



**Committee:** APPEALS COMMITTEE  
**Date:** THURSDAY, 7 DECEMBER 2017  
**Venue:** LANCASTER TOWN HALL  
**Time:** 1.00 P.M.

## A G E N D A

1. **Apologies for Absence**

2. **Minutes**

Minutes of the meeting held on 26 October 2017 (previously circulated).

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

4. **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 9 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.

### **Matters for Decision**

5. **Tree Preservation Order No. 621 (2017) - Bank Well, The Row, Silverdale (Pages 1 - 29)**

Report of the Chief Officer (Legal and Governance)

6. **Tree Preservation Order No. 622 (2017) - 57 Thirlmere Road, Lancaster (Pages 30 - 67)**

Report of the Chief Officer (Legal and Governance)

## **ADMINISTRATIVE ARRANGEMENTS**

### **(i) Membership**

Councillors Claire Cozler (Chairman), Terrie Metcalfe (Vice-Chairman), Jon Barry, Janice Hanson, Helen Helme, Joan Jackson and one vacancy.

### **(ii) Substitute Membership**

Councillors Tracy Brown, Susie Charles, Brett Cooper, Tim Hamilton-Cox and John Reynolds.

### **(iii) Queries regarding this Agenda**

Please contact Jane Glenton, Democratic Services - telephone (01524) 582068 or email [jglenton@lancaster.gov.uk](mailto:jglenton@lancaster.gov.uk).

### **(iv) Changes to Membership, substitutions or apologies**

Please contact Democratic Support - telephone (01524) 582170 or email [democraticsupport@lancaster.gov.uk](mailto:democraticsupport@lancaster.gov.uk).

SUSAN PARSONAGE,  
CHIEF EXECUTIVE,  
TOWN HALL,  
DALTON SQUARE,  
LANCASTER LA1 1PJ

Published on Tuesday, 28 November 2017.

## APPEALS COMMITTEE

### Tree Preservation Order No. 621 (2017) – Land South of Bank Well, The Row, Silverdale 7 December 2017

#### Report of Chief Officer (Legal and Governance)

##### PURPOSE OF REPORT

To enable Members to consider the objections received to Tree Preservation Order No. 621 (2017) located at land south of Bank Well, The Row, Silverdale, 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 objection to Tree Preservation Order No. 621 (2017) located at land south of Bank Well, The Row, Silverdale, 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 2012, an objection has been received to Tree Preservation Order No. 621 (2017), which has been made in relation to individual trees located at land south of Bank Well, The Row, Silverdale.
- 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 ).

Appended to the report are:

- Appendix 1 - Copy of the original Tree Preservation Order No. 621 (2017) (pages 7 to 10);
- Appendix 2 – Photograph of the small number of large mature trees, which have been felled (page 11);
- Appendix 3 – Aerial photographs taken in 2013 (Google) (pages 12 to 16);
- Appendices 4a, 4b and 4c – Series of photographs taken on 11 August 2017 (pages 13, 14, 15 and 16);
- Appendix 5 – The Tree Protection Officer's Initial Report (pages 17 and 18);
- Appendix 6 – The Tree Evaluation Method for Preservation Orders (TEMPO) (page 19)
- Appendix 7 – Letter of objection from Mr. S. P. Wales dated 25 July 2017 (pages 20 to 23)
- Appendix 8 – Letter from Lancaster City Council dated 25 September 2017 in response to Mr. Wales's letter of objection (pages 24 to 28)
- Appendix 9 – Letter from Mr. Wales dated 9 October 2017, confirming that he maintains his position of objection to TPO No. 621 (2017) (page 29).

## 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. 621 (2017).

## 3.0 Details of Consultation

3.1 Tree Preservation Order No. 621 (2017) was made and advertised in the usual way, and an objection was received.

## 4.0 Options

(1) To confirm Tree Preservation Order No. 621 (2017) -

- (a) Without modification;
- (b) Subject to such modification as is considered expedient.

(2) Not to confirm Tree Preservation Order No. 621 (2017).

## 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. 621 (2017).

<b>CONCLUSION OF IMPACT ASSESSMENT</b>
----------------------------------------

<b>(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)</b>
-------------------------------------------------------------------------------------------------

Not applicable.
-----------------

<b>LEGAL IMPLICATIONS</b>
---------------------------

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

<b>FINANCIAL IMPLICATIONS</b>
-------------------------------

Not applicable.
-----------------

<b>BACKGROUND PAPERS</b>
--------------------------

Tree Preservation Order No. 621 (2017)
----------------------------------------

<b>Contact Officer:</b> Jane Glenton
--------------------------------------

<b>Telephone:</b> (01524) 582068
----------------------------------

<b>Email:</b> jglenton@lancaster.gov.uk
-----------------------------------------

<b>Ref:</b> JEG
-----------------

Contact: Maxine Knagg  
Telephone: 01524 582381  
FAX: 01524 582323  
Email: [mknagg@lancaster.gov.uk](mailto:mknagg@lancaster.gov.uk)  
Website: [www.lancaster.gov.uk](http://www.lancaster.gov.uk)  
Our Ref: TPO607/2017/MK

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

Date: 21<sup>st</sup> November 2017

## Appeals Committee (TPO)

Trees subject of the Appeals Committee – An area of woodland trees on land to the south of Bank Well, The Row, Silverdale, subject of **Tree Preservation Order no. 621 (2017)**.

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

### 1.0 Purpose of Report

1.1 This report relates to area of woodland trees established on land as described above. The Appeals Committee are to consider whether the trees in question, identified as A4 within the TPO, should be confirmed without modification, confirmed with modifications or not confirmed. A copy of Tree Preservation Order no. 621 (2017) is available at **appendix 1**.

### 2.0 Background

2.1 The land in question is privately owned by the appellant. The title of the TPO is for descriptive purposes only in no way does it link to matters of ownership. The area of land in question has little if no cover of trees to its central area, the remaining trees are focused on the southern and western aspects of the site.

2.2 The site is established within Arnside and Silverdale Area of Outstanding Natural Beauty (AONB). The site does however, lie within Arnside and Silverdale Area of Outstanding Natural Beauty (AONB). The remaining trees in question are an important component feature of Burton Well Limestone Pavement Biological Heritage Site (BHS) and Woodland; a site of important biological heritage and interest. Trees are clearly visible from the public highway to the east, known as The Row. As they are an important landscape feature in this biologically sensitive area.

- 2.3 A concern was expressed to the Council that trees had been recently removed from the land in question and considered to be the detriment of the site and wider locality.
- 2.4 Upon inspection of the land in question by the Council's Tree Protection Officer it became apparent that a small number of large mature trees had been recently felled (**appendix 2**). However, there was evidence across the site that there had been a gradual and progressive removal of woodland trees over what is estimated to have been a period of 3/4 years, resulting in an entire loss of woodland. Aerial photographs taken in 2013 (Google) (**appendix 3**) clearly show the existing woodland contained within Burton Well Limestone Pavement Biological Heritage Site (BHS) and Woodland extending down towards the public highway to the east. Evidence supporting the progressive loss of biologically important woodland from the BHS.
- 2.5 There are a relatively high number of "old" tree stumps scattered across the site. The condition and discolouration of these stumps varies indicating a period of several years over which they are likely to have been felled. A series of photographs taken on 11<sup>th</sup> August 2017 can be seen at **appendices 4a/b/c/d**.
- 2.6 There is no evidence of new tree planting within the site.
- 2.7 The woodland trees have 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 are protected under the Wildlife & Countryside Act (as amended 2010) 1981.

### **3.0 Assessment**

- 3.1 A copy of my initial report, dated 11<sup>th</sup> August 2017 is available at **appendix 5**.
- 3.2 A copy of the Tree Evaluation Method for Preservation Orders (TEMPO) is available at **appendix 6**. A cumulative score of 15+ was achieved, indicating that at the time of the initial assessment the trees in question "Definitely Merit" protection within a TPO.
- 3.3 Lancaster City Council uses 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 TPO. This system when used by an individual suitably trained and experienced in the assessment of trees can be a useful tool to demonstrate key elements of the decision making process, resulting in a final total score and outcome indicator. The system in itself is not a decision making process.
- 3.4 Lancaster City Council considers the remaining woodland trees to be under threat from removal.
- 3.5 There are limitations set by the Forestry Commission to control to rate in which woodland trees are felled. An individual can remove up to 5 cubic metres of trees in any given quarterly calendar period without the requirement of a Felling Licence having to be applied for and authorised by the Forestry Commission. However, if an individual was to fell trees below the requirement for a Felling Licence, cumulatively relatively large volumes of trees can be

felled from within a site over a number of years. The Forestry Commission concluded that a felling Licence may not have been required due to the protracted period of time in which the trees had been felled.

#### **4.0 Tree Preservation Order no. 621 (2017)**

- 4.1 Tree Preservation Order no. 621 (2017) was made on 15<sup>th</sup> August 2017, in the interest of public amenity value and wildlife benefit.
- 4.2 A TEMPO score of 15+ was attained supporting protection of the trees with a preservation order.

#### **5.0 Objection to TPO no. 621 (2017)**

- 5.1 Lancaster City Council received one letter of objection to Tree Preservation Order no. 621 (2017).
- 5.2 The letter of objection was received from the land and tree owner, Mr S P Wales, dated 25<sup>th</sup> July 2017. A copy of his letter can be seen in full, at **appendix 7**. A copy of Lancaster City Council's letter of response, dated 25<sup>th</sup> September 2017, is available at **appendix 8**.
- 5.3 Following the response from the Council dated 25<sup>th</sup> September 2017 the objector, Mr S P Wales, confirmed that he maintains his position of objection to TPO no. 621 (2017), in his letter dated 9<sup>th</sup> October 2017 (**appendix 9**).
- 5.4 Lancaster City Council received a Pre-Application Advice request from the appellant, Mr Wales, referenced as 17/01043/ONE. The request related to the erection of a detached dwelling on the land in question. The Council considered the proposal "unlikely to be acceptable" for a range of planning reasons including the potential impact upon existing trees.

#### **6.0 Decision to Serve TPO no. 621 (2017)**

- 6.1 Lancaster City Council considers it expedient in the interests of amenity to make provision for the preservation of trees identified as Area (A1), woodland trees of whatever species are present, under sections 198, 201 and 203 of the Town & Country Planning Act 1990. It is recommended that the TPO is confirmed with a modification to change the current designation from Area (A1) to that of Woodland (W1). The Area designation was initially used in an "emergency" scenario, to provide immediate protection pending further consideration. A woodland designation is appropriate, as it ensures that all trees present at the time the order was made are protected and importantly that all subsequent new generations of trees of whatever species are also protected. This is essential to the re-establishment and continuation of this important and biologically sensitive area of woodland, established within Arnside & Silverdale Area of Outstanding Natural Beauty and Burton Well Limestone Pavement Biological Heritage Site and Woodland

Lancaster City Council cites the following reasons.

- The remaining trees are established within an Area of Outstanding Beauty and Biological Heritage Site, whilst recent tree felling works have isolated a number of trees from the larger woodland compartment protection of these trees and subsequent new generations of trees will support the re-establishment of woodland trees on this cleared area of land.
- The wider woodland area is a dominant arboriculture and landscape feature.
- Individual trees remain under threat from future removal particularly given the history of tree removals and consequent fragmentation of an important and biologically sensitive area of woodland.
- The woodland trees have the potential to provide important habitat and resources for a range of protected and unprotected wildlife communities.
- Possible future threat from development of the land in the future.

The woodland in question has sufficient amenity value and importance within the landscape and remains under threat to justify its protection with TPO no. 621 (2017).

- 6.2 As such, Lancaster City Council recommends that TPO no. 621 (2017) be confirmed with a modification to change the designation from the temporary emergency Area (A1) designation to that of a woodland designation (W1).

**Maxine Knagg BSc (Hons) Arboriculture**

Tree Protection Officer, Regeneration & Planning Service  
On behalf of Lancaster City Council



CITY COUNCIL OF LANCASTER  
TREE PRESERVATION ORDER NO. 621(2017)

-----ooOoo-----

RELATING TO:  
Tree Preservation Order No. 621(2017) Land South Of Bank Well, The Row, Silverdale

PO BOX 4  
TOWN HALL  
LANCASTER  
LA1 1QR

**TOWN AND COUNTRY PLANNING ACT 1990**  
**LANCASTER CITY COUNCIL**  
**TREE PRESERVATION ORDER NO. 621(2017)**

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. 621(2017), "Tree Preservation Order No. 621(2017) Land South Of Bank Well, The Row, Silverdale", 11th August 2017.

**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 11th day of August 2017

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. 621(2017)**

Tree Preservation Order No. 621(2017) Land South Of Bank Well, The Row, Silverdale

**TREES SPECIFIED INDIVIDUALLY**

(Encircled in a solid black line on map)

**TREES SPECIFIED BY REFERENCE TO AN AREA**

(Shown within a dotted black line on map)

Reference on Map	Description	Situation		
A1	Trees of whatever species within the area marked A1 on the map	Centred on grid ref:	(E)	(N) 475361

**GROUP OF TREES**

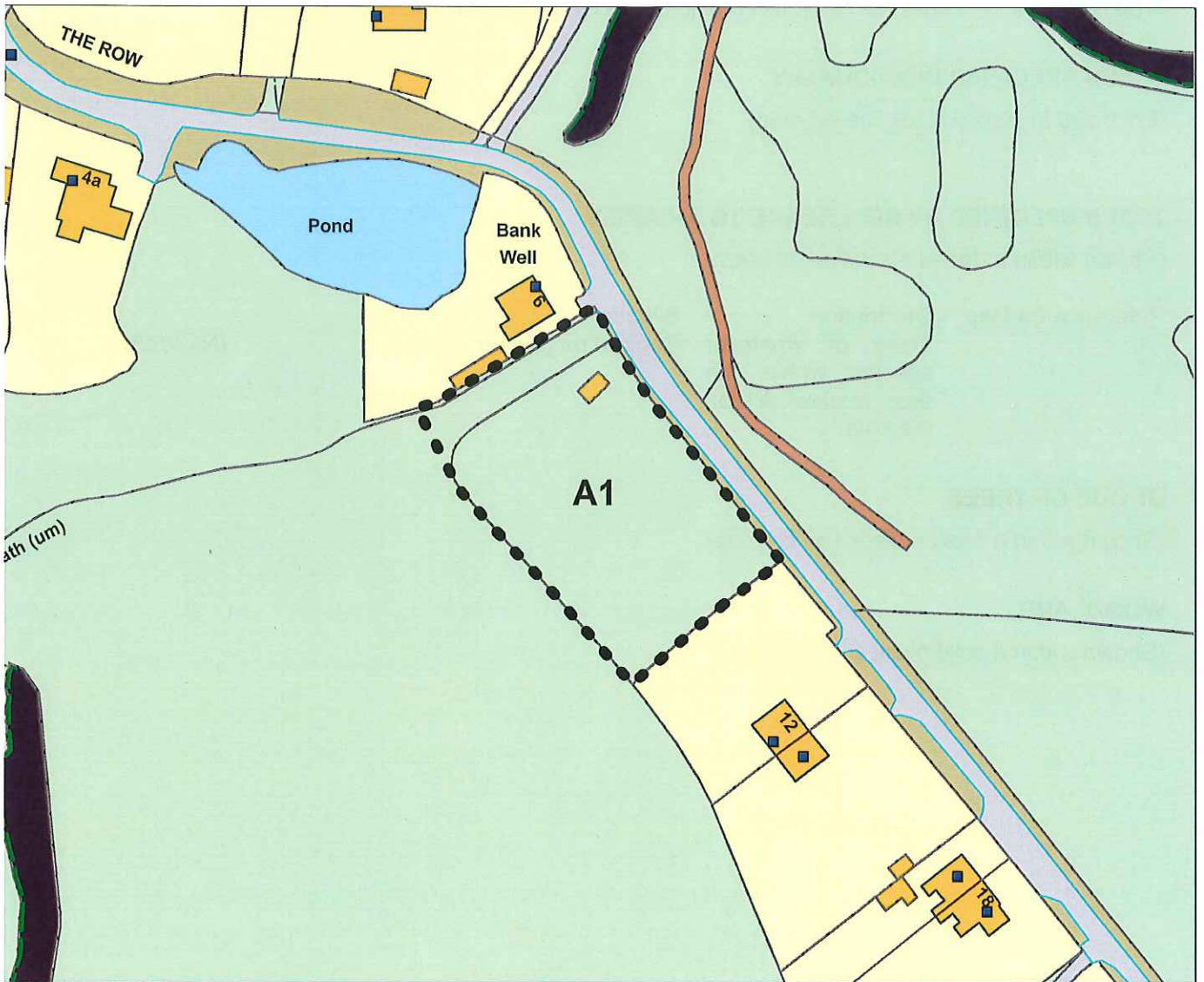
(Shown within a broken black line on map)

**WOODLAND**

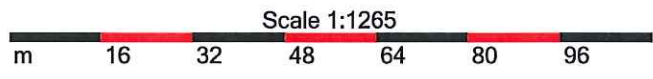
(Shown within a solid black line on map)

# Tree Preservation Order No.621(2017)

Land South of Bank Well, The Row, Silverdale



**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.

<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	11 August 2017
<b>SLA Number</b>	Not Set



# Appendix 3





Appendix 4b





Appendix 4c





**New Tree Preservation Order: 621 (2017)****Site: Land South of Bank Well, The Row, Silverdale****Assessment:**

Lancaster City Council received a local complaint that woodland trees have been recently removed from the above site, creating an open clearing in what was once a densely covered woodland area.

The land in question is not affected by any historic tree preservation order, nor does it lie within a conservation area.

The site does however, lie within Arnside and Silverdale Area of Outstanding Natural Beauty (AONB). Tree and woodlands are important component features in a range of locations across the district, not least within the land in question. In addition, the land lies within Burton Well Limestone Pavement Biological Heritage Site (BHS) and Woodland; a site of important biological heritage and interest.

Woodland within the site has important potential to provide habitat and foraging opportunities for wildlife, including protected species.

In England all species of bat and their breeding or resting places (roosts) are fully protected under the Conservation of Habitats and Species Regulations 2010 and Section 9 of the Wildlife and Countryside Act 1981 (as amended). This legislation makes it an offence to deliberately, intentionally or recklessly: Kill, injure or capture a bat; Obstruct access to any structure or place used for shelter or protection by bat; Disturb a bat while it is occupying a structure or place which is used for that purpose; Disturb bats in such a way it would affect the ability of any significant group of bat to survive, breed, rear or nurture or affect a local distribution or abundance; Damage or destroy a breeding or resting place of a bat.

In England all birds, their nests and eggs are afforded protection under the Wildlife and Countryside Act 1981 (as amended) making it an offence to: Intentionally kill, injure or take any wild bird; Intentionally take, damage or destroy the nest of any wild bird while it is in use or being built; Intentionally take or destroy the egg of any wild bird. Certain birds are subject to further protection under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended), making it an offence to intentionally, or recklessly, disturb any wild bird listed on this Schedule while it is nest building, or is at, or near, a nest with eggs or young, or disturb the dependent young of such a bird.

Trees must be assessed for the presence of protected species prior to undertaking agreed. Where there is evidence that bats, birds or other protected species are present, the statutory nature conservation organisation must be consulted prior to commencement of any tree work operations.

**Site Visit**

During the site visit there was clear evidence that a large number of woodland trees have been removed since aerial photographs were taken in 2013. The aerial photograph shows a dense area of woodland cover on the land, a continuum of Burton Well BHS and Woodland.

The visual appearance of the various tree stumps across the site indicate that trees have been removed over an extended period of time. There is evidence that up to x5 trees have been removed within recent days, others are more likely to have been removed earlier this year and some stumps suggest that they were removed pre-2017. The culmination of the felling work has resulted in a decimation of the eastern aspect of the woodland within the land in question. There is no evidence of new planting. The work is not compliant with any acceptable form of woodland management.

Where woodland trees are unprotected, a person can fell up to 5 cubic meters of timber per calendar quarter. Beyond this volume an individual is required to apply for a Felling License from the Forestry Commission. The Forestry Commission has been advised of the tree removals.

Further to a telephone conversation received from the land owner (after the TPO was served), we now understand that the site may be subject of a planning application for development in the future.

### **Trees**

There is a range of early-mature and mature trees within the site, which are now confined to the extremities of the site, as a result of the gradual erosion of the woodland cover over the last 4 years or so.

The remaining trees are highly visible from the public domain. They form the eastern aspect of Burton Well Biological Heritage Site and Woodland. Generally, the remaining onsite woodland trees are in good overall condition, state of health and vitality with long periods of useful remaining life potential. Species include ash, silver birch and yew.

A Tree Evaluation Method for Preservation Orders (TEMPO) has been undertaken, a score of 15+ was achieved meriting protection of the trees with a tree preservation order. As such, the woodland trees are now protected in law. It is an offence to lop, top, fell, uproot, prune or otherwise damage any such tree without first obtaining written authorisation from the local planning authority. Anyone found guilty of an offence in a Magistrates Court is liable to a maximum fine of £20,000.

Anyone wishing to have works to protected trees considered by the local authority, they are required by law to obtain written authorisation prior to undertaking the work. Further information and the required application form is available online at [www.lancaster.gov.uk](http://www.lancaster.gov.uk)

It is the Council's intention to protect woodland trees on land to the south of Bank Well, The Row, Silverdale as an Area designation (A1). This includes all trees of whatever species present within the area marked on the associated plan as (A1), in the interest of public amenity and wildlife benefit.

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

***Date: 11.08.17***

**TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):**

**SURVEY DATA SHEET & DECISION GUIDE**

Date: 11.08.17	Surveyor: M Knagg
----------------	-------------------

<b>Tree details</b> TPO Ref: 621(2017) includes, ash, silver birch and yew	Tree/Group No: A1 – Whatever species are present,
----------------------------------------------------------------------------------	---------------------------------------------------

**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

<b>Score &amp; Notes</b> 5 – Woodland area, established within AONB and BHS. Woodland generally, in good overall condition, health and vitality
----------------------------------------------------------------------------------------------------------------------------------------------------

**b) Remaining longevity (in years) & suitability for**

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

<b>Score &amp; Notes</b> 4 –40-100years, if under good arboriculture control and remain free from significant pest & disease
---------------------------------------------------------------------------------------------------------------------------------

**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

<b>Score &amp; Notes</b> 4 – many of the trees are clearly visible from a range of public locations
--------------------------------------------------------------------------------------------------------

**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

<b>Score &amp; Notes</b> 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

<b>Score &amp; Notes</b> 5 – Site proposed for development
---------------------------------------------------------------

**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

<b>Add Scores for Total:</b> 15+
-------------------------------------

<b>Decision:</b> TPO Definitely merited
--------------------------------------------

S P Wales  
Beechcroft  
12 The Row  
Silverdale  
LA5 0UG  
7 September 2017

Lancaster City Council  
Development Management  
PO Box 4  
Town Hall  
Lancaster LA1 1QR

RE: Tree Preservation Order 621(2017) Land South Of Bank Well, The Row, Silverdale

Dear Lancaster City Council,

I am writing to object to the Tree Preservation Order made on my property on 11 August 2017.

I would like to base this objection on a number of issues, and also to make comment on what I feel are inaccuracies and omissions in the statement I received from Maxine Knagg dated 11 August 2017 concerning her site visit and my subsequent conversation with her.

My objection is based on the following grounds:

The area in question is not, as stated in the documentation and shown on the site plan, a continuum of Burton Well BHS and Woodland. It is the private garden to my house 12 The Row, and is clearly boundary fenced as such, with a drive running from the entry gate shown as Fig 1 on the enclosed site map to my house shown as Fig 2. As such, being private land, there is no public amenity to this land, and to make a blanket Tree Preservation on this land deprives me of the right to enjoy my garden in the same way that every other house on The Row enjoys - none of which have this blanket restriction on their use. This does appear to be very discriminatory, and does give me less rights over my private garden than all of my neighbors i.e. they can remove or lop/cut back any tree they wish in their garden with no restriction whilst I cannot.

This order continually refers to the area as 'Land South of Bank Well' when the correct description is the garden of 12 The Row.

Lancaster City Council  
7 September 2017  
Page 2

I have no objection whatsoever to a Tree Preservation Order being made on named, individual trees within my garden, and I have absolutely no objection in meeting with a Council representative on site at my garden and agreeing which trees need to be protected.

I believe that the blanket TPO is inappropriate, and that a reasoned, agreed approach on individual trees would be the best option.

My objection is to the blanket TPO, which I feel is wholly unnecessary and draconian. This will prevent me from keeping my drive clear and usable without having to constantly gain written consent to control branches hanging over the length of it, and it will also prevent me from controlling branches which hang across the Row from my garden and interfere with traffic and BT cables without again constantly gaining written consent.

If a branch does cause issues, and I have to go through the process of gaining such written consent, is Lancaster Council willing to be then liable for any damage caused to vehicles/cables during this consent process period as effectively I will be prevented by the blanket TPO from any swift rectification ?

There are also a number of inaccuracies and omissions in Ms Knagg's statement:

The statement mentions that 5 trees had been removed in recent days - during the conversation I had with her, I explained that these were felled by North West Electricity to clear the safe path their mains electricity cable which runs directly through my garden, from 2 posts within the grounds, as they were encroaching on the cable. As such, the removal these trees in question did not need to be compliant with woodland management.

Over the last 4/5 years I have removed a number of trees from my garden, most of which were either dead or with very little evidence of new growth, or were in a poor state. However, the statement that the trees in my garden are now confined to the periphery is palpably incorrect - I have attached photographs taken today from my house (Fig 4 on the site map) toward Bank Well and you can clearly see the large number of trees still standing in my garden, and that in no way are the trees confined to the periphery. Again, this is because Ms Knagg has classified the area that she has marked on the site map as A1 as a separate tract of land to my garden - it is not, it is all one garden.

If Ms Knagg had approached me during her site visit, and rather than just posting the TPO documents on my garage door and my shed wall instead of knocking my house door and actually handing them to me, I believe we could have had a reasonable discussion on this matter.

Lancaster City Council  
7 September 2017  
Page 3

I also find it strange that, on her first and only site visit, she already had the documentation pre written - surely this is prejudicial as any conclusions to be made should be after the site visit and not before ?

I would also point out that in regard to any felling that I have carried out in my garden, I have checked whether any TPO existed on my property beforehand, and, as confirmed by a visit from the Forestry Commission subsequent to the this recent order, I am not in breach of volume allowances and did not require a Felling License.

I would like to re-iterate that it is the blanket TPO that I am objecting to, and that I have no objection whatsoever to a Tree Preservation Order being made on named, individual trees within my garden, and I have absolutely no objection in meeting with a Council representative on site at my garden and agreeing which trees need to be protected.

Thank you for your time and attention to this matter.

Yours Sincerely,

S. P Wales

Enclosures

(1) Site Map

(2) Photographs

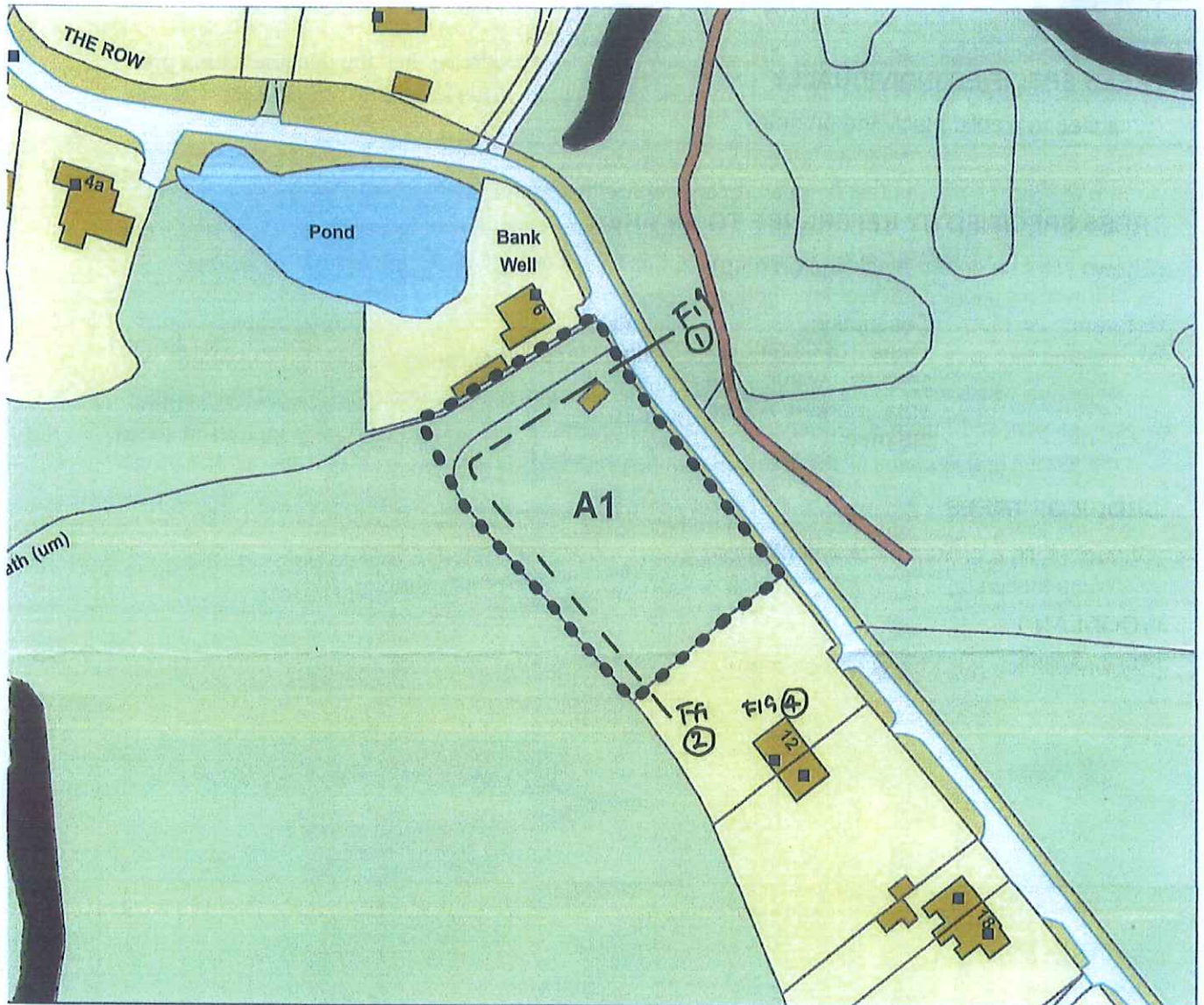


# Tree Preservation Order No.621(2017)

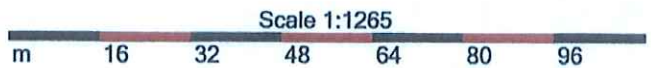
Land South of Bank Well, The Row, Silverdale



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.

<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	11 August 2017
<b>SLA Number</b>	Not Set



Contact: Maxine Knagg  
 Telephone: (01524) 582384  
 Fax: (01524) 582323  
 E-mail: [mknagg@lancaster.gov.uk](mailto:mknagg@lancaster.gov.uk)  
 Website: [www.lancaster.gov.uk](http://www.lancaster.gov.uk)

**Mr S.P.Wales**  
 Beechroft  
 12 The Row  
 Silverdale  
 Lancashire  
 LA5 0UG

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

Date: 25<sup>th</sup> September 2017

Dear Mr Wales,

**Re: Objection to Tree Preservation Order no.621 (2017) – Land south of Bank Well, The Row, Silverdale**

Further to your letter of objection dated 7<sup>th</sup> September 2017.

Within your letter you have raised a number of issues which relate to your formal objection to the above tree preservation order. I will address each point raised as it occurs.

I can confirm that the wooded area now subject of TPO no.621 (2017) is included within Burton Well Biological Heritage Site and Woodland (BHS). I have attached a copy of the Council's constraints plan. Please note that the BHS is identified in dark green. To assist further I have annotated the plan for your further assistance.

The question of public amenity value is a matter of visibility from a public domain, such as a public highway i.e. The Row. It is not a question of whether a site has designated public access. The remaining woodland area is clearly seen from a number of public vantage points, in both directions along the public highway. As such, the presence of the woodland has a significant impact upon the character and appearance of the wider locality and public domain. It forms part of Burton Well BHS and lies within Arnside & Silverdale Area of Outstanding Natural Beauty (AONB). The woodland has important biological heritage and public amenity value.

A Tree Preservation Order (TPO) does not prevent the reasonable enjoyment of any associated private amenity space. It does however, prevent further tree felling without first seeking written authorisation from the local authority in a biologically sensitive and important locality. There has been widespread tree removals from the woodland over the last 1-5 years or so.



**INVESTORS  
 IN PEOPLE**



The title of the TPO as 'South of Bank Well, The Row Silverdale', is purely for descriptive purposes it not to identify ownership or indeed link the land to any specific property. This is commonly used practice within planning.

The woodland was initially designated an Area (A1), or "emergency" blanket TPO. I can confirm that this designation will be modified to a woodland designation (W1). The woodland trees of "whatever species are present" will be protected and importantly all future new trees that generate as part of the woodland area will also be protected, not just those trees that were present at the time the order was served. The long term survival of a woodland area is dependent upon future generations of new trees.

A TPO does not prevent appropriate and reasonable maintenance works from being undertaken. All work must however be agreed in writing within the local authority prior to undertaking all pruning work or tree removals, with the exception of removing deadwood. Further information is available online at [www.lancaster.gov.uk](http://www.lancaster.gov.uk)

When the site was initially assessed it was evident that five mature trees had been recently felled from within the site. This was an accurate conclusion. Of course, at the time of that assessment the reason for their removal was unknown. There was evidence of large scale tree losses across the whole site over a number of years. As a result of the loss of woodland trees a large clearing had been created which you later confirmed in a telephone conversation that it is your intention to submit a formal application to build on the now cleared area of land. In the same telephone conversation you confirmed that the most recently felled trees (x5) had been felled by North West Electricity to clear a path beneath their overhead power lines.

There are a small number of remaining woodland trees to the boundary with the public highway. Aerial photographs taken in 2013, show that the land in question was heavily covered by trees at that time. The loss of trees from within the site in question is considerable and has in my view resulted in an adverse impact on the Burton Well BHS and Woodland, the AONB in the immediate locality and on the character and appearance of the site and public realm. I have enclosed a copy of the aerial photograph for your information.

Lancaster City Council would be failing in its duty if measures were not taken to safeguard the remaining woodland trees within the property.

At the time of the initial visit it was not known who was the owner of the land in question, it was only after the Council conducted a land registry search that the ownership of the site and surrounding land could be confirmed. The TPO was already served by that time. There was no one present on site, as such it could not be known that you were the owner. The priority is to protect trees and woodlands where they are considered to be under threat from removal or inappropriate management.

Time is of the essence in relation to the protection of trees and woodlands that are considered to be under threat. In the specific case in question, we were made aware that trees had been recently removed and that other trees had been removed in the last 1-5 years. Therefore, it is reasonable to prepare the documentation before visiting such a site. Being prepared for the visit does not pre-empt the findings on site. Following the on site assessment, if a TPO was not considered to be a necessary course of action



then a TPO would not have been served. However, there was sufficient evidence of recent and historic tree removals on site to justify and warrant protection of the remaining woodland trees with TPO no.621 (2017).

The Forestry Commission (FC) was informed of the tree removals onsite, in order that they could assess whether there had been a breach of their requirement for a Felling License. Up to 5 cubic meters of timber can be felled per calendar quarter without the requirement of the Felling License. Given the protracted period of time in which the felling has occurred on the site, it was considered by the FC that a Felling License was unlikely to have been required.

After consideration of the above, I would be grateful if you would confirm whether you wish to maintain your objection to TPO 621 (2017). If you maintain your current position a TPO Appeals Hearing will be arranged in due course.

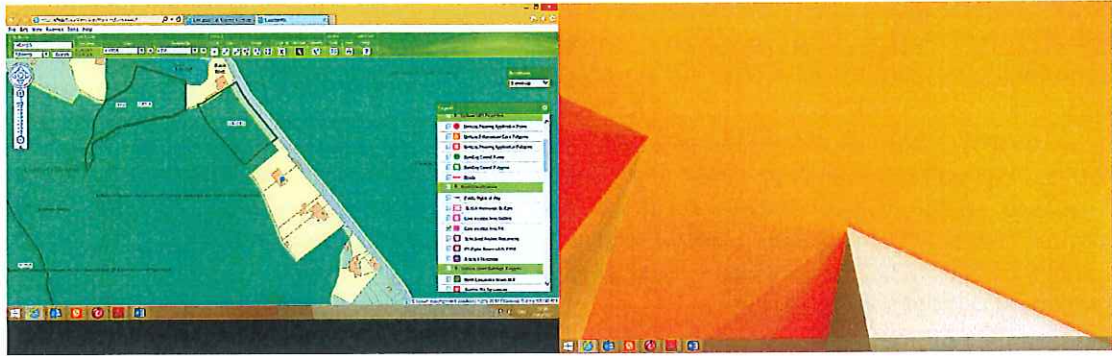
If we do not receive a response from you in writing by 13<sup>th</sup> October 2017, we will assume that you no longer wish to maintain your objection to the order. Following which TPO 621 (2017) will then be confirmed as a 'Woodland designation (W1)'.

Yours sincerely,

Maxine Knagg

**Maxine Knagg BSc (Hons) Arboriculture  
Tree Protection Officer  
Regeneration Service  
Development Management  
Lancaster City Council**







S P Wales  
Beechcroft  
12 The Row  
Silverdale  
LA5 0UG  
8 October 2017

Lancaster City Council  
Development Management  
PO Box 4  
Town Hall  
Lancaster LA1 1QR

RE: Tree Preservation Order 621(2017) Land South Of Bank Well, The Row, Silverdale

Dear Lancaster City Council,

Following your letter of 25th September, I would confirm that I do wish to maintain my objection to the provisional TPO order no.621 (2017) on the grounds of my letter dated 7th September.

As outlined in my objection letter of 7th September, 'it is the blanket TPO that I am objecting to, and that I have no objection whatsoever to a Tree Preservation Order being made on named, individual trees within the my garden, and I have absolutely no objection in meeting with a Council representative on site at my garden and agreeing which trees need to be protected.'

I do believe that this is the reasonable and common sense approach, and will alleviate the need for any dispute and possible future legal action in regard to this blanket order.

Yours Sincerely,

S. P Wales

**APPEALS COMMITTEE****Tree Preservation Order No. 622 (2017) -  
57 Thirlmere Road, Lancaster  
7 December 2017****Report of Chief Officer (Legal and Governance)****PURPOSE OF REPORT**

To enable Members to consider the objection received to Tree Preservation Order No. 622 (2017) located at 57 Thirlmere Road, Lancaster, 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 objection to Tree Preservation Order No. 622 (2017) located at 57 Thirlmere Road, Lancaster, 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 2012, an objection has been received to Tree Preservation Order No. 622 (2017), which has been made in relation to a single cherry tree located at 57 Thirlmere Road, Lancaster.
- 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 ).

Appended to the report are:

- Appendix 1 - *Copy of the original Tree Preservation Order No. 622 (2017) (pages 35 to 38);*



- Appendix 2 - *An aerial photograph (Google 2013) of the cherry tree (page 39);*
- Appendix 3 – *Copy of the Tree Protection Officer’s initial report (pages 40 and 41);*
- Appendix 4 – *Copy of the Tree Evaluation Method for Preservation Orders (TEMPO) (page 42);*
- Appendix 5 – *Copy of the letter of objection, including a series of colour photographs, from neighbours, Mr. & Mrs. McDonnell, dated 25 August 2017 (page 43 to 60);*
- Appendix 6 – *Copy of Lancaster City Council’s letter of response, dated 26 September 2017 (pages 61 and 62);*
- Appendix 7 – *Copy of the letter from Mr. & Mrs. McDonnell, confirming their wish to maintain their objection to the Tree Preservation Order, dated 2 October 2017 (pages 63 and 64);*
- Appendix 8 – *Copy of a letter in support of the Tree Preservation Order from the tree owner, Mr. Fitton (page 65 to 67).*

**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. 622 (2017).

**3.0 Details of Consultation**

3.1 Tree Preservation Order No. 622 (2017) was made and advertised in the usual way, and one objection was received.

**4.0 Options**

- (1) To confirm Tree Preservation Order No. 622 (2017) -
  - (a) Without modification;
  - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 622 (2017).

**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. 622 (2017).

<p><b>CONCLUSION OF IMPACT ASSESSMENT</b>                  (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)                  Not applicable.</p>	
<p><b>LEGAL IMPLICATIONS</b>                  A Legal Officer will be present at the meeting to advise the Committee</p>	
<p><b>FINANCIAL IMPLICATIONS</b>                  Not applicable.</p>	
<p><b>BACKGROUND PAPERS</b>                  Tree Preservation Order No. 622 (2017)</p>	<p><b>Contact Officer:</b> Jane Glenton  <b>Telephone:</b> (01524) 582068  <b>Email:</b> jglenton@lancaster.gov.uk  <b>Ref:</b> JEG</p>

Contact: Maxine Knagg  
Telephone: 01524 582381  
FAX: 01524 582323  
Email: [mknagg@lancaster.gov.uk](mailto:mknagg@lancaster.gov.uk)  
Website: [www.lancaster.gov.uk](http://www.lancaster.gov.uk)  
Our Ref: TPO607/2017/MK

**Regeneration and Planning  
Services**  
Development Management  
PO Box 4  
Town Hall  
Lancaster  
LA1 1QR

Date: 21<sup>st</sup> November 2017

## Appeals Committee (TPO)

Tree subject of the Appeals Committee – A single mature cherry tree at 57 Thirlmere Road, Lancaster, LA1 3LL, subject of **Tree Preservation Order no. 622 (2017)**.

This report has been prepared 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 mature cherry tree established within the rear garden of no. 55, Thirlmere Road, Lancaster. The Appeals Committee are to consider whether the tree, identified as T1, should be confirmed without modification, confirmed with modifications or not confirmed. A copy of Tree Preservation Order no. 622 (2017) is available at **appendix 1**.

### 2.0 Background

2.1 The tree in question is established close to a boundary line with a neighbouring property. Inevitably, branches from T1 extend beyond the boundary line. In the absence of a tree preservation order (TPO) a neighbour has a Common Law Right which allows branches that encroach over a boundary line to be cut back to the boundary line (not beyond), the cut branches must by law be offered back to the owner. In some instances this can result in the heavy and inappropriate management of trees in order to remove the encroachment of branches. However, the powers of a TPO override a Common Law Right and in effect remove a neighbour's ability to prune overhanging branches without first obtaining written authorisation to do so from the local authority. The protection includes all above and below ground tree structures. As a result of these important protection measures, tree works can be controlled to ensure all work undertaken is reasonable and

appropriate and in compliance to current standards of best practice set out within BS 3998 (2010) Tree Work – Recommendations.

- 2.2 An aerial photograph (Google 2013) of T1 is available at **appendix 2**.
- 2.3 T1 has 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 are protected under the Wildlife & Countryside Act (as amended 2010) 1981.

### **3.0 Assessment**

- 3.1 A copy of my initial report, dated 14<sup>th</sup> August 2017, is available at **appendix 3**.
- 3.2 A copy of the Tree Evaluation Method for Preservation Orders (TEMPO) is available at **appendix 4**. A cumulative score of 11 was achieved, indicating that, at the time of the initial assessment, a TPO would be “defensible”. It should be noted that the TPO was served as a precaution because of the owner’s “perceived threat” of possible unjudicial pruning in the future.
- 3.3 Lancaster City Council uses 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 TPO. This system when used by an individual suitably trained and experienced in the assessment of trees can be a useful tool to demonstrate key elements of the decision making process, resulting in a final total score and outcome indicator. The system in itself is not a decision making process.
- 3.4 T1 can be seen as a roof top tree and as such has a positive visual impact upon the wider public domain.

### **4.0 Tree Preservation Order no. 622 (2017)**

- 4.1 Tree Preservation Order no. 622 (2017) was made on 15<sup>th</sup> August 2017, in the interest of public amenity value and wildlife benefit.
- 4.2 A TEMPO score of 11 was achieved supporting protection of the tree with a preservation order.

### **5.0 Objection to TPO no. 622 (2017)**

- 5.1 Lancaster City Council received one letter of objection to Tree Preservation Order no. 622 (2017).
- 5.2 A letter of objection, including a series of colour photographs, was received from neighbours Mr & Mrs McDonnell, dated 25<sup>th</sup> August 2017. A copy of the letter can be seen in full at **appendix 5**. A copy of Lancaster City Council’s letter of response, dated 26<sup>th</sup> September 2017, is available at **appendix 6**.

- 5.3 The objection relates to the management of overhanging branches from T1 and claims that roots from the tree are disturbing paving stones within the rear garden of the objectors' property.
- 5.4 It should be noted that a TPO does not prevent reasonable and appropriate pruning works from being undertaken affecting both the above ground canopy and the below ground root system, subject to written approval by the local authority to ensure that any work undertaken does not result in an adverse impact upon tree health, vitality, stability and long term sustainability.
- 5.5 Mr & Mrs McDonell confirmed their wish to maintain their objection to the order in their letter dated 2<sup>nd</sup> October 2017 (**appendix 7**).

## **6.0 Support for TPO no. 622 (2017)**

- 6.1 Lancaster City Council received a letter, dated 6<sup>th</sup> September 2017 in support of the TPO from the tree owner Mr Fitton. A copy of this letter can be seen at **appendix 8**. The letter identifies the long period of time in which the tree has been established at the property, its benefits and support of wildlife. Concerns were also expressed that the tree may have been deliberately damaged in the past.

## **7.0 Decision to Serve TPO no. 622 (2017)**

- 7.1 Lancaster City Council considers it expedient in the interests of amenity to make provision for the preservation of the tree identified as T1, cherry, under sections 198, 201 and 203 of the Town & Country Planning Act 1990. It is recommended that the TPO is confirmed without modification.

Lancaster City Council cites the following reasons.

- Contribution to the amenity of the immediate and wider public domain;
- Potential to provide important habitat and resources for a range of protected and unprotected wildlife communities;
- Perceived threat of damage.

The tree in question has sufficient amenity value and importance within the landscape and may be under threat from damage to justify its protection with TPO no. 622 (2017), as a precaution.

- 7.2 As such, Lancaster City Council recommends that TPO no. 622 (2017) be confirmed without modification to protect a single, mature cherry tree T1.

### **Maxine Knagg BSc (Hons) Arboriculture**

Tree Protection Officer, Regeneration & Planning Service

On behalf of Lancaster City Council

CITY COUNCIL OF LANCASTER  
TREE PRESERVATION ORDER NO. 622(2017)

---ooOoo---

RELATING TO:  
Tree Preservation Order No.622(2017) 57 Thirlmere Road, Lancaster

PO BOX 4  
TOWN HALL  
LANCASTER  
LA1 1QR

**TOWN AND COUNTRY PLANNING ACT 1990**

**LANCASTER CITY COUNCIL  
TREE PRESERVATION ORDER NO. 622(2017)**

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. 622(2017), "Tree Preservation Order No.622(2017) 57 Thirlmere Road, Lancaster", 15th August 2017.

**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 15th day of August 2017

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

PP

**SCHEDULE**

**Specification of Trees**

**TREE PRESERVATION ORDER NO. 622(2017)**

Tree Preservation Order No.622(2017) 57 Thirlmere Road, Lancaster, Lancashire

**TREES SPECIFIED INDIVIDUALLY**

(Encircled in a solid black line on map)

Reference on Map	Description	Situation		
T1	Cherry	Centred grid ref:	on (E) 348673	(N) 462616

**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**

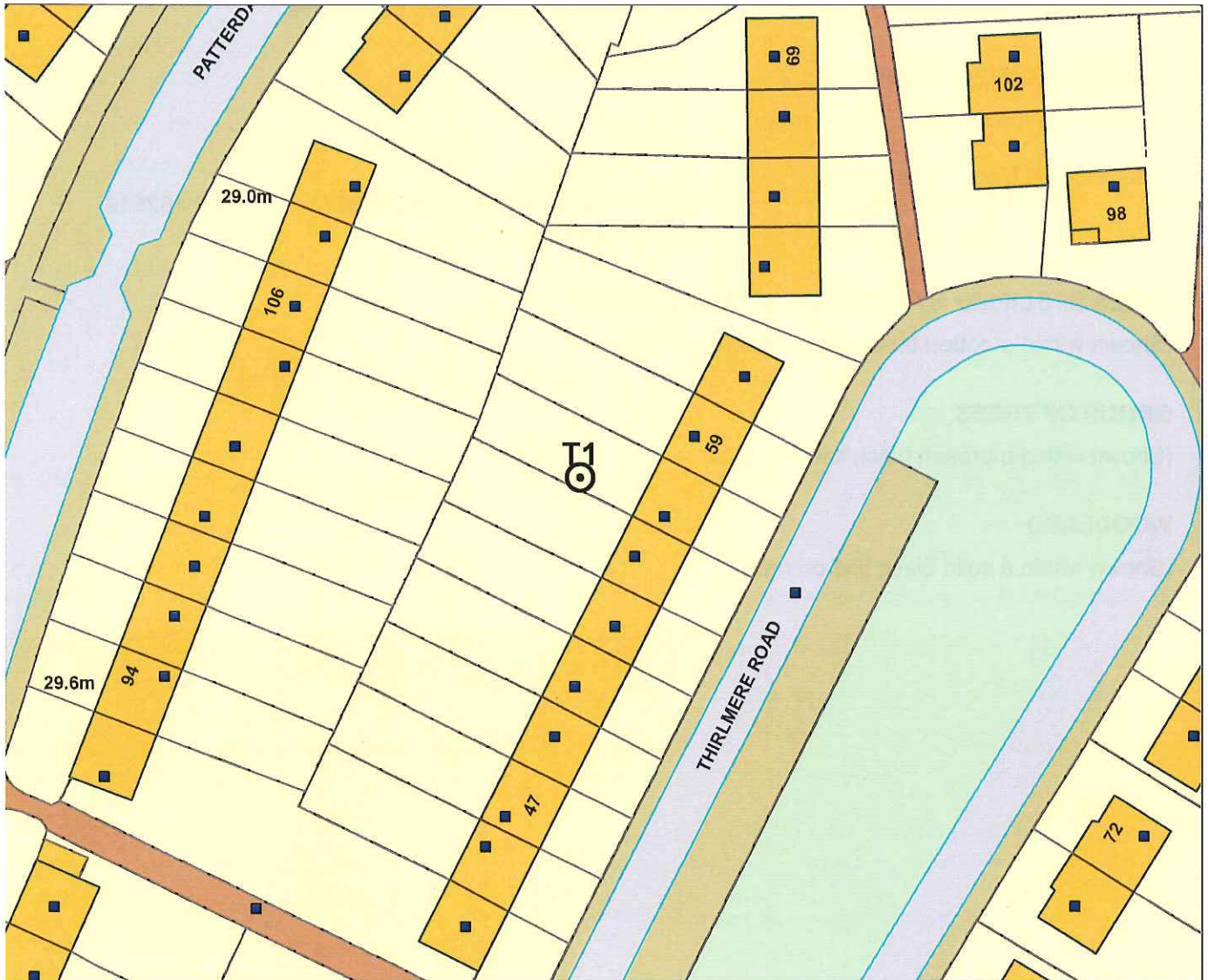
(Shown within a solid black line on map)

# Tree Preservation Order No.622(2017)

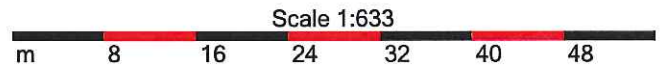
57 Thirlmere Road, Lancaster



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.

<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	15 August 2017
<b>SLA Number</b>	Not Set





**Site: 57, Thirlmere Road, Lancaster, LA1 3LL**  
**Proposed New TPO: A single mature cherry tree**

**Assessment:**

Lancaster City Council received a request from a member of the public/ owner of a mature cherry tree, growing within the curtilage of the above property to be considered for protection with a tree preservation order (TPO).

The tree is established within the rear garden of the private residential property, close to a boundary line with a neighbouring property. The owner would like the tree to be considered for protection with a TPO to prevent any unjudicial damage to either the above or below ground tree structures.

**Tree**

For the purpose of this report the tree has been identified as T1. It has been assessed for its suitability to be protected with a tree preservation order.

The tree is established to the rear of the property and as such has limited visual benefit beyond its curtilage. However, T1 is entirely in keeping with its domestic situation, making a positive contribution to greening and partial screening within this otherwise heavily urbanised locality. It offers opportunities for a potential range of wildlife.

T1 has the potential to provide habitat and foraging opportunities for protected species, including nesting birds and bats. Both groups of wildlife are protected under the Wildlife & Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010. Care must be taken to ensure that protected species are not disturbed or harmed and in so doing avoid a criminal offence from occurring; if protected species are present, work must not start and further appropriate advice must be sought.

Trees must be assessed for the presence of protected species. Where there is evidence that bats, birds or other protected species are present, the statutory nature conservation organisation must to be consulted prior to commencement of any tree work operations.

It should be noted that a tree preservation order (TPO) prevent unjudicial management of the tree, including protection to the root system, trunk and canopy. Anyone wishing to have work considered to the tree, must first obtain written authorisation from the local authority. It is an offence to lop, top, fell, uproot, prune or otherwise damage any such tree without written authorisation. Anyone found guilty of an offence on a Magistrates Court is liable to a maximum fine of £20,000.

T1 has been assessed using a Tree Evaluation Method for Preservation Orders (TEMPO). A score of 11 was achieved, this supports its protection with a tree preservation order.

**Decision**

Lancaster City Council intends to protect T1, cherry with a tree preservation order, as a precaution.

T1 will be protected with Tree Preservation Order no. 621 (2017), in the interest of amenity and wildlife benefit.

***Maxine Knagg BSc Arboriculture  
Tree Protection Officer  
Regeneration & Planning Service***

***Date: 14.08.17***

**TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):**

**SURVEY DATA SHEET & DECISION GUIDE**

Date: 14 08 17	Surveyor: M Knapp
----------------	-------------------

<b>Tree details</b>		
TPO Ref:	622 (2017)	Tree/Group No: T1
– Cherry		

**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

<b>Score &amp; Notes</b>
3 – A mature garden tree, with long periods of useful remaining life

**b) Remaining longevity (in years) & suitability for**

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

<b>Score &amp; Notes</b>
2 – 20 - 40years, if under good arboriculture control and remain

**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

<b>Score &amp; Notes</b>
3 – Limited

**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

<b>Score &amp; Notes</b>
1 – None

**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

<b>Score &amp; Notes</b>
2 – Concern expressed that the neighbour may try to damage the

**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

<b>Add Scores for Total:</b>
------------------------------

<b>Decision:</b> TPO
-------------------------

Appendix 5

Mr and Mrs McDonnell

55 Thirlmere Road

Lancaster

LA1 3LL

25th August 2017

Lancaster City Council  
Development Management  
PO Box 4  
Town Hall  
Lancaster  
LA1 1QR

To whom it may concern,

I am submitting this letter to express both me and my wife's objections towards the Tree Preservation Order 622(2017) or Order 621(2017), which is also quoted in the letter. Both applied by 57, Thirlmere Road, Lancaster, LA1 3LL.

Recently (over the last couple of months) our neighbours at 57, Thirlmere Road have installed a new perimeter fence between the boundaries of theirs and our garden. They have also done some extensive landscaping to their garden. During this time, the occupiers were chopping at and cutting roots/branch off the tree to put on their path throughout the garden. Hence, it was to our surprise that we have received this letter detailing that the tree is to be place under a tree preservation order.

The tree stump is approximately 9 yards from our house and part of the tree stump is based on our property. Whilst, our neighbours installed the new fence they had to adapt it to fit around the tree as they could not erect it properly because of the size and location. The branches from this tree are within 1 yard from our house wall and overhangs over the joint fence approximately 6 yards. This causes us great concern as to if this branch became unstable, then we would not like to imagine the potential damage that it could cause to our property, but to as well as the residents. Another concern is the safety of my grandchildren who regularly come around to the house and use the back garden (grandchildren currently 4 1/2 years and 1-year old) as well as our pet dog.

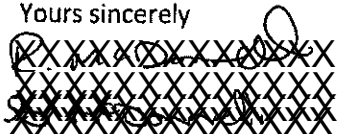
I have enclosed pictures of the damage the tree (mainly the roots) has caused to our garden. It has lifted the flagging by 3 inches and has caused many of the flag stones to crack. We have also enclosed pictures of the view (lack of) from both our bathroom window and from also our back-bedroom window. Whilst looking onto our neighbour's property there is no visible damage caused to their garden (pictures enclosed). It would be pertinent for you to visit our property to visually see the damage the tree roots have caused and lack of to our neighbour's garden.

Reading further down your letter we noticed that that tree had been assessed using the Tree Evaluation Method for Preservation Orders (TEMPO) scoring a 11, which is said to support the protection of the tree under a preservation order. However, after researching the TEMPO we discovered that trees that score between 7-11 are said to not merit a tree preservation order according to their guidelines. There appears to be an inconsistency regarding this.

I would be grateful if you could take the time to visit our property to properly assess the appropriateness of the preservation order as the worry as seen in the pictures, as the tree roots could cause subsidence issues to our property if not dealt with.

We have been looking for a new shed over the past few years, but haven't been able to purchase one due to not being able to alter place it in our garden where we would like to due to the roots and branches form the tree. Also, renovation of our garden has been extremely difficult (almost impossible) due to the roots lifting the ground.

Yours sincerely



Richard and Susan McDonnell

9















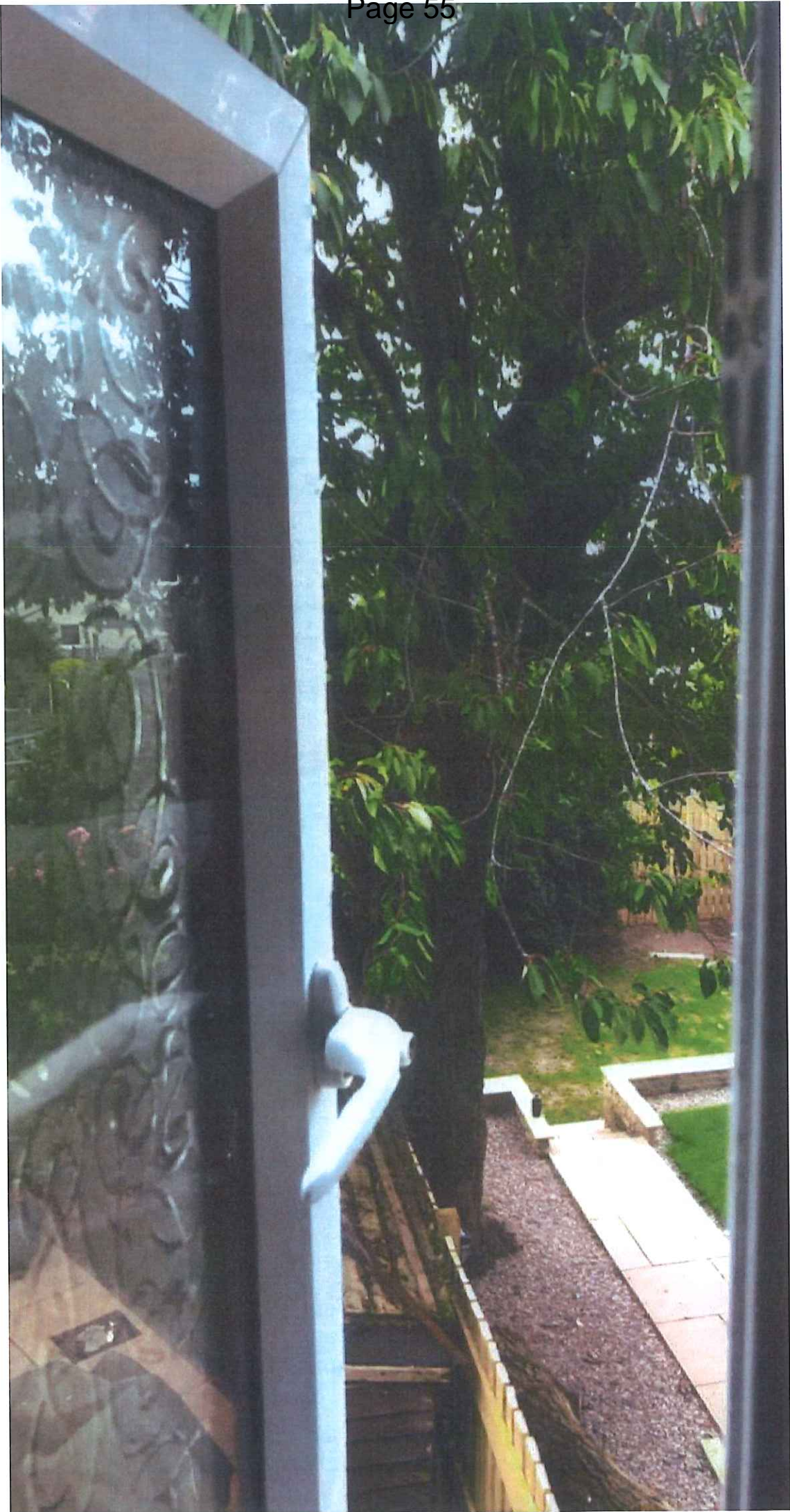






















Contact: Maxine Knagg  
Telephone: (01524) 582384  
Fax: (01524) 582323  
E-mail: [mknagg@lancaster.gov.uk](mailto:mknagg@lancaster.gov.uk)  
Website: [www.lancaster.gov.uk](http://www.lancaster.gov.uk)

**Mr and Mrs McDonnell**  
55 Thirlmere Road  
Lancaster  
Lancashire  
LA1 3LL

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

Date: 26<sup>th</sup> September 2017

Dear Mr & Mrs McDonnell,

**Re: Tree Preservation Order no.622 (2017) – 57, Thirlmere Road, Lancaster, LA1 3LL**

Further to your letter of objection to the above tree preservation order (TPO), dated 25th August 2017.

You have raised a number of issues within your correspondence that relate directly to your own property. I will address each point as they arise within your letter.

Firstly, may I confirm the cherry tree established within your neighbour's property is currently protected by TPO no.622 (2017) and not TPO no.621 (2017).

You have stated that branches from the tree subject of the above TPO overhang the boundary fence between you and your neighbour's property and that branches are growing very close to the structures of your main dwelling. You have also expressed concerns about the future stability of branches from the tree. Trees are dynamic living organisms that respond to changes in their environment. A tree preservation order does not prevent trees from being regularly inspected and reasonable and appropriate maintenance work from being undertaken. However, please note written authorisation must first be obtained from the local authority prior to undertaking works, with the exception of removing dead wood which does not require prior approval. Anyone that has responsibility for the management and maintenance of a tree (s) is advised to have them regularly inspected by a competent person and any recommendations for tree work undertaken subject to the required written approval from the local authority. Further information and tree works application forms are available online at [www.lancaster.gov.uk](http://www.lancaster.gov.uk).

You have provided a number of photographs showing disturbed flag stones and paving within your rear garden area. Please note that a TPO serves to protect all above and below ground structures of an affected tree. If you were to undertake work within your

garden area that included disturbance of the existing ground levels, measures would have to be agreed in writing with the local authority on how the tree roots can be protected prior to undertaking any such work. Of course locating any new structure at a point as far from the tree as possible, would serve to reduce any potential conflict with the tree in erecting that structure and ongoing future maintenance works.

A TPO does not obstruct or prevent development, subject to the required approval of suitable tree protection measures, in compliance to BS 5837 (2012) Trees in relation to design, demolition and construction. Where roots are considered to be disturbing existing structures, it may be possible to consider limited root pruning. However, the involvement of roots from the tree in question would have to be demonstrated in order to satisfactorily rule out other causes for the disturbance.

Lancaster City Council would be happy to consider any future applications for tree works in relation to T1, cherry, subject of TPO no.622 (2017). You may wish to include any supporting information with regard to any future application for works to T1. This may include evidence of involvement of roots from T1, if limited root pruning is to be proposed.

In English law no-one person has a right to a view, whether the maintenance, or re-instatement of an existing view or creation of a new view. Inevitably, trees can change and alter existing views as they grow and mature, in time they too form part of the existing view.

Lancaster City Council like a great many local authorities across the country use a Tree Evaluation Method for Tree Preservation Orders (TEMPO), to demonstrate an objective approach to the assessment of trees in relation to their suitability to be protected with a tree preservation order. The TEMPO system is a tool to show the process involved, it is not in itself a decision maker. A score of 11 is sufficiently high to warrant its protection with a tree preservation order. I have attached a copy of the original TEMPO record for your further information.

If you wish to maintain your objection to TPO no.622 (2017), affecting T1, cherry, please confirm this in writing by 10<sup>th</sup> October 2017. If you maintain your objection to the order a TPO Appeal Hearing will be arranged in due course.

Alternatively, if we do not hear from you in writing by 10<sup>th</sup> October 2017, we will assume you no longer wish to maintain your objection to the aforementioned TPO and the order will be confirmed without modification.

Yours sincerely,

Maxine Knagg

**Maxine Knagg BSc (Hons) Arboriculture  
Tree Protection Officer  
Regeneration Service  
Development Management  
Lancaster City Council**



Mr and Mrs McDonnell  
55 Thirlmere Road  
Lancaster  
LA1 3LL

2nd October 2017

Lancaster City Council  
Regeneration & Planning Services  
Development Management  
PO Box 4  
Town Hall  
Lancaster  
LA1 1QR

Dear Maxine Knagg,

**Re: Tree preservation Order no.622 (2017)- 57, Thirlmere Road, Lancaster, LA1 3LL**

As residents of 55 Thirlmere Road we would like to maintain our objection to the TPO no. 622 affecting T1.

One of our main issues is one that we highlighted in our previous correspondence and pictures ( letter dated 25<sup>th</sup> August 2017), is that the residents of number 57 Thirlmere Road have previously chopped branches of their tree (the one subject to the TPO no.622 (2017)) when it has been a inconvenience to them, however now we are not allowed to undertake the same privileges and as you can see from the many pictures we have sent the tree mainly disrupts our property and lands and has no clear impact on that of the house at number 57, where the tree is actually growing.

As a gardener who works for Lancaster City Council I fully understand the importance of living organisms and the beauty of trees and plants nevertheless, when it is impacting on someone's property to the extent it is on ours, then I also feel it is vital to weigh up the benefits of the tree against structural buildings and property especially when the tree in question does not belong to them.

From Previous pictures sent to yourselves, it can clearly be seen that the roots from the tree (subject to the TPO no. 622 (2017)) have uplifted paving slabs in my garden as well as causing damage to my shed, it is also preventing me from updating my garden as it is impossible to lay new slabs on top of the roots and it caused a very uneven surface that I

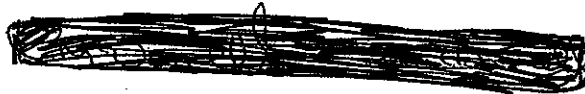
worry could easily be a trip hazard for me and my family (I have 2 young grandchildren that regularly come round to the house and like to spend time in the garden but I have grave concerns that they may hurt themselves due to tripping on the uneven flagstones.

The branches are also very close to two telephone wires, which I don't feel is safe and does affect the quality of the sound of the landline phone. The roots are very near (and have possibly invaded) two manholes/drain systems which is also a concern that we feel needs considering. Whilst trees can form part of an existing landscape, currently it is the only view we have from some of our rear windows and has a major impact on light that we get in through these.

In your previous letter you discuss root pruning as an option, when the roots are considered to be disturbing existing structures, we would like to check who would be liable for the payment of this? As the belongs to the residents of 57 Thirlmere Road, but is majorly affecting our property (number 55 Thirlmere Road). Also, other than the letter and photographs we have already supplied what other information would be needed to further show the damage it has already caused and are still continuing to cause?

Please could the photographs be sent back to us so they can be used (if needed) at the TPO appeal hearing.

Yours Sincerely



Richard and Susan McDonnell

Appendix 8

Mr Fitton  
 57 Thirlmere Rd  
 Ridge Estate  
 Lancaster  
 LA1 3LL  
 6<sup>th</sup> September 2017.

Preservation Order No 22 (2017) 57 Thirlmere Road Lancaster.

Dear Sir/Madam,

I am writing in support of the preservation order for the mature cherry tree at the rear of my property at 57 Thirlmere Rd, Lancaster.

The tree has been at the property for at least as long as I have been alive; I am now 46 years old.

It has and does provide nesting and foraging areas for birds such as blackbirds, magpies, doves and other species.

The tree provides food for wildlife such as birds and hedgehogs and also provides a beautiful greenery and blossom every year.

I have been prompted into applying for the preservation order due to my neighbour at number 55 Thirlmere Rd. I have witnessed him hacking at the trunk of the tree and he has been pouring kerosene/paraffin on the exposed trunk in an attempt to kill the tree.

(27) Mr McDonald, who works for the council as a gardener moved in approximately 24 years ago and the mature cherry tree was already there.

He has at times complained about the leaves falling and fruit fall and wanted me to cut the tree down. I however said I would manage the tree by trimming it, but I would not have the tree cut down. Because of this he refused to maintain his fence.

I have recently had my garden done and chose to put a new fence up. On examining Mr McDonald's fence, there was a large stain next to the tree which smelled of paraffin and when putting the new fence in, the soil around the tree smelled of paraffin too.

On finishing the garden, one day after work, I entered the garden and could smell fresh paraffin/kerosene. I wiped my hand down the side of the tree, where Mr McDonald had been hacking the trunk and there was fresh kerosene/Paraffin all down the side of the tree. I asked Mr McDonald if he was poisoning the tree and he denied it.

I called a tree surgeon the next day and he advised me to call Maxine Knagg at the council. This tree needs to be protected as it provided a natural habitat for a number of birds and is in danger of being poisoned or damaged without the preservation order.

213

Thankyou for your assistance in this matter.  
I would like to appologise for my handwriting.  
I am blind in one eye and the sight in the other  
is not good either so I struggle with reading and  
writing.

Yours faithfully

[Redacted signature]

[Redacted line]

Tel

[Redacted phone number]

Mob

[Redacted phone number]