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Appeals Committee (TPO)

Trees subject of the Appeals Committee – Two mature trees established within the curtilage of Shenstone, The Green, Over Kellet, subject of **Tree Preservation Order no. 555 (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 two mature trees established within the rear garden area of a private dwelling, Shenstone, The Green, Over Kellet. One valid objection was received in writing 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. 555 (2015) is available at **appendix 1**.

2.0 Background

2.1 The property in question lies within the village of Over Kellet and within the local Conservation Area (CA). A conservation area provides legal protection for all trees that have attained a stem diameter of 75mm or greater when measured at 1.5m above ground level. It is an offence to lop, top, fell, uproot or otherwise damage any such tree(s) without first making a formal written notification to the local planning authority, known as a section 211 notice, and providing a minimum period of 6 weeks prior to undertaking the intended works; with the exception of felling a dead tree or removing deadwood, both of which are exempt from this requirement.

2.2 The current owner of the property, Mr Maguire, submitted a Section 211 notice to the Council, referenced as no.15/0105/TCA, detailing an intention to fell two, large, mature sycamore trees growing within the rear garden. The

reason cited for their removal related to the shading effect that their canopies generated when in leaf. There was no other arboriculture reason cited in support of the removal of both trees.

2.3 The rear of the property has in recent times undergone significant redevelopment with the conversion of an existing barn and erection of a two storey extension; planning permission was granted, dated 08.04.2011. As part of the redevelopment a total of x6 trees were agreed for removal by Lancaster City Council; x5 of the six trees were to be removed for reasons in the interests of good arboriculture practice and x1 in order to accommodate the proposed development; all of these trees have been removed and the development completed. The development in effect brought the living space closer to the trees. Those remaining trees, including the two sycamore in question, were agreed to be retained within the context of the development because of their important amenity value, protected under the conservation area constraints. Trees within the rear garden were recognised then and still now for their important contribution in terms of amenity and wildlife value, both to the site and, importantly, also that of the wider public domain and conservation area.

2.4 The two trees in question are important individual trees in their own right. However, they also make important links to other similar aged and sized trees within the property and significantly, also that of the wider conservation area. Whilst conservation areas are primarily established around buildings and landscapes of historic and architectural importance, trees are also recognised for their important contribution to a great many conservation areas, not only in terms of their physical presence, but also their visual amenity and the important resource that they represent for a range of wildlife. The older and larger a tree becomes the greater the potential resource for wildlife, including protected species, such as nesting birds and bats, not only in the provision of habitat, but also as a feeding and foraging resource. Nesting birds and bats are protected under the Wildlife & Countryside Act (as amended 2010).

2.5 Trees have an integral role in the mitigation and adaptation to a climate that is currently set to change significantly by 2050, a minimum temperature rise of 2 degrees is set to occur. Whilst trees themselves cannot reverse this trend, they are recognised for their important role in contributing in part to mitigating climate change, but importantly, also supporting communities in their adaptation to the future changes. The value of such large mature trees is immense. Each tree has been responsible for the capture and storage of tonnes of carbon during the course of their lives so far. When a tree is felled for whatever reason, the process of releasing this stored carbon begins and its role in capturing carbon dioxide from the atmosphere and its ability to store carbon in its woody structures is permanently lost. Whilst the loss of such trees is one day inevitable, it is essential that trees are retained in good, health and vitality for as long as is reasonably possible, in order to maximise their benefits in this essential local and global role. Both trees have long periods of useful remaining life potential.

3.0 Threat to Trees

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 may be 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 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. We understand that following redevelopment of the property it was sold and bought by the current owners and appellants.

4. Assessment

- 4.1 A copy of my initial report is available at **appendix 2**.
- 4.2 In line with the majority of local authorities across the country, Lancaster City Council has adopted the use of a Tree Evaluation Method for Preservation Orders (TEMPO) to demonstrate the main areas of consideration when assessing trees or woodland for protection with 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 assessment, culminating in a final total score and outcome indicator. It should be noted that the TEMPO system is simply a tool and not the decision making process.
- 4.3 A copy of the Tree Evaluation Method for Preservation Orders (TEMPO) is available at **appendix 3**. 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.

- 4.4 The two trees have been identified as **T1** and **T2**, in line with TPO 555 (2015). Both trees are large, mature sycamore trees, free from significant pest and disease and structural defect. They are estimated to be in excess 100 years old, their age may in fact be closer to 150+ years. Both offer many decades of useful remaining life potential, amenity and wildlife value. Sycamore have the potential to live in excess of 250 years, if well managed. They are a resilient and valued species, believed to have been introduced to the British Isles over 400 years ago, an alternative schools of thought believes that sycamore are in fact a native species to Britain. As such, sycamore have become a well established and important species nationally.
- 4.5 It is accepted that large leafed, large canopy trees, such as sycamore, generate a shading effect when in leaf; usually from the months of April to October, dependent upon local weather and environmental conditions. This should in part to be recognised and accepted where such trees pre-exist.
- 4.6 Whilst Lancaster City Council welcomes applications to undertake works to protected trees, including pruning works to thin or reduce the canopies of trees. It is however important that expectations are realistic. Trees are dynamic living organisms and as such must be managed within current standards of best practice, in order that any work undertaken does not have the potential to adversely impact upon tree health, vitality, stability, long term sustainability and as a result amenity value. Trees will make adaptations in growth to meet their own requirements for energy and ultimately survival. Pruning works to reduce shading will have only limited benefits in the short term, an affected tree will generate new growth which will in time fill any gaps created by running events.

5.0 Tree Preservation Order no.555 (2015)

- 5.1 Tree Preservation Order no. 555 (2015) was made on 3rd September 2015 following the Council's objection to the removal of two mature sycamore trees, subject of a section 211 Notification no. 15/0105/TCA. Both trees were found to be free from significant pests, disease and structural defects to otherwise justify their removal. Both trees are considered to have important public amenity and wildlife value to justify their ongoing retention and protection.
- 5.2 The trees in question can be seen as sky line trees and also between neighbouring properties all from the wider public domain. It is evident that their presence has an impact beyond the curtilage of the property, refer to **appendix 4**.
- 5.3 The removal of **T1** & **T2** would have a detrimental and lasting impact upon the wider locality, existing tree cover within this section of the conservation area, and have significant potential to adversely impact upon wildlife communities, including protected species, such as nesting birds and bats, with a loss of habitat, nesting and foraging opportunities.

6.0 Objections to TPO no. 555 (2015)

- 6.1 Lancaster City Council received a letter of objection to Tree Preservation Order no. 555 (2015) from the property owner, and appellant Mr Paul Maguire, dated 25.09.15 (**appendix 5**).
- 6.2 A copy of Lancaster City Council's response to this objection, dated 16.11.15, is available at **appendix 6**.

7.0 Decision to Serve TPO no. 555 (2015)

- 7.1 Lancaster City Council considers it expedient in the interests of amenity to make provision for the preservation of two mature sycamore trees identified as **T1 & T2** under sections 198, 201 and 203 of the Town & Country Planning Act 1990 and to confirm TPO no. 555. (2015) without modification.

Lancaster City Council cites the following reasons.

- important mature trees that have a visual impact upon the property and wider locality and conservation area;
- have visual links with other similar sized and aged trees within the wider locality, forming important wildlife corridors, habitat and foraging opportunities for a range of wildlife including protected species such as nesting birds and bats;
- Their loss has significant potential to adversely impact upon the character and appearance of the site and wider locality and conservation area;
- Their loss has the potential to adversely impact upon wildlife communities;
- Both trees are healthy mature trees under direct threat from removal.

The trees in question have sufficient amenity value and importance within the landscape to justify their protection with TPO no. 555 (2015).

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On behalf of Lancaster City Council