

## APPEALS COMMITTEE

2.30 P.M.

14TH DECEMBER 2012

**PRESENT:** Councillors Helen Helme (Chairman), Eileen Blamire, Mike Greenall, Janice Hanson and Billy Hill (substitute for Kathleen Graham)

Apologies for Absence:

Councillors Kathleen Graham and Karen Leytham

Officers in Attendance:

Maxine Knagg	Tree Protection Officer
Angela Parkinson	Senior Solicitor
Jane Glenton	Democratic Support Officer

Also in Attendance:

Bruce Alexander	Clerk to Caton-with-Littledale Parish Council (Appellant)
Vic Price	Honorary Secretary of Lancaster and District Angling Association (Supporter)
David Lister	Chairman of Lancaster and District Angling Association (Supporter)

### 1 **SITE VISIT: TREE PRESERVATION ORDER NO. 504 (2012)**

Prior to commencement of the meeting, a site visit was undertaken as follows in response to objections received.

The following Members were present on the site visit:

Councillors Helen Helme (Chairman), Eileen Blamire, Mike Greenall, Janice Hanson and Billy Hill.

Officers in Attendance:

Maxine Knagg	-	Tree Protection Officer
Jane Glenton	-	Democratic Support Officer

### 2 **APPOINTMENT OF VICE-CHAIRMAN**

It was proposed by Councillor Hanson and seconded by Councillor Hill that Councillor Greenall be appointed Vice-Chairman of the Appeals Committee for the Municipal Year 2012/13. There being no further nominations, the Chairman declared the proposal to be carried

**Resolved:**

That Councillor Greenall be appointed Vice-Chairman of the Appeals Committee for the Municipal Year 2012/13.

**3 MINUTES**

The minutes of the meeting held on 23<sup>rd</sup> April 2012 were signed by the Chairman as a correct record.

**4 ITEMS OF URGENT BUSINESS AUTHORISED BY THE CHAIRMAN**

There were no items of urgent business.

**5 DECLARATIONS OF INTEREST**

There were no declarations of interest.

**6 TREE PRESERVATION ORDER NO. 504 (2012) RELATING TO A SINGLE GROUP OF X31 TREES ESTABLISHED ALONG THE SOUTHERN BANK OF THE RIVER LUNE, CLOSE TO HOLME LANE, BROOKHOUSE**

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 a single group of x31 trees established along the southern bank of the River Lune, close to Holme Lane, Brookhouse, being Tree Preservation Order (TPO) No. 504 (2012).

The trees and land in question were under the control of Caton Parish Council, as Trustees to the Poor's Land Charity. The site was in a rural location. It was currently in use to graze livestock and was let for use by a local tenant farmer.

It was reported that the City Council had received two formal written objections to the TPO from Mr. John Harvey, who rented the land for grazing livestock, which was attached at Appendix 6 to the report, and from Caton Parish Council, as Trustees of the Poor Land's Charity, which was attached at Appendix 7 to the report.

A letter had been received in support of the Order from Lancaster and District Angling Association, which was attached at Appendix 10 to the report.

Present at the meeting were Mr. Bruce Alexander, Clerk to Caton-with-Littledale Parish Council (Appellant) and Vic Price, Honorary Secretary of Lancaster and District Angling Association and David Lister, Chairman of Lancaster and District Angling Association (Supporters).

Appellants

Mr. Bruce Alexander, Clerk to Caton-with-Littledale Parish Council, advised Members that he was representing the Trustees of the Poor's Land Charity, who owned and managed the small piece of land on the south bank of the River Lune. The Charity derived its income from letting the grazing and fishing rights on the river and it was the Trustees' duty to maximise this income. The Trustees were in the process of planning improvements to the access to the river for fishermen prior to offering a new lease on the open market, rather than continuing the previous arrangements with Lancaster and District Angling Association.

The trees, the subject of the TPO, had been planted some 40 years ago with the specific

aim of stabilizing the riverbank from continued erosion. They formed a linear feature along the stretch of the river bank in isolation to the rest of the river frontage and could be considered an anomalous feature in the landscape when compared to the treeless remainder of the riverbank in the area.

Mr. Alexander informed Members that the Trustees were very much against the imposition of a TPO on the trees. The Trustees wished to retain the freedom to manage the trees and to maintain the banking without recourse to seeking permission each time. The Trustees were of the opinion that the trees did not warrant the imposition of a TPO, being in a poor condition and requiring a degree of cutting back to remove deadwood to encourage a healthy root system, particularly for the willows.

Members were advised that the Trustees had no intention of removing healthy trees, but had suggested that the trees may need to be thinned or coppiced to improve their health, root structure and lifespan, and to open up the banking to allow access to the river for fishermen. Although the trees were visible from the adjacent footpath and from Caton Green Road, they were a minor feature on the landscape when seen against the densely wooded hillside behind them.

Mr. Alexander reported that the Trustees believed that if the TPO was confirmed, it would compromise the ability of the Trustees to realise the full potential of the site. The Trustees objected strongly to the imposition of the TPO and requested that the City Council did not confirm the TPO.

Members considered the letter from Mr. John Harvey attached as Appendix 6 to the report, in which Mr. Harvey stated that the trees were of a poor quality, some being dead and others splitting or propping each other up. He was of the opinion that they were in need of pruning, which he understood the Trustees of the Poor's Land Charity were planning to do, since the fishing rights lease with Lancaster and District Angling Association was coming to an end. Mr. Harvey stated that if the willows were not kept in check, they would fall into the river, taking the bank with them. This would lead to a loss of land and therefore a loss of grazing for his stock and loss of income for the Charity. Decisions on how to deal with day to day problems regarding riverbank management often needed immediate solutions, and he believed that by placing the TPO on trees of a questionable quality, the riverbank management could be put in jeopardy.

#### Supporter

Mr. Vic Price, Honorary Secretary of Lancaster and District Angling Association, advised Members that the Association had planted the trees, the subject of the TPO, approximately 30 years ago to try to halt riverbank erosion, which was taking place elsewhere along the banks in the area. The River Lune, with its high, silty banks, was very prone to bank erosion. Approximately 40 years ago, the Association had deposited concrete where erosion had occurred to try to stabilize the situation, but the river would get behind the concrete, and its silty banks meant that it was difficult to halt the erosion.

Members were advised that the planting of the trees, the subject of the TPO, had been very successful and the area had probably become one of the most stable stretches of riverbank, whilst there were signs of continued erosion both up and downstream. The Association felt that this effectiveness had been achieved in a very aesthetic manner and that the trees contributed to the visual amenity of the area.

Mr. Price reported that the Association would be very concerned about renewed erosion problems should any of the trees be removed. The Association owned the fishing rights on the opposite bank of the river and felt that the shade provided by the trees increased the likelihood of fish resting in the area. To remove them would be to the detriment of the fishing.

#### Tree Protection Officer

The Tree Protection Officer reported that TPO no. 504 (2012) related to a single group of x31 trees comprised of x19 willow trees, x8 ash, x2 alder and x2 elm. The age of the trees ranged from semi-mature to mature. The trees were established on land immediately adjacent to the River Lune, formed along the southern bank. The group of trees in question was comprised of, by and large, willow and included alder and elm. Collectively, they formed a clear, linear belt of trees along a short section of the southern bank of the River Lune.

TPO no. 504 (2012), which was attached at Appendix 5 to the report, had been made on 30<sup>th</sup> July 2012 following local concerns which were raised when intentions to fell trees along the river were indicated by Caton Parish Council, which the Parish Council later sited were to enable the erection of a platform from the river bank for the purposes of fishing.

It was reported that Lancaster City Council could, where it was considered to be expedient in the interests of amenity, make a TPO. The Council had considered it to be expedient to make TPO no. 504 (2012) because of the threat of removal or inappropriate management of some or all of the trees in question. The Council considered that tree losses in the location would result in an adverse impact on the character and amenity of the immediate locality and wider landscape. The loss of trees in the location had significant potential to adversely impact upon important wildlife communities, some of which were protected in law. In addition, the loss of trees had the potential to cause an increase in the rate and severity of soil erosion resulting in the loss of land mass.

The Tree Protection Officer reported that the River Lune had been recognised for its importance and value and had been designated as a Biological Heritage Site. An excerpt from the site description of the Biological Heritage Site stated:

*"The Lune is one of the largest rivers in north-west England and is a Class 1 river (good/excellent water quality) for the whole of its length. As well as the course of the river itself, which can change appreciably from year to year, the site includes associated riverbanks, shingle beds, earth banks and fringing trees and shrubs because of their value for plants, mammals, birds and invertebrates... . The Lune is one of the best salmon rivers in the country and is important for otters. The river is also a valuable feeding area for bats."*

It was reported that the tight network of the trees' roots bound the soil together and allowed the riverbank to resist the eroding effect of rainfall and importantly the flow, rise and fall of the river levels. Significant landslips and collapse of the riverbank could be seen along the river where trees were not established. The erosion of riverbanks resulted in the loss of landmass and habitat.

The Tree Protection Officer advised that the amenity value of the trees in question had been assessed using an objective and systematic approach (Tree Evaluation Method for

Preservation Orders – *TEMPO* system, which was attached as Appendix 1 to the report). A score of 14 had been achieved, for which the use of a TPO was categorised as 'defensible'. The trees identified as G1 were clearly visible landscape features, seen from a range of locations within the wider landscape, including a public footpath along the river and from Caton Green Road. Trees that were in a poor overall condition, or that were dead, had not been included in the TPO. Only those trees that were in a condition to justify their inclusion with important remaining life potential had been included.

It was reported that the value of the trees in question, and the protection of habitat and control of erosion along the riverbank had been supported by the County Conservation Officer for North Lancashire, who had commented that:

*The BHS citation is quite explicit that "the site includes associated riverbanks, shingle beds, earth banks and fringing trees and shrubs because of their value for plants, mammals, birds and invertebrates".*

*All the functions you list are good reason why the willows concerned should be retained. If those excluded from the TPO do require surgery/felling for safety reasons, we urge that they be pollarded/coppiced unless wholly inappropriate for landscape reasons. If they do have to be felled, the cut material should be stacked as deadwood habitat or used for erosion control purposes. Needless to say, this would have to be done outside of the bird nesting season (late February to end of July inclusive).*

Similarly, the Environment Agency had commented:

*I agree with the statement that willow trees on the bank of the river are important wildlife habitat and provide bank stabilization. That area of the River Lune is highly mobile and bank repair works have been undertaken in various areas in recent years with limited success. Removing the trees could lead to further areas of the bank becoming unstable.*

*However, depending on the condition of the trees, it may be necessary at some point to carry out coppicing works to some of the trees which would be beneficial if done correctly.*

*Trees provide important cover and shade for fish and could be a base for an otter holt or birds nesting. If any works were proposed, surveys would be required to check if any protected species use the trees.*

*Our Local Fisheries Officer has added that access for fishing does not appear to be critical, as access to the riverside in the area is good and the area where the trees are appears to be available for fishing from the right bank of the river. Bank side cover in this section of river is limited and this does appear to offer valuable cover for wildlife.*

In conclusion, the Tree Protection Officer advised Members that Lancaster City Council considered 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 for the following reasons:

- Important visual amenity;
- Important and appropriate landscape features in keeping with the character of their locality;

- Significant potential to provide important habitat and resources for a range of protected and unprotected wildlife communities;
- Potential threat from removal or inappropriate management.

The trees in question had sufficient amenity value and importance within the landscape to justify their protection with TPO no. 504 (2012); the trees were an important component of life along the River Lune, which was recognised as a Biological Heritage Site; and the trees were important in controlling the erosion of the riverbank.

***(The Committee adjourned at 3.15 p.m. to consider the evidence.  
The Tree Protection Officer, the Appellant and Supporters left the meeting  
at this point.)***

Members considered the options before them:

- (1) To confirm Tree Preservation Order No. 504 (2012)
  - (a) Without modification
  - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 504 (2012).

It was proposed by Councillor Hill that Tree Preservation Order No. 504 (2012) not be confirmed. There being no seconder, the proposition fell.

It was proposed by Councillor Blamire and seconded by Councillor Hanson:

“That Tree Preservation Order No. 504 (2012) be confirmed without modification.”

Upon being put to the vote, 4 Members voted in favour of the proposition and 1 against, whereupon the Chairman declared the proposal to be carried.

***(The Committee reconvened at 3.25 p.m. to give its decision and the  
Tree Protection Officer, Appellant and Supporters returned to the  
meeting at this point.)***

***Resolved:***

That Tree Preservation Order No. 504 (2012) be confirmed without modification.

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Chairman

(The meeting ended at 3.26 p.m.)

**Any queries regarding these Minutes, please contact  
Jane Glenton, Democratic Services: telephone (01524) 582068 or email  
jglenton@lancaster.gov.uk**