

CARLISLE CITY COUNCIL

Report to:- Development Control Committee

Date of Meeting:- 16th July 2010

Agenda Item No:-
ED. 13/10

Public	Operational	Delegated: No
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Accompanying Comments and Statements	Required	Included
Environmental Impact Statement:	No	No
Corporate Management Team Comments:	No	No
Financial Comments:	No	No
Legal Comments:	Yes	Yes
Personnel Comments:	No	No

Title:- **REVOCATION OF TREE PRESERVATION ORDER**
40 Plains Road, Wetheral

Report of:- Assistant Director (Economic Development)

Report reference:- ED. 13/10

Summary:-

This report considers the reasons for the revocation of Tree Preservation Order 40 Plains Road, Wetheral

Recommendation:-

Tree Preservation Order 40 Plains Road, Wetheral be revoked.

Christopher Hardman
Assistant Director (Economic Development)

Contact Officer: Charles Bennett

Ext: 7535

Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: The Town and Country Planning Act 1990; DETR Tree Preservation Orders A Guide to the Law and Good Practice

1.0 Background

- 1.1 In accordance with Government guidance and best practice, Carlisle City Council is carrying out a review of its Tree Preservation Orders. A file audit of all the Tree Preservation Orders has been carried out to determine the priority for reviewing the individual Orders.
- 1.2 Examples of reasons to vary or revoke Tree Preservation Orders are:
- (i) Changes to legislation. The Town and Country Planning Act 1990 and The Town and Country Planning (Trees) Regulations 1999 as amended are the current legislative instruments relating to Tree Preservation Orders; and
 - (ii) changes to best practice guidance and woodland management regimes including woodland grant aid; and
 - (iii) errors within the Tree Preservation Order may come to light after the Tree Preservation Order has been confirmed. When an error comes to light the Local Planning Authority should consider using its variation and revocation powers to put it right.
- 1.3 When an individual Tree Preservation Order is reviewed this may result in any one of the following outcomes.
- (i) No further action is taken and the Tree Preservation Order remains in force.
 - (ii) The Tree Preservation Order is revoked without a new tree Preservation Order being made.
 - (iii) A new Tree preservation Order is made to replace the Tree Preservation Order being reviewed, the original Tree Preservation Order then being revoked

2.0 Assessment of the Tree Preservation Order

- 2.1 Tree Preservation Order 40 Plains Road, Wetheral was made in June 1979. Once made a Tree Preservation Order must be confirmed within six months otherwise the protection it affords to the trees lapses.

- 2.2 The file audit of the Tree Preservation Orders revealed that the Local Authority does not have evidence that this Order was ever confirmed. Therefore, this Tree Preservation Order may be unenforceable and does not protect the trees as was the intention at the time it was made.
- 2.3 Whilst it is possible to confirm a Tree Preservation Order after the six month period has expired it is considered bad practice and would cast doubt on the validity of the Order itself.
- 2.4 A site visit was carried out to determine if the trees remained worthy of protection, at which it was observed that only two of the four trees originally protected remained. These were assessed and found to warrant the statutory protection afforded by a Tree Preservation Order.
- 2.5 A new Tree Preservation Order was made, and as Members will recall this Committee resolved to confirm this new Tree Preservation Order at its previous meeting on the 11th June 2010.
- 2.6 However, Preservation Order 40 remains registered as a land charge, on public record, and could in theory be confirmed, although it would be considered bad practice to do so.

3.0 Conclusion

- 3.1 Tree Preservation Order 40 Plains Road, Wetheral is unenforceable, and has been superseded by the accurate, up to date and enforceable Tree Preservation Order 251 Tunmire Common Playground, Wetheral.
- 3.2 In the interest of good house keeping and for the avoidance of confusion Tree Preservation Order 40 Plains Road, Wetheral should be revoked

4.0 Recommendation

- 4.1 That Tree Preservation Order 40 Plains Road, Wetheral, be revoked

Christopher Hardman

Assistant Director (Economic Development)

Contact Officer: Charles Bennett

Ext: 7535