



Committee: APPEALS COMMITTEE
Date: WEDNESDAY, 10 DECEMBER 2008
Venue: LANCASTER TOWN HALL
Time: 1.00 P.M.

Please note that site visits will take place prior to commencement of the meeting.
The coach will depart Lancaster Town Hall at 1.00 p.m.

A G E N D A

1. **Apologies for Absence**
2. **Minutes**
Minutes of the Meeting held on 22nd July 2008 (previously circulated)
3. **Items of urgent business authorised by the Chairman**
4. **Declarations of Interest**

MATTERS FOR DECISION:

5. **Tree Preservation Order No. 443 (2008): Tree Established Within the Curtilage of Abbeyfield, Cove Road, Silverdale (Pages 1 - 35)**
6. **Tree Preservation Order No. 445 (2008): Tree Established to the Front of 27 Belle Vue Terrace, Greaves Road, Lancaster (Pages 36 - 56)**

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Sheila Denwood (Chairman), Helen Helme (Vice-Chairman), Chris Coates, Janice Hanson, David Kerr, Janie Kirkman and Bob Roe

(ii) Substitute Membership

Councillors John Barnes, Shirley Burns, John Gilbert, Karen Leytham, Ian McCulloch and Roger Sherlock

(iii) Queries regarding this Agenda

Please contact Sharon Marsh, Democratic Services - telephone (01524) 582096 or email smarsh@lancaster.gov.uk.

(iv) Changes to Membership, substitutions or apologies

Please contact Members' Secretary, telephone 582170, or alternatively email memberservices@lancaster.gov.uk.

MARK CULLINAN,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER LA1 1PJ

Published on Wednesday 26th November 2008

APPEALS COMMITTEE**TREE PRESERVATION ORDER NO. 443 (2008):
TREE ESTABLISHED WITHIN THE CURTILAGE OF
ABBEYFIELD, COVE ROAD, SILVERDALE****10th DECEMBER 2008****REPORT OF HEAD OF DEMOCRATIC SERVICES****PURPOSE OF REPORT**

To enable Members to consider the objection received to Tree Preservation Order No. 443 (2008): tree established within the curtilage of Abbeyfield, Cove Road, Silverdale.

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 5 of Schedule 12A of the Local Government Act 1972).

RECOMMENDATIONS

That Members consider the objection to Tree Preservation Order No. 443 (2008): tree established within the curtilage of Abbeyfield, Cove Road, Silverdale.

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 1999, an objection has been received to Tree Preservation Order No. 443 (2008), which has been made in relation to two groups identified as G1 – G2 and two large areas A1 – A2 on land within the curtilage of Abbeyfield, Cove Road, 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 3 to 5).

Appended to the report are:

- Appendix 1 – *Copy of the original Tree Preservation Order No. 443 (pages 7 to 23);*
- Appendix 2 – *Tree Evaluation Method for Preservation Orders (TEMPO) (page 25)*
- Appendix 3 – *Correspondence and Objections in relation to Tree Preservation Order No. 443 (pages 27 – 35)*

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. 443 (2008).

3.0 Details of Consultation

3.1 There has not been any consultation at this stage.

4.0 Options

4.1 The Options are:

- (1) To confirm Tree Preservation Order No. 443 (2008)
 - (a) Without modification
 - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 443 (2008)

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. 443 (2008).

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Not applicable.

FINANCIAL IMPLICATIONS

Not applicable.

LEGAL IMPLICATIONS

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

BACKGROUND PAPERS	Contact Officer: Sharon Marsh
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Tree Preservation Order No. 443 (2008)

Telephone: 01524 582096
E-mail: smarsh@lancaster.gov.uk
Ref: SM/TPO445

Contact: Planning Services
Telephone: 01524 582381
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Website: www.lancaster.gov.uk

Planning Services
Maxine Knagg
Tree Protection Officer

Palatine Hall
Dalton Square
LANCASTER LA1 1PW

Date: 7th November 2008

Appeals Committee (TPO)

Trees subject of the Appeals Committee – established within the curtilage of Abbeyfield, Cove Road, Silverdale and subject of Tree Preservation Order no.443 (2008).

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

1.0 Introduction

- 1.1 Site: The trees in question are established within the curtilage of Abbeyfield Silverdale & District Society Ltd, Cove Road, Silverdale.
- 1.2 Scope and limitation of this report: This is an arboriculture report restricted to only those trees subject of the Appeals Committee. The information provided within this report has been gathered by means of a preliminary visual tree assessment restricted to ground level observations and inspection at the time of the site visit. A systematic and objective appraisal of the amenity value of the trees has been undertaken using the Tree Evaluation Method for Preservation Orders (TEMPO). It should be noted that trees are dynamic, living organisms subject to changes in weather, climate, pest and disease, development activities and site conditions.

2.0 Site Visit

- 2.1 Date: Undertaken 23rd July 2008.

- 2.2 Brief Site Description: The property in question is established on the outskirts of the village centre of Silverdale within an area recognised for its outstanding natural beauty. The property is a care facility that benefits from extensive tree cover around all boundaries and within the site around buildings and car park facilities. The tree population is diverse in terms of species and age classification, there are important individual trees within the site and collectively the trees are an important component of the AONB. Trees are clearly visible from a number of neighbouring residential properties, public highway and public footpath including the foreshore area.
- 2.3 Lancaster City Council has received a planning application to develop the site with an additional 14 care units; a significant number of trees are under threat from direct removal and/or from damage during any future development of the site. Prior to serving the tree preservation order the trees were unprotected and vulnerable to removal.

3.0 Identification and condition of the trees

- 3.1 The trees have been identified in two groups **G1-G2** and two large areas **A1-A2**. **G1** is a group of mixed species trees including maple, beech, yew, horse chestnut and lime; **G2** includes 2x lime and a purple beech tree. **A1** and **A2** include a large number of mixed species evergreen and deciduous trees all are the subjects of Tree Preservation Order no. 443 (2008) (Appendix 1).
- 3.2 Generally the trees within the site are of a mixed age classification and are of a good to average condition. Trees established in areas exposed to strong, salt laden winds associated with coastal areas do exhibit some signs of wind and salt damage, however this does not adversely affect the amenity or life potential of affected trees.
- 3.3 The trees are under threat from the proposed development of the site. The planning application relating to the site will be considered as a separate planning matter from the tree preservation order.

4.0 Tree Preservation Order

- 4.1 The amenity value of trees within the site have been assessed using an objective and systematic approach (Tree Evaluation Method for Preservation Orders - TEMPO system). A score of 15+ was achieved supporting the action of serving a Tree Preservation Order (Appendix 3).

4.2 Trees within **G1-G2**, and **A1-A2** make a significant contribution to the character of the AONB and make an important contribution to local public amenity.

4.3 Lancaster City Council considers it expedient in the interests of amenity to make provision for the preservation of the groups of trees in question under sections 198, 201 and 203 of the Town & Country Planning Act 1990. Lancaster City Council cite the following reasons:

- important contribution to the character of the AONB
- provide screening, greening and privacy
- contribute to local amenity
- important wildlife resource
- under threat of removal/damage from future site development

As an officer acting on behalf of Lancaster City Council it is my view the trees in question have sufficient amenity value to warrant protection by serving a Tree Preservation Order.

**Maxine Knagg BSc (Hons) Arboriculture
Tree Protection Officer, Planning Services
Lancaster City Council**

Appendix No. 1

Tree Preservation Order No. 443 (2008)

CITY COUNCIL OF LANCASTER
TREE PRESERVATION ORDER NO. 443 (2008)

---ooOoo---

I hereby certify that this is a true copy of the original order.

A.M. Kendin ~~6/8/08~~

RELATING TO TREES LOCATED AT

ABBAYFIELD
COVE ROAD
SILVERDALE

TOWN HALL
LANCASTER
LA1 1PJ

The City Council of Lancaster, in exercise of the powers conferred on them by sections 198, [201] and 203 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. 443) 2008

Interpretation

2. This Order "the authority" means the (Lancaster City Council) and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on (7 August 2008).

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) [or subsection (3) of section 200 (orders affecting land where Forestry Commissioners interested)], and subject to article 5, no person shall:-
 - (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of, any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

5. (1) Nothing in article 4 shall prevent:-
 - (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary:-
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;

- (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
- (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph(a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
- (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
- (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or
- (g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.

(2) In paragraph (1), "statutory undertaker" means any of the following:-

a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,

a relevant airport operator (within the meaning of Part V of the Airports Act 1986, the holder of a licence under section 6 of the Electricity Act 1989, a public gas transporter,

the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,

a water or sewerage undertaker,

the Civil Aviation Authority or a body acting on behalf of that Authority,

the Post Office,

Applications for consent under the Order

6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall:-
- (a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
 - (b) specify the work for which consent is sought; and
 - (c) contain a statement of the applicant's reasons for making the application

Application of provisions of the Town and Country Planning Act 1990

7. (1) The provision of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part 1 of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).
- (2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting

8. (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.
- (2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.
- (3) a direction under paragraph (1) may include requirements as to:-
 - (a) species;
 - (b) number of trees per hectare;
 - (c) the preparation of the relevant land prior to the replanting; and
 - (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9. (1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of:-
 - (a) the refusal of any consent required under this Order; or
 - (b) the grant of any such consent subject to conditions,he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.
- (2) No claim, other than a claim made under paragraph (3), may be made under this article:-
 - (a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
 - (b) if the amount in respect of which the claim would otherwise have been made is less than £500.
- (3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.
- (4) In any other case, no compensation shall be payable to a person:-
 - (a) for loss of development value or other diminution in the value of the land;
 - (b) for loss or damage which, having regard to the statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
 - (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
 - (d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10(application for felling licence and decision of Commissioners thereon) of that Act as if or any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article:-

"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

"owner" has the meaning given to it by section 34 of the Forestry Act 1967.

Applications to trees to be planted pursuant to a condition

10 In relation to the tree(s) identified in the first column of Schedule 1 by the letter "C", being [a tree] [trees] to be planted pursuant to a condition (being 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 [that tree is planted] [those trees are planted]].

Orders made by virtue of section 300

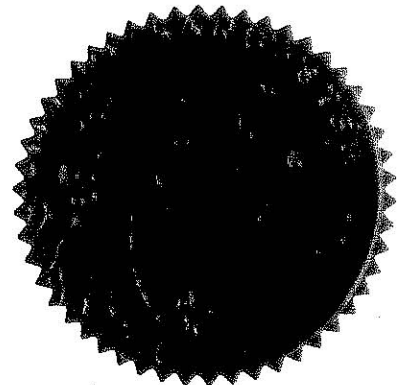
11. This Order takes effect in accordance with subsection (3) of section 300 (tree preservation orders in anticipation of disposal of Crown land).]

Dated this 6th day of August 2008

THE COMMON SEAL of)
THE CITY COUNCIL OF LANCASTER)
was hereunto affixed in the presence of:-)

P. S. Laker

Corporate Director (Community Services)



SEAL REGISTER
No: 21758

FIRST SCHEDULE

Trees Specified Individually
(encircled in black on the map)

NO. ON MAP	DESCRIPTION	SITUATION
	NONE	

Trees specified by reference to an area
(within a dotted black line on the map)

NO. ON MAP	DESCRIPTION	SITUATION
A1 and A2	Mixed species of deciduous and evergreen species	Surrounding Abbeyfield

Groups of trees
(within a broken black line on the map)

NO. ON MAP	DESCRIPTION	SITUATION
G1	Mixed species including Maple, Beech, Yew, Horse Chestnut and Lime	North East of Abbeyfield
G2	2 x Lime and 1 x Purple Beech	North of Abbeyfield

Woodlands
(within a continuous black line on the map)

NO. ON MAP	DESCRIPTION	SITUATION
	NONE	

SCHEDULE 2

PART I

Provisions of the Town and Country Planning Act 1990 applied with adaptations or modifications

<p>Provision of the Town and Country Planning Act 1990</p>	<p>Adaptation or Modification</p>
<p>Section 69 (registers)</p>	<p>(a) In subsection (1):-</p> <ul style="list-style-type: none"> (i) Omit:- "in such manner as may be prescribed by a development order," "such" in the second place where it appears, and "as may be so prescribed", and (ii) substitute "matters relevant to tree preservation orders made by the authority" for "applications for planning permission". <p>(b) In subsection (2):-</p> <ul style="list-style-type: none"> (i) after "contain" insert "as regards each such order"; and (ii) for paragraphs (a) and (b) substitute:- <ul style="list-style-type: none"> (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it". <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>
<p>Provision of the Town and Country Planning Act 1990</p>	<p>Adaptation or Modification</p>
<p>Section 70 (determination of applications: general considerations)</p>	<p>(a) In subsection (1):-</p> <ul style="list-style-type: none"> (i) substitute:- "Subject to subsections (1A) and (1B), where" for "Where"; "the authority" for "a local planning authority",

- (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority"

(b) Omit subsection (2).

(c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order".

Substitute:-

"in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served:-

(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;

(a) in respect of such a failure as is mentioned in paragraph

(b) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant".

(d) For subsection (4) substitute:-

"(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)".

(e) For subsection (5), substitute:-

"(5) For the purposes of the application of Section 79 (1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question".

Section 79 (determination of appeals)(a)

(a) In subsections (1) and (2), substitute "the authority" for the local planning authority".

(b) Omit subsection (3).

(c) In subsection (4), substitute:-

(i) "sections 70(1), (1A) and (1B)" for "sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5";

(ii) "consent under a tree preservation order" for "planning permission"; and

(iii) "the authority" for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71".

(d) Omit subsections (6) and (6A).

(e) In subsection (7), omit the words after "section 78".

PART II

**PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990
AS ADAPTED AND MODIFIED BY PART 1**

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part 1 of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

- (1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.
- (2) The register shall contain, as regards each such order:-
 - (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
 - (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.
- (3) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

- (1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order:-
 - (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
 - (b) they may refuse consent under the order.
- (1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.
- (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

Section 75

Any grant of consent under a tree preservation order shall (except insofar as the consent otherwise provides) ensure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78

- (1) Where the authority:-
 - (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
 - (a) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;
 - (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or

- (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

- (3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served:-
 - (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
 - (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.
- (4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).
- (5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

Section 79

- (1) On an appeal under section 78 the Secretary of State may:-
 - (a) allow or dismiss the appeal, or
 - (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),

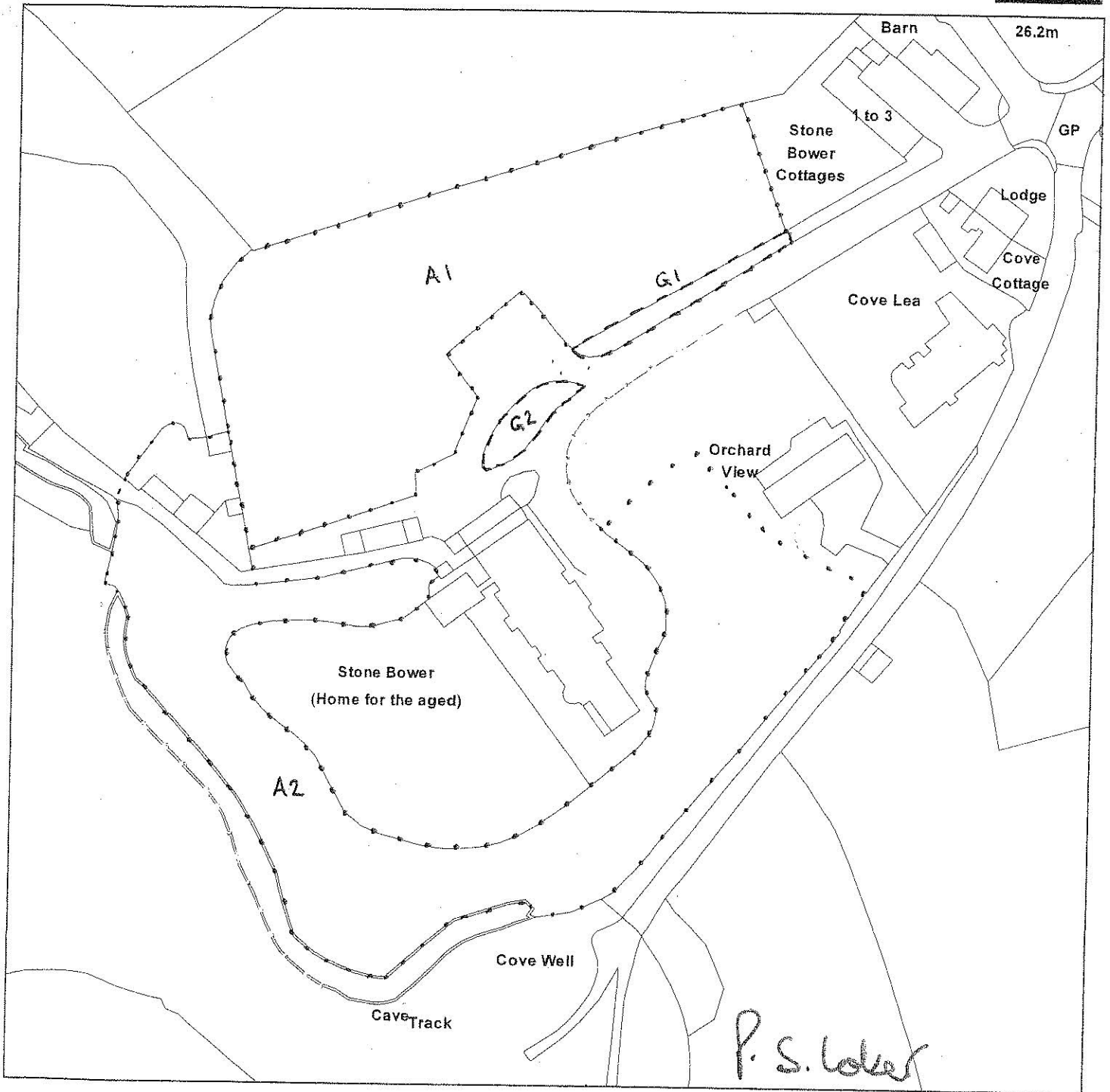
and may deal with the application as if it has been made to him in the first instance.

- (2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

- (4) Subject to condition (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.
- (5) The decision of the Secretary of State on such an appeal shall be final.
- (7) Schedule 6 applies to appeals under section 78.

TPO no.443(2008) Abbeyfield, Cove Road, Silverdale

Formerly 'Stone Bower'



Scale : 1:1250

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Organisation	Lancaster City Council
Department	Planning Services
Comments	
Date	04 August 2008
SLA Number	LA100025403

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Telephone: 01524 582381
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Website: www.lancaster.gov.uk

Planning Services
Maxine Knagg
Tree Protection Officer

Palatine Hall
Dalton Square
LANCASTER LA1 1PW

Date: 30th July 2008

Re: Proposed New Tree Preservation Order – Abbeyfield, Cove Road, Silverdale, Lancashire.

1.0 Introduction

1.1 **Site:** The trees in question are established within the curtilage of Abbeyfield, Cove Road, Silverdale.

1.2 **Scope and limitation of this report:** This is an arboriculture report restricted to the trees subject to the proposed new Tree Preservation Order. The information provided within this report has been gathered by means of a preliminary visual tree assessment restricted to ground level observations and inspection at the time of the site visit. An objective appraisal of the amenity value of the trees in question has also been undertaken using a *Tree Evaluation Method for Preservation Orders (TEMPO)*. It should be noted that trees are dynamic, living organisms subject to changes in weather, climate, pest and disease, development activities and site conditions.

2.0 Site Visit

2.1 **Date:** Undertaken 24th July 2008.

2.2 **Brief site description:** The property is established within Silverdale, an Area of Outstanding Natural Beauty and currently operates as a commercial entity providing care facilities for the elderly. The property is established off a popular residential area of the village.

2.3 **Identification and condition of the trees:** There are two groups of trees and two areas of trees identified within the order. They have been identified and referenced as **G1-G2**; and **A1-A2**.

2.4 **G1** is a group of mixed species trees, including maple, beech, yew, horse chestnut and lime, comprised of approximately 20 trees. This a large group containing many

large, landscape trees established along an existing driveway leading to the main building. This group provides significant greening, links to other groups of existing trees, is visible from the public highway and is an important wildlife resource.

- 2.5 **G2** is a group of three mature trees; 2x lime and a single purple beech tree. They are established within a small island area between to access roads.
- 2.6 **A1** and **A2** are extensive areas of mixed species deciduous and evergreen species of early-mature and mature trees. Trees established within **A2** particularly form a major component of the coastal landscape and can be seen from a coastal footpath and other private properties within the vicinity of *Abbeyfield*.
- 2.7 Concerns have been expressed locally that development of the site maybe proposed in the future. Following assessment Lancaster City Council consider the amenity value of the trees in question to be sufficient to safeguard their future by serving a Tree Preservation Order. These trees are visible to the public, provide significant greening of the area, they provide shelter from the windy, coastal climate and make a significant contribution to the control of soil erosion in this exposed area. They are an important wildlife resource and collectively provide a substantial area of relatively dense tree cover.

3.0 Tree Preservation Order

- 3.1 The amenity value of the tree in question has been assessed using an objective and systematic approach; the *Tree Evaluation Method for Tree Preservation Orders* (*TEMPO* system) has been used. A score of 15+ was accumulated, supporting the use of a Tree Preservation Order.
- 3.2 Lancaster City Council consider it expedient in the interests of amenity to make provision for the preservation of the trees in question **under sections 198 (201) and 203 of the Town & Country Planning Act 1990**. Lancaster City Council cite the following reasons:
- The trees are prominent landscape features, many are visible to the public, providing important visual amenity.
 - Provide links to other groups of trees within the area.
 - Important local wildlife resource.
 - Perceived threat from possible development of the site in the future.

4.0 Recommendation

- 4.1 Serve a Tree Preservation Order **under sections 198 (201) and 203 of the Town & Country Planning Act 1990**.

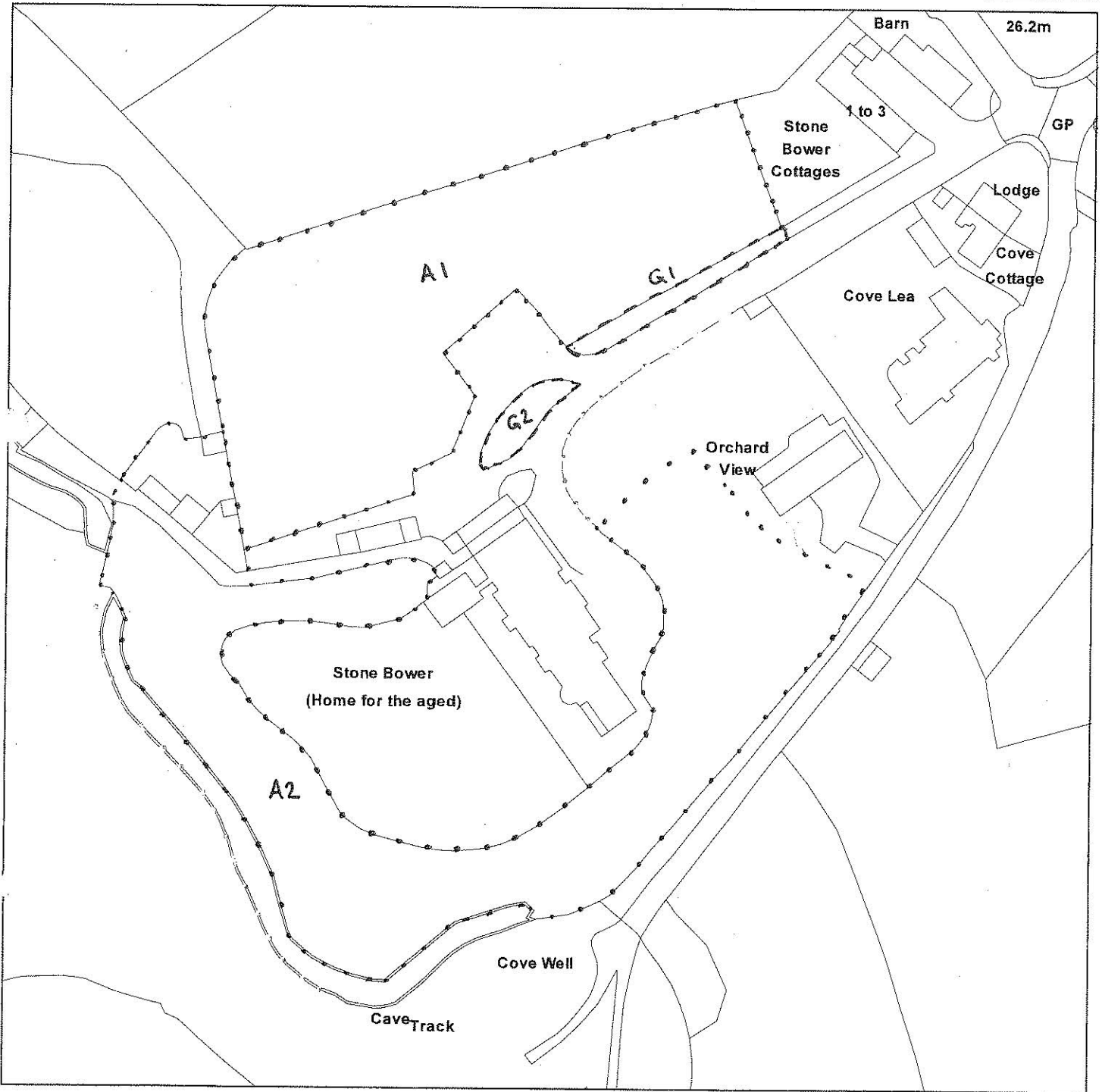
Maxine Knagg
Tree Protection Officer
Lancaster City Council

TPO no.443(2008) Abbeyfield, Cove Road, Silverdale

Formerly 'Stone Bower'



GIS by ESRI (UK)



Scale : 1:1250

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Organisation	Lancaster City Council
Department	Planning Services
Comments	
Date	04 August 2008
SLA Number	LA100025403

TPO no.443(2008) Abbeyfield, Cove Road, Silverdale

Formerly 'Stone Bower'



GIS by ESRI (UK)



Scale : 1:1250

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Produced using ESRI (UK)'s MapExplorer 2.0 - <http://www.esriuk.com>

Organisation	Lancaster City Council
Department	Planning Services
Comments	
Date	04 August 2008
SLA Number	LA100025403

Appendix No. 2

Tree Evaluation Method for Preservation Orders (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 23/7/08	Surveyor: M. Knags
Tree details 443(2008)	Mixed deciduous
TPO Ref: 440(Tree/Group No: G1-G2
Owner (if known): 'Abbeyfield'	Species: mixed evergreen
Location: Cave Road, Silverdale A1-A2	

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

Score & Notes	5
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b) Remaining longevity (in years) & suitability for TPO:

Refer to 'Species Guide' section in Guidance Note

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10 Unsuitable

Score & Notes	Many trees have remaining longevity 700yrs.	4
---------------	---	---

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

Score & Notes	3
Notes	View Public Footpat Limited Public Highway

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

Score & Notes	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

Score & Notes	2
Notes	Report by local possible development of site in future.

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

Add Scores for Total:	15
-----------------------	----

Decision:	Save TPO.
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APPEALS COMMITTEE**TREE PRESERVATION ORDER NO. 445 (2008):
TREE ESTABLISHED TO THE FRONT OF
27 BELLE VUE TERRACE, GREAVES ROAD,
LANCASTER****10th DECEMBER 2008****REPORT OF HEAD OF DEMOCRATIC SERVICES****PURPOSE OF REPORT**

To enable Members to consider the objection received to Tree Preservation Order No. 445 (2008): tree established to the front of 27 Belle Vue Terrace, Greaves Road, Lancaster.

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 5 of Schedule 12A of the Local Government Act 1972).

RECOMMENDATIONS

That Members consider the objection to Tree Preservation Order No. 445 (2008): tree established to the front of 27 Belle Vue Terrace, Greaves Road, Lancaster.

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 1999, an objection has been received to Tree Preservation Order No. 445 (2008), which has been made in relation to a silver birch tree in the front garden of 27 Belle Vue Terrace, Greaves Road identified as T1.
- 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 38 to 39).

Appended to the report are:

- Appendix 1 – *Copy of the original Tree Preservation Order No. 445 (pages 41 to 46)*;
- Appendix 2 – *Tree Evaluation Method for Preservation Orders (TEMPO) (page 48)*
- Appendix 3 – *Correspondence and objections in relation to Tree Preservation Order No. 445 (pages 50 to 53)*
- Appendix 4 – *Conservation Order Notice to Fell (Pages 55 to 56)*

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. 445 (2008).

3.0 Details of Consultation

3.1 There has not been any consultation at this stage.

4.0 Options

4.1 The Options are:

- (1) To confirm Tree Preservation Order No. 445 (2008)
 - (a) Without modification
 - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 445 (2008)

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. 445 (2008).

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

Not applicable.

FINANCIAL IMPLICATIONS

Not applicable.

LEGAL IMPLICATIONS

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

BACKGROUND PAPERS

Tree Preservation Order No. 445 (2008)

Contact Officer: Sharon Marsh

Telephone: 01524 582096

E-mail: smarsh@lancaster.gov.uk

Ref: SM/TPO445

Contact: Planning Services
Telephone: 01524 582381
FAX: 01524 582323
Email: mknagg@lancaster.gov.uk
Website: www.lancaster.gov.uk

Planning Services
Maxine Knagg
Tree Protection Officer

Palatine Hall
Dalton Square
LANCASTER LA1 1PW

Date: 7th November 2008

Appeals Committee (TPO)

Tree subject of the Appeals Committee – established to the front of 27 Belle Vue Terrace, Greaves Road, Lancaster and subject of Tree Preservation Order no.445 (2008).

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

1.0 Introduction

- 1.1 Site: The tree in question is established within the curtilage of 27 Belle Vue Terrace, Greaves Road, Lancaster.
- 1.2 Scope and limitation of this report: This is an arboriculture report restricted to only those trees subject of the Appeals Committee. The information provided within this report has been gathered by means of a preliminary visual tree assessment restricted to ground level observations and inspection at the time of the site visit. A systematic and objective appraisal of the amenity value of the trees has been undertaken using the Tree Evaluation Method for Preservation Orders (TEMPO). It should be noted that trees are dynamic, living organisms subject to changes in weather, climate, pest and disease, development activities and site conditions.

2.0 Site Visit

- 2.1 Date: Undertaken 27th September 2008.

4.3 Lancaster City Council considers it expedient in the interests of amenity to make provision for the preservation of the groups of trees in question under sections 198, 201 and 203 of the Town & Country Planning Act 1990. Lancaster City Council cite the following reasons:

- important contribution to local public amenity
- under threat from removal

As an officer acting on behalf of Lancaster City Council it is my view that removal of this tree would have a detrimental impact on the amenity value of the local area and as such T1 – silver birch should be afforded protection by serving a Tree Preservation Order.

**Maxine Knagg BSc (Hons) Arboriculture
Tree Protection Officer, Planning Services
Lancaster City Council**

Appendix No. 1

Tree Preservation Order No. 445 (2008)

CITY COUNCIL OF LANCASTER
TREE PRESERVATION ORDER NO. 445 (2008)

---ooOoo---

I hereby certify that this is a true copy of
the original order.

A.M. Kerchington 24/9/08

RELATING TO TREES LOCATED AT
27 BELLE VUE TERRACE

TOWN HALL
LANCASTER
LA1 1PJ

FIRST SCHEDULE

Trees Specified Individually
(encircled in black on the map)

NO. ON MAP	DESCRIPTION	SITUATION
T1	Mature Silver Birch	Within front garden

Trees specified by reference to an area
(within a dotted black line on the map)

NO. ON MAP	DESCRIPTION	SITUATION
	NONE	

Groups of trees
(within a broken black line on the map)

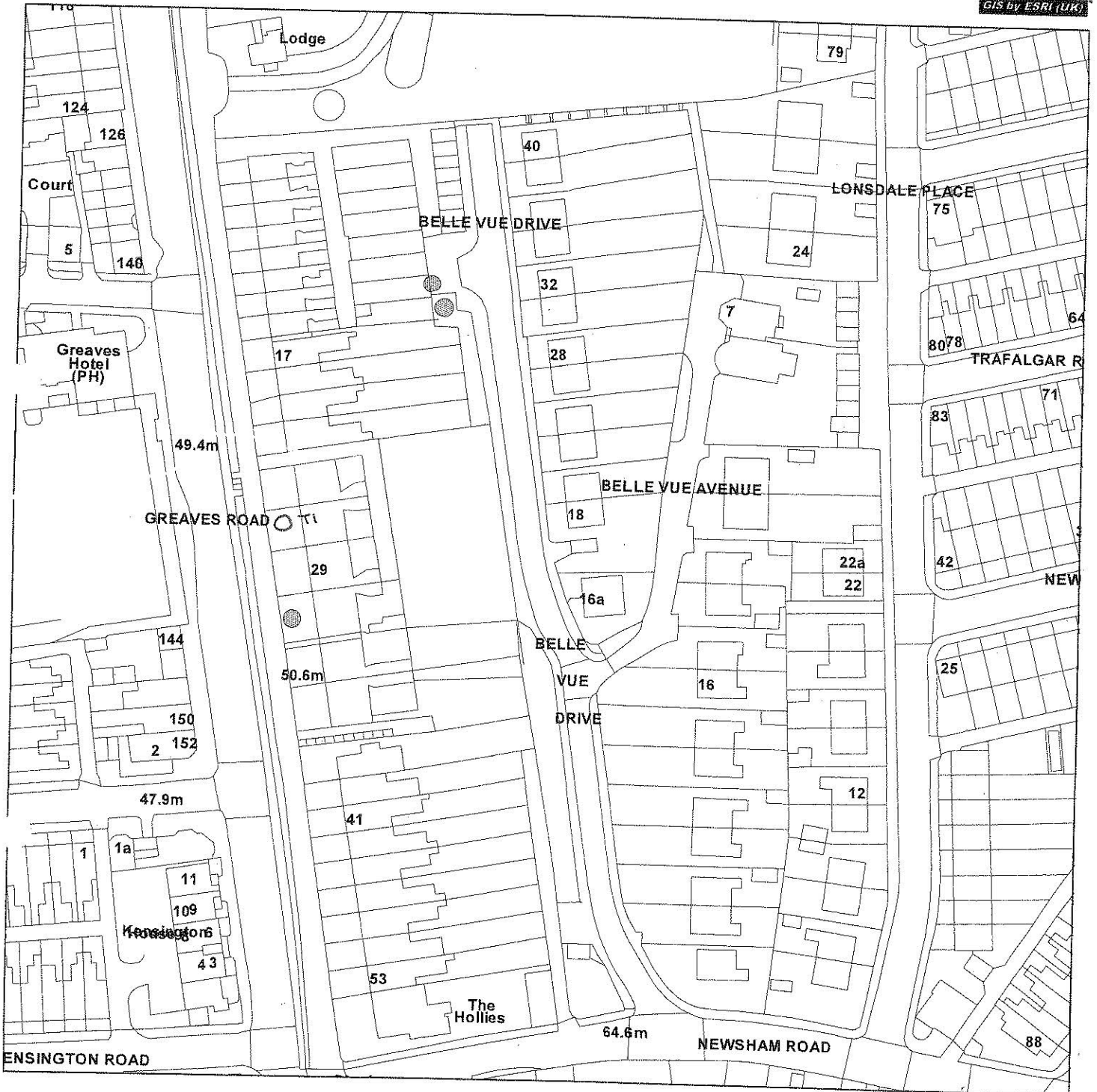
NO. ON MAP	DESCRIPTION	SITUATION
	NONE	

Woodlands
(within a continuous black line on the map)

NO. ON MAP	DESCRIPTION	SITUATION
	NONE	

TPO no.445(2008)

27 Bellvue Terrace, Scotforth, Lancaster



Scale : 1:1250

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Organisation	Lancaster City Council
Department	Planning Services
Comments	
Date	23 September 2008
SLA Number	LA100025403

Contact: Planning Services
Telephone: 01524 582381
FAX: 01524 582323
Email: mknagg@lancaster.gov.uk
Website: www.lancaster.gov.uk

Planning Services
Maxine Knagg
Tree Protection Officer

Palatine Hall
Dalton Square
LANCASTER LA1 1PW

Date: 18th September 2008

Re: Proposed New Tree Preservation Order – Belle View Terrace, Lancaster.

1.0 Introduction

- 1.1 Site: The trees in question are established within the front garden area of the above detailed property and are within a Conservation Area.
- 1.2 Scope and limitation of this report: This is an arboriculture report restricted to the trees subject to the proposed new Tree Preservation Order. The information provided within this report has been gathered by means of a preliminary visual tree assessment restricted to ground level observations and inspection at the time of the site visit. An objective appraisal of the amenity value of the trees in question has also been undertaken using a Tree Evaluation Method for Preservation Orders (TEMPO). It should be noted that trees are dynamic, living organisms subject to changes in weather, climate, pest and disease, development activities and site conditions.

2.0 Site Visit

- 2.1 Date: Undertaken 17th September 2008.
- 2.2 Brief site description: The property is established within a popular residential area to the south of the city centre. The property lies within the city Conservation Area as such the trees in question are protected in law.
- 2.3 Identification and condition of the trees: There are two trees in question, which for the purpose of this report have been identified as **T1** – silver birch and **T2** – blue cedar.

- 2.4 **T1** is a mature silver birch, of a single stem form. Leaves are of a normal size, shape and colour and are evenly distributed across the canopy. Generally, **T1** is of a good overall condition and in a good state of health and vigour. This tree is highly visible from the public highway; it is an appropriate species for its location making a significant contribution to local amenity.
- 2.5 **T2** is an early-mature blue cedar. This tree is established close to a retaining boundary wall. It has a single-stem form. Leaf colour, size and distribution across the canopy is all within normal parameters indicating a tree in a good condition and state of health and vigour.
- 2.6 The growth of the canopy of **T2** is unbalanced as it is partially suppressed by the growth and close proximity of **T1**. **T2** is highly visible from the public highway. The remaining life potential of this tree is in excess of 100 years and the potential to triple in height during this period. It is established close to a boundary retaining wall, the pressure on this structure will increase with the growth of this tree, along with an associated increase in pressure to fell this tree should damage ensue.
- 2.7 Lancaster City Council has received a written notification to fell **T1** whilst retaining **T2**.

3.0 Tree Preservation Order

- 3.1 The amenity value of the trees in question has been assessed using an objective and systematic approach; the Tree Evaluation Method for Tree Preservation Orders (TEMPO system) has been used. A score of 15+ was accumulated, supporting the use of a Tree Preservation Order.
- 3.2 Although both trees have significant amenity value to justify serving a Tree Preservation Order, given the location of **T2** so close to the boundary retaining wall and its growth and life potential, we do not on this occasion consider it entirely appropriate to serve **T2** with a Tree Preservation Order. We do however consider **T1** worthy of retaining and serving with a Tree Preservation Order.
- 3.2 Lancaster City Council consider it expedient in the interests of amenity to make provision for the preservation of the trees in question under sections 198 (201) and 203 of the Town & Country Planning Act 1990. Lancaster City Council cite the following reasons:

The tree:

- Provides important visual amenity and contributes to the character of the conservation area.
- Contributes to the privacy and screening of the private dwelling from the public highway.
- Lancaster City Council has received a written notification to fell the tree (**T1**).

4.0 Recommendation

4.0 Recommendation

4.1 Serve a Tree Preservation Order under sections 198 (201) and 203 of the Town & Country Planning Act 1990.

Maxine Knagg BSc (Hons) Arboriculture
Tree Protection Officer
Planning Services
Lancaster City Council

Appendix No. 2

Tree Evaluation Method for Preservation Orders (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 17/9/08			Surveyor: Mknagg		
Tree details					
TPO Ref: 445(2008)		Tree/Group No: T1		Species: Silver Birch	
Owner (if known):					
Location: 27 Bellevue Terrace, Lancaster.					

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 |

Score & Notes 5

b) Remaining longevity (in years) & suitability for TPO:

Refer to 'Species Guide' section in Guidance Note

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10 | Unsuitable |

Score & Notes 2

see potential of species up to 80yrs.

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 |

Score & Notes

5 Highly visible from public highway.

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

Score & Notes 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

Score & Notes

Notification received to fall tree by owners

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 |

Add Scores for Total:

18

Decision:

Save TPO

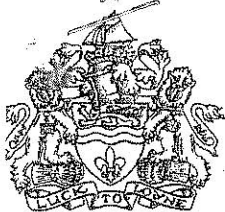
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Appendix No. 4

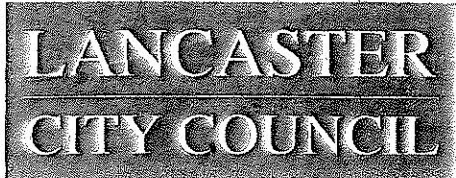
Conservation Area Notice to Fell

08/00-77/TCA Decision due 14 Oct 08

REVISED 1/10/08



Town and Country Planning Act 1990 - Section 211



Promoting City, Coast & Countryside

TPS 64/5

Notification of intention to undertake works to trees which are in a CONSERVATION AREA

MMA

Name of Conversation Area GALFARDS

I/We hereby give notice of my/our intention to carry out the works specified below:-

<p>Site address:</p> <p>Please specify the tree(s), group(s) of trees or woodland(s) to which this application relates</p> <p>Please provide a scaled map/plan 1:1250 or 1:2500 showing their position</p>	<p>27 BELLEVUE TANGOCK. GALFARDS HOOP LOXCOSTON.</p> <p>T1, + T2,</p>
<p>Please specify the exact works you are applying to the Council for</p> <p>(ie, fell crown raise, crown reduce, crown thin, (single/individual/several) branches removed)</p>	<p>T1, FELL T2, CROWN REDUCE TO SHOPS</p>
<p>Please state as fully, but concisely as possible, the reasons for making this application</p>	<p>T1, IS LIFTING THE STONE STEPS TO THE HOUSE. T2, SUPPRESSED BY T1. RISK TO CV-SHOPS.</p>
<p>Please state what interest you have for undertaking works to the tree(s)</p> <p>ie, owner/neighbour/developer etc</p>	<p>AN BONIST</p>

Please turn over



Applicant's Name, Address, Tel No.	Agent's Name, Address, Tel No.
MR ABRAHAMSON 27 BELLEVUE TERR. GROVES ROAD LONGSTON.	D. P. LEE BOWLAND TREE SERVICES 6 OXFORD CLOSE LA1 4QH 01524 33373
Signed:	Signed: <i>[Signature]</i>
Dated:	Dated: 2-9-2008

This form should be completed in duplicate and accompanied by location plans and a photograph of each tree or group of trees identified for proposed work. Photographs should be clearly identified in relation to the individual tree, site plan and proposed work. The photographs should be taken within 3 months of the application date.

Thank you

Plan

Please attach a map showing the location of tree(s) scale 1:1250 or 1:2500, you may wish to provide further information and draw a sketch plan in the space below showing the location of the tree(s) in relation to the surrounding features etc.

