

APPEALS COMMITTEE

1.00 P.M.

19TH DECEMBER 2014

PRESENT: Councillors Helen Helme (Chairman), Tony Anderson, Chris Coates, Kathleen Graham, Caroline Jackson (substitute for Andrew Kay), Margaret Pattison (substitute for Karen Leytham) and Roger Sherlock (substitute for Terrie Metcalfe)

Apologies for Absence:

Councillors Andrew Kay, Karen Leytham and Terrie Metcalfe

Officers in Attendance:

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| Maxine Knagg | Tree Protection Officer |
| Angela Parkinson | Senior Solicitor |
| Annabelle Holloway | Legal Apprentice |
| Sarah Grandfield | Democratic Support Officer |
| Jane Glenton | Democratic Support Officer |

14 SITE VISIT: TREE PRESERVATION ORDER NO. 539 (2014)

Prior to commencement of the meeting, a site visit was undertaken in response to an objection received.

The following Members were present on the site visit:

Councillors Helen Helme (Chairman), Tony Anderson, Chris Coates, Kathleen Graham, Caroline Jackson, Margaret Pattison and Roger Sherlock.

Also in attendance: Councillor Mike Greenall

Officers in Attendance:

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

15 APPOINTMENT OF VICE-CHAIRMAN

It was proposed by Councillor Margaret Pattison and seconded by Councillor Graham that Councillor Coates be appointed Vice-Chairman of the Appeals Committee for the Municipal Year 2014/15. There being no further nominations, the Chairman declared the proposal to be carried.

Resolved:

That Councillor Coates be appointed Vice-Chairman of the Appeals Committee for the Municipal Year 2014/15.

16 MINUTES

The minutes of the meeting held on 7th March 2014 were signed by the Chairman as a correct record.

17 ITEMS OF URGENT BUSINESS AUTHORISED BY THE CHAIRMAN

There were no items of urgent business.

18 DECLARATIONS OF INTEREST

There were no declarations of interest.

19 TREE PRESERVATION ORDER NO. 539 (2014) RELATING TO A SMALL WOODLAND COMPARTMENT OF TREES AND X3 INDIVIDUAL TREES ESTABLISHED ON LAND EAST OF THE SHORE, HEST BANK

The Committee considered a formal written objection to a decision of Lancaster City Council under Section 198 of the Town and Country Planning Act 1990 making an Order in respect of a small woodland compartment of trees (W1) and x3 individual trees (T1 to T3) established on land east of The Shore, Hest Bank, being Tree Preservation Order (TPO) No. 539 (2014), and thereafter whether or not to confirm the Order.

It was reported that TPO No. 539 (2014) had been served by the City Council to protect trees and the immediate landscape, given the potential threat from proposed development through planning application no. 14/00065/FUL, a proposal for the erection of two 2-storey 4-bedroom dwellings with associated access and landscaping on designated green belt land, where development was not generally supported. It was noted that the application had been withdrawn prior to determination.

Lancaster City Council had received one formal written objection to TPO No. 539 (2014) from the landowner, Mrs. Jennifer Bailey (the Appellant). Mrs. Bailey was present at the meeting with her representative, Mr. Luke Steer, Chartered Arboriculturalist of Treescapes Consultancy Ltd.

In determining whether or not to confirm the Order, Members heard representations from the Appellant's Representative and the Tree Protection Officer.

Appellant's Representative

Mr. Steer advised Members that Treescapes Consultancy Ltd had first become involved in the case when Mrs. Bailey had instructed them to prepare a pre-development tree report in association with an application for planning consent to construct two residential properties in the overflow car park of The Shore Café, Hest Bank.

Treescapes Consultancy Ltd had assessed the trees included in the TPO using the guidance contained in the British Standard: "*Trees in relation to design, demolition and construction – Recommendations (BS 5837 (2012))*". The trees had been assessed to be in Retention Category C (being trees of low quality with an estimated remaining life expectancy of at least 10 years, or young trees with a stem diameter of 150 mm and unremarkable trees of very limited merit of such impaired condition that they did not

qualify in higher categories).

Mr. Steer advised that the pre-development report had assessed the life expectancies of T1, T2 and T3 to be 20 to 40 years, which was above the minimum to be assessed to be in Retention Category C, and was more than the minimum of 20 years recommended for Retention Category B. He advised that this was only one of the criteria used to assess tree quality and should not be used alone.

Mr. Steer reported that the area of The Shore Cafe, Hest Bank, had been used as an overflow car park for many years. Vehicles driving and parking in areas where tree roots were expected to be growing would have compacted the soil. Compacted soil provided sub-optimal conditions for healthy root growth and could lead to reduced tree vitality or declining condition until they died. Mr. Steer advised that following a train derailment at Hest Bank Railway Station many years ago, rubble had been tipped into the area and trees were growing in the rubble.

In Mr. Steer's opinion, the trees were surviving, but not thriving, which could be partly due to sub-optimal soil conditions. The crowns of the trees were unbalanced and detracted from their visual appearance, presumably due to salt-laden winds damaging twigs and foliage in the west of their crowns during the growing season. Salt-laden winds would be detrimental to the ability of the soil to provide a healthy rooting medium.

Mr. Steer advised that the health of trees T1, T2 and T3 was less than normal. This manifested in annual twig extension growth, which was much less than normal for healthy sycamores. The trees were stunted for their age. This indicated that photosynthesis was limited and sufficient carbohydrate was not being produced for defence against factors that would cause them physiological stress. Bark wounds had been noted on the structural branches and trunks of T1 and T2. Decay of the wounds would progressively get worse, and work would be required to manage increasing risks posed by the trees. Pruning trees would remove foliage bearing twigs and reduce their ability to synthesise carbohydrate and the amount of energy available for defence.

In Mr. Steer's opinion, the health and condition of T1, T2 and T3 would decline over the coming years, due to salt-laden winds and soil compaction, to a point where work would be required periodically to manage associated risks. This would be a financial burden on the owner of the trees, who could consider claiming compensation from the City Council under the Town and Country Planning Act 1990.

Mr. Steer advised that the poor form of the trees suggested that the TEMPO score of 13 should be reduced to 12 or 11.

In his opinion, the use of a TPO to protect trees until planning consent had been granted was a valid use of the legislation, but would create an additional administrative burden and expense for all parties and should only be used in exceptional circumstances and not to protect mediocre trees.

In conclusion, Mr. Steer informed Members that removing T1, T2 and T3 would allow the site to be developed and would create an opportunity to establish trees of suitable species that were adapted to the seaside environment. This would provide greater visual amenity than trees T1, T2 and T3. Future development of the site would also provide an opportunity to improve soil conditions for the new trees and ensure that they had long, trouble-free life expectancies. Revoking the TPO or amending it to remove

T1, T2 and T3 would remove a level of uncertainty, bureaucracy and cost, and provide confidence that the visual appearance of the area could be improved.

Following presentation of his case, Members asked questions of the Appellant's representative.

Tree Protection Officer

The Tree Protection Officer presented the case on behalf of Lancaster City Council, and reported that the City Council had authority under Section 198 of the Town and Country Planning Act 1990 to make an Order in respect of a tree or group of trees if it appeared that it was expedient, in the interests of amenity, to make provision for the protection of trees in its area.

Members were advised that TPO No. 539 (2014) had been made on 7th July 2014, following the submission of a planning application to develop the land for residential use, and related to x 3 individual sycamore trees and a small woodland compartment comprising of mainly broadleaf species, predominantly sycamore, with ages ranging from semi-mature to mature.

The City Council had considered it to be expedient in the interests of amenity to make TPO No. 539 (2014) because of the threat of removal or inappropriate management of some or all of the trees in question. This would result in an adverse impact on the character and amenity of the immediate locality and wider landscape and had the potential to adversely impact upon the green belt land and upon important wildlife communities.

The trees had an important role in providing resources and habitat for a range of wildlife communities and nesting birds and bats, which were protected under the Wildlife and Countryside Act 1981.

Members were advised that the land was established close to the foreshore. The trees were subject to the local maritime climate of salt-laden winds and these conditions had a strong influence over the form and growth rates of existing trees. The trees had established and matured in potentially challenging environmental conditions and this added to their amenity value.

The trees identified as W1 and T1 to T3 could be clearly seen from the public domain to the west and east and made an important visual impact upon the character and appearance of the immediate and wider locality. They were entirely in keeping with the green belt designated locality.

The trees in question had been assessed in terms of their amenity value using the Tree Evaluation Method for Preservation Orders (TEMPO) and, with a score of 13, the use of a TPO was described as 'defensible'.

It was reported that Lancaster City Council considered it expedient in the interests of amenity to make provision for the preservation of T1 to T3 and W1 under Sections 198, 201 and 203 of the Town and Country Planning Act 1990 for the following reasons:

- important visual amenity;
- important and appropriate landscape features in keeping with the character of

- their locality;
- significant potential to provide important habitat and resources for a range of protected and unprotected wildlife communities;
- potential threat from removal or inappropriate management.

Members were advised that the trees in question had sufficient amenity value and importance within the landscape to justify their protection with TPO No. 539 (2014), and were an important component of the local maritime environment.

With reference to the points raised by Mr. Steer, the Tree Protection Officer reported as follows:

- A TPO prevented the felling, lopping, topping, uprooting or otherwise wilful damaging of trees. A TPO did not, however, prevent works being undertaken that were appropriate and reasonable and in the interest of good arboriculture practice, in compliance with the current standard of practice BS 3998 (2010) Tree Work.
- With regard to the trees growing in rubble from the historic train derailment, the fact that the trees were growing in rubble was not a reason for them to be removed, and decompaction techniques could be used.
- The trees, which had been categorised as 'C' in the arboriculture appraisal prepared by Treescapes Consultancy Ltd, may not have the form of open grown individual trees. However, their value as important landscape and wildlife features should not be overlooked. Such categorisation related entirely to an appraisal of trees in relation to development and not to the assessment of trees and public amenity value.
- With reference to a TPO being a financial burden for owners, Members were advised that the City Council would give permission for reasonable works by competent individuals, and it was in the interests of the owner that such works were carried out correctly.
- Regarding the comment that removing T1, T2 and T3 would allow the site to be developed and create an opportunity to establish trees of suitable species that were adapted to the seaside environment, the land was green belt and it was highly unlikely that consent would be obtained for this. Sycamore trees were suited to a maritime climate, and removal of T1, T2 and T3 would adversely affect the amenity of the site.
- With reference to the comment that removing T1, T2 and T3 would take away a level of uncertainty, bureaucracy and cost, there was a widespread misconception that a TPO was an administrative burden to local authorities. A TPO was an important tool by which local authorities could protect trees in their natural environment.

The Tree Protection Officer advised that, in her professional opinion, W1 and T1 to T3 were worthy of ongoing protection with TPO 539 (2014).

Following presentation of her case, Members asked questions of the Tree Protection Officer.

(The Tree Protection Officer, the Appellant and the Appellant's Representative left the meeting room whilst the Committee made its decision in private.)

Members considered the options before them:

- (1) To confirm Tree Preservation Order No. 539 (2014)
 - (a) Without modification;
 - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 539 (2014).

It was proposed by Councillor Coates and seconded by Councillor Sherlock:

“That Tree Preservation Order No. 539 (2014) be confirmed without modification.”

Upon being put to the vote, 3 Members voted in favour of the proposition and 4 against, whereupon the Chairman declared the proposal to be lost.

It was then proposed by Councillor Anderson and seconded by Councillor Coates:

“That Tree Preservation Order No. 539 (2014) be confirmed, subject to exclusion of T2 and T3.”

Upon being put to the vote, 4 Members voted in favour of the proposition and 3 against, whereupon the Chairman declared the proposal to be carried.

(The Tree Protection Officer, the Appellant and the Appellant's Representative returned to the meeting for the decision to be announced.)

Resolved:

That Tree Preservation Order No. 539 (2014) be confirmed, subject to exclusion of T2 and T3.

Chairman

(The meeting ended at 2.05 p.m.)

**Any queries regarding these Minutes, please contact
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