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## **Appeals Committee (TPO)**

Trees subject of the Appeals Committee – An area of trees and woodland established within the Ridgeway Park Estate, Lindeth Road, Silverdale, subject of **Tree Preservation Order no. 544 (2015)**.

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

### **1.0 Purpose of Report**

1.1 This report relates to an area of trees and woodland established within the Ridgeway Park estate, and three objections received with respect to the above order. The Appeals Committee are to consider whether the TPO should be confirmed without modification, confirmed with modifications or not confirmed. A copy of Tree Preservation Order no.544 (2015) is available at **appendix 1**.

### **2.0 Background**

2.1 The land and trees in question are established within an important and biologically sensitive locality. They lie within Arnside and Silverdale Area of Outstanding Natural Beauty (AONB) and are also encompassed within Heald Brow Biological Heritage Site (BHS). The trees in question make an important contribution to a much larger area of woodland that extends beyond the curtilage of the wider Ridgeway Park site. As such, they are important for their contribution to this significant arboriculture and landscape feature.

2.2 Limestone pavements are present across the estate, important geological features that are strongly associated with the Silverdale and Arnside area. Their importance is recognised and they are protected under the terms of a Limestone Pavement Order.

- 2.3 The main dwelling, now known as Ridgeway Hall, was built circa 1925, later becoming a school. The whole estate was sold to its current owners in 2014. The wider estate, though not listed, has important historic interest and includes a historic garden designed by the late Thomas Mawson and Sons. The estate is currently comprised of Ridgeway Hall the largest of the properties; a cottage, known as The Sun House; and the Mawson Garden and summerhouse.
- 2.4 Trees across the site are important for their cohesion and contribution in forming a significant arboriculture and landscape feature. The site encompasses a range of constraints protecting biological heritage, important local geology and the character and appearance of the wider AONB. There are however, no constraints that specifically protect trees. In reality, trees and woodlands could be removed without notification to the local authority with the potential to adversely impact upon the visual appearance and character of the wider locality and public amenity.
- 2.5 Where trees are proposed for removal resulting in 5 or more cubic metres of timber being felled, a Felling Licence must be obtained from the Forestry Commission. There is a requirement set by the Forestry Commission that such an application must be submitted with an agreed short term, woodland management plan, spanning a minimum of 5 years. This plan does not have to be produced by a professional, though appropriate advice would be expected to be sought.
- 2.6 Work granted through a Felling Licence overrides the controls of a TPO. As such, a TPO does not obstruct the implementation of an agreed licence. However, where trees are proposed to be felled below the 5 cubic metre threshold, as such not requiring application to the Forestry Commission, a TPO provides protection and prevents the fragmentation and erosion of important woodland areas.
- 2.7 The Forestry Commission (FC) actively encourages the development of long term woodland management plans, spanning a minimum of 10 years. So much so, that they offer a grant for £1000.00 to landowners where woodland is equivalent to 3 hectares or greater. They recognise the value of a long term woodland management plans for owners of smaller areas of woodland. So much so, the FC actively encourage adjacent land owners to consider their respective pieces of land as a combined 'unit' for the purpose of accessing such important opportunities. There is a requirement that the plan is developed by a suitably experienced professional, spanning a minimum period of 10 years; the plan must be fully implemented. The land owners in question could avail themselves of such a grant.

### **3.0 Threat to Trees & Woodland**

- 3.1 In the view of the Secretary of State, a TPO should be used to protect selected trees and woodland if their removal would have a significant impact on the local environment and its enjoyment by the public. LPAs should be able to show that a reasonable degree of public benefit would accrue before the TPOs are made or confirmed. The trees or at least part of them should therefore normally be visible from a public place, such as a road or footpath, although the inclusion of other trees may be justified. The benefit may be present or future: trees may be worthy of preservation for their intrinsic beauty

or for their contribution to the landscape or because they serve to screen an eyesore, or future development: the value of trees may be enhanced by their scarcity; and the value of a group of trees or woodland maybe collective only. Other factors, such as importance as a wildlife habitat, may be taken into account which alone would not be sufficient to warrant a TPO. A tree that is dead or in a dangerous condition is exempt from a TPO.

- 3.2 With this in mind, LPAs are advised to develop ways of assessing the 'amenity value' of trees in a structured and consistent way, taking into account the visibility of trees or woodland from a public vantage point: the individual impact of a tree or the collective impact of a group or woodland: in addition to the wider impact of trees, their significance to their local surroundings taking into account their suitability to their particular setting, as well as the presence of other trees in the vicinity.
- 3.3 Expediency must also be assessed. The Secretary of State considers that it may be expedient to make a TPO, if the LPA believe there is a risk of the tree or woodland being cut down or pruned in ways which would have a significant impact on the amenity of the area. Importantly, it is not necessary for the risk to be immediate. In some cases the LPA may believe that certain trees are at risk from development pressures. The LPA may have some other reason to believe that trees are at risk: changes in property ownership are widely recognised as potential threats to trees and woodlands, particularly as intentions to fell trees are not always known in advance, and so the protection of selected trees by a precautionary TPO might be considered expedient.
- 3.4 The change in land ownership is recognised by the Secretary of State as a threat to trees and woodlands. Different regimes of management, the absence of a long term, all-encompassing woodland management plan, and potential threat of future development pressure from a change of use of land and changes in ownership, all represent threats to existing trees and woodlands. Any one of these factors has the potential to result in a fragmentation and gradual erosion of this very important area of woodland: trees and woodland that are important in their own right, but significantly are also important for their cohesion and contribution to a much larger woodland area that extends beyond the curtilage of three properties identified. Collectively the trees in question make a significant contribution to the character and appearance of the wider locality, and AONB. Trees and woodland within the site that are seen and enjoyed from the wider public domain, including the public highway, and public footpaths within the SSSI site, 'Jack Scout'.
- 3.5 Following a site visit, concerns were raised by a council officer with regard to potential threats to trees within the Ridgeway Park site. This visit was undertaken in relation to a planning application. The application proposed the removal of three planning conditions affecting an earlier planning consent which restricted the use of two dwellings to that of holiday lets. Removal of the conditions would in effect have created "three open market permanent dwellings". This application was later withdrawn, after the TPO had been served.
- 3.6 In addition, the visiting officer noted that a relatively large number of trees had been recently felled from within the wider Ridgeway Park estate. The reason for their removal was unclear at that time.

- 3.7 There is no current long term management plan for trees and woodland across the wider Ridgeway Park estate.

#### **4.0 Assessment**

- 4.1 A copy of my initial report is available at **appendix 2**.
- 4.2 An aerial photograph detailing the composition and extent of trees within the site and wider locality has been included at **appendix 3**.
- 4.3 An initial assessment included a desk top study, aerial photographs and assessment of the amenity value of the woodland trees upon the wider AONB and public domain. Lancaster City Council considered it expedient in the interest of amenity to make trees and woodland within the Ridgeway Park estate the subject of Provisional TPO No. 544 (2015), in effect preventing the lopping, topping, felling, uprooting and otherwise damaging of trees and woodland within this biologically sensitive and historically important site without written authorisation of the local authority. A provisional order has a maximum term of 6 months from the date it is made.
- 4.4 A copy of the Tree Evaluation Method for Preservation Orders (TEMPO) is available at **appendix 4**. A cumulative score of 22 was achieved, indicating that at the time of the initial assessment the trees in question “Definitely Merit” protection within a TPO.
- 4.5 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.
- 4.6 In addition to their amenity value, the woodland trees are an important resource for wildlife providing essential habitat and foraging opportunities, including significant potential to provide important resources for protected species, such as nesting birds and bats, both of which are protected under the Wildlife & Countryside Act 1981.
- 4.7 Since the original TEMPO assessment was completed, Lancaster City Council has been able to confirm that trees felled within the wider Ridgeway Park estate, namely that of The Sun House, were removed as part of a Felling Licence granted by the Forestry Commission, earlier in 2014. Lancaster City Council is a statutory consultee on such matters, and was advised of the application to fell trees: no objection was raised by the Council to the application, given that the work had been planned and detailed within an acceptable, though short term, woodland management plan, agreed by the FC. However a period of 5 years is too short a period for the effective long term management of important woodland areas, such as those in question. The plan was limited to a relatively small area of land associated with The Sun House, and excluded woodland within Ridgeway Hall and the Mawson Garden and summerhouse. The FC actively encourage landowners to develop and implement long term, woodland management plans for their woodland areas through the provision of grants, and actively support smaller

land owners in making joint applications, in order to access otherwise inaccessible grants.

- 4.8 A revised TEMPO assessment to account for the work undertaken in compliance with the Felling Licence, i.e. reduced level of threat from 'Known' to 'Precautionary,' results in a cumulative score of 18, and no change in the outcome of the assessment, with the final score remaining within the category of "Definitely Merits" a TPO.
- 4.9 The outcome of the TEMPO assessment remains unchanged, because of the overriding high amenity value of the trees and woodland within the site, which includes their condition, remaining useful life potential, and visual impact upon the wider locality and public domain, along with clearly recognised factors have the potential to threaten trees now and or in the future. In the absence of a TPO, trees and woodland could be removed without advanced notice.

## **5.0 Tree Preservation Order no.544 (2015)**

- 5.1 Tree Preservation Order no. 544 (2015) was made on 2<sup>nd</sup> February 2015 following concerns with regard to the threat to existing trees and woodland that make a significant contribution to the amenity of the immediate and wider locality.
- 5.2 An administration error was identified within the original document. This was rectified and an amended order was re-issued to all parties, dated 25<sup>th</sup> February 2015.
- 5.3 Trees and woodland were identified in the order with an 'Area' designation. This designation is generally used to encompass all trees within any given site, identified in this instance as an area marked 'A1', detailed on the TPO plan. It is the Secretary of State's view that an 'Area' designation is used in an emergency and then only as a temporary measure until the trees in the 'Area' can be assessed properly and reclassified.
- 5.4 It is now appropriate, in line with Government advice, to reclassify the designation of the trees subject of TPO 544 (2015). A woodland designation is appropriate and would affect the majority of trees within the wider site. In effect, a woodland designation protects existing trees and importantly, also subsequent generations, which are essential to the long term sustainability of woodland areas such as this.
- 5.5 Trees that are established within the formal area of the Mawson Garden could reasonably be excluded from this woodland designation, given that their management requirement is significantly different from that of the overall management of the wider woodland. This is however, a matter for the committee to consider accordingly. Exclusion from the woodland designation in this way would, in effect, remove the existing requirement of the land owner to seek authorisation from the local authority for the management of the formal elements of the Mawson Garden only. This area would, however, benefit from the development and implementation of a long term, formalised management plan.

## **6.0 Objections to TPO No. 544 (2015)**

- 6.1 Lancaster City Council has received letters of objection to Tree Preservation Order no.544 (2015) from three respective land owners.
- 6.2 Two letters of objection were received from Mr and Mrs Stubbs, Ridgeway Hall, dated 3rd March 2015 and 9<sup>th</sup> March 2015 (**appendices 5 & 6** respectively). A copy of Lancaster City Council's response to this objection, dated 9<sup>th</sup> April 2015, is available at **appendix 7**.
- 6.3 A letter of objection was received from Roger Aitken and Alison McCleod, The Sun House, dated 6<sup>th</sup> March 2015. A copy of this letter and the Council's response dated 9<sup>th</sup> April 2015 are available at **appendices 8 & 9** respectively.
- 6.4 A letter of objection was received from Mr Smith, Mawson Garden and summerhouse, dated 11<sup>th</sup> March 2015. A copy of this letter and the Council's response dated 9<sup>th</sup> April 2015 are available at **appendices 10 & 11** respectively.
- 6.5 Objections received relate to concerns that a TPO could hinder or obstruct work to restore the historic garden, or prevent or obstruct management of the existing woodland; that there is no existing threat to trees and woodland within the site and that the amenity value of the trees and woodland are overstated by the LPA.
- 6.6 Trees that are dead or dead wood contained within the canopies of protected trees are exempt from the controls of a TPO. As such, authorisation is not required from the local authority to fell dead trees or to remove dead branches from protected trees.
- 6.7 There is no cost associated with making an application to undertake works to a protected tree. However, any work granted would be required to be undertaken by a 'competent' individual, to current standards of best practice in the interest of 'good arboriculture practice'. This is not necessarily a requirement for the work to be carried out by a professional person.
- 6.8 The requirement to make repeated applications for works to protected trees or for their long term management can be significantly diminished through agreement with the local authority and, where required, also the Forestry Commission. This is particularly relevant to trees managed in specific ways, such as 'pollarded trees', 'coppiced trees', or for the management of non-commercial fruit trees. Agreement of a long term management plan is particularly useful with this regard. This reduces any perceived burden to tree owners/managers.
- 6.9 Whilst a short term, 5 year management plan is useful, it is limited and cannot set or achieve long term goals effectively. A long term management plan, spanning a minimum of 10 years is advisable in terms of managing woodland trees and important historic gardens, such as those in question. In the absence of any such plan and agreement, a TPO ensures the long term protection of important trees and woodlands that may otherwise be at risk of fragmentation and gradual erosion.
- 6.10 The Forestry Commission support a planned approach to the management of woodlands. They offer a contribution of £1000.00 to landowners to develop a

professional management plan for woodland trees under their control for sites which are of 3 hectares or greater. Whilst two of the three properties within the wider Ridgeway Park site are, on their own, too small to benefit directly from this scheme, a combination of land for the purpose of an application would mean that all three landowners could benefit from a grant to develop a professional 10 year, management plan for the whole site. This would include individual elements relating to the specific needs of each area.

## **7.0 Decision to Serve TPO No. 544 (2015)**

7.1 Lancaster City Council considers it expedient in the interests of amenity to make provision for the preservation of woodland trees identified as **(A1)** under sections 198, 201 and 203 of the Town & Country Planning Act 1990.

Lancaster City Council cite the following reasons.

- important visual amenity shared from the public domain;
- significant contribution to the character and appearance of the immediate locality and wider Area of Outstanding Natural Beauty;
- significant potential to provide important habitat and resources for a range of protected and unprotected wildlife communities;
- potential threat from removal or inappropriate management particularly in the absence of an agreed long term management approach.

The trees in question have sufficient amenity value and importance within the landscape to justify their protection with TPO No.544 (2015).

7.2 It would be appropriate to reclassify the designation of protected trees from an 'Area' to 'Woodland' (W1), excluding specimen trees, and groups of trees established within the formal areas of the Mawson Garden. A suggested modification has been shown on the plan detailed at **appendix 12**.

7.3 As such, Lancaster City Council recommends that TPO No. 544 (2015) be confirmed with modification to reclassify A1 as W1 and exclude the formal areas of the Mawson Garden.

**NB:** It should be noted that a tree preservation order does not prevent works being undertaken that are appropriate and reasonable and in the interest of good arboriculture practice and in compliance to current standard of practice BS 3998 (2010) Tree Work. Trees that are dead or dead branches within the canopy are exempt from protection within the terms of a tree preservation order.

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On behalf of Lancaster City Council