

PLANNING & HIGHWAYS REGULATORY

COMMITTEE

Assessment of Two Ornamental Cherry Trees Established on Land at Kingsway Former Bus Depot

22nd January 2007

Report of Head of Planning Services

PURPOSE OF REPORT

To provide details of the location, condition and amenity assessment of the trees established on land at the former Kingsway bus depot, in order that an informed decision can be made as to whether serving a Tree Preservation Order is an appropriate course of action.

This report is public

RECOMMENDATIONS

- (1) That the report be noted and that Members confirm the decision of the Head of Planning not to serve a Tree Preservation Order on the two ornamental cherry trees.
- (2) That it be confirmed that the preferred option is to pursue a landscape scheme within or adjacent to the proposed development site that will ensure an increase in overall sustainable tree cover within the city development and create a significant landscape feature at the entrance to the city that will be present for many decades or several centuries to come.

1.0 Introduction

- 1.1 The Kingsway former bus depot is located to the north of Lancaster city centre, and was built in the late 1930's. The site is sandwiched between two busy, public highways that form part of the city's one-way system with vehicles entering the city centre on the A6 Caton Road to the east and exiting the city on the A6 Kingsway immediately to the west. The Kingsway site has undergone recent changes with the erection of several retail units with further development of the site proposed.
- 1.2 Generally, the city centre has a low volume of tree cover due in part to the density of buildings and the lack of opportunity for new tree plantings within the built environment.

- 1.3 The volume and quality of tree cover is becoming increasingly important, not only to improve local amenity, but also nationally and indeed worldwide, in the mitigation of climate change.

2.0 Purpose of serving a Tree Preservation Order

- 2.1 Under section, 198 (201) and 203 of the Town & Country Planning Act Lancaster City Council has the powers to serve a Tree Preservation Order. In accordance with the Council's Constitution, the making of a Tree Preservation Order is delegated to the Head of Planning. This report has been submitted to the Committee because of the strong views of a Ward Member who has requested that a TPO be made.
- 2.2 The principal effect is to prohibit the '*cutting down, uprooting, topping, lopping, wilful damage, or wilful destruction of trees*' without the consent of the local planning authority.
- 2.3 Trees that are in a condition described as '*dead, dying or dangerous*' are exempt and will not be served with a Tree Preservation Order under the Act.

3.0 Tree Assessment

- 3.1 A detailed assessment of both trees has been undertaken including:
- a) a Visual Tree Assessment (VTA); an inspection and assessment of tree condition undertaken from ground level;
 - b) a Tree Evaluation Method for Tree Preservation Orders (TEMPO), this is an objective and systematic method for the assessment of trees with regard to serving a Tree Preservation Order. The assessment is designed, as a guide only to decision-making, and in itself is not a decision-making tool.
 - c) For the purpose of the assessment, the trees in question were identified as **T1** and **T2**.
- 3.2 Following assessment both trees were identified to be an age class described as mature/over-mature. The life potential of these species is 50-70 years. Although the exact date of planting is not known, it may have coincided with the completion of the former bus depot and public swimming baths *circa* 1940. This would suggest that the trees in question are around 60 years of age.
- 3.3 **T1** was found to be in a condition identified as 'Poor' – described as '*a tree in obvious decline. Health is significantly impaired, and is likely to deteriorate. Life expectancy is curtailed and retention is difficult.*'
- 3.3 **T2** was found to be in a better condition, identified as 'Fair' – described as '*Health is satisfactory, though intervention is likely to be required. The condition is likely to decline. However, it can be retained for the time being without disproportionate expenditure.*'
- 3.4 The trees in question attained a score of 12+ following the TEMPO assessment. This level of score suggests that serving a Tree Preservation

Order could be a defensible course of action. This is guidance to decision-making only, and not a recommendation.

4.0 **Proposal Details**

- 4.1 It is essential that opportunities for making improvements in sustainable tree cover are identified and utilised where appropriate.
- 4.2 If members were to recommend to serve a Tree Preservation Order, this would prohibit the '*cutting down, uprooting, topping, lopping, wilful damage, or wilful destruction of the two trees*' without the prior written consent of the local planning authority. However, the protection provided by a Tree Preservation Order is limited, and any future granting of planning consent on the site would override this protection, and the trees could then be removed lawfully, although replacement plantings would have to be made on a 'like for like' basis unless otherwise agreed.
- 4.3 Given the age of the trees, decline in condition and their severely limited sustainable value, the officer recommendation is not to serve a Tree Preservation Order, and the Committee is asked to reinforce that view. In that event, the landowners could remove the trees in question without consent and without legal obligation to replace them.
- 4.4 An important element in considering this case is the opportunity for developing a sustainable tree-planting scheme within either the proposed Kingsway development or on land adjacent to the site. A new scheme will make provision for the long-term, sustainable future of trees close to the city centre. It may also include negotiating the development of a monumental tree as a landscape feature that will become synonymous with Lancaster and mark the entrance to the city centre, ensuring tree cover on the site or close by for many decades and centuries to come. It is recommended to follow this course of action in this particular instance.

5.0 **Details of Consultation**

- 5.1 None, but as indicated above, the report is submitted to the Committee in the light of a request from a Ward Member that TPOs be made.

6.0 **Options and Options Analysis (including risk assessment)**

- 6.1 **Option A: Do not serve a Tree Preservation Order.** In light of the age of the trees, declining condition and severely limited life potential, it is preferable to focus on agreeing a new tree-planting scheme that will provide a sustainable tree cover long into the future.
- 6.2 **Option B: Serve a Tree Preservation Order to secure replacement tree planting; in the event that planning consent is granted to develop the site in the future, the trees may be required to be removed to accommodate the proposals.** Under section 206 of the *Town & Country Planning Act* a replacement tree planting must be made and agreed in writing by the local planning if a protected tree is removed. Interested parties would have the legal option to formally object to Lancaster City Council serving a Tree Preservation Order, and the case may go to an Appeal.

- 6.3 Option C: Serve a Tree Preservation Order with the intention of the long-term retention of the trees that are subject to the order.** This would have to be considered as an element of any future planning application to develop the site.

7.0 Conclusion

- 7.1** It is concluded that Option A is the best choice. It will provide a long-term sustainable option for developing tree cover at the entrance to the city centre. Consideration should also be given to the development of a significant, monumental tree-planting feature within the constraints of any future development of the site or close by. This would have the potential to provide an important landmark feature for the city for many decades possibly centuries to come.

CONCLUSION OF IMPACT ASSESSMENT

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

Opting not to serve a Tree Preservation Order on the two cherry trees and working towards the development of a new tree planting scheme within the constraints of any future site development, or close by, will significantly contribute to the long-term sustainability of tree cover close to the city centre. The two trees in question have a severely limited life potential, related directly to their species natural life span, and their current condition. The future life potential of the two cherry trees may be as little as 10-15 years.

FINANCIAL IMPLICATIONS

There are costs in terms of officer and administrative time in serving a Tree Preservation Order that has limited benefits and which may be deemed as an unnecessary and inappropriate action. Additional costs are incurred in officers' time, legal services, administration and Members' time, if a Tree Preservation Order should go to Appeal. This, however, must be balanced with the need to protect the wider environment, maintain public amenity and work towards developing a greater level of sustainable development.

SECTION 151 OFFICER'S COMMENTS

None

LEGAL IMPLICATIONS

See Financial Implications section above.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and her comments incorporated in the report.

BACKGROUND PAPERS

TPO File

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