

APPEALS COMMITTEE

3.00 P.M.

22ND SEPTEMBER 2009

PRESENT:- Councillors Sheila Denwood (Chairman), Chris Coates, Janice Hanson, Helen Helme and Bob Roe, John Barnes and John Gilbert

Apologies for Absence

Councillors Shirley Burns and Janie Kirkman

Officers in attendance:-

Angela Parkinson	Senior Solicitor
David Hall	Development Control Manager
Maxine Knagg	Tree Protection Officer
Tom Silvani	Democratic Support Officer

20 SITE VISITS

Prior to the commencement of the meeting, site visits to Angle House and St John's Church in Gressingham were undertaken, in response to objections received to Tree Preservation Order Nos 455 (2009) and 456 (2009).

The following Members were present on the site visits:

Councillors Sheila Denwood (Chairman), Chris Coates, Janice Hanson, Helen Helme, Bob Roe, John Barnes and John Gilbert.

Officers in attendance:

Maxine Knagg, Dave Hall and Tom Silvani.

21 MINUTES

The Minutes of the meeting held on 23 March 2009 were signed by the Chairman as a correct record.

22 ITEMS OF URGENT BUSINESS AUTHORISED BY THE CHAIRMAN

There were no items of urgent business.

23 DECLARATIONS OF INTEREST

There were no declarations of interest.

24 TREE PRESERVATION ORDER NO. 455 (2009): A SINGLE GROUP OF TREES WITHIN THE CURTILAGE OF ANGLE HOUSE, GRESSINGHAM

Present at the meeting to consider the matter was the appellant Mr. Parker, owner of the Land at the rear of Angle House, Gressingham.

The Committee considered an appeal against a decision of the Council under Section 198 of the Town and Country Planning Act 1990, making an order in respect of individual trees located at land to the rear of Angle House, Gressingham, identified as G1 for the purpose of the Tree Protection Order. G1 was comprised of 9 mature ash trees.

The site was established within Gressingham Conservation Area, within the village of Gressingham. The trees grew along a boundary line between two private residential properties. The trees were under joint ownership, between the owners of Angle House and Sunny Lea.

The amenity value of trees within the site has 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.

Mr Parker spoke in relation to his objection to the Tree Preservation Order. The main points highlighted were as follows:

- That the appellant had concerns for the safety of his house, as the trees had grown much taller than the property and could potentially cause serious damage.
- That the appellant was unable to meet the financial costs of having the trees inspected at regular intervals and that it was easier to have them felled.
- That the trees had originally been a hedge, but had gone unmanaged for approximately 20 to 25 years and had grown to over 60 foot tall.
- That the owner of Sunny Lea had agreed to the trees being felled and given permission for the work to be carried out from his garden.
- That the trees cast a considerable shadow over Angle House and its garden.
- That the appellant had concerns about the root system of the trees and the potential damage which they could cause to Angle House.

Members directed questions to Mr. Parker.

The Tree Protection Officer informed the Committee that it was considered 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. The Tree Protection Officer stated that the site was an important visual amenity and landscape feature which could be seen from the public highway. The site also provided an important wildlife resource.

Committee were advised that the applicant had been informed that the trees should be inspected in detail in order that maintenance needs could be identified and the necessary maintenance works undertaken. The trees had been difficult to inspect in detail because of the extensive ivy growth covering the trees and the Tree Protection Officer advised that this ivy would need stripping off for a detailed examination to be undertaken.

It was reported that Lancaster City Council would not be concerned with preserving a dead, dying or dangerous tree, and that if a detailed examination showed that this was the case that the Tree Preservation Order may require removal.

The Tree Protection Officer addressed the concerns which the appellant had raised.

It was reported that there were methods which could be used to thin the canopy of the trees and allow more light into the property and garden. It was also reported that the root system of the trees should not be a threat to the property but that a detailed examination would give a better idea of the current situation.

Members were advised that although the trees had been a hedge in the past, they were now 'standard trees' and had a significant impact in terms of public amenity as a group.

Members directed questions to the Tree Protection Officer.

(The Committee adjourned to consider the evidence. The Tree Protection Officer, Mr. Parker and members of the public left the meeting at this point.)

Members considered the options before them:

- (1) To confirm Tree Preservation Order No. 455 (2009)
 - (a) Without modification
 - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 455 (2009)

It was proposed by Councillor John Gilbert and seconded by Councillor Bob Roe:

"That Tree Preservation Order No. 455 (2009) be confirmed without modification."

Members felt that there was no evidence to support the claim that the trees at G1 were a risk to the property at Angle House.

Upon being put to the vote 5 members voted in favour of the proposition, 1 member voted against and 1 member abstained whereupon the Chairman declared the proposition to be carried.

(The Committee reconvened to give their decision. The Tree Protection Officer, Mr. Parker and members of the public returned to the meeting at this point.)

Resolved:

That Tree Preservation Order No. 455 (2009) be confirmed without modification.

25 TREE PRESERVATION ORDER NO. 456 (2009): RELATING TO TREES LOCATED AT ST JOHN CHURCH, GRESSINGHAM

Present at the meeting to consider the matter was the appellant Mr Cottam, Churchwarden for St John's Church Gressingham and Councillor Peter Williamson, Lancaster City Councillor for Upper Lune Valley Ward.

The Committee considered an appeal against a decision of the Council under Section 198 of the Town and Country Planning Act 1990, making an order in respect of an

individual tree located on land within the curtilage of St John's Church Gressingham, identified as T1 for the purpose of the Tree Preservation Order. T1 was a single, mature lime tree.

There was a second, mature lime tree (T2) established in close proximity to T1 and a mature group of Portuguese laurel (G1) growing immediately adjacent to the church building. After an initial period of consultation with the Parochial Church Council, it had been agreed that T2 and G1 would be removed from Tree Preservation Order No. 456 (2009) because of their poor overall condition and limited remaining life potential.

The site was established within Gressingham Conservation Area, within the village of Gressingham.

The amenity value of trees within the site has 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.

Mr. Cottam spoke in relation to his objection to the Tree Preservation Order. The main points highlighted were as follows:

- That the trees could cause damage to the church tower or members of the public if they were to collapse or shed branches onto the adjacent road or the church itself.
- That the roots of tree T1 were damaging the pathway into the church grounds, causing ridges and cracks that were causing problems for the elderly members of the congregation.
- That the Parochial Church Council had received 112 objections to the Tree Protection Order, including 98 from local residents and a further 14 from church attendees. This represented over 70% of the electorate of Gressingham.
- That the Parochial Church Council had received quotes from two tree surgeons, who both said that if the roots of the trees were cut the stems would become unstable and likely to split off.
- That due to the graveyard surrounding the entrance path to the Church it was unfeasible to relocate the path.
- That the City Council had not followed correct procedure and as such the Tree Protection Order placed on tree T1 was invalid.
- That the Parochial Church Council had conducted their own TEMPO evaluation and had reached different conclusions to those of the Tree Protection Officer.

Members directed questions to Mr. Cottam.

The Tree Protection Officer informed the Committee that it was considered 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. The Tree Protection Officer stated that the site was an important visual amenity and landscape feature which could be seen from the public highway and a number of private residential properties, providing screening and greening. The site also provided an important wildlife resource.

The Committee were advised that the presence of a Tree Preservation Order does not prevent appropriate and reasonable maintenance works being undertaken, however

removal of a high value tree should not be seen as the first management option. The Tree Protection Officer reported root pruning could be effective without affecting the stability of the tree, and that this option should be explored. It was not considered essential that the tree would have to be removed to carry out work on the pathway.

The Committee were advised that the Parochial Church Council should consult with appropriate professionals to consider engineering solutions that would allow for the repair and re-surfacing of the footpath and retention of the tree.

The Tree Protection Officer advised that the TEMPO system was designed to be used as a tool by trained arboriculturalists, and that anyone else attempting to use the system was unlikely to reach the same conclusions.

It was reported that although the petition arranged by the Parochial Church Council had been acknowledged, it had been received outside of the 28 day period within which representations must be submitted, and as such had not been considered under the terms of the Tree Preservation Order.

Members directed questions to the Tree Protection Officer.

(The Committee adjourned to consider the evidence. The Tree Protection Officer, Mr. Cottam and Councillor Williamson left the meeting at this point.)

Members considered the options before them:

- (3) To confirm Tree Preservation Order No. 456 (2009)
 - (a) Without modification
 - (b) Subject to such modification as is considered expedient.
- (4) Not to confirm Tree Preservation Order No. 456 (2009)

It was proposed by Councillor Helen Helme and seconded by Councillor Janice Hanson:

“That Tree Preservation Order No. 456 (2009) not be confirmed.”

Upon being put to the vote 5 members voted in favour of the proposition, 1 member voted against and 1 member abstained whereupon the Chairman declared the proposition to be carried.

(The Committee reconvened to give their decision. The Tree Protection Officer, Mr. Cottam and Councillor Williamson returned to the meeting at this point.)

Resolved:

That Tree Preservation Order No. 455 (2009) not be confirmed.

Chairman

(The meeting ended at 5.45 p.m.)

**Any queries regarding these Minutes, please contact
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