



Committee: APPEALS COMMITTEE
Date: FRIDAY, 19 DECEMBER 2014
Venue: MORECAMBE TOWN HALL
Time: 1.00 P.M.

A G E N D A

1. **Apologies for Absence**

2. **Appointment of Vice-Chairman**

To appoint the Vice-Chairman of the Appeals Committee for the Municipal Year 2014/15.

3. **Minutes**

Minutes of the meeting held on 7 March 2014 (previously circulated).

4. **Items of Urgent Business authorised by the Chairman**

5. **Declarations of Interest**

To receive declarations by Members of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting.)

Whilst not a legal requirement, in accordance with Council Procedure Rule 10 and in the interests of clarity and transparency, Members should declare any disclosable pecuniary interests which they have already declared in the Register at this point in the meeting.

In accordance with Part B, Section 2, of the Code of Conduct, Members are required to declare the existence and nature of any other interests as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

MATTER FOR DECISION

6. **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 (Pages 1 - 23)**

Report of the Chief Officer (Governance)

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Helen Helme (Chairman), Tony Anderson, Chris Coates, Kathleen Graham, Andrew Kay, Karen Leytham and Terrie Metcalfe

(ii) Substitute Membership

Councillors June Ashworth, Eileen Blamire, Mike Greenall, Billy Hill, Caroline Jackson, Vikki Singleton 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 Thursday, 4 December 2014

APPEALS COMMITTEE

**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
19 December 2014**

Report of Chief Officer (Governance)

PURPOSE OF REPORT

To enable Members to consider the objections received to 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, 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. 539 (2014) relating to a small woodland compartment of trees and x3 individual trees established on land east of The Shore, Hest Bank, and thereafter 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 2012, an objection has been received to Tree Preservation Order No. 539 (2014), which has been made in relation to a small woodland compartment of trees and x3 individual trees established on land east of The Shore, Hest Bank.
- 1.3 In accordance with the Regulations, it is necessary to consider the objection, and in order for the objection 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 6).

Appended to the report are:

- Appendix 1 - *Copy of the original Tree Preservation Order No. 539 (2014) (pages 7 to 10).*
- Appendix 2 – *Tree Protection Officer’s Report (pages 11 and 12).*
- Appendix 3 - *Tree Evaluation Method for Preservation Orders (TEMPO) (page 13).*
- Appendix 4 – *Letter 1 Appellant (page 14).*
- Appendix 5 – *Lancaster City Council’s response to Letter 1 Appellant (page 15).*
- Appendix 6 – *Letter 2 Appellant (pages 16 to 19).*
- Appendix 7 – *Lancaster City Council’s Response Letter 2 (pages 20 and 21).*
- Appendix 8 – *Lancaster City Council’s Final Letter (pages 22 and 23).*

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. 539 (2014).

3.0 Details of Consultation

3.1 Tree Preservation Order No. 539 (2014) was made and advertised in the usual way, and one objection was received.

4.0 Options

- (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).

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. 539 (2014).

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. 539 (2014)

Contact Officer: Jane Glenton

Telephone: (01524) 582068

Email: jglenton@lancaster.gov.uk

Ref: JEG

Contact: Maxine Knagg
Telephone: 01524 582381
FAX: 01524 582323
Email: mknagg@lancaster.gov.uk
Website: www.lancaster.gov.uk
Our Ref: TPO470/2010/MK

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

Date: 19th November 2014

Appeals Committee (TPO)

Trees subject of the Appeals Committee – A small woodland compartment of trees and x3 individual trees, established on land east of The Shore, Hest Bank, subject of **Tree Preservation Order no. 539 (2014) (Appendix 1)**.

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

1.0 Purpose of Report

- 1.1 This report relates to a single objection received in relation to Tree Preservation Order no. 539 (2014).

2.0 Background

- 2.1 The land in question has been recently subject to a planning application, no. 14/00065/FUL; a proposal for the erection of two, two-storey, four bedroom dwellings with associated access and landscaping. However, this application was withdrawn prior to determination. The land in question is designated green belt, the development of land on green belt is not generally supported.
- 2.2 TPO no. 539 (2014) was served to protect trees and the immediate landscape given the potential threat from the proposed development.
- 2.3 Tree Preservation Order no. 539 (2014) relates to x3 individual sycamore trees and a small woodland compartment comprised of mainly broadleaf species, predominantly sycamore. Ages range from semi-mature to mature.

2.4 The land is established close to the foreshore and as such, trees are subject to the local maritime climate, characterised by salt laden winds. Local conditions have a strong influence over the form and growth rates of existing trees. Many species are unsuited to such a maritime location. This in many respects adds to the amenity value of the trees in question because they have established and matured in such potentially challenging environmental conditions.

2.5 The wider landscape is characterised by the beach and foreshore to the west, and agricultural green belt land to the east. There are a relatively small number of residential and business premises to the north and south adjacent to The Shore.

2.6 A copy of my initial report is available at **Appendix 2**.

3.0 Amenity Value of Trees

3.1 The trees in question have been assessed in terms of their amenity value; a copy of the Tree Evaluation Method for Preservation Orders (TEMPO) is available at **Appendix 3**. The use of a Tree Preservation Order is described as 'defensible' with a total score of 13.

3.2 Trees identified as **T1-T3** and **W1** can be clearly seen from the public domain to the west and east. They make an important visual impact upon the character and appearance of the immediate and wider locality and are entirely in keeping with this green belt designated locality.

4.0 Wildlife Value

4.1 Trees have an important role in the provision of resources and habitat for a range of wildlife communities. In this location, trees offer protection and habitat to a range of wildlife communities and may provide habitat and foraging opportunities for protected species, including nesting birds and bats, both of which are protected under the Wildlife & Countryside Act 1981.

4.2 It should be noted that whilst the benefit of trees to wildlife cannot be used as a sole reason for making and serving a TPO, in conjunction with existing amenity value, the value of trees to wildlife can be recognised within current TPO legislation.

5.0 Tree Preservation Order

5.1 Tree Preservation Order no. 539 (2014) was made on 7th July 2014 following the submission of a planning application to develop the land for residential use and the subsequent threat to existing trees.

5.2 Lancaster City Council 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. The Council considers that tree losses in this location would result in an adverse impact on the character and amenity of the immediate locality

and wider landscape with the potential to adversely impact upon this green belt designated area.

- 5.3** The loss of trees in this location has significant potential to adversely impact upon important wildlife communities, some of which are in themselves also protected in law.

6.0 Objection to TPO no.539 (2014)

- 6.1** Lancaster City Council received one formal, written objection to Tree Preservation Order no.539 (2014).
- 6.2** Letter no.1 was received from Mrs J Bailey (land owner), dated 15th July 2014. Unfortunately, this letter lacked detail and did not comply with the Regulation 6 Notice of the Town & Country Planning (Tree Preservation) (England) Regulations 2012, as such it was rejected as a valid objection. A full copy of the appellant's letter no.1 and the Council's formal response letter, dated 28th July 2014, **Appendices 4 & 5 (respectively)**.
- 6.3** Letter no.2 was received from the land owner, Mrs J Bailey, dated 26th August 2014. This letter was received outside the stipulated 28 days period which expired on 6th August 2014, as such was rejected as an invalid objection. A full copy of the appellant's letter no. 2 and the Council's formal response to this letter, dated 28th July 2014, is available at **Appendices 6 & 7 (respectively)**.
- 6.4** However, following further correspondence between Mrs Bailey and the Planning Support Manager for the Council. It was decided that Mrs Bailey's second letter would be accepted as a formal objection in the "interest of fairness" despite its protracted submission date. The Council acknowledged that there may have been some confusion caused when a neighbourhood consultation letter was mistakenly also issued to Mrs Bailey, resulting in a second 28 day period of consultation being wrongly invited. A full copy of the Council's letter dated 30th October 2014 can be seen at **Appendix 8**.

7.0 Objection letter 2 – Main Points

7.1 Objection letter 2 – Appendix 6

- Tree **T3** is described as poor overall condition – This tree is referenced as **T4** in MK's original tree report and excluded from TPO no 539 (2014) because of its poor overall condition.
- "Other" site trees have been categorised as "C" in relation to the arboriculture appraisal which formed part of the submitted tree related information, in relation to planning application no. 14/00065/FUL trees. Whilst trees within **W1** may not have the form of open grown individual trees, their value as important landscape and wildlife features should not be overlooked. The categorisation of trees in this way relates entirely to an appraisal of trees in relation to development and not in relation to the assessment of trees and public amenity value.

- Recommendations detailed within the “extracts” of the arboriculture report submitted in relation to the previous proposed development of the green belt land, relates only to the proposed development of the land and not the assessment of trees in relation to public amenity value. The TEMPO document, **Appendix 3** sets out the criteria for the assessment of the trees in question in relation to the tree preservation order.

Lancaster City Council’s full response to objection letter 2 is available at **Appendix 7**.

8.0 Decision to Serve TPO no.496 (2011)

8.1 Lancaster City Council considers it expedient in the interests of amenity to make provision for the preservation of x3 individual trees (**T1-T3**) and a small woodland compartment (**W1**) **under sections 198, 201 and 203 of the Town & Country Planning Act 1990.**

Lancaster City Council cite the following reasons.
T1-T3; and W1:

- 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

The trees in question have sufficient amenity value and importance within the landscape to justify their protection with TPO no. 539 (2014).

The trees are an important component of this local maritime environment.

It should be noted that a tree preservation order does not prevent works being undertaken that are appropriate and reasonable and in the interest of good arboriculture practice and in compliance to current standard of practice BS 3998 (2010) Tree Work.

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

CITY COUNCIL OF LANCASTER
TREE PRESERVATION ORDER NO. 539(2014)

---ooOoo---

RELATING TO:
TREES TO LAND EAST OF
THE SHORE
HEST BANK

PO BOX 4
TOWN HALL
LANCASTER
LA1 1QR

TOWN AND COUNTRY PLANNING ACT 1990

**LANCASTER CITY COUNCIL
TREE PRESERVATION ORDER NO. 539(2014)**

The City Council of Lancaster, in exercise of the powers conferred on them by section 198 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. 539(2014), relating to trees to Land East of The Shore Hest Bank, 7th July 2014.

Interpretation

2. (1) In this Order "the authority" means the Lancaster City Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2011.

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
(b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,
any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to 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 the tree is planted.

Dated this 7th day of July 2014

Signed on behalf of the Lancaster City Council:



**Andrew Dobson DipEP MRTPI PDDMS
CHIEF OFFICER (REGENERATION AND PLANNING)**
Authorised by the Council to sign in that behalf

SCHEDULE

Specification of Trees

TREE PRESERVATION ORDER NO. 539(2014)

Relating to trees to Land East of The Shore Hest Bank.

TREES SPECIFIED INDIVIDUALLY

(Encircled in a solid black line on map)

Reference on Map	Description	Situation
T1	Sycamore	Centred on (E) 346848 (N) 466634 grid ref:
T2	Sycamore	Centred on (E) 346850 (N) 466619 grid ref:
T3	Sycamore	Centred on (E) 346857 (N) 466599 grid ref:

TREES SPECIFIED BY REFERENCE TO AN AREA

(Shown within a dotted black line on map)

GROUP OF TREES

(Shown within a broken black line on map)

WOODLAND

(Shown within a solid black line on map)

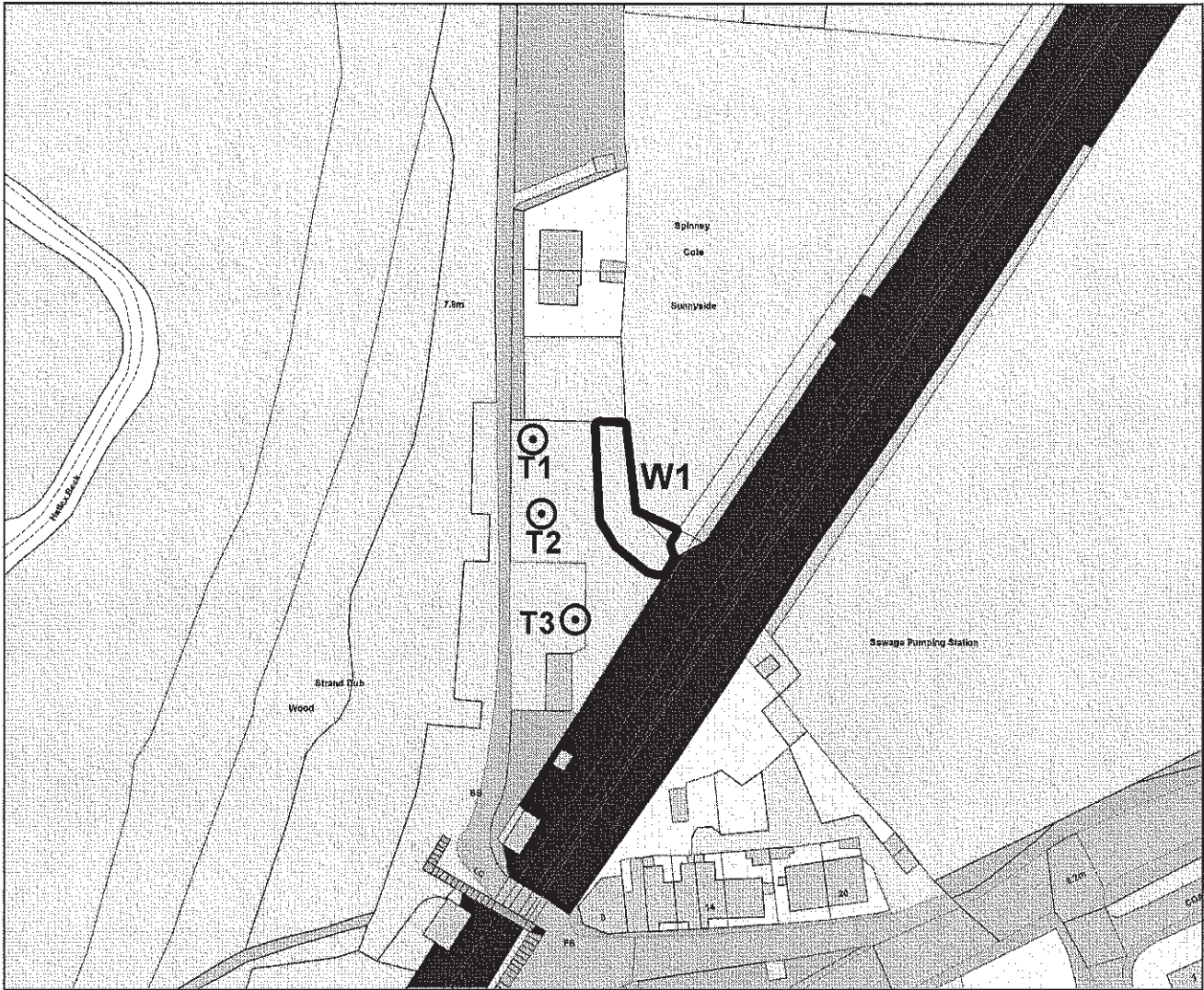
Reference on Map	Description	Situation
W1	Majority Sycamore and including whatever species present.	Centred on (E) 346867 (N) 466621 grid ref:

Tree Preservation Order 539(2014)

Land East of The Shore Hest Bank



GIS by ESRI (UK)



Legend



Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Organisation	Lancaster City Council
Department	Regeneration and Planning
Comments	
Date	07 July 2014
SLA Number	Not Set

Proposed New Tree Preservation Order No: 539 (2014)

Site: Land East of The Shore, Hest Bank

Location of Trees: A total of 3x individual trees and a small woodland compartment

Assessment:

Background

I have assessed trees established within and adjacent to land proposed for development, land east of The Shore, Hest Bank, in relation to their suitability and the appropriateness of serving with a Tree Preservation Order.

The land in question is subject to a current planning application no. 14/00065/FUL; a proposal for the erection of two, two-storey, four bedroom dwellings with associated access and landscaping. The land in question is designated Green Belt land. Any development has significant potential to threaten trees.

There are x4 individual trees established to the west and just off site to the south. There is also a small woodland compartment to the eastern boundary. All of these trees are clearly visible from the public domain and as such make a positive contribution to the character and appearance of the wider locality. They are all entirely in-keeping with the character and appearance of the wider locality and are established close to the foreshore. As such they are subjected to the local maritime climate, characterised by salt laden winds. Local conditions have a strong influence over the form and growth rates of existing trees. Many species are unsuited to this type of maritime location, this in many respects adds to the value of trees where they have managed to established and mature given such potentially challenging conditions.

Trees

There are x4 sycamore trees referenced as **T1-T4** for the purpose of this report. **T1-T3** are in a good overall condition with the potential to continue for a number of decades to come. **T4**, is in a poor overall condition and has developed a large open cavity to the main stem; its condition renders it unsuitable for inclusion within a TPO. It should be noted that **T3** is established on adjacent land under the control of the planning applicant.

A small woodland group of trees (**W1**), comprised of mainly broadleaf species, predominantly sycamore is established to the eastern boundary. Here the land significantly falls away, creating a split level. This natural topography affords some protection to the establishment and growth of young trees in this locality, before exposure to salt laden winds as they continue to grow and mature. This woodland compartment makes apposite contribution to the amenity of the site and wider locality. It is also a valuable resource for wildlife with the potential to provide habitat and foraging opportunities for protected species including nesting birds and bats.

Whilst a tree preservation order is not intended to prevent or obstruct development, it does require that affected trees are a material consideration. It should be noted that Permitted Development Rights do not override the powers or constraints of a Tree Preservation Order. However, full planning permission does override the powers of a TPO where trees would require removal in order to implement a planning consent.

The amenity value of the trees has been assessed using a Tree Evaluation Method for Preservation Orders (TEMPO). TEMPO Assessment Score: 13 – TPO Defensible.

Decision: To serve Tree Preservation Order no.539 (2014) under sections 198 and 203 of the Town & Country Planning Act 1990, in the interests of public amenity; affecting x3 individual trees, **T1-T3** and a single woodland compartment of trees, **W1**.

The trees in question have important amenity value and have become significant landscape features, many are important for their cohesive qualities and small arboriculture feature that they form. They make an important contribution to the amenity and character of their immediate vicinity and wider locality. They are also an important resource for wildlife.

Trees that are considered to be dead or in a dangerous condition would be exempt from the controls of a tree preservation order.

Any tree works must be undertaken by a suitably competent, trained and experienced arborist and in line with BS 3998 (2010) Tree works – recommendations. Written agreement with the local planning authority must be obtained prior to undertaking any works to protected trees.

Title	Tree Preservation Order no.539 (2014), Land east, The Shore, Hest Bank
Grounds	In the interest of public amenity
Designation	T1-T3, & W1

Maxine Knagg BSc (Hons) Arboriculture
Tree Protection Officer
Regeneration & Planning Service

03.07.14

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):

SURVEY DATA SHEET & DECISION GUIDE

Date: 02.07.14	Surveyor: M Knagg
----------------	-------------------

Tree details	TPO Ref: 539 (2014)	Tree/Group No: T1 – T3, W1	Species: Sycamore, whatever species present with W1
---------------------	---------------------	----------------------------	--

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

<p>Score & Notes 3 – Highly visible landscape tree</p>

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

<p>Score & Notes 4 – With good management, species has potential to live for multiple decades. In good condition at present.</p>

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 | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 5px;">Score & Notes
4 - Highly visible from the public domain</td> </tr> </table> | Score & Notes
4 - Highly visible from the public domain |
| Score & Notes
4 - Highly visible from the public domain | | | |
| 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 | | |

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

<p>Score & Notes 1</p>

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

<p>Score & Notes 1 site subject of a planning application</p>
--

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

<p>Add Scores for Total: 13</p>
--

<p>Decision: TPO Defensible</p>
--

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted