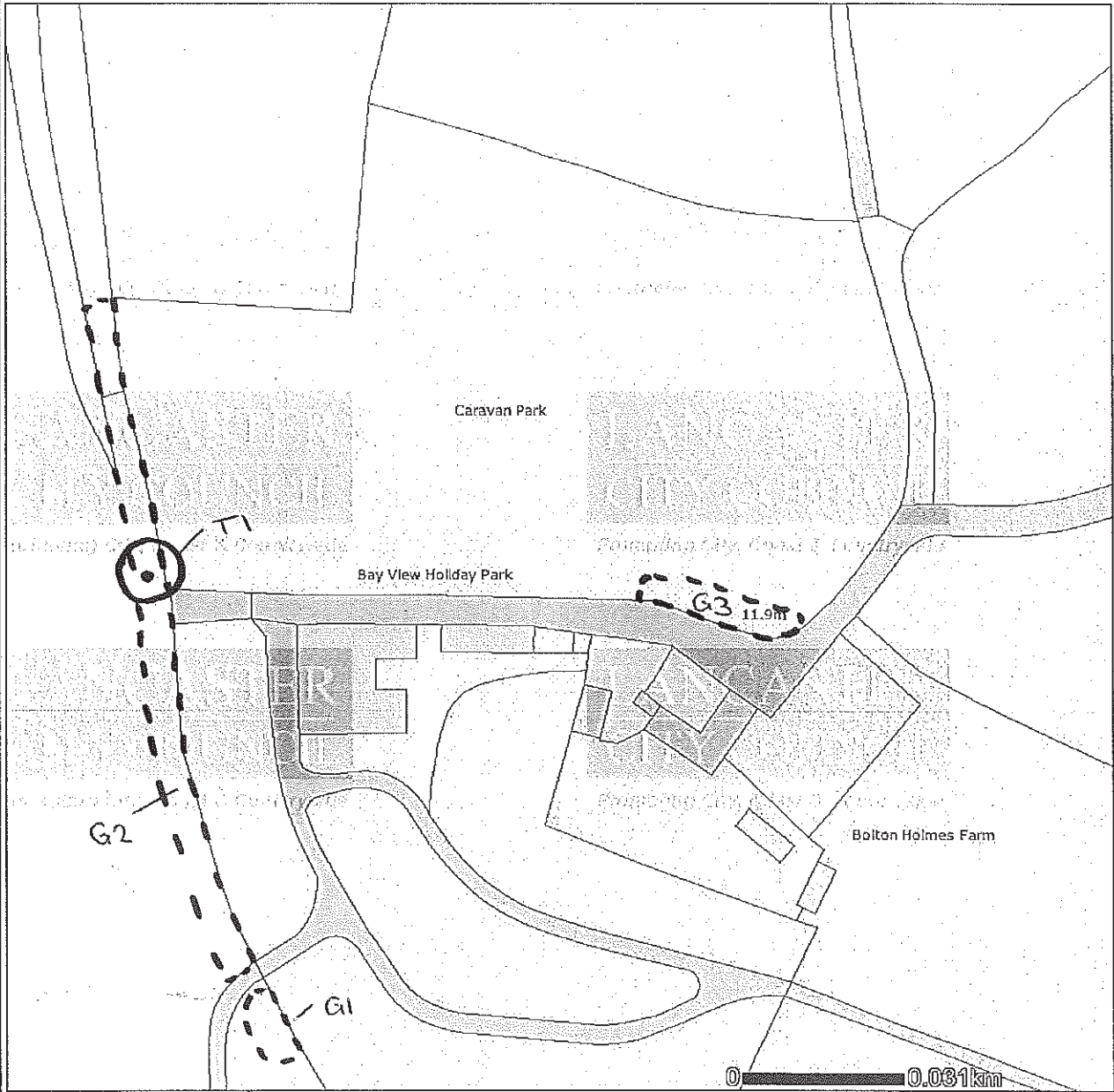
(08.04.2011)

Tree Preservation Order no.485 (2011)

Bay View Park, Detron Gate
Bolton le Sands

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Promoting City, Coast & Countryside



Legend

- | | |
|-----------------------|-------------------|
| Annotation | General Surface |
| Areas | Glasshouse |
| Building | Height Control |
| Building or Structure | Historic Interest |
| Built Environment | Inland Water |
| General Feature | Landform |
| Multiple Surface | Landform - Slope |
| Step | Landform - Cliff |
| (cont) | (cont) |

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Map Information

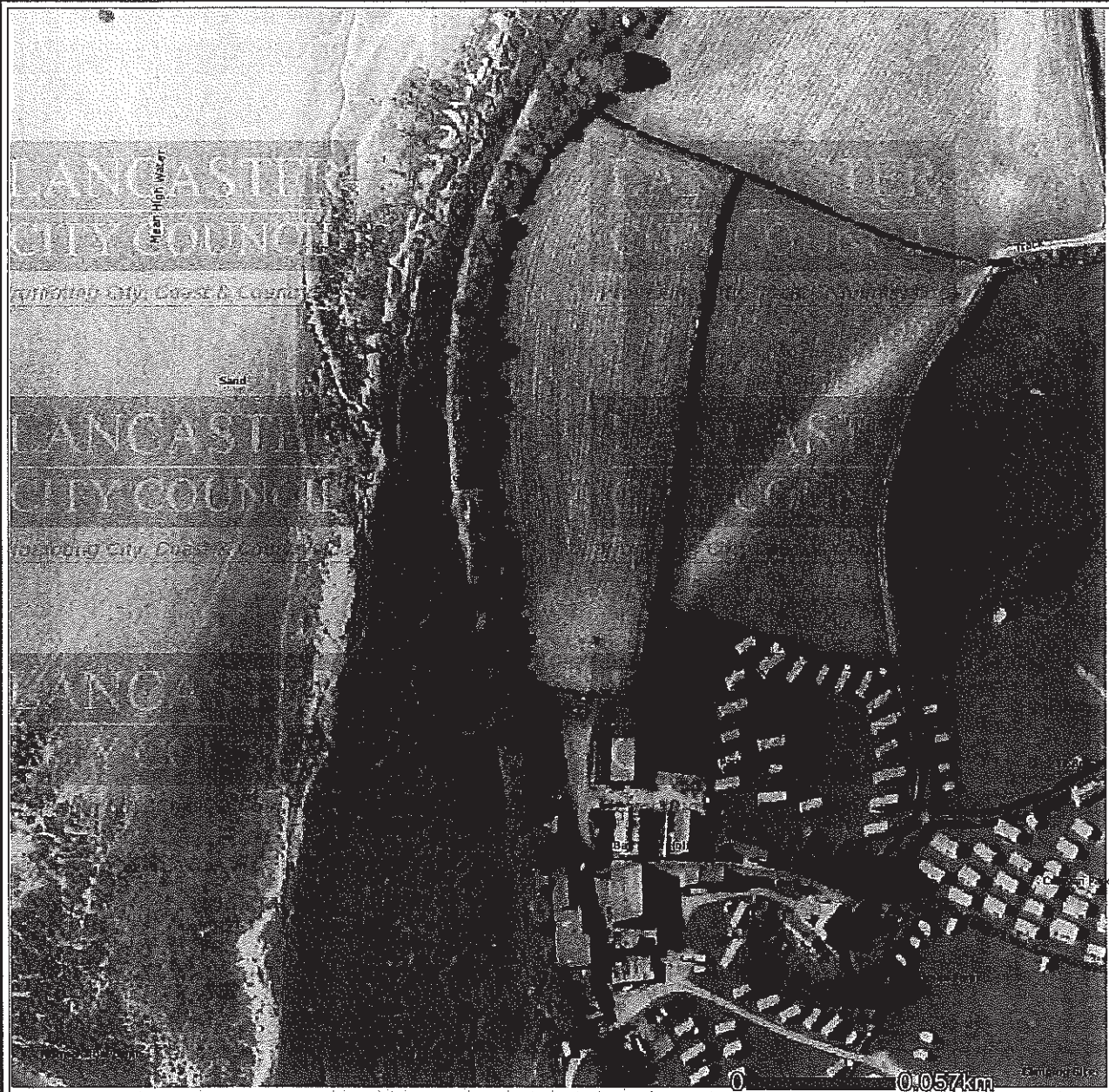
Scale:	1: 1250
Date:	8.4.2011

Tree Preservation Order no.486^S (2011)

Bay View Park, Detron Gate
Bolton le Sands

LANCASTER
CITY COUNCIL

Promoting City, Coast & Countryside



Legend

Annotation
Aerial Photos 2000

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100025403

Map Information

Scale:	1: 2457
Date:	8.4.2011

Tree Preservation Order no.485 (2011)

Bay View Park, Detron Gate
Bolton le Sands

LANCASTER CITY COUNCIL

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Legend

- Annotation
- Aerial Photos 2000

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100025403

Map Information

Scale: 1: 1250

Date: 8.4.2011

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):

SURVEY DATA SHEET & DECISION GUIDE

Date: 04.04.11 Surveyor: MK.

Tree details
 TPO Ref: 485 (2011) Tree/Group No: T1 Species: Sycamore
 Owner (if known): G1-G3 Hawthorn
 Location: Coast, Bayview WI Ash

Holiday Park, Debra Gate, BLS.

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 ③

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 ②
 Many trees are Hawthorn; Sycamore + ash > life potential

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 ③
 Growth reduced - maritime location visible public footpath.

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 ①

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
 number trees have been recently topped in front of new holiday home plots.

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:
 14

Decision:
 Sewe TPO

CITY COUNCIL OF LANCASTER
TREE PRESERVATION ORDER NO. 485 (2011)

---ooOoo---

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

For Kenneth 18/01/11

BAY VIEW HOLIDAY PARK
DETRON LANE
BOLTON LE SANDS
CARNFORTH
LANCASHIRE
LA5 9TN

PO BOX 4
TOWN HALL
DALTON SQUARE
LANCASTER
LA1 1QR

TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999
As amended by the Town and Country Planning (Trees)(Amendment)(England) Regulations 2008

MODEL FORM OF TREE PRESERVATION ORDER

Town and Country Planning Act 1990
Tree Preservation Order No. 485 (2011)

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. 485 (2011).

Interpretation

2. In 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 19th April 2011.

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 (1) of section 200 (tree preservation orders: Forestry Commissioners), 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;
- (aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);

(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 has 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 application and the documents and particulars accompanying it, 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

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> <ul style="list-style-type: none"> (i) omit <p style="margin-left: 40px;">“, in such manner as may be prescribed by a development order;”,</p> <p style="margin-left: 40px;">“such” in the second place where it appears, and</p> <p style="margin-left: 40px;">“as may be so prescribed”; and</p> (ii) substitute “matters relevant to tree preservation orders made by the authority” for “applications for planning permission”. <p>(b) In subsection (2)</p> <ul style="list-style-type: none"> (i) after “contain” insert “, as regards each such order”; and (ii) for paragraphs (a) and (b) substitute <ul style="list-style-type: none"> (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>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>

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
 - (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,".

(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;
- (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."

(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

PART II
PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990,
AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I 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.

(5) 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 in so far as the consent otherwise provides) enure 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

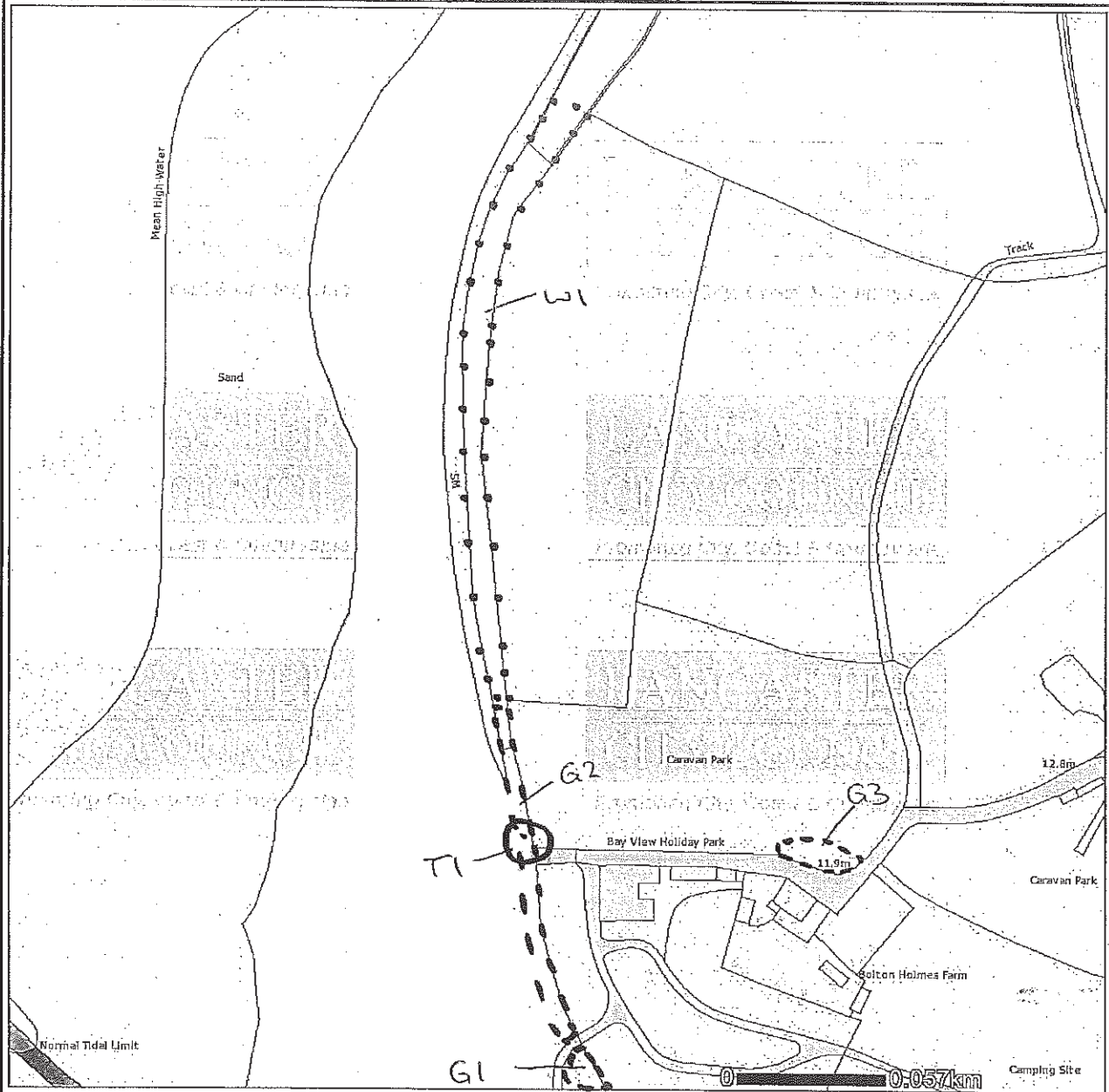
- (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;

Tree Preservation Order no.485 (2011)

Bay View Park, Detron Gate
Bolton le Sands

LANCASTER CITY COUNCIL

Promoting City, Coast & Countryside



Legend

Annotation	General Surface
Areas	Glasshouse
Building	Height Control
Building or Structure	Historic Interest
Built Environment	Inland Water
General Feature	Landform
Multiple Surface	Landform - Slope
Step	Landform - Cliff
{cont}	{cont}

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Map Information

Scale:	1: 2457
Date:	8.4.2011

John May

Document is Restricted

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APPEALS COMMITTEE**TREE PRESERVATION ORDER NO. 488 (2011)****30 SEPTEMBER 2011****REPORT OF HEAD OF GOVERNANCE****PURPOSE OF REPORT**

To enable Members to consider the objections received to Tree Preservation Order No. 488 (2011) located at Wray Primary School Field, Wray-with-Botton, Wray, 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 5A of Schedule 12A of the Local Government Act 1972) as amended by the Local Government (Access to Information) (Variation) Order 2006.

RECOMMENDATIONS

That Members consider the objections to Tree Preservation Order No. 488 (2011) located at Wray Primary School Field, Wray-with-Botton, Wray, 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. 488 (2011), which has been made in relation to individual trees located at Wray Primary School Field, Wray-with-Botton, Wray.
- 1.3 In accordance with the Regulations, it is necessary to consider the objection(s), 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 is attached (pages 27 to 28).

Appended to the report are:

- Appendix 1 – *Section 211 Notice (pages 29 to 33)*;

- Appendix 2 - *Tree Evaluation Method for Preservation Orders (TEMPO) system (pages 34 to 37);;*
- Appendix 3 – *Original report amended (17 June 2011) (pages 38 to 40);;*
- Appendix 4 – *Copy of the original Tree Preservation Order No.485 (pages 41 to 54);*
- Appendix 5 – *Formal written objection to the order affecting trees T1-T3 (pages 55 to 56);*
- Appendix 6 – *Letter supporting the retention and protection of the trees in question (page 57);*
- Appendices 6A (pages 58 to 59) and 6B (pages 60 to 63) – *Correspondence between Lancaster City Council and the appellant);*
- Appendix 7 – *Notice submitted on behalf of the appellants (pages 64 to 67);*
- Appendix 8 *Works agreed for crown reduction of a single sycamore, not exceeding 25% (page 68);*
- Appendix 9 – *Works agreed for selective branch removal affecting a single oak tree (page 69).*

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. 488 (2011).

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

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. 488 (2011).

CONCLUSION OF IMPACT ASSESSMENT
--

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

Not applicable.

LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

Not applicable.

BACKGROUND PAPERS

Tree Preservation Order No. 488 (2011)

Contact Officer: Jane Glenton

Telephone: 01524 582068

E-mail: jglenton@lancaster.gov.uk

Ref: JEG

Tree Preservation no: 488 (2011)

Site: Wray Primary School Field, Wray with Botton, Wray

Reason: Important amenity value, under threat

Appeals Committee (TPO)

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

Introduction

The trees in question are established to the north-eastern corner of the school field which lies within Wray with Botton Conservation Area. As such, all trees with a trunk diameter of 75mm or greater when measured at 1.3m above ground level are protected in law. Under Section 211 of the Town & 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 order.

The primary use of the land is as a recreational facility for the school; it is also accessed from a number of points by members of the public.

Conservation Area – 211 Notification

Lancaster City Council received a Section 211 notice detailing intentions to fell x2 sycamore trees from within the school field, reasons for removal were not cited (appendix 1) at that time. However, reasons of encroachment and shading were subsequently identified.

Lancaster City Council's Tree Policy (2010) does not support the removal of healthy trees for reasons such as shading to gardens, leaf or fruit litter or to re-instate lost views or establish new views.

Following an assessment Lancaster City Council identified trees with important amenity value.

Four trees were assessed; two sycamore and two oak trees. Their amenity value was 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). Original report amended (17th June 2011) for clarity (appendix 3).

Trees within the site are clearly visible from within the boundary of the school field, from a number of dwellings that look onto the field and also from the public highway to the east; here trees can be glimpsed between dwellings and over rooftops where they can 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 have the potential to live beyond 100+ years with appropriate care and management.

A fourth tree, a sycamore was excluded from the tree preservation order, as a result of a large wound to the main stem rendering it unsuitable. This tree has since been removed by Lancashire County Council reducing the issues of encroachment and shading in relation to the appellants' properties.

Trees subject of the appeal provide the following:

- visible landscape features
- greening and partial screening between the use of the field and private dwellings nearby
- provide important shading for groups that use the school field
- seen from a public vantage point
- contribute to the character of the area
- important wildlife resource

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 (appendix 4).

Lancaster City Council cited the following reasons.

Trees:

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

The trees are important features within their locality; they have sufficient amenity value and importance within the landscape to justify their protection with TPO no.488 (2011). It should be noted that, a tree preservation order does not prevent works from being undertaken that are appropriate and reasonable and in the interest of good arboriculture practice.

Objection to TPO no. 488(2011)

Lancaster City Council received a formal written objection to the order affecting trees T1-T3 (appendix 5). Lancaster City Council has also received a letter supporting the retention and protection of the trees in question (appendix 6). Correspondence between Lancaster City Council and the appellant can be found at (appendices 6a, & 6b).

Following receipt of the objection a site meeting was arranged, attendees included the appellants Ms Garnet and Mr Ingram, Richard Wood (Lancashire County Council), Gavin Charlesworth (tree surgeon) and Maxine Knagg (Lancaster City Council). It was clarified that the sycamore with damage to the main stem was not subject to Tree Preservation Order no.488 (2011) and as such could be removed; tree works to a single oak tree and sycamore tree were discussed.

A 211 Notice was subsequently submitted by Richard Wood on behalf of the appellants (appendix 7). Works were agreed to include a crown reduction of a single sycamore, not exceeding 25% and selective branch removal affecting a single oak tree (appendix 8 & 9).

It remains the view of Lancaster City Council that the trees identified as T1-T3 have sufficient amenity value to warrant serving and protecting with TPO no.488 (2011).

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

26.08.11

Document is Restricted

488

Notification/ Application Number: 11/0042/TCA

Address: Playing Field, Wray with Botton Primary School, Wray

Proposal: Fell a x2 sycamore

Assessment:

The trees in question are sycamore trees established towards a corner of the playing field. No arboriculture reasons have been identified for the removal of the trees. However, a discussion with the agent acting on behalf of the applicant cited reasons of encroaching branches affecting no.2 Oaklea, Main Street, Wray.

In addition to the sycamore there is a single oak tree. All trees are in a good overall condition and free from significant structural defects or serious pest or disease that may otherwise support their removal. The tree trees have been identified as a group – G1.

The trees are clearly visible from a number of private properties, from within the playing field and a number of public vantage points. They make an important contribution to the greening and amenity value of the site and locality. They are also an important resource for wildlife, all of which will increase with continued growth and maturity of the trees.

Lancaster City Council does not support the removal of healthy, trees to reduce encroachment, or eliminate leaf littering identified this policy can be viewed within Lancaster City Council's Tree Policy 2010.

The amenity value of this tree has been assessed using a Tree Evaluation Method for Preservation Orders (TEMPO).

Decision:

Lancaster City Council objects to the removal of x2 sycamore identified with a single oak tree as G1 because they have important amenity value and make a significant contribution to the character of the locality. As such it is our intention to serve a Tree Preservation Order no. 488 (2011).

TEMPO: A score of 15+ was accumulated supporting the action of serving a tree preservation order.

Maxine Knagg
Tree Protection Officer
Regeneration & Policy Services

27th April 2011

Tree Preservation Order 488 (2011)

Playing Field, Wray with Botton Primary School
Wray

LANCASTER CITY COUNCIL

Promoting City, Coast & Countryside



Legend

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100025403

Map Information

Scale:	1: 1250
Date:	28.4.2011

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):

SURVEY DATA SHEET & DECISION GUIDE

Date: 27/4/11		Surveyor: MH	
Tree details		2x Sycamore	
TPO Ref: 488(2011)	Tree/Group No: G1	Species: 1x oak	
Owner (if known): Lancashire C.C.			
Location: Playngfield, Way Primary School, Wry.			

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 ③

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 ④ Remaining longevity identified as minimum with good management

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 ④ usable for school + public areas. Will increase with maturity trees.

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 ①

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 Notification received to fell 2x Sycamore - overhanging branches.
--

Part 3: Decision guide

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

Add Scores for Total: 17

Decision: Save TPO

Tree Preservation Order 488 (2011)





Playing Field, Wray with Botton Primary School
School Lane, Wray

LANCASTER
CITY COUNCIL

Promoting City, Coast & Countryside



Legend

-  Uniform TPO Points
-  Uniform TPO Polygons
-  Tree Preservation Orders
-  Annotation
- Aerial Photos 2000

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100025403

Map Information

Scale:	1: 1250
Date:	28.4.2011

Notification/ Application Number: 11/0042/TCA

Address: Playing Field, Wray with Botton Primary School, Wray

Proposal: Fell a x2 sycamore

Amended Report: 15th June 2011 / For Clarification

Assessment:

The trees in question are sycamore trees established towards a corner of the playing field. No arboriculture reasons have been identified for the removal of the trees. However, a discussion with the agent acting on behalf of the applicant cited reasons of encroaching branches affecting no.2 Oaklea, Main Street, Wray.

In addition to the x2 sycamore there are x2 oak trees. A single sycamore, and x2 oak are in a good overall condition and free from significant structural defects or serious pest or disease that may otherwise support their removal. However, the second sycamore in question and subject of the original 211 Notice has a large wound to the main stem, although there is no evidence of decay being present we consider this wounding to be sufficient to adversely impact on the long term retention value of this tree and as such do not consider it worthy of inclusion within a Tree Preservation Order. The single sycamore and x2 oak trees have been identified as a group – G1.

The trees are clearly visible from a number of private properties, from within the playing field and a number of public vantage points. They make an important contribution to the greening and amenity value of the site and locality. They are also an important resource for wildlife, all of which will increase with continued growth and maturity of the trees.

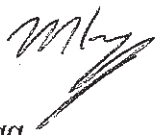
Lancaster City Council does not support the removal of healthy, trees to reduce encroachment, or eliminate leaf littering identified this policy can be viewed within Lancaster City Council's Tree Policy 2010.

The amenity value of this tree has been assessed using a Tree Evaluation Method for Preservation Orders (TEMPO).

Decision:

Lancaster City Council objects to the removal of x1 sycamore identified with x2 oak trees as G1 because they have important amenity value and make a significant contribution to the character of the locality. As such it is our intention to serve a Tree Preservation Order no. 488 (2011).

TEMPO: A score of 15+ was accumulated supporting the action of serving a tree preservation order.



Maxine Knagg
Tree Protection Officer
Regeneration & Policy Services

15th June 2011

TEMPO EVALUATION UNCHANGED

MH

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):

SURVEY DATA SHEET & DECISION GUIDE

Date: 27/4/11	Surveyor: MH
Tree details TPO Ref: 488(2011) Tree/Group No: G1 Species: 2x Sycamore Owner (if known): Lancashire C.C. 1x oak Location: Playngfield, Wray Primary School, Wray.	

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 ③

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 ④
Remaining longevity identified as minimum with good management

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
④ visible from School + public areas. Will increase with maturity trees.

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 ①

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
Notification received to fell 2x Sycamore - aerobically braked.

Part 3: Decision guide

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

Add Scores for Total:
17

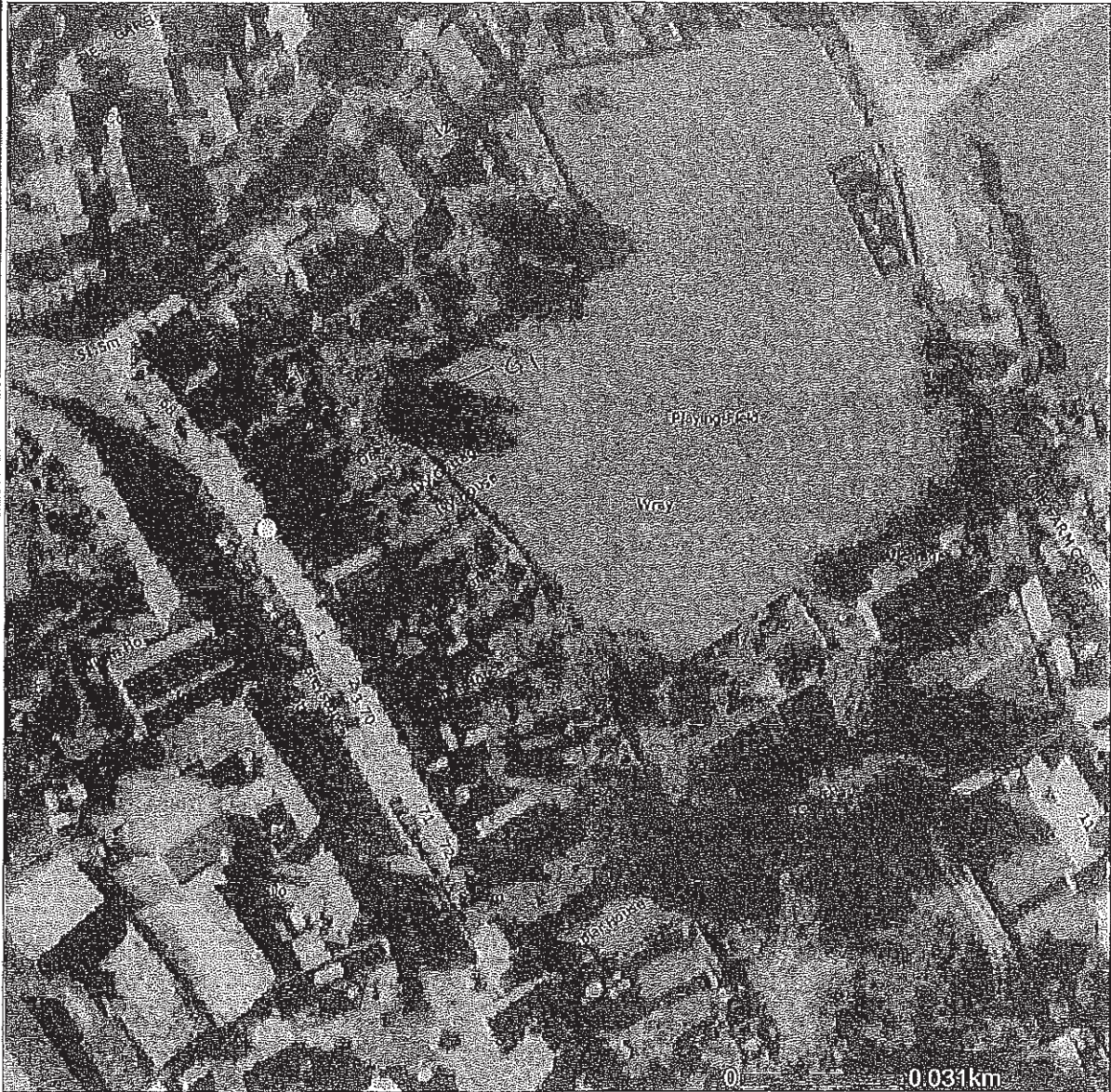
Decision:
Save TPO

Tree Preservation Order 488 (2011)






Playing Field, Wray with Botton Primary School
School Lane, Wray

LANCASTER
CITY COUNCIL

Promoting City, Coast & Countryside



Legend

-  Uniform TPO Points
-  Uniform TPO Polygons
-  Tree Preservation Orders
-  Annotation
-  Aerial Photos 2000

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100025403

Map Information

Scale:	1: 1250
Date:	28.4.2011

CITY COUNCIL OF LANCASTER
TREE PRESERVATION ORDER NO. 488 (2011)

---ooOoo---

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

A. M. Knecht 3/5/11

PLAYING FIELD
WRAY WITH BOTTON PRIMARY SCHOOL
WRAY

PO BOX 4
TOWN HALL
DALTON SQUARE
LANCASTER
LA1 1QR

TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999
As amended by the Town and Country Planning (Trees)(Amendment)(England) Regulations 2008

MODEL FORM OF TREE PRESERVATION ORDER

Town and Country Planning Act 1990
Tree Preservation Order No. 488 (2011)

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. 488 (2011).

Interpretation

2. In 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 May 2011.

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 (1) of section 200 (tree preservation orders: Forestry Commissioners), 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;
- (aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);

- (ab) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;
- (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.

Application of provisions of the Town and Country Planning Act 1990

7. (1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I 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 has 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 application and the documents and particulars accompanying it, 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 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 3rd day of May 2011

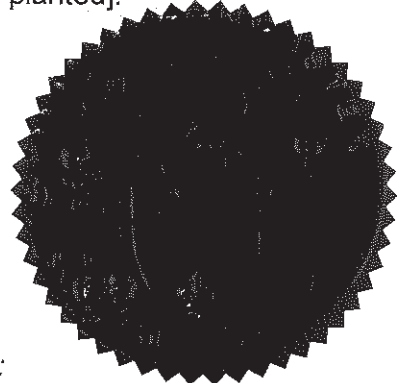
The Common Seal of the [City Council of Lancaster was hereunto affixed in the presence of -

Henry Mann

Deputy chief Executive

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

Signed on behalf of the City Council of Lancaster



SEAL REGISTER
No: 22549

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
------------------	-------------	-----------

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

Reference on map	Description	Situation
------------------	-------------	-----------

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

Reference on map	Description (including number of trees in the group)	Situation
------------------	--	-----------

G1	1 x Sycamore 2 x Oak	Playing Field, Wray-w-Botton Primary School, Wray
----	-------------------------	---

Woodlands
(within a continuous black line on the map)

Reference on map	Description	Situation
------------------	-------------	-----------

W. P. Mann
20/6/11

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 style="padding-left: 40px;">(i) omit</p> <p style="padding-left: 80px;">“, in such manner as may be prescribed by a development order,”,</p> <p style="padding-left: 80px;">“such” in the second place where it appears, and</p> <p style="padding-left: 80px;">“as may be so prescribed”; and</p> <p style="padding-left: 40px;">(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 style="padding-left: 40px;">(i) after “contain” insert “, as regards each such order”; and</p> <p style="padding-left: 40px;">(ii) for paragraphs (a) and (b) substitute</p> <p style="padding-left: 80px;">(a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and</p> <p style="padding-left: 80px;">(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>Section 70 (determination of applications: general considerations)</p>	<p>(a) In subsection (1)</p> <ul style="list-style-type: none"> (i) substitute <ul style="list-style-type: none"> “Subject to subsections (1A) and (1B), where” for “Where”; “the authority” for “a local planning authority”; “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; (ii) after “think fit”, insert <ul style="list-style-type: none"> “(including conditions limiting the duration of the consent or requiring the replacement of trees)”; (iii) omit “subject to sections 91 and 92,”. <p>(b) After subsection (1) insert</p> <p>“(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.</p> <p>(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>(a) In subsection (1) substitute</p> <ul style="list-style-type: none"> (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>(b) Omit subsections (2) and (3).</p>

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
 - (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,".

(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;
- (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."

(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

	<p>(1)(d), it shall be assumed that the authority decided to refuse the application in question.”.</p>
<p>Section 79 (determination of appeals)</p>	<p>(a) In subsections (1) and (2), substitute “the authority” for “the local planning authority”.</p> <p>(b) Omit subsection (3).</p> <p>(c) In subsection (4), substitute</p> <ul style="list-style-type: none"> (i) “section 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 sections 65 or 71.”. <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after “section 78”.</p>

PART II
PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990,
AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I 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.

(5) 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 in so far as the consent otherwise provides) enure 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;

- (b) 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 had 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 subsection (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.

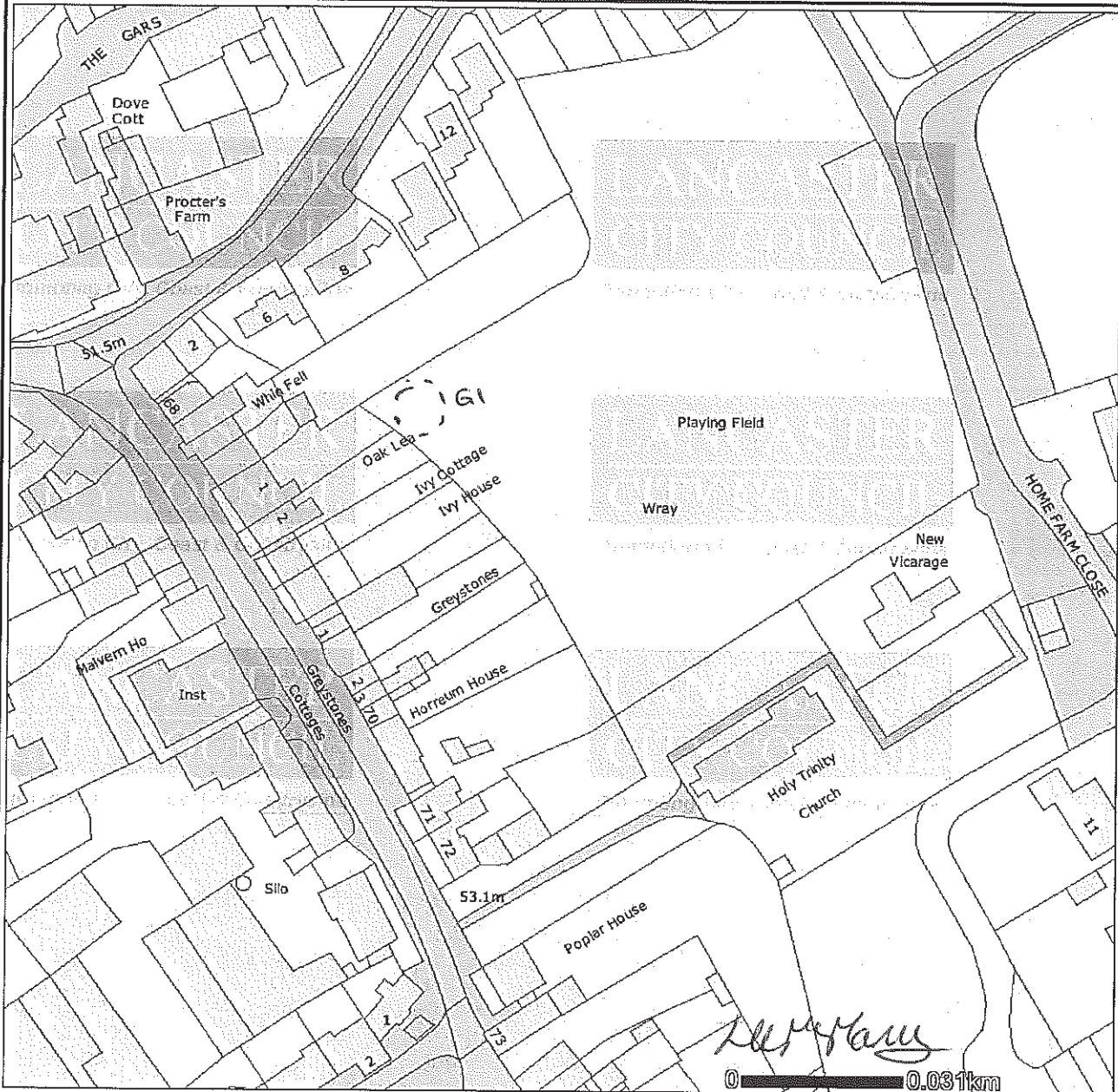
(7) Schedule 6 applies to appeals under section 78.

Tree Preservation Order 488 (2011)

Playing Field, Wray with Botton Primary School
Wray

LANCASTER CITY COUNCIL

Promoting City, Coast & Countryside



Legend

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Map Information

Scale:	1: 1250
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Notification/ Application Number: 11/0077/TPO

Address: Wray-with-Botton Primary School, Wray

Proposal: Crown reduce 1x oak; 1x sycamore.

Assessment:

The trees in question are established to the north-eastern aspect of the school field and are subject to TPO no. 488 (2011).

Both trees are in good overall condition and provide important amenity to users of the school field and are visible beyond the site within the public domain.

The canopies of both trees overhang two neighbouring properties. The occupiers have expressed concerns to the school and Lancashire County Council requesting works to be undertaken.

Following a site meeting with all interested parties tree works were agreed.

Lancaster City Council agrees to the following works subject to the conditions highlighted below.

1. 1x Oak; reduction of a single limb overhanging the adjacent property;
2. 1x Sycamore; reduce the canopy and crown raise to a maximum height of 3m above ground level; branches removed must not exceed 25% of the overall live crown mass of the tree, branches removed must not exceed 5cm in diameter.

Recommended Conditions

- Protected habitat / species (Nesting Birds)
- Protected habitat / species (Bats)
- BS 3998 (2010) Tree Work – Recommendations (standard of work undertaken)
- Replacement tree requirement



**Maxine Knagg BSc (Hons) Arboriculture
Tree Protection Officer
Regeneration & Policy Services**

5th August 2011

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