

## APPEALS COMMITTEE

1.00 P.M.

26TH OCTOBER 2017

**PRESENT:** Councillors Claire Cozler (Chairman), Tracy Brown (substitute for Roger Sherlock), Tim Hamilton-Cox (substitute for Jon Barry), Janice Hanson, Joan Jackson, Terrie Metcalfe and Peter Yates (substitute for Helen Helme)

Apologies for Absence:

Councillors Jon Barry, Helen Helme and Roger Sherlock

Officers in Attendance:

Rephael Walmsley  
Jane Glenton

Solicitor  
Democratic Support Officer

### 1 SITE VISITS

Prior to commencement of the meeting, site visits were undertaken in response to objections received to Tree Preservation Order No. 607 (2017) – The Coach House, Sunnyside Lane, Lancaster and Tree Preservation Order No. 615 (2017) – 1-5 Ashton Barns, Ashton Road, Ashton-with-Stodday.

The following Members were present on the site visits:

Councillors Claire Cozler (Chairman), Tracy Brown, Janice Hanson, Joan Jackson, Terrie Metcalfe and Peter Yates.

Councillor Tim Hamilton-Cox undertook site visits independently.

Officer in Attendance:

Jane Glenton – Democratic Support Officer

### 2 APPOINTMENT OF VICE-CHAIRMAN

It was proposed by Councillor Brown and seconded by Councillor Hanson that Councillor Metcalfe be appointed Vice-Chairman of the Appeals Committee for the Municipal Year 2017/18. There being no further nominations, the Chairman declared the proposal to be carried.

***Resolved:***

That Councillor Metcalfe be appointed Vice-Chairman of the Appeals Committee for the Municipal Year 2017/18.

### 3 MINUTES

The Minutes of the meeting held on 24<sup>th</sup> April 2017 were signed by the Chairman as a

correct record.

*The Chairman asked Members whether they wished to proceed in the absence of the Tree Protection Officer, who was unable to attend the meeting. Members confirmed that the meeting would proceed on the basis that they had read the reports in detail, and had undertaken site visits and seen the trees in context.*

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

There were no items of urgent business.

#### **5 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **MATTERS FOR DECISION**

#### **6 TREE PRESERVATION ORDER NO. 607 (2017) - THE COACH HOUSE, SUNNYSIDE LANE, LANCASTER**

The Committee received the report of the Chief Officer (Legal and Governance) to enable Members to consider the objections received to Tree Preservation Order No. 607 (2017) relating to two mature pine trees (referred to as T1 and T2) established within the curtilage of The Coach House, Sunnyside Lane, Lancaster, and thereafter whether or not to confirm the Order.

It was reported that the site was established within the local Conservation Area known as Cannon Hill. Local Planning Authorities had a duty to preserve and enhance the character and appearance of Conservation Areas and trees were a key factor and constraint in that role. Prior to undertaking any tree work within a Conservation Area, a six week 'Notice of Intent' should be submitted to the Local Planning Authority, in accordance with Section 211 of the Town & Country Planning Act 1990.

Lancaster City Council had received a Section 211 Notice to fell the two mature pine trees (T1 and T2). The owners had cited the following reasons for T1 and T2 being felled:

- the trees had grown too big for their location;
- branches overhung the public footpath, public highway, alleyway and a neighbouring property;
- in the interests of health and safety (two branches had been shed from the trees) and nuisance to a neighbouring property.

It was reported that all trees that had a stem diameter of 75 mm or greater when measured at 1.5 m above ground level within a Conservation Area were protected in law. Both trees had attained mature proportions and were highly visible from the public domain.

In determining whether or not to confirm the Tree Preservation Order, Members considered the letters received in objection, which were set out in the Agenda, and heard representations from Mr. David Ashbridge (the owner), Kevin and Carol Booth (neighbours) and Christine Ingham (neighbour) speaking in objection to the Tree

Preservation Order.

***Mr. David Ashbridge (Objector and owner of the land)***

Mr. Ashbridge, on behalf of himself and Mrs. Natasha Ashbridge, informed Members as follows:

- branches from the two trees overhung the public footpath, public highway, alleyway and a neighbouring property; two branches had been shed from the trees in question; and he had a duty of care for the community;
- his neighbours were in support of the trees being felled; neither party was opposed to trees per se; however, they were upset by the problems posed by the two trees; the views of residents must be taken into account;
- the two trees overhung gutters and shed pine needles, which did not decompose, into them; neighbouring gardens and yards were littered by debris from the trees;
- it did not appear that the trees provided essential habitat for wildlife; he had never observed squirrels or nesting birds in the trees; the lime trees and other trees, which were located in the vicinity, did, however, attract lots of birds, including a woodpecker, and owls nested in the nearby community orchard;
- two arboriculture professionals had visited the site, and thought that Downey birch, which was already found on Sunnyside Lane, would be a suitable replacement for the pine trees;
- the arboriculture professionals had confirmed that the trees were too big for the site;
- the two trees gave them concerns for the health and safety of the public; their neighbours had struggled for many years with problems associated with the trees;
- the Tree Protection Officer's report said that the loss of both trees would have significant potential to adversely impact upon the character and appearance of the wider public domain and local conservation area; however, the people who owned property in the vicinity did not agree, and they dreaded someone being hurt by another falling branch.

Following Mr. Ashbridge's representation, Members of the Committee had the opportunity to question Mr. Ashbridge on his representation.

***Ms. Katie Alcock and Mr. Glynn Davies***

Once there were no further questions, the Chairman referred to the written representation of Ms. Katie Alcock and Mr. Glynn Davies, who were the owners of the property immediately adjoining The Coach House.

In their written representation, Ms. Alcock and Mr. Davies advised that they were in agreement with Mr. and Mrs. Ashbridge that the trees in question should not be under a Tree Preservation Order. They had lived at 47 Ashfield Avenue for 13 years and had moved locally and were trying to sell their property. They had been affected by the trees while living there and continued to be affected now, as follows:

1. *Debris* – the coniferous trees shed considerable amounts of needles and pine cones, which needed to be cleared from their garden – front and back – and, in

particular, from their guttering. This had left their house at risk of overflowing guttering, leaks and structural damage.

2. *Safety* – they understood that the trees in question were a variety that shed branches, even when healthy. The trees directly adjoined their property, a pavement, alley and several residents' parking spaces. It was only a matter of time before a branch fell on a person or car.
3. *Light* – as evergreen trees, the trees blocked light to their house at all times of year. They had end and front windows that were shaded or partly shaded.
4. *House Value* – the trees were affecting the value and salability of their house. Viewers had commented that they were putting them off making an offer on the house.

Following consideration of Ms. Alcock's and Mr. Davies's written representation, Members of the Committee had the opportunity to raise questions on the representation.

Once there were no further questions, the Chairman asked Mr. Kevin and Mrs. Carol Booth to give their representation.

***Mr. Kevin and Mrs. Carol Booth***

Mrs. Booth advised Members that the trees were not native to this country and belonged in a Scandinavian forest. She and her husband hated them and were concerned regarding the dangers they posed. At best, the branches would hit someone on the head. At worst, someone would be killed. Individuals walking in a park could choose to take the risks involved in walking under trees. Local people did not, however, have that choice. The drains of their property were constantly blocked with needles and cones from the trees, and they were concerned regarding the damage that the trees were causing to other areas of their property. They were more than happy to have the two trees replaced by indigenous trees. They had looked at the High Hedges legislation under which members of the public could complain about a hedge if it was over 2 m tall. Should Members determine that the Tree Preservation Order should be confirmed, they requested that the trees be cut down to a height of 2 m.

Following consideration of Mr. and Mrs. Booth's representation, Members of the Committee had the opportunity to raise questions on the representation.

Once there were no further questions, the Chairman asked Christine Ingham to give her representation.

***Christine Ingham***

Christine Ingham advised Members that the two trees did not directly affect her, but she could see them from her kitchen window. She had lived in her property for 17 years and, although the trees had not grown much higher, she had seen the problems endured by her neighbours. The trees shed numerous pine needles and cones and lots of people slipped on them. Mr. and Mrs. Ashbridge had been very responsible from the time that they had moved into the property and recognised the problems caused by the trees. The trees were situated in a Conservation Area and Mr. and Mrs. Ashbridge had said that they would replace them and keep the area lovely. She would never park in

the area where the trees were located and advised her friends not to do so either. Whilst people generally did not complain, they made a point of walking on the other side of the road to the trees.

Following consideration of Ms. Ingham's representation, Members of the Committee had the opportunity to raise questions on the representation.

Once there were no further questions, the Chairman referred Members to the report of the Tree Protection Officer.

### ***Tree Protection Officer's Report***

The report advised that the two mature pine trees in question were considered to make a significant contribution to the character and appearance of the Conservation Area within the immediate and wider locality.

Both T1 and T2 could be clearly seen from a range of locations within the wider public domain and Conservation Area. Both trees appeared to be in a good state of health and vitality, and free from significant pest and disease when observed from ground level. Both trees had long periods of useful remaining life potential if under good arboriculture control and ongoing management.

Anyone who had responsibility for trees should have them regularly inspected by a competent person, who was trained and experienced to undertake such work, and who should make recommendations for the ongoing management of the trees, in compliance to current standards of best practice. The risk to persons and property could therefore be managed at an acceptable level. The owners had not indicated whether the two trees in question were regularly inspected by a competent person or whether regular maintenance works had been undertaken, as required.

The Council had used a Tree Evaluation Method for Preservation Orders (TEMPO) to demonstrate a structured and consistent approach to the assessment of the trees in relation to their suitability for inclusion within a Tree Preservation Order. A cumulative score of 17 had been achieved, indicating that at the time of the initial assessment, the trees in question definitely merited protection within a Tree Preservation Order.

In addition to their amenity value, trees within the property were an important resource to wildlife providing essential habitat and foraging opportunities, with the potential to support species, such as nesting birds and bats, both of which were protected under the Wildlife & Countryside Act 1981.

Tree Preservation Order No. 607 (2017) had been made on 17<sup>th</sup> May 2017 in the interest of public amenity value and wildlife benefit, following receipt of a Section 211 Notification to fell both trees, and it was recommended that Tree Preservation Order No. 607 (2017) be confirmed.

Following consideration of the Tree Protection Officer's report, Members of the Committee had the opportunity to raise questions and debate the report.

***(The Committee passed a resolution to exclude the press and public on the basis that, in making its decision, exempt information would be received in the form of legal advice.)***

Members considered the options before them:

- (1) To confirm Tree Preservation Order No. 607 (2017) -
  - (a) without modification;
  - (b) subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 607 (2017).

It was proposed by Councillor Joan Jackson and seconded by Councillor Metcalfe:

“That Tree Preservation Order No. 607 (2017) not be confirmed, and that the owners be recommended that on the felling of T1 and T2, they be replaced with two indigenous, mature tree species (with a minimum height of 2 metres) within 12 months of the original trees being felled, the choice of trees to be on the advice of an arboriculture expert.”

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

***(The press and public returned to the meeting room at this point.)***

***Resolved:***

That Tree Preservation Order No. 607 (2017) not be confirmed, and that the owners be recommended that on the felling of T1 and T2, they be replaced with two indigenous, mature tree species (with a minimum height of 2 metres) within 12 months of the original trees being felled, the choice of trees to be on the advice of an arboriculture expert.

**7 TREE PRESERVATION ORDER NO. 615 (2017) - 1-5 ASHTON BARNES, ASHTON ROAD, ASHTON-WITH-STODDAY**

The Committee received the report of the Chief Officer (Legal and Governance) to consider the objection received to Tree Preservation Order No. 615 (2017) located at 1-5 Ashton Barnes, Ashton Road, Ashton-with-Stodday, and thereafter whether or not to confirm the Order.

It was reported that the trees in question were four mature sycamore trees established on land opposite 1-5 Ashton Barnes, Ashton Road, Ashton-with-Stodday. Members were advised that a concern had been expressed to the Council that two large mature sycamore trees had been felled on the land in question and that the remaining trees may be at risk of removal if unprotected. Tree Preservation Order No. 615 (2017) had therefore been made on 28<sup>th</sup> June 2017 in the interest of public amenity value and wildlife benefit.

In determining whether or not to confirm the Tree Preservation Order, Members considered the letters received, which were set out in the Agenda.

***Mrs. Sarah Clark (Objector and owner of the land)***

The Chairman advised Members that Mrs. Clark had been unable to attend the hearing, due to work commitments, and referred them to Mrs. Clark's letter dated 25<sup>th</sup> July 2017,

which set out her reasons for objecting to Tree Preservation Order No. 615 (2017), as follows:

- (1) T4 sycamore was situated in the private front garden of her home, Hayloft Barn, and a more accurate description of the position of T4 was opposite Hayloft Barn, not 1-5 Ashton Barns.
- (2) Mrs. Clark considered it an unnecessary restriction relating to a tree which was located in her private garden, which for around 20 years had provided a play area, including zip wire affixed to the trees with bird boxes. This would no longer be enjoyed if a Tree Preservation Order was imposed.
- (3) One of the trees, which had been felled within the front garden to Hayloft Barn on 1<sup>st</sup> June 2017, had died and had been considered dangerous. The other, which was interfering with light and services, also located within the front garden, did not put all other trees located in Hayloft Barn garden, either to the front or the rear of the property or any other trees in the vicinity, under the threat of removal. Had that been the case, T1-T4 would also have been removed on 1<sup>st</sup> June 2017.
- (4) The imposition of Tree Preservation Order No. 615 (2017) on T4 would almost certainly take the privacy in her front garden.

Following consideration of Mrs. Clark's written representation, Members of the Committee had the opportunity to raise questions on the representation.

Once there were no further questions, Members considered the letter in support of Tree Preservation Order No. 615 (2017) from Judy Camp of 2 Ashton Barns, Ashton-with-Stodday, which was set out in the Agenda.

#### ***Tree Protection Officer's Report***

The report advised that the four mature sycamore trees, namely T1-T4, all appeared to be in a good state of health and vitality and free from significant pest and disease when observed from ground level. They all had long periods of useful remaining life potential if under good arboriculture control and ongoing management.

All four trees had the potential to offer opportunities for wildlife in terms of habitat and foraging, which may include protected species, such as nesting birds and bats, both groups of which were protected under the Wildlife & Countryside Act (as amended 2010) 1981.

Whilst the four trees had limited visual amenity from the main public highway to the south (Ashton Road), this did not lessen their importance as key component features of their immediate locality and the important contribution they made to the character and appearance of the wider estate. Visitors to the commercial elements of the estate benefited from the visual amenity that the trees conveyed. All four of the trees had become important landscape features that were entirely in-keeping with the estate.

The Council had used a Tree Evaluation Method for Preservation Orders (TEMPO) to demonstrate a structured and consistent approach to the assessment of trees and woodlands in relation to their suitability for inclusion within a Tree Preservation Order. A cumulative score of 15 had been achieved, indicating that at the time of the initial

assessment, the trees in question definitely merited protection within a Tree Protection Order.

The Tree Protection Officer's report addressed the points raised in Mrs. Clark's letter of 25<sup>th</sup> July 2017, as follows:

- (1) Mrs. Clark's objection related solely to the inclusion of T4 within the Tree Preservation Order. Mrs. Clark had not made a formal objection to the protection of trees identified as T1, T2 and T3.
- (2) Lancaster City Council would amend the description of Tree Preservation Order No. 615 (2017) to state trees on *Land opposite Hayloft Barn and Nos. 1-5 Ashton Barns, Ashton Road, Ashton-with-Stodday.*
- (3) Bird or bat boxes could be fixed to a tree the subject of a Tree Preservation Order, so long as it was done in a manner sympathetic to the tree. There had been no evidence of a zip line at the time of the assessment. The imposition of a Tree Preservation Order would not prevent the area of garden from being used for recreational purposes.

The trees in question had sufficient amenity value and importance within the landscape, and may be under threat, therefore their protection under a Tree Preservation Order was justified. It was recommended that Tree Preservation Order No. 615 (2017) be confirmed, subject to the modifications set out in the Tree Protection Officer's report.

Following consideration of the Tree Protection Officer's report, Members of the Committee had the opportunity to raise questions on the report.

***(The Committee passed a resolution to exclude the press and public on the basis that, in making its decision, exempt information would be received in the form of legal advice.)***

Members considered the options before them:

- (1) To confirm Tree Preservation Order No. 615 (2017) -
  - (a) without modification;
  - (b) subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 615 (2017).

It was proposed by Councillor Metcalfe and seconded by Councillor Brown:

"That Tree Preservation Order No. 615 (2017) be confirmed, subject to the following modification, as set out in the Tree Protection Officer's report:

- (1) That the description of Tree Preservation Order No. 615 (2017) be amended to state trees on land opposite Hayloft Barn and Nos. 1-5 Ashton Barns, Ashton Road, Ashton-with-Stodday."

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



*(The press and public returned to the meeting room at this point.)*

**Resolved:**

That Tree Preservation Order No. 615 (2017) be confirmed, subject to the following modification, as set out in the Tree Protection Officer's report:

- (1) That the description of Tree Preservation Order No. 615 (2017) be amended to state trees on land opposite Hayloft Barn and Nos. 1-5 Ashton Barns, Ashton Road, Ashton-with-Stodday.

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Chairman

(The meeting ended at 2.50 p.m.)

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