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**Planning Services
Maxine Knagg
Tree Protection Officer**

Palatine Hall
Dalton Square
LANCASTER LA1 1PW

Date: 24th June 2008

Appeals Committee (TPO)

Trees subject of the Appeals Committee – established to the rear of 31 Stanhope Avenue and land to the rear of 29A Stanhope Avenue, Morecambe and subjects of **Tree Preservation Order no.436 (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 31 Stanhope Avenue and land to the rear of 29A Stanhope Avenue, under the ownership of the owner occupiers of 29A Stanhope Avenue.

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 28th April 2008.

2.2 Brief Site Description: The two properties include the rear garden of a private residential property no.31 Stanhope Avenue, and grass land to the rear of 29A Stanhope Avenue, trees are mixed evergreen and deciduous species. The grass land area includes mixed species hedgerows and fragments of former

hedgerows established along boundary lines. The land has residential properties to the east and north-east and a public cycle/footpath immediately adjacent to the southwest, White Lund Industrial Estate lies beyond the cycle path. The size and form of the hedgerow trees indicates that they have not been formally managed and have developed into mature trees with well structured crowns. Species include hawthorn, willow, elder and sycamore.

2.3 Tree Removals: A large number of trees have been removed from the garden area around the main dwelling, approximately 50-60 trees, including standard trees and hedging, species of conifer, old English variety fruit trees, hawthorn, cherry, elder, poplar, ash and sycamore. These recent removals have in effect removed the tree cover from within the main property, exposing private garden areas of adjacent properties with an associated loss of public amenity and privacy for a number of neighbouring residents.

3.0 Identification and condition of the trees:

3.1 The trees in question are the subjects of **Tree Preservation Order no. 436 (2008) (Appendix 1)**. The trees have been identified in a total of six groups; groups 1 - group 6 (**G1-G6**) relate directly to the objections received from Mr. Atkinson of Thomas Associates on behalf of the land owner.

3.2 G1-G6 Generally the trees in question are of good condition; within the grassland area, an absence of regular maintenance of the hedgerows has meant that the hedgerows have become fragmented in areas and trees have grown to develop well structured crowns and have attained the height and dimensions of mature trees.

3.3 Trees within the groups provide screening for a number of private residential properties and help to screen the industrial estate close by. These trees make an important contribution to urban greening along the cycle path and provide a significant resource for local wildlife communities.

4.0 Tree Preservation Order

4.1 The amenity value of trees within **G1-G6** 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 (**Appendix 2**).

4.2 Trees within **G1-G6** contribute significantly to the local amenity by providing the following:

- important visual amenity
- improvements in air quality, screening, and privacy
- important wildlife resource

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. Trees are:

- provide important public amenity benefits
- potential threat from inappropriate management
- important wildlife resource

It is the view of Lancaster City Council that damage or removal of these trees would have a detrimental impact on the amenity value of the local area and as such trees should be afforded protection by serving a Tree Preservation Order.

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

CITY COUNCIL OF LANCASTER
TREE PRESERVATION ORDER NO. 436 (2008)

---ooOoo---

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

A.M. Kendrick 1.5.08

RELATING TO TREES LOCATED AT
31 STANHOPE AVENUE AND
LAND TO THE REAR OF 29A STANHOPE AVENUE
MORECAMBE

TOWN HALL
LANCASTER
LA1 1PJ

- (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.

(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

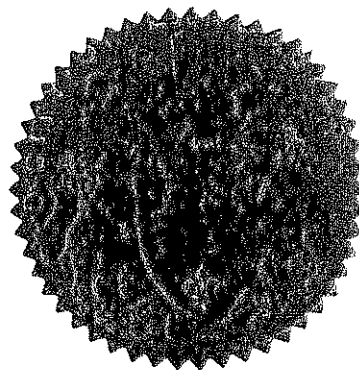
11. This Order takes effect in accordance with subsection (3) of section 300 (tree preservation orders in anticipation of disposal of Crown land).]

Dated this 1st day of May 2008

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

[Handwritten Signature]

Corporate Director (Regeneration)



SEAL REGISTER
No: 21661

SCHEDULE 2

PART I

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

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
<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:- "(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>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",

	<p>(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"</p> <p>(b) Omit subsection (2).</p> <p>(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".</p>
Section 79 (determination of appeals)(a)	<p>(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".</p>

- (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

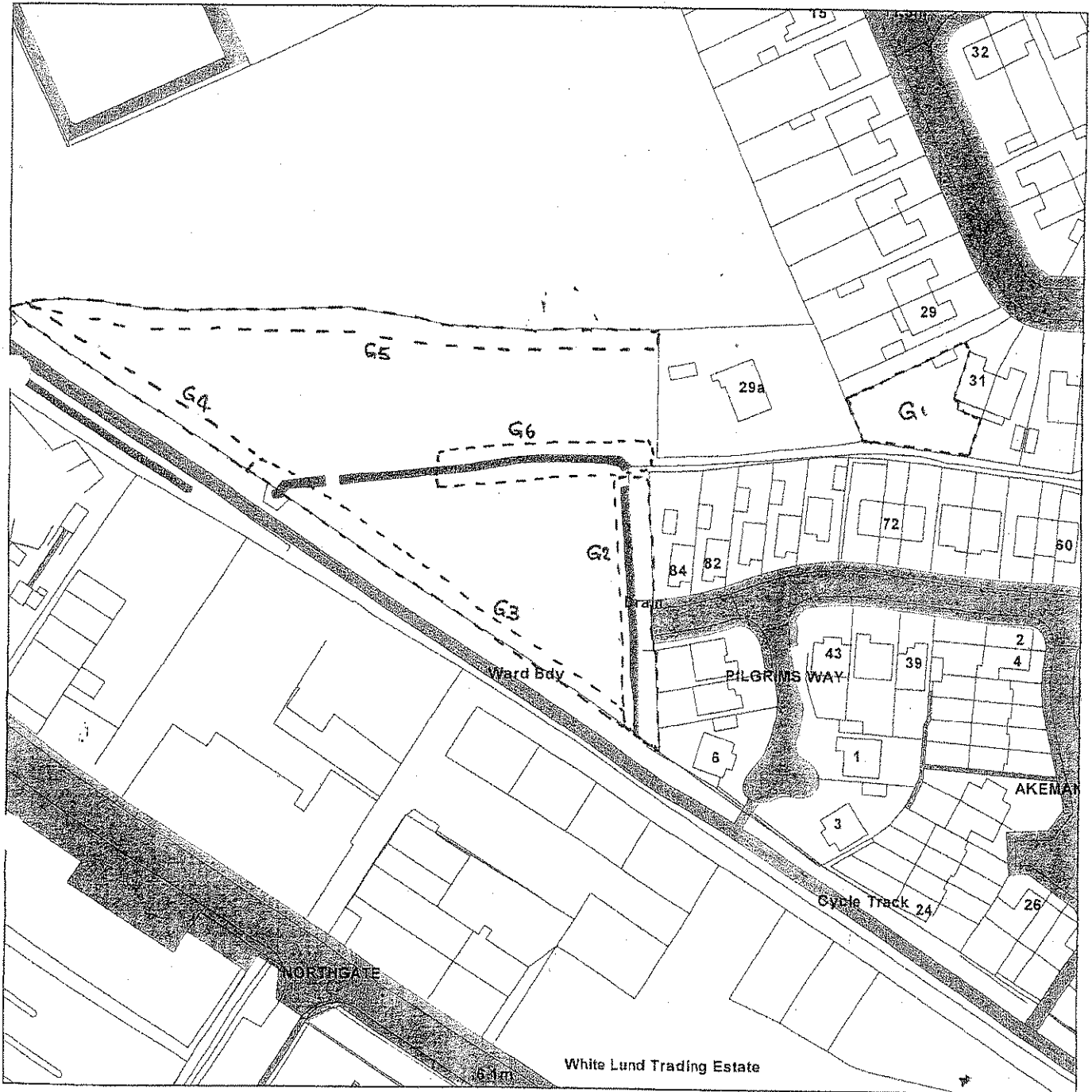
- (1) On an appeal under section 78 the Secretary of State may:-
 - (a) allow or dismiss the appeal, or
 - (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),and may deal with the application as if it has been made to him in the first 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.

31 Stanhope Avenue, & land to the rear 29A

TPO no.436 (2008)



GIS by ESRI (UK)



LLM

Scale : 1:1250

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Organisation	Lancaster City Council
Department	Planning Services
Comments	
Date	29 April 2008
SLA Number	LA100025403

Appendix 2

Tree Evaluation Method for Preserved Trees (TEMPO)

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):

1/2

SURVEY DATA SHEET & DECISION GUIDE

Date: 28/4/08	Surveyor: MKnaeggy
Tree details	
TPO Ref: 436(2008)	Tree/Group No: G1
Owner (if known): unknown	Species: Holly x1 Cypress x3 Bluecedar x1
Location: 31 Stanhope Ave, Morecambe	

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
Cedar potential longevity 700yrs. Garden overgrown

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 4
see above Cypress + holly < 100yrs

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
Views more significant since recent + wide spread tree remains

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
ownership of property should change.

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:
SEVERE TPO

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):

212

SURVEY DATA SHEET & DECISION GUIDE

Date: 28/4/08 Surveyor: M. Knagg

Tree details
 TPO Ref: 436 (2008) Tree/Group No: G2-G6 Species: Hawthorn
 Owner (if known): @ 29A Stanhope Ave Elder
 Location: 29A Stanhope Ave, Morecobe Willow
 Sycamore

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 4
 Sycamore potential longevity
 700yrs.

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
 4) clearly visible from
 A14 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
 wide spread tree removals
 within garden area no 29A.
 Approx 50-60 trees felled.

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:
 Serve TPO

Appendix 3

Photographs

28th April 2008

29A Stanhope Avenue

Morecambe

1.



2.



Land to rear:

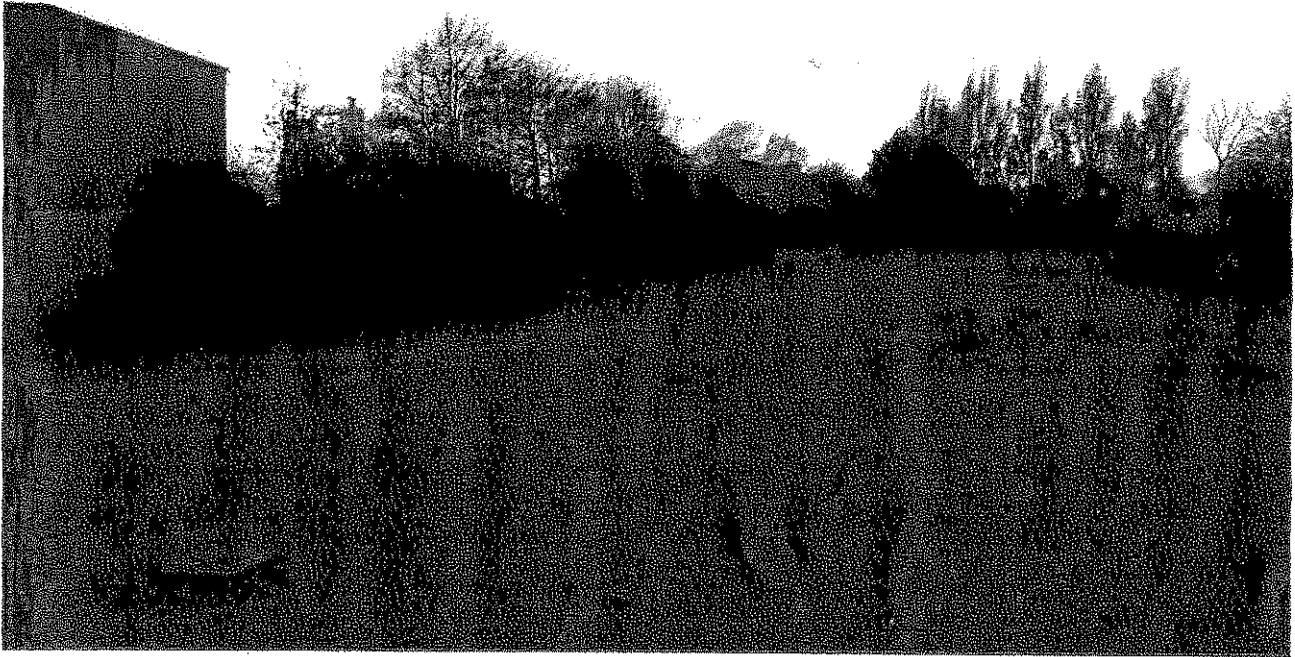
28th April 2008

29A Stanhope Ave, Morecabe

3.

TPO no. 436(2008)

G2-G6



4.

White Land
Industrial Estate

cycle path

