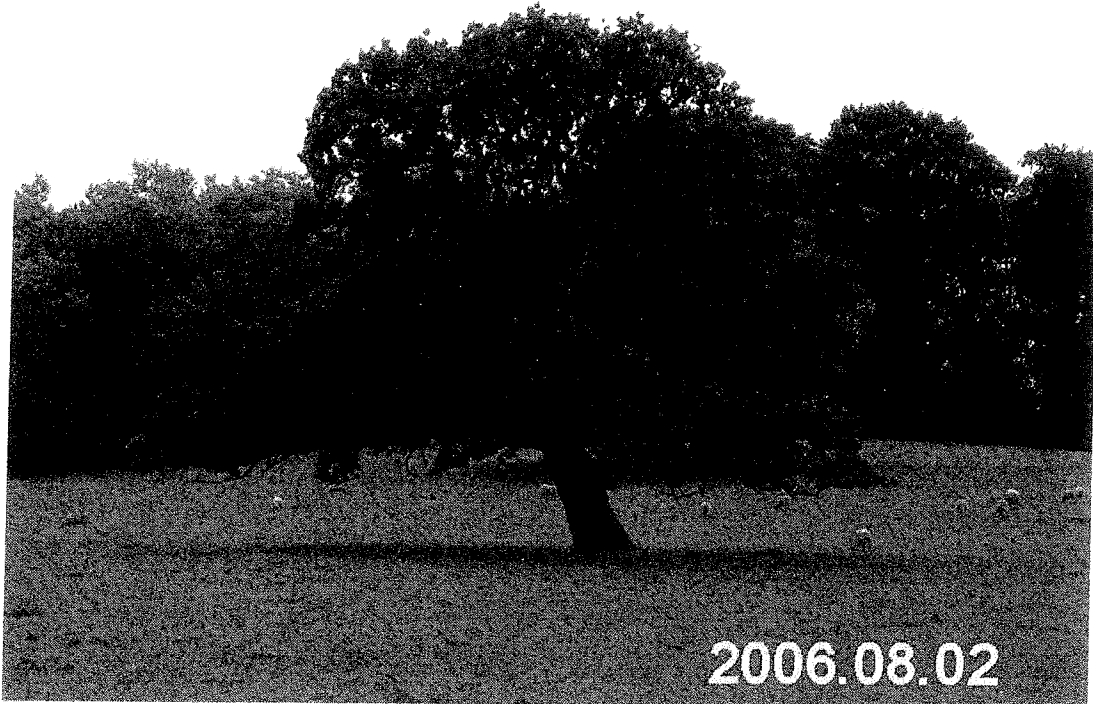


**Appendix no.1**

**Individual trees and landscape photographs**

TPO no. 583 (2006)  
BAILRIGG LANE, LANCASTER



T2 ENGLISH OAK

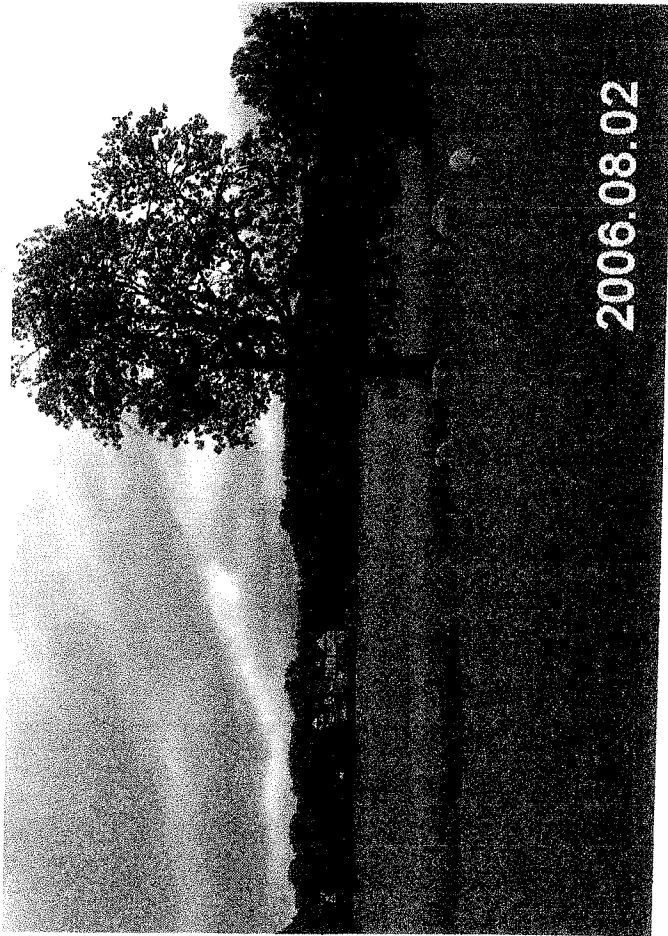


T3 HORSE CHESTNUT

TPO no. 385 (2006)

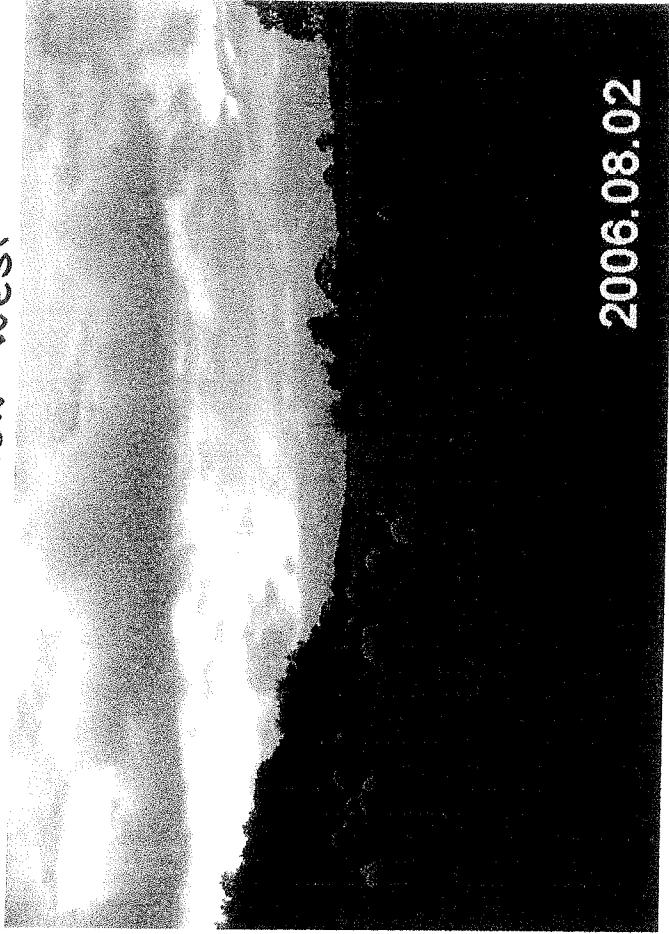
SAILRIG LANE, LANCASTER?

VIEW EAST

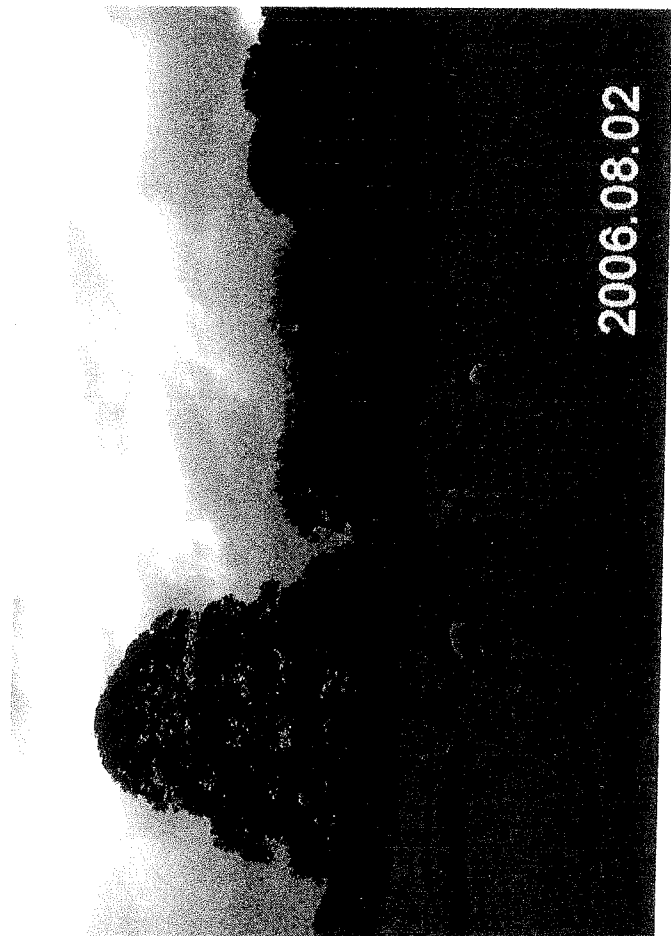


2006.08.02

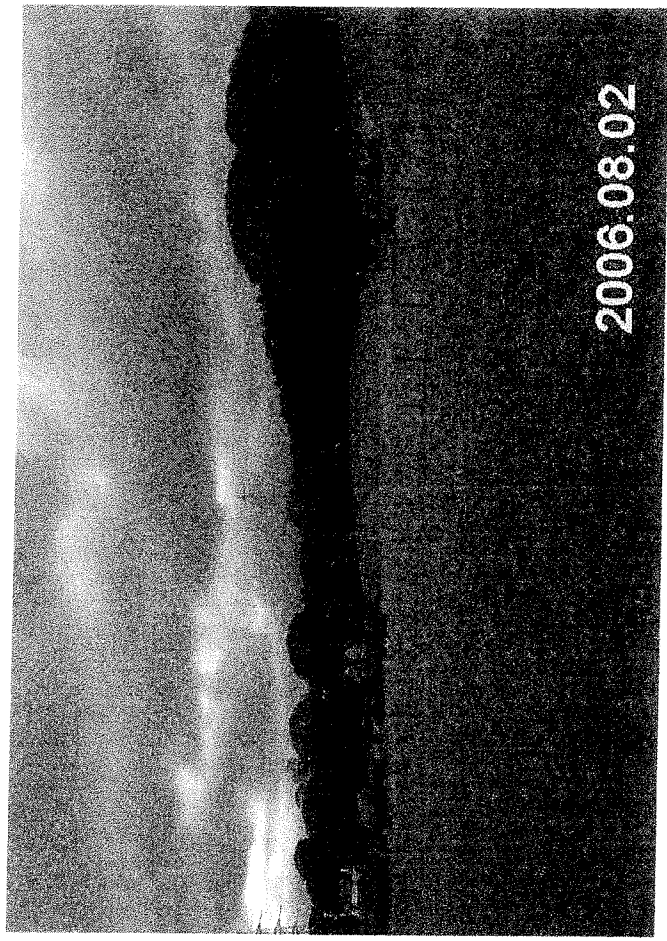
VIEW WEST



2006.08.02



2006.08.02

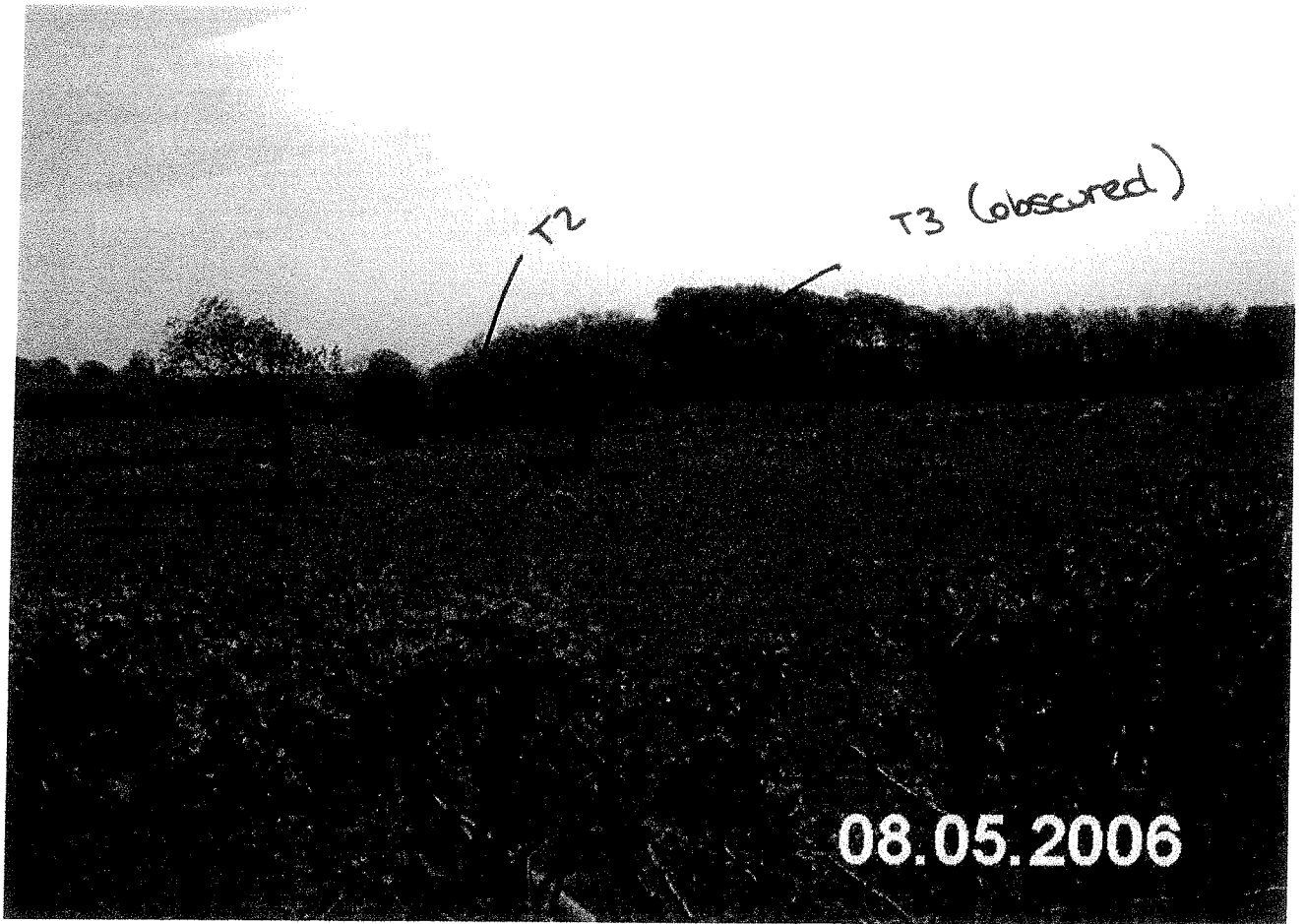


2006.08.02

VIEW : EAST

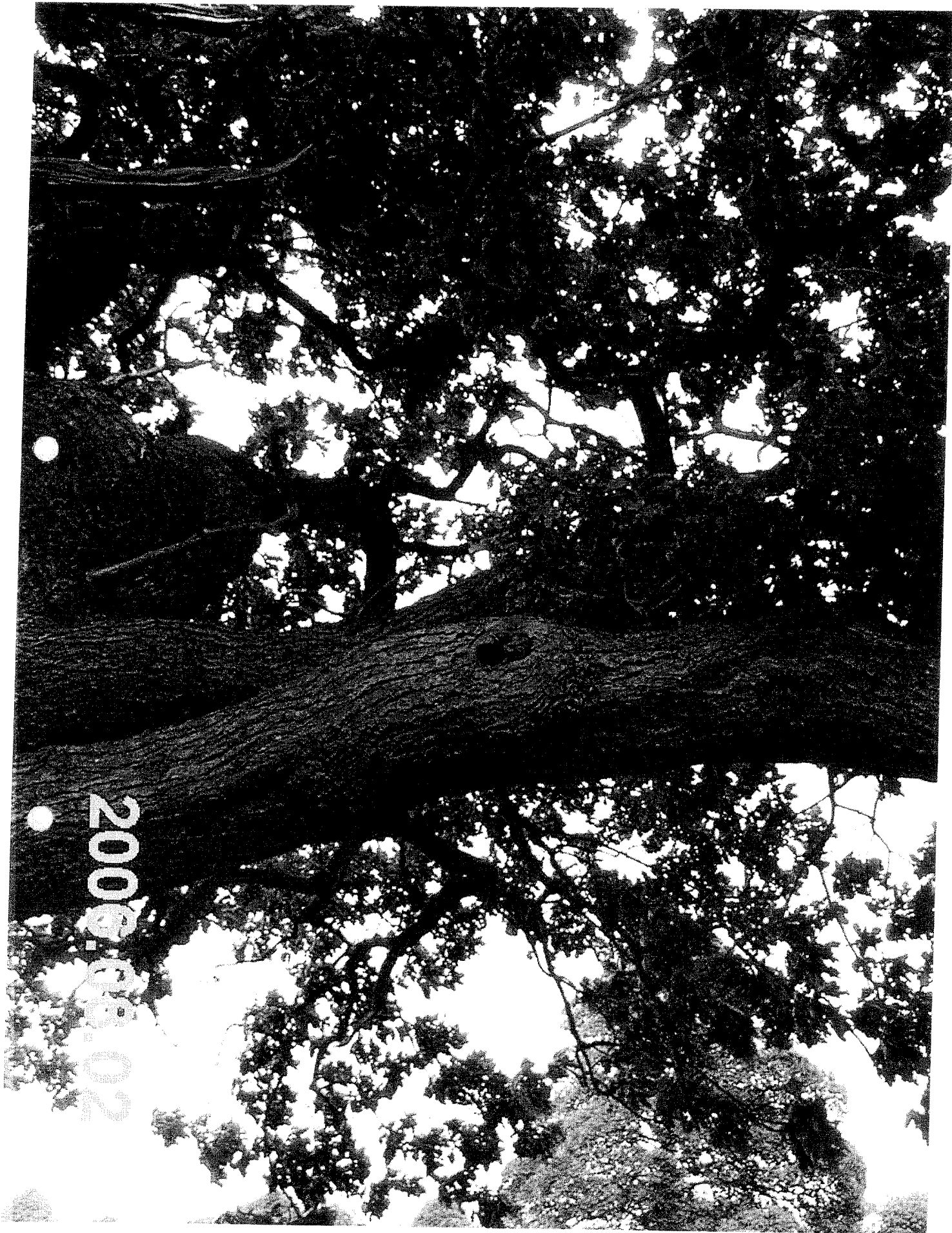
VIEW : WEST

1 PU NO. 303 (2000), DMILKIGG LANE



VIEW SOUTH

Possible Bat Roost - OAK (T3)



TPO no. 385 (2006)

Appendix no. 2

Copy of the original TPO no.385 (2006)

CITY COUNCIL OF LANCASTER  
TREE PRESERVATION ORDER NO. 385 (2006)

---00000---

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

A.M. Keating 15/5/06

RELATING TO TREES LOCATED AT  
LAND AT BAILRIGG LANE  
LANCASTER

---

TOWN HALL  
LANCASTER  
LA1 1PJ

TOWN AND COUNTRY PLANNING ACT, 1990

CITY COUNCIL OF LANCASTER

TREE PRESERVATION ORDER NO. 385 (2006)

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. 385) 2006

**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 (16 May 2006).

**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**

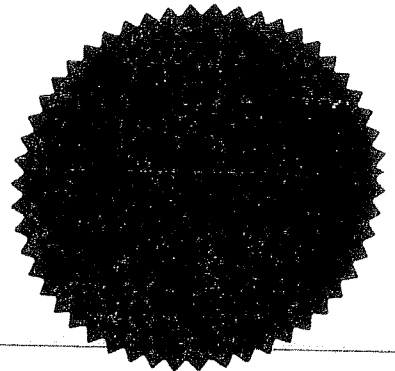
11. This Order takes effect in accordance with subsection (3) of section 300 (tree preservation orders in anticipation of disposal of Crown land).]

Dated this 15<sup>th</sup> day of May 2006

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

P. S. Laker

Corporate Director (Community Service)



SEAL REGISTER  
No: 20903

FIRST SCHEDULE

Trees Specified Individually  
(encircled in black on the map)

NO. ON MAP	DESCRIPTION	SITUATION
T1	Lime	Along Bailrigg Lane
T2	Horse Chestnut	South of Bailrigg Lane
T3	Oak	South of Bailrigg Lane

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	

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
Section 69 (registers)	<p>(a) In subsection (1):-</p> <ul style="list-style-type: none"> <li>(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</li> <li>(ii) substitute "matters relevant to tree preservation orders made by the authority" for "applications for planning permission".</li> </ul> <p>(b) In subsection (2):-</p> <ul style="list-style-type: none"> <li>(i) after "contain" insert "as regards each such order"; and</li> <li>(ii) for paragraphs (a) and (b) substitute:-  <ul style="list-style-type: none"> <li>(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and</li> <li>(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".</li> </ul> </li> </ul> <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>Section 70 (determination of applications: general considerations)</p>	<p>Adaptation or Modification</p> <p>(a) In subsection (1):-</p> <ul style="list-style-type: none"> <li>(i) substitute:- "Subject to subsections (1A) and (1B), where" for "Where"; "the authority" for "a local planning authority",</li> </ul>

	<p>"consent under a tree preservation order" for "planning permission" where those words first appear; and  "consent under the order" for "planning permission" in both of the other places where those words appear; and  "consent under the order" for "planning permission" in both of the other places where these words appear;  (ii) after "think fit", insert-  "(including conditions limiting the duration of the consent or requiring the replacement of trees)";  and  (iii) Omit "subject to sections 91 and 92,".</p> <p>(b) After subsection (1) insert:-  "(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)".</p> <p>(c) Omit subsections (2) and (3).</p>
<p>Section 75 (effect of planning Permission)</p>	<p>(a) In subsection (1) substitute:-  (i) "Any" for the words from "Without" to "any";  (ii) "consent under a tree preservation order" for "planning permission to develop land";  (iii) "the consent" for "the permission"; and  (iv) "the land to which the order relates for the land".</p> <p>(b) Omit subsections (2) and (3).</p>
<p>Section 78 (right to appeal Against planning decisions and failure To take such decisions)</p>	<p>(a) In subsection (1) substitute:-  (i) "the authority" for "a local planning authority";  (ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear;  (iii) "consent under such an order" for "planning permission" in the second place where those words appear;</p> <p>(iv) for paragraph (c) substitute:-  "(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</p>

	<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".</p> <p>(d) For subsection (4) substitute:- "(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)".</p> <p>(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".</p> <p>(b) Omit subsection (3).</p> <p>(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".</p> <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after "section 78".</p>

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.
-

# Land at Bailrigg Lane, Lancaster

Proposed New TPO 385 (2006)



Scale : 1:2500

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

Organisation	Lancashire City Council
Department	Planning & Building Control
Comments	
Date	10 May 2006
SLA Number	LA100025403

Appendix no.3

Objection to Tree Preservation Order no. 385 (2006)

Received from:

**Mr Steven Broomhead  
Chief Executive  
Northwest Regional Development Agency**

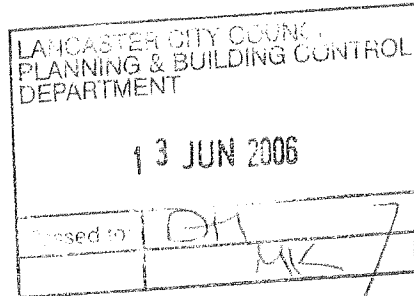


**Northwest**

REGIONAL DEVELOPMENT AGENCY

**Steven Broomhead**  
Chief Executive

Andrew Dobson  
Head of Planning and Building Control  
Lancaster City Council  
Palatine Hall  
Dalton Square  
Lancaster  
LA1 1PW



SB/JL/1447/CD  
Your ref: TPO No 385  
12 June 2006

Dear Andrew

**Tree Preservation Order No. 385 (2006): Bailrigg Lane, Lancaster**

Thank you for your letter dated 18 May 2006 inviting comments on the above. The Northwest Regional Development Agency welcomes the opportunity to respond.

The above Tree Preservation Order (TPO) relates to three trees within the site of the proposed Lancaster Science Park at Bailrigg, which is allocated for B1 business use under Policy EC1 of the adopted Lancaster Local Plan.

The Bailrigg site was designated as a strategic regional site by the Agency in December 2001. Its status as a strategic regional site was subsequently confirmed in the 2003 Regional Economic Strategy (RES) and is retained in the current (2006) Strategy. RES Action 80 refers specifically to the delivery of designated strategic regional sites as regional investment sites, knowledge nuclei or inter-modal freight terminals. This is one of the Strategy's 'transformational' actions and, as such, is seen as fundamental to achieving the outcomes envisaged in the RES Vision.

Bailrigg is seen as a potential knowledge nucleus, given its proximity to Lancaster University. RES action 16 supports the development of major research concentrations and knowledge nuclei including Lancaster's Infolab 21 and Environment Centre.

As you will be aware, the Agency has submitted an outline planning application (reference 05/01114/OUT) to develop the Bailrigg site as a science park, with a restaurant/café and associated, car parking, servicing, roads, footpaths and cycleways, public transport facilities, landscaping and public open space.

When preparing this application the Agency's consultants took careful note of the Development Brief for the site, which your Council had adopted in April 2002. That brief included sections on landscaping and ecological development principles. Although it made specific reference to the importance of protecting and retaining the hedgerow and trees on Bailrigg Lane (with which the Agency is fully in agreement) there was no requirement to retain the trees included within the above Tree Preservation Order.

INVESTOR IN PEOPLE

Northwest Regional Development Agency  
Renaissance House,  
PO Box 37, Centre Park,  
Warrington, WA1 1XB

Telephone: +44 (0)1925 400100  
Fax: +44 (0)1925 400400  
E-mail: [information@nwda.co.uk](mailto:information@nwda.co.uk)  
[www.nwda.co.uk](http://www.nwda.co.uk)

INVESTING IN  
**englandsnorthwest**

By letter to our agents, Capita Symonds Ltd, dated 3<sup>rd</sup> November 2005 your Senior Planning Officer Mark Cassidy raised a number of issues relating to the application. Whilst this refers to the retention of the above mentioned hedgerow to Bailrigg Lane and the provision of extensive landscaping to the A6 frontage, it does not specifically mention the trees to which the proposed TPO relates.

With regard to trees on the site, our planning application states that every effort will be made to preserve the limited number of trees on the site. Where this is not possible, they will be replaced as part of an extensive replanting scheme.

The lime tree (T1) on the site's northern boundary along Bailrigg Lane is close to the existing hedgerow. It should therefore be possible to retain it within the proposed development. However, the oak and horse chestnut trees (T2 and T3) in the south east corner of the site occupy an area on which the illustrative masterplan shows a 929 sq metre business unit. If confirmed, the TPO would restrict the site from being developed to its optimum potential. Of course, at this stage of development preparation there is no certainty to detailed site design and placement of buildings. However the restrictions imposed by the TPO could be very restrictive to site layout and flexibility and lead to increased development costs and reduced economic benefits.

For this reason, the Agency therefore wishes to object to the proposed TPO in respect of trees T2 and T3.

The Agency is fully committed to sustainable development and will ensure that the final development details for the site follow current best practice. As noted above, our proposals entail extensive planting and landscaping, including provision of structural woodland planting along the north eastern boundary. There will be careful selection of species to ensure that the site's structural landscaping creates a high quality environmental and ecological habitat. We consider that this would more than compensate for the potential loss of trees T2 and T3.

Yours sincerely



**Steven Broomhead**  
**Chief Executive**

Appendix no.4

Tree Evaluation Method for Preserved Trees (TEMPO)

# TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):

## SURVEY DATA SHEET & DECISION GUIDE

Date:	Surveyor:
-------	-----------

<b>Tree details</b>	Tree/Group No:	Species:
TPO Ref:		
Owner (if known):		
Location:		

**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              |

<b>Score &amp; Notes</b>
--------------------------

**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      |

<b>Score &amp; Notes</b>
--------------------------

**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     |

<b>Score &amp; Notes</b>
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**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     | <b>Score &amp; Notes</b> |
| 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            |                          |

**Part 2: Expediency assessment**

Trees must have accrued 9 or more points to qualify; refer to Guidance Note

- |  |                          |
|--|--------------------------|
| 5) Known threat to tree                    | <b>Score &amp; Notes</b> |
| 3) Foreseeable threat to tree              |                          |
| 2) Perceived threat to tree                |                          |
| 1) Precautionary only                      |                          |
| 0) Tree known to be an actionable nuisance |                          |

**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 |

<b>Add Scores for Total:</b>
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<b>Decision:</b>
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**TREE EVALUATION METHOD FOR PRESERVATION ORDERS:**

**TEMPO**

**Guidance Note for Users**

**May 2005**

## **Introduction**

### **Background**

The impetus to take a fresh look at existing TPO suitability evaluation methods grew out of the preparation for a local authority of a detailed Method Statement for reviewing Tree Preservation Orders (TPOs). The client wanted the Method Statement to include a reliable means of assessing trees for TPO suitability.

Having looked closely at what was already available, JFL decided that there was considerable room for improvement, as each of the better-known existing methods has disadvantages.

Accordingly, TEMPO has been developed by JFL whilst at CBA Trees as a direct response to the apparent continuing uncertainty about what attributes a tree should have in order to merit statutory protection by TPO.

### **Overview**

TEMPO is designed as a guide to decision-making, and is presented on a single side of A4 as an easily completed pro forma. As such, it stands as a record that a systematic assessment has been made (ref. Blue Book 2000 para. 3.3).

TEMPO considers all of the relevant factors in the TPO decision-making chain. In this connection, it is helpful to revisit the wording of the Blue Book:

‘Although a tree may merit protection on amenity grounds it may not be expedient to make it the subject of a TPO.’ (para. 3.4)

From this, it is clear that most existing methods are inadequate, seeking as they do solely to consider the tree rather than any known threats to its retention. TEMPO corrects this omission by including an expediency assessment within the framework of the method.

Excluding the first section, which is simply the survey record and is thus self-explanatory, TEMPO is a three-part system:

- Part 1 is the Amenity Assessment
- Part 2 is the Expediency Assessment
- Part 3 is the Decision Guide

These parts are set out and function as follows:

## Part 1: Amenity Assessment

This part of TEMPO is broken down into four sections, each of which are related to suitability for TPO:

- a) Condition
- b) Remaining longevity
- c) Relative public visibility
- d) Other factors

The first three sections form an initial assessment, with trees that 'pass' this going on to the fourth section. Looking at the sections in more detail:

### **a) Condition**

This is expressed by five terms, which are defined as follows:

- GOOD - Trees that are generally free of defects, showing good health and likely to reach normal longevity and size for species, or they may have already done so
- FAIR - Trees have defects that are likely to adversely affect their prospects; their health is satisfactory, though intervention is likely to be required. It is not expected that such trees will reach their full age and size potential, or if they already have their condition is likely to decline. However, they can be retained for the time being without disproportionate expenditure of resources
- POOR - Trees in obvious decline, or with significant structural defects requiring major intervention to allow their retention, though with the outcome of this uncertain. Health is significantly impaired, and it is likely to deteriorate. Life expectancy is curtailed and retention is difficult
- UNSAFE - Trees with severe, irremediable structural defects, including advanced decay and insecure roothold. Major collapse or toppling likely in the near term, retention therefore impossible as something worthy of protection
- DEAD - Self-explanatory!

The scores are weighted towards trees in good condition. It is accepted that trees in fair and poor condition should also get credit, though for the latter this is limited to only one point. It is the author's view that unsafe and dead trees should not be placed under a TPO, hence the zero score for these categories.

Where a group of trees is being assessed under this section, it is important to score the condition of those principle trees without which the group would lose its aerodynamic or visual cohesion. If the group cannot be 'split' in this way, then its average condition should be considered.

Against each of these terms is set an assessment of TPO suitability. These assessments are designed to reflect the fact that trees which are dead, dying or dangerous (which may be equated to the 'Dead' – obviously – 'Poor' and 'Unsafe' categories above) are effectively exempt from TPO protection.

## b) Remaining longevity

The reason that this is included as a separate category to 'condition' is chiefly to mitigate the difficulty of justifying TPO protection for veteran trees. For example, it is necessary to award a low score for trees in 'poor condition', though many veteran trees that could be so described might have several decades' remaining longevity.

Longevity has been divided into ranges, which are designed to reflect two considerations:

- It has long been established good practice that trees with less than ten years' remaining life expectancy are not worthy of a TPO (hence the zero score for this category)
- The further ahead one looks into the future, the more difficult it becomes to predict tree longevity: hence the width of the bands increases over time

Scores are weighted towards the two higher longevitys (40-100 and 100+), which follow the two higher ranges given by Helliwell.

The Arboricultural Association (AA) publishes a guide to the life expectancy of common trees (AA 4) as follows:

300 years or more	Yew
200-300	Common [pedunculate] oak, Sweet chestnut, London plane, Sycamore, Limes
150-200	Cedar of Lebanon, Scots pine, Hornbeam, Beech, Tulip tree, Norway maple
100-150	Common ash, Norway spruce, Walnut, Red oak, Horse chestnut, Field maple, Monkey puzzle, Mulberry, Pear
70-100	Rowan, Whitebeam, Apple, Wild cherry, Catalpa, Robinia, Tree of Heaven
50-70	Most Poplars, Willows, Cherries, Alders and Birches

The above should be considered neither prescriptive nor exclusive, and it is certainly not comprehensive. However, it should assist with determining the remaining longevity of most trees, in light of their current age, health and context.

It is important to note that this assessment should be made based on the assumption that the tree or trees concerned will be maintained in accordance with good practice, and will not, for example, be subjected to construction damage or inappropriate pruning. This is because if the subject tree is 'successful' under TEMPO, it will shortly enjoy TPO protection (assuming that it doesn't already).

If a group of trees is being assessed, then the mean age of the feature as a whole should be evaluated. It would not be acceptable, for example, to score a group of mature birches based on the longevity of the single young pedunculate oak present!

As with condition, the chosen category is related to a summary of TPO suitability.

### **e) Relative public visibility**

The first thing to note in this section is the prompt, which reminds the surveyor to consider the 'realistic potential for future visibility with changed land use'. This is designed to address the commonplace circumstance where trees that are currently difficult to see are located on sites for future development, with this probably resulting in enhanced visibility.

The categories each contain two considerations: size of tree and degree of visibility. We have not attempted to be too prescriptive here, as TEMPO is supposed to function as a guide and not as a substitute for the surveyor's judgement. However, we have found that reference to the square metre crown size guide within the Helliwell System can be helpful.

Reference is made to 'young' trees are in the lowest scoring category. This is intended to refer to juvenile trees with a stem diameter less than 150mm at 1.5m above ground level. The reasoning behind this is that such trees may be replaced by new planting, though it is accepted that replacement specimen trees towards the upper end of the given size are expensive.

In general, it is important to note that, when choosing the appropriate category, the assessment in each case should be based on the minimum criterion.

Whilst the scores are obviously weighted towards greater visibility, we take the view that it is reasonable to give some credit to trees that are not visible: it is accepted that, in exceptional circumstances, such trees may justify TPO protection (Blue Book para. 3.3.1).

Where groups of trees are being assessed, the size category chosen should be one category higher than the size of the individual trees or the degree of visibility, whichever is the lesser. Thus a group of medium trees would rate four points (rather than three for individuals) if clearly visible, or three points (rather than two) if visible with difficulty.

Once again, the categories relate to a summary of TPO suitability.

#### **Sub-total 1**

At this point, there is a pause within the decision-making process: as the prompt under 'other factors' states, trees only qualify for consideration within that section providing that they have accrued at least seven points. Additionally, they must not have collected any zero scores.

The total of seven has been arrived at by combining various possible outcomes from sections a-c.

The scores from the first three sections should be added together, before proceeding to section d, or to part 3 as appropriate (ie depending on the accrued score). Under the latter scenario, there are two possible outcomes:

- 'Any 0' equating to 'do not apply TPO'
- '1-6' equating to 'TPO indefensible'

#### **d) Other factors**

Assuming that the tree or group qualifies for consideration under this section, further points are available for four sets of criteria, however only one score can apply per tree (or group):

- ‘Principle components of arboricultural features, or veteran trees’ – The latter is hopefully self-explanatory (if not, refer to Read 2000). The former is designed to refer to trees within parklands, avenues, collections, and formal screens, and may equally apply to individuals and groups
- ‘Members of groups of trees that are important for their cohesion’ – This should also be self-explanatory, though it is stressed that ‘cohesion’ may equally refer either to visual or to aerodynamic contribution. Included within this definition are informal screens. In all relevant cases, trees may be assessed either as individuals or as groups
- ‘Trees with significant historical or commemorative importance’ – The term ‘significant’ has been added to weed out trivia, but we would stress that significance may apply to even one person’s perspective. For example, the author knows of one tree placed under a TPO for little other reason than it was planted to commemorate the life of the tree planter’s dead child (incidentally, in over 25 years it has never failed to be in flower on the child’s birthday). Thus whilst it is likely that this category will be used infrequently, its inclusion is nevertheless important. Once again, individual or group assessment may apply
- ‘Trees of particularly good form, especially if rare or unusual’ – ‘Good form’ is designed to identify trees that are fine examples of their kind and should not be used unless this description can be justified. However, trees which do not merit this description should not, by implication, be assumed to have poor form (see below). The wording of the second part of this is deliberately vague: ‘rare or unusual’ may apply equally to the form of the tree or to its species. This recognises that certain trees may merit protection precisely because they have ‘poor’ form, where this gives the tree an interesting and perhaps unique character. Clearly, rare species merit additional points, hence the inclusion of this criterion. As with the other categories in this section, either individual or group assessment may apply. With groups, however, it should be the case either that the group has a good overall form, or that the principle individuals are good examples of their species

Where none of the above apply, the tree still scores one point, in order to avoid a zero score disqualification (under part 3).

#### **Sub-total 2**

This completes the amenity assessment and, once again, there is a pause in the method: the scores should be added up to determine whether or not the tree (or group) has sufficient amenity to merit the expediency assessment.

The threshold for this is nine points, arrived at via a minimum qualification calculated simply from the seven-point threshold under sections a-c, plus at least two extra points under section d. Thus trees that only just scrape through to qualify for the ‘other factor’ score, need to genuinely improve in this section in order to rate an expediency assessment. This recognises two important functions of TPOs:

- TPOs can serve as a useful control on overall tree losses by securing and protecting replacement planting
- Where trees of minimal (though, it must be stressed, adequate) amenity are under threat, typically on development sites, it may be appropriate to protect them allowing the widest range of options for negotiated tree retention

## **Part 2: Expediency assessment**

This section is designed to award points based on three levels of identified threat to the trees concerned. Examples and notes for each category are:

- ‘Known threat to tree’ – for example, Tree Officer receives Conservation Area notification to fell
- ‘Foreseeable threat to tree’ – for example, Planning department receives application for outline planning consent on the site where the tree stands
- ‘Perceived threat to tree’ – for example, survey identifies tree standing on a potential infill plot

However, the Blue Book is clear that, even where there is no expedient reason to make a TPO, this is still an option. Accordingly, and in order to avoid a disqualifying zero score, ‘precautionary only’ still scores one point. This latter category might apply, rarely for example, to a garden tree under good management.

The fifth category within this section relates to reverse expediency: where trees are known to be an actionable nuisance, it is not possible effectively to protect them with a TPO, hence the zero score.

Clearly, other reasons apply that might prevent/usually obviate the need for the making of a TPO (eg the tree stands on Crown land). However, it is not felt necessary to incorporate such basic considerations into the method, as it is chiefly intended for field use: these other considerations are most suitably addressed as part of a desk study and could, if necessary, be factored into the scoring after the field work has been completed.

As a final note on this point, it should be stressed that the method is not prescriptive except in relation to zero scores: TEMPO merely recommends a course of action. Thus a tree scoring, say, 15, and so ‘definitely meriting’ a TPO, might not be included for protection for reasons unconnected with its attributes.

### **Part 3: Decision Guide**

This section is based on the accumulated scores derived in Parts 1 & 2, and identifies four outcomes, as follows:

- Any 0 Do not apply TPO  
Where a tree has attracted a zero score, there is a clearly identifiable reason not to protect it, and indeed to seek to do so is simply bad practice
- 1-6 TPO indefensible  
This covers trees that have failed to score enough points in sections 1a-c to qualify for an 'other factors' score under 1d. Such trees have little to offer their locality and should not be protected
- 7-10 Does not merit TPO  
This covers trees which have either qualified for a 1d score, though they may not have qualified for Part 2. However, and even if they have made it to Part 2, they have failed to pick up significant additional points. This would apply, for example, to a borderline tree in amenity terms that also lacked the protection imperative of a clear threat to its retention
- 11-14 Possibly merits TPO  
This applies to trees that have qualified under all sections, but have failed to do so convincingly. For these trees, the issue of applying a TPO is likely to devolve to other considerations, such as public pressure, resources and 'gut feeling'
- 15+ Definitely merits TPO  
Trees scoring 15 or more are those that have passed both the amenity and expediency assessments, where the application of a TPO is fully justified

### **Notation boxes**

Throughout the method, notation space is provided to record relevant observations under each section. For local authorities using TEMPO, it may even be helpful to include a copy of the TEMPO assessment in with the TPO decision letter to relevant parties, as this will serve to underline the transparency of the decision-making process.



## Conclusion

TEMPO is a quick and easy means of systematically assessing tree or group suitability for statutory protection. It may be used either for new TPOs or for TPO re-survey, especially where Area TPOs are being reviewed.

From the consultants' perspective, it is also an effective way of testing the suitability of new TPOs, to see whether they have been misapplied, or it can be used to support a request to make a TPO in respect of trees at risk, for example from adjacent development.

TEMPO does not seek to attach any monetary significance to the derived score: the author recommends the use of the Helliwell System where this is the objective.

CBA Trees owns the copyright for TEMPO, however the method is freely available, including via internet download.

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- |                |  |
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