

CARLISLE CITY COUNCIL

Report to:- **Development Control Committee**

Date of Meeting:- 25 January 2013

Agenda Item No:-
ED 07/13

Public

Title:- **CONFIRMATION OF TREE PRESERVATION ORDER 262**

Report of:- **Director of Economic Development**

Report reference:- **ED 07/13**

Summary:-

This report considers the confirmation of Tree Preservation Order 262 Over Eden, Wetheral, and representations to the making of the tree preservation order.

Recommendation:-

Tree Preservation Order 262 is confirmed without modification

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. BACKGROUND INFORMATION AND OPTIONS

- 1.1 The Town and Country Planning Act 1990, Section 198 provides that Local Planning Authorities may make a Tree Preservation Order if it appears to them to be “expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”. The Department of Environment Transport and the Regions document, “Tree Preservation Orders A Guide to the Law and Good Practice” advises that “Tree Preservation Orders should be used to protect selected trees and woodland if their removal would have a significant local impact on the environment and its enjoyment by the public”.
- 1.2 Over Eden, Wetheral is within the Wetheral Conservation Area. Under the Town and Country Planning Act 1990 s211 anyone proposing to cut down or carry out work to a tree in a conservation area is required to give the Local Planning Authority six weeks prior notice. The purpose of this requirement is to give the Local Planning Authority an opportunity to consider whether a tree preservation order should be made in respect of the tree.
- 1.3 On the 8 October 2012 a notification of intention to carry out extensive lopping of a mature oak tree was received by the Local Planning Authority. On receipt of a notification to work on trees protected by virtue of their location within a conservation area the Local Planning Authority has three options.
 - (i) Make a tree preservation order if justified in the interests of amenity. The proposed tree works would then have to be the subject of a formal application under the tree preservation order.
 - (ii) Decide not to make a tree preservation order and allow the six week period to expire, at which point the works may go ahead as long as it is carried out within two years from the date of the notice.
 - (iii) Decide not to make a tree preservation order and inform the applicant the work can go ahead.
- 1.4 As part of the notification process the City Council seek representations on the proposed works, including from the Parish Council. The Parish Council responded “Having looked at this application members felt that whilst they feel that some pruning would be acceptable the proposed work was too severe.”
- 1.5 On the 13 November 2012 an Officer visited Over Eden to assess the proposed works to the tree, and to determine if a tree preservation order was appropriate. The tree that was the subject of the notification, along with two adjacent oak trees that together formed a group was assessed using the Tree Evaluation Method for Preservation Orders. The group of three oak trees scored highly indicating they

were worthy of protection. The Tree Evaluation Method for Preservation Orders is a means of assessing trees in a consistent manner which provides a score indicating whether or not the trees are worthy of statutory protection by means of a tree preservation order.

- 1.6 On the 13 November 2012, having considered the representations of the Parish Council, and the outcome of the assessment, Carlisle City Council made Tree Preservation Order 262 Over Eden, Wetheral, Carlisle. The Order was served on the Owners of Over Eden, and those persons interested in the land affected by the Order. A copy of the tree preservation order plan and the statement of reasons are attached hereto at Appendix 1.
- 1.7 A letter supporting the tree preservation order, highlighting the landscape and ecological value of the trees, was received by Carlisle City Council.
- 1.8 Seven objections to the tree preservation order were received by Carlisle City Council. Two of these were subsequently withdrawn following discussions with the objectors. The letters of support and objection and the Officers replies are attached hereto at Appendix 2.
- 1.9 The objections can be summarised as follows
 - (i) The tree has rot which weakens it, making it dangerous and it could shed a limb onto the road; and
 - (ii) the branches are unbalanced concentrating stress at the point of the rot; and
 - (iii) the adjacent oaks will continue to provide visual amenity; and
 - (iv) insurance does not cover trees with rot;
- 1.10 Officers response to the objections can be summarised as follows
 - (i) Decay is a natural and common occurrence in trees. Its presence does not necessarily mean the tree is unsafe, or must be removed. The tree should be inspected by a qualified and experienced arboricultural consultant to determine what if any risks there are, and what an appropriate course of action is. The use of a tree surgeon who would have a vested interest in recommending extensive and expensive works is not appropriate; and
 - (ii) Trees are self optimising organisms. That is they will grow to add wood, and therefore strength, where there is a mechanical requirement. The branching structure you describe and show in your drawing is typical of most trees, which have a trunk, a main branch system, and secondary branches growing out towards the light; and

(iii) The oak that was the subject of the notification is an integral element of the group. Its removal would have a detrimental effect on the visual amenity of the area; and

(iv) Insurance does usually cover Acts of God. But where defects are identified that could result in foreseeable failure action should be taken to address the risk. The tree preservation order will not prevent such works being undertaken, albeit an application may be required.

1.11 Having duly considered the objections and Officers observations Members have three options

(1) Confirm the tree preservation order, that is make it permanent without modification; or

(ii) decline to confirm the tree preservation order; or

(iii) confirm the tree preservation order with modifications, that is make the tree preservation order permanent in relation to some of the trees specified in the order, but to exclude other trees from the order.

2. CONSULTATION

2.1 The Owners of the affected property, the person who served the notice to prune the trees, and all those with an interest in the land were sent copies of the tree preservation order. A covering letter was enclosed explaining how to make representations to the Local Planning Authority. Also, a site notice was placed in a prominent position at Over Eden advising how to make representations about the making of the tree preservation order.

3. RECOMMENDATIONS

3.1 Tree Preservation Orders 262 Over Eden, Wetheral be confirmed without modification.

4. REASONS FOR RECOMMENDATIONS

4.1 The Tree Preservation Order will ensure the continuity of the visual amenity provided by the trees.

5. IMPLICATIONS

- Staffing/Resources – None
- Financial – Compensation maybe payable if a person establishes that loss or damage has been caused or occurred in consequence of the refusal of consent, the grant of

consent subject to conditions, or the refusal of consent, subject to the restrictions and exemptions set out in The Town and Country Planning (Tree Preservation)(England) Regulations 2012. Necessary works to the trees will not be refused, so it is not envisaged that a claim for compensation will occur.

- Legal – The validity of the tree preservation order cannot be challenged in any legal proceedings except by way of application to the High Court. An application must be made within six weeks from the date of the confirmation of the tree preservation order.
- Corporate – None
- Risk Management – None
- Equality and Disability – None
- Environmental – The tree preservation order will ensure that the trees continue to provide a significant degree of amenity to the conservation area and its enjoyment by the public.
- Crime and Disorder – None
- Impact on Customers – Whilst an application to carry out works to the protected trees will be required, applications for appropriate works will not be unduly refused. There is no cost implication to the customer in making an application to work on the trees.

Impact assessments

Does the change have an impact on the following?

Equality Impact Screening	Impact Yes/No?	Is the impact positive or negative?
Does the policy/service impact on the following?		
Age	No	
Disability	No	
Race	No	
Gender/ Transgender	No	
Sexual Orientation	No	
Religion or belief	No	
Human Rights	Yes	Negative
Health inequalities	No	
Rurality	No	

If you consider there is either no impact or no negative impact, please give reasons:

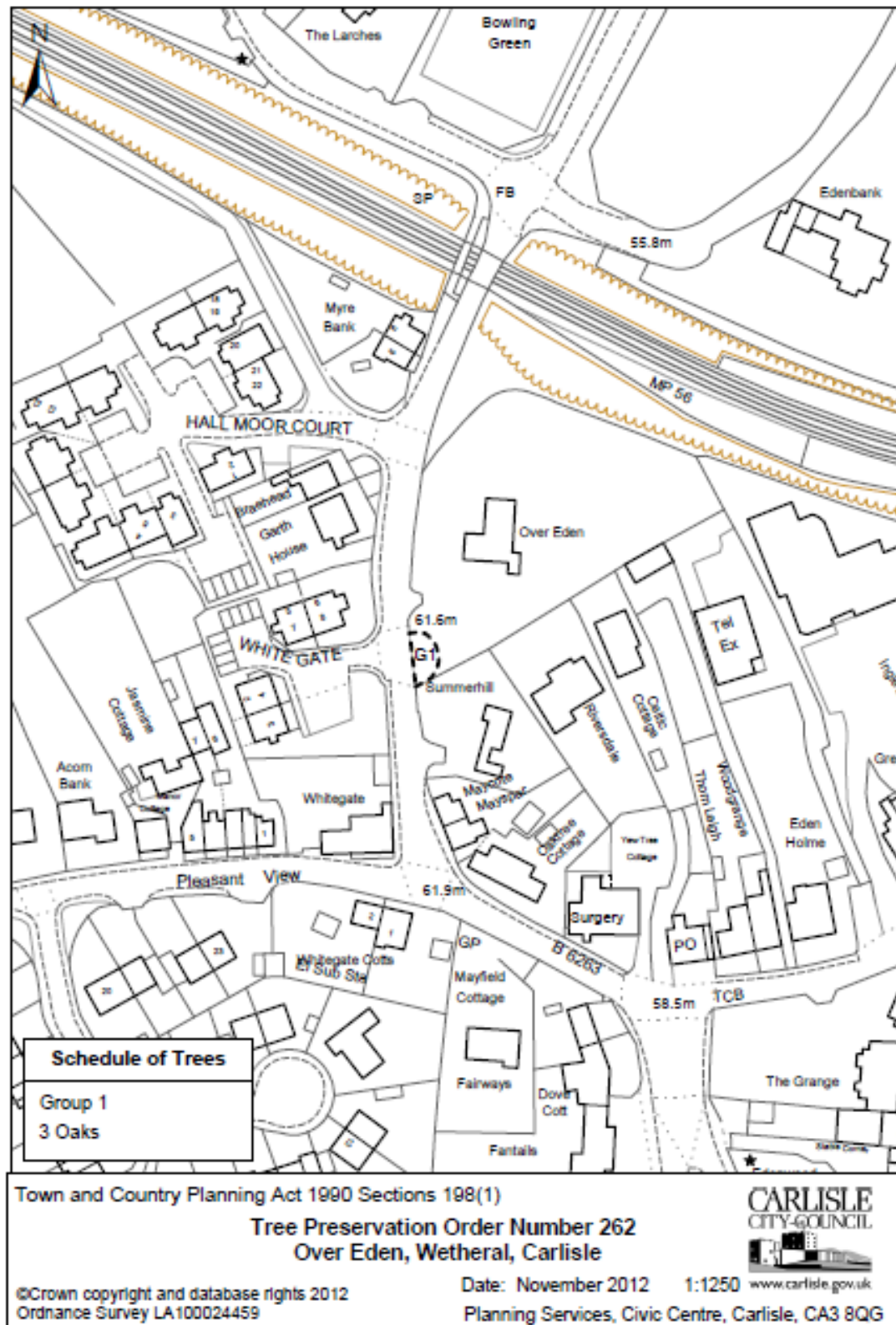
The proposed tree preservation order has the potential to affect the immediate environment and residents in the vicinity as opposed to a particular sector of society.

This Tree Preservation Order needs to be considered against the provisions of the Human Rights Act 1998. Under Article 6, the third parties, including local residents, who have made representations, have the right to a fair hearing and to this end the Committee must give full consideration to their comments.

Article 8 and Protocol 1 Article 1 confer(s) a right of respect for a person's home and a right to peaceful enjoyment of one's possessions, which could include a person's home, other land and business assets. In taking account of all material considerations, including Council policy it is considered that some rights conferred by these Articles on the residents/objectors and other occupiers and owners of nearby land that might be affected may be interfered with but that interference is in accordance with the law and justified by being in the public interest and on the basis of the restriction on these rights posed by confirmation of the Tree Preservation Order is proportionate to the wider benefits of approval and that such a decision falls within the margin of discretion afforded to the Council under the Town and Country Planning Acts.

If an equality Impact is necessary, please contact the P&P team

APPENDIX 1 TREE PRESERVATION ORDER PLAN & STATEMENT OF REASONS



TREE PRESERVATION ORDER NO. 262 OVER EDEN, WETHERAL, CARLISLE, CUMBRIA

STATEMENT OF REASONS

By virtue of section 198(1) of the Town and Country Planning Act 1990 the local planning authority may make a tree preservation order where it appears to the authority that it is expedient in the interests of amenity to make provision for the protection of trees and woodlands in its area.

The guidance set out in the Department of the Environment Transport and the Regions document 'Tree Preservation Orders, A Guide to the Law and Good Practice' states that tree preservation orders should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public.

The trees, by virtue of their size and prominent location are a significant element in the character of the Wetheral Conservation Area and local street scene. They are clearly visible to the public from the B 6283.

One of the oaks that comprise the group has been the subject of a conservation area notice of intention to lop and top it. It is considered that such a significant amount of pruning to this prominent tree would have a detrimental impact on the visual amenity of area and its enjoyment by the public.

To ensure the continuation of the visual amenity that the trees provide the Council of the City of Carlisle considers it expedient in the interests of amenity to protect the trees by means of a Tree Preservation Order.

LETTERS OF SUPPORT, OBJECTION AND OFFICERS REPLIES

29th November 2012

PLEASE CONFIRM THAT THIS COMMUNICATION HAS BEEN RECEIVED AND IS BEING DEALT WITH BY THE CORRECT PERSON

Representation in connection with Application to carry out work on TPO ref. 0262 Over Eden Wetheral

Dear Sir,

The applicant resident at this property has publicised his desire to carry out work to the Oak Trees contained in this TPO on the grounds of public safety with an open letter posted on the village notice boards. I commend Carlisle City Council for their prompt action in placing a TPO on this group to provide an immediate safeguard against any ill considered actions. As a general principal I would encourage the Council to be more proactive in assessing the landscape and ecological value of trees in the village and ensuring they are protected rather than waiting to do so when threats arise.

This group of mature Oak trees have immense landscape visual value at the gateway to the village approaching from Warwick Bridge, and also frame views out of the village towards the Eden Valley plain. In the face of real threats to so many native trees from human and biological fronts, mature Oak trees are particularly valuable for wildlife, including in this area the Red Squirrel. The applicants' opinion that views about them are just "Sentimental" is unfounded. The claim that branches overhanging the road are a safety risk to motorists and pedestrians is being used to whip up fear on behalf of residents. It is worth pointing out that there are dozens of trees in the village which similarly overhang the roads and to pollard these to remove any possible risk of future branch fall would destroy most of the character of the village. In all cases proper and timely inspection and management will minimise risk.

Presence of heart rot in mature Oak trees is not detrimental to their long term health and numerous studies have shown that the resulting hollow trunk structure is ultimately beneficial in producing a more stable structure which can live on for many centuries.

Having placed a TPO on this group I trust you will now ensure that a complete structural survey is made by a competent tree surgeon prior to deciding the best plan for their future management. Hopefully this will be considerably less than the brutal coppicing envisaged by the applicant. The reason the original limb fell unexpectedly was probably because the tree had not been inspected previously and, if it had, timely and appropriate remedial action could have been taken to avoid the unexpected limb drop and unnecessary collateral damage - when you have large mature trees on a property a stitch in time inevitably saves nine.

These are important trees for Wetheral. With proper care they have potential to be a delight for many future generations of residents.

Yours sincerely,

David Richards

LEGAL	PLANNING SERVICES
FILE	
- 3 DEC 2012	
DATE	
TIME	
MAIL LOG	

"Overeden",
Wetheral,
CARLISLE CA4 8JN

30th November, 2012

01228 56287

Ref: CB/TPO 262

M.D. Lambert,
Director of Governance,
Civic Centre,
CARLISLE

PLANNING SERVICES	
REF:	
04 DEC 2012	
RECORDED	
SCANNED	
PASSED TO	
ACTION	

Dear Mr. Lambert,

TREE AT WETHERAL

I have ascertained that I have no insurance cover for claims under the legal liability section of my policy. Whilst under other circumstances there is a £2,000,000 availability applicable under this clause there is a general exclusion; any damage caused by rot disqualifies.

Since tree branches falling due to storm damage are usually affected by the rot in the hardwood, I have been advised by Royal & Sun Alliance that a claim would only be accepted as storm damage. I am sure that the insurance investigators would soon find reason to disqualify the claim.

Mature forest trees can also shed branches following long periods of dry weather when the plant tries to equate its needs to the available water supply. Any discovery of rot would trigger automatically the disqualification under this clause. Insurance companies are not benevolent institutions and Royal Sun Alliance is one of the most respected.

If your committee legislates that the Tree Preservation Order shall become permanent then the situation will only be made worse.

The outcome could be my financial ruin and perhaps inadequate compensation for the victims or their families. What I need is permission to remove from the tree, all branches which overhang B6263 and I can only repeat my previous firmly held view that pollarding is the answer. This is because the trunk of the tree is so near to road B6263.

Will you please ensure that the Committee members fully understand the situation whilst I will have to try to find insurance to protect both my wife, myself and the claimant. I do not wish to withdraw my objection to the TPO.

Yours faithfully,

Graham Baker

DEMOCRATIC SERVICES
26 NOV 2012
~~MDL~~
~~X~~

"Overeden"
Wetheral
CA4 8JN

22nd Nov 2012

01228 562827

Mr MD Lambert
Director of Governance,
Council Offices
Rickergate
CARLISLE CA3 8QG

Dear Mr Lambert,

I have written to you in the last few days to register an appeal against the Tree Preservation Order No 262 applied to oak trees in Wetheral.

I enclosed my first thoughts in documents which I had prepared.

I would like to withdraw those documents only and to substitute the enclosed which give firmer reasons for my concern. I think that this tree is dangerous and that the services of an arboriculturist would be justified in preference to a Tree Preservation Order. My wish to appeal still stands.

Thank you

Yours faithfully


Graham Bruce

OAK TREE OPPOSITE WHITEGATES, WETHERAL

This tree is infected with rot in the heartwood. I consider it to be a danger to users of route B6263 which passes under its huge branches. In September it deposited two heavy branches into the garden of the old police house, (Summerhill). If branches should drop onto B6263 and anyone be underneath, then death would be very likely. This happened in Hexham recently.

The best view of the damaged area is from the entrance gateway to the police house.

If you have any concerns about using route B6263, either as a pedestrian or as a driver, I can be contacted on Wetheral 562 827 for information.

My response was to request permission to pollard this tree but the Carlisle City Council has rejected this. Instead it has imposed a Tree Preservation Order which will add just another layer of leaden bureaucracy opposing any action to make the situation better. The order is *provisional* until a Council meeting on December 11th next. Then it will be made final.

If you are at all troubled by the implications for your safety, then please write to Mr MD Lambert, the Director of Governance at the council offices in Carlisle and appeal the decision. Individual letters only please *no later than December 9th. The Council will not accept petitions or photocopies.*

I do not want anyone to die in the public highway. Human life is worth so very much more than the branches of a tree.

The villagescape which everyone loves will still have the crown of the two-stemmed coppiced oak to grace the spot next to the tree in question. A pollard will grow a new crown over some time but the danger will be removed, perhaps to the next century when this problem could occur once more.

Graham Bruce, Overoden, 20-11-2012

ROT IN TREE-----WETHERAL

Dear Resident,

There is rot in this tree and in a way which I am sure, puts the public at unacceptable risk. Fungal rot in a tree affects the heartwood first and foremost. The spores, according to Herbert Edlin enter the tree when the bark is broken and the inner wood exposed. The decay then spreads slowly throughout the plant until major disease is a consequence. Only much later do fungal toadstools and brackets emerge on the lower trunk, the first evidence of troubles within. True, I have never seen any such on this tree.

However, in late September, a large heavy branch fell off into the garden of the old Police House and it tore off another on the way down. It wasn't terribly windy at the time.

Branches can be shed due to storm conditions and as a consequence of prolonged dry weather as the tree attempts to balance its needs to the amount of available water. The furthest point of the trunk is just six feet from the public concourse and the branches spread to the pavement on the other side of the road.

This tree might have been pollarded but many years ago. The single main trunk ascends to a level where it divides into two and each extension carries the weight of half of the crown. In mechanics, this is a cantilever but unlike the Forth Railway Bridge, it is unbalanced. It is here that the rot is in evidence and it is this which makes the tree dangerous.

From the same level there is a single branch which reaches right across the road and the scar on the trunk is where Mr Neil Sidaway removed the remains of the rotten branch which fell into Summerhill, the Police House garden.

A forest tree with a similar amount of crown in all directions would have counterbalancing of the cantilevers but in the case of this tree, the crown is limited in the north side by probably the presence of its neighbour, a two stem coppiced oak. On the south side, the crown is smaller for reasons which I cannot explain. I have only lived here for 31 years. It is to the east and the west that the crown is extensive.

The sycamore which is not on my land but is opposite the railway cottages shed a large lump of trouble onto B6263. Network Rail cleared up the mess. It is fortunate that no vehicle was underneath at the time.

Being in the conservation area means that I do not have the freedom to act quickly when there is a threat from my trees. Bureaucracy means delay and in early October, I asked the Council for permission to pollard the tree. This, it has refused and responded by imposing a Tree Preservation Order on the tree based solely on a sentimental appreciation of its prominence in the townscape. The words, road and safety have never been mentioned. Until December the 11th, the order is provisional and *subject to appeal* from interested parties such as road users. If you wish to protest please ensure that an individual letter is sent to Mr Lambert before the December 11th deadline for the next meeting of the Council. Please note, they will not accept petitions and photocopies; only genuine letters written by you.

I consider that it would be a misuse of the law to give absolute protection to a rotten tree.

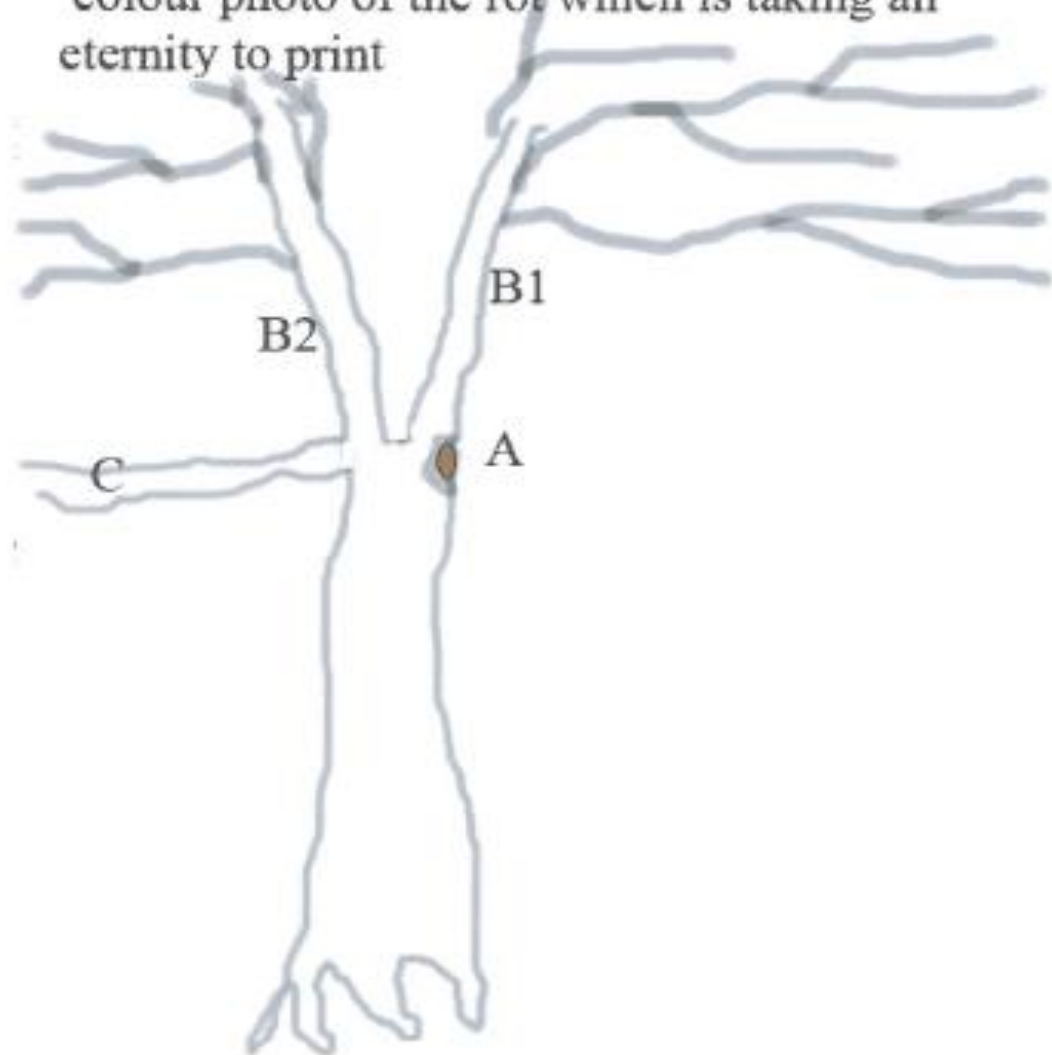
Sincerely, Graham Brace.

PS When you have read this will you please pop it through a neighbour's letterbox for me?

Thank you

Photograph substitute

This is in place of the
colour photo of the rot which is taking an
eternity to print



The trunk splits at "A" into "B1" & "B2". "C" is the long heavy branch extending across the road. The crown splits into two halves each mounted upon a "B".

There is little crown to the N & S of the trunk, it is concentrated to the E & W.

"A" could be an old pollard point from before the year of my birth. The rot weakens the tree here and visible is the scar from which the limb fell. This is the problem, the mass of branches cantilevered in an unbalanced way onto the trunk extensions and the concentration of stress where the rot is. The neighbouring tree is a two stemmed coppice from long ago and much of the foliage which people love is born by this second oak. View as from Summerhill.



LEADS	PLANNING SERVICES
FILE	
- 3 DEC 2012	
NAME	
ADDRESS	
PHONE	
EMAIL	

"Overeden",
Wetheral,
CARLISLE CA4 8JN

30th November, 2012

01228 56287

Ref: CB/TPO 262

M.D. Lambert,
Director of Governance,
Civic Centre,
CARLISLE

PLANNING SERVICES	
REF	
04 DEC 2012	
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ACTION	

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TREE AT WETHERAL

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If your committee legislates that the Tree Preservation Order shall become permanent then the situation will only be made worse.

The outcome could be my financial ruin and perhaps inadequate compensation for the victims or their families. What I need is permission to remove from the tree, all branches which overhang B6263 and I can only repeat my previous firmly held view that pollarding is the answer. This is because the trunk of the tree is so near to road B6263.

Will you please ensure that the Committee members fully understand the situation whilst I will have to try to find insurance to protect both my wife, myself and the claimant. I do not wish to withdraw my objection to the TPO.

Yours faithfully,

Graham Barker

Tel: 01228 - 560 986

GARTH HOUSE
WETHERAL
CARLISLE
CA4 8JN

M.D. Lambert, Esq.,
Director of Governance,
Carlisle City Council,
Civic Centre Carlisle.

November 23, 2012

Dear Mr. Lambert,

Oak Tree opposite Whitegates, Wetheral

We understand that Mr. Graham Bruce's application to pollard this tree has been refused and that, perversely, a Tree Preservation Order has been placed on this tree. This seems unwise in view of the potential danger from the tree, which has had two branches falling recently, in a part of Wetheral where we are not short of trees anyway. The particular tree is alongside and partly above the B6263 road on to which part of it is liable to fall.

Accordingly, we support Mr. Bruce's appeal against the Council's decision. At a time when authority beats the 'Health and Safety' drum, it seems ironic that the Council so far has taken a course which exposes users of the road to the risk of danger, and the Council to possible litigation and its financial consequences.

We urge the Council to reconsider.

*Yours faithfully
Jim Stephenson*

LEGAL & DEMOCRATIC SERVICES	
FILE	
26 NOV 2012	
WTO	

18 Jennet Craft
Wetheral CA48 5T

Dear Sir,

It has come to my knowledge that an oak tree which is in the garden of a property called Over Eder, belonging to a gentleman called Graham Bruce, is rather ~~and~~ a danger to both pedestrians & drivers because of its proximity to the road B6263 (Wetheral to Warwick Bridge). I use this road at least twice a week, sometimes three or four for access to the A.69 and feel very concerned about this situation.

I gather Mr Bruce has approached you with a request for permission to ~~to~~ pollard this tree before someone is badly hurt or ever killed - and I think that this is a reasonable and, definitely, request for him

2

to make. I am sure that Mr. Bruce has every reason to be very concerned and alarmed about this obviously dangerous situation and would not have requested the action he has put to you if this was not so.

Personally, I will feel anxious about using this road in future, as will many people in this area. It is with this in mind I do hope that you can reconsider your decision and allow Mr. Bruce to pollard this tree and make it safe for both pedestrians and drivers

np.

Yours faithfully
Rita M. Jackson

Mr M Bawell
10 Greenway
Yorkshire
Carnegie
Carnegie
Carnegie



3 December 2012

Dear Mr Lambent

I wish to appeal against the Tree Preservation Order granted in respect of the oak Tree opposite Whitegates Works in Wetherup.

I walk past the Tree regularly and am concerned about its possible dangerous condition. Clearly the tree now needs to be pollarded.

Yours sincerely

Michael Bawell

LEDS & PLANNING SERVICES	
- 4 DEC 2012	
PLANNING	
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PLANNING SERVICES	
REF	TPO 262
05 DEC 2012	
RECORDED	
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Mr M D Lambent
Director of Governance
Carnegie Civic Centre

Tel. no.: 01228 560 404

Email: p.andrews123@btinternet.com

Fairways

Wetheral

CARLISLE CA4 8JD

Cumbria

3 December 2012

Mr M. D. Lambert
Director of Governance
Civic Centre
Rickersgate
Carlisle CA3 8QG



Dear Mr Lambert,

Tree Preservation Order

From our neighbour (Mr G. Bruce, Over Eden, Wetheral), we understand that his request to pollard the oak tree that grows in his garden has been refused by the Council and a preservation order place on it, the preservation order to be confirmed at the Council meeting, on 11 December 2012.

In September last, two branches fell from the tree into the next door garden (the former police house, now Summerhill). Some 18 months ago, a branch from the tree fell into the road (the B6263). Fortunately nobody was hurt or damage done. Should any more branches fall, however, and branches hang over the road, this might not be the case – and somebody might be killed. The result could be claims for damages, ultimately against the Council if it blocks attempts to make the tree safe.

As pedestrians and motorists who use the B6263, we would ask the Council to reconsider its decision and allow the pollarding to go ahead.

Yours sincerely,

P D Andrews

P. D. Andrews

Gillian R. Andrews

G. R. Andrews (Mrs)





Mr Bruce
Over Eden
Wetheral
Carlisle
CA4 8JN

Please ask for:

Direct Line:

E-mail:

Your ref:

Our ref:

Charles Bennett

01228 817535

charlesb@carlisle.gov.uk

CB/TPO 262

4 December 2012

Dear Mr Bruce

OBJECTION TO TREE PRESERVATION ORDER 262

I am in receipt of your letters dated 16 November 2012, 22 November 2012, 24 November 2012, 29 November 2012, and 30 November 2012. I responded to your letter of the 16 November 2012 on the 27 November 2012. In this letter I will respond to the matters you raise in the subsequent letters.

In your letters you raise several matters, I have summarised these below;

- A request to withdraw the objections made in the letter of 16 November 2012, to be replaced by the objections in the letter dated 22 November 2012.
- Concerns that all the relevant documents will not be presented to the Development Control Committee
- The date of the Development Control Committee
- Your reasons for objecting to the tree preservation order

I will deal with these matters in the order they are set out.

- I have noted your request to withdraw your comments made in your letter dated 16 November 2012. I have removed this letter from the file. Your letter of the 16 November 2012, and my response, will not form part of the Committee report.
- To ensure that the Members of the Committee have all the relevant information the Committee report will contain a summary of all the representations and Officers responses, (except those that have been withdrawn), in its main body. Full copies of the representations and the Officers responses, (except those that have been withdrawn), are included as appendices.

- There has been no change in date for the Development Control Committee from that first set out in my first letter to you dated 27 November 2012. That being 25 January 2013.
- When deciding to make a tree preservation order the Council has to meet two tests. Is it expedient, and is the tree an amenity. Account will be taken of the health and condition of the tree when considering the amenity of the tree. It is the size and prominent location of the tree that make it an amenity. Reducing the tree to a stump will not provide any amenity, even in the longer term.

Lopping the tree as described will create numerous defects, at the pruning wounds, where none previously exist. The new branches that will grow are weakly attached to the stem. After a few years have a propensity to snap off due to their weak attachments to a stem that is now decaying due to the large wounds that were created by the lopping. This invariably leads to a cycle of pruning with its associated costs.

Decay is a natural and common occurrence in trees. Its presence does not necessarily mean the tree is unsafe, or must be removed. I have previously provided the National Tree Safety Group leaflet “Managing trees for safety”, which sets out how you can manage your trees safely. Where the owner of a tree has concerns over the safety of their tree they should have it inspected. It is preferable if the inspection is carried out by an arboricultural consultant who is qualified and experienced in inspecting trees, and determining if there is a foreseeable risk, and if so what could be done to reduce the risk to an acceptable level. Using a tree surgeon who has a vested interest in recommending extensive works should be avoided.

Trees are self optimising organisms. That is they will grow to add wood, and therefore strength, where there is a mechanical requirement. The branching structure you describe and show in your drawing is typical of most trees, which have a trunk, a main branch system, and secondary branches growing out towards the light. An inspection of the tree by an arboricultural consultant will identify any defect present in the trees structure. An assessment could then be made on the risk posed by the defect, and appropriate recommendations made to reduce the risk to acceptable levels.

The sudden loss of limbs from trees during summer is a phenomenon known as summer branch drop. Whilst the process leading to this kind of branch failure is not well understood, there are a few indications prior to failure. It is usually long low horizontal branches that fail, and there is usually existing evidence of branch

subsidence. Indicators that will be recognised by an arboricultural consultant during an inspection, and which can be remediated.

It may not be necessary to remove a tree to reduce a risk to an acceptable level. Any proposed works should be proportionate, and this includes taking into account the value the tree has to the wider environment and its visual amenity.

The tree preservation order will not prevent necessary works being carried out to the tree, albeit an application will need to be made.

Your insurance arrangements are a matter between you and your insurer. However, if you have acted as a prudent landowner in ensuring that the trees on your property are inspected, and any significant defects are adequately dealt with there should be no reason why your insurance company should withhold payment.

As a tree owner confirming the tree preservation order will not change your responsibilities or liabilities in respect of the tree.

I hope this is sufficient for you to withdraw your objection to the tree preservation order.

When a tree preservation order is made, it is temporarily valid for six months. The Council must confirm, that is make permanent, the Order within this six month period. If no objections are received to the making of the Order it can be confirmed under the Councils scheme of delegation. Where objections are made, which cannot be overcome, the decision on confirming the Order will be made by the Development Control Committee.

All those who made representations on the making of the Order have a right to speak at the Committee at which the Order is considered. I have enclosed a copy of the right to speak leaflet which sets out how you register your right to speak. If necessary it is my intention to bring the Order to the Development Control Committee on the 25 January 2013.

Yours sincerely

C Bennett

Landscape Architect/Tree Officer

Copy to : Mark Lambert, Director of Governance, Carlisle City Council



Mr Stephenson
Garth House
Wetheral
Carlisle
CA4 8JN

Please ask for:

Direct Line:

E-mail:

Your ref:

Our ref:

Charles Bennett

01228 817535

charlesb@carlisle.gov.uk

CB/TPO 262

5 December 2012

Dear Mr Stephenson

OBJECTION TO TREE PRESERVATION ORDER 262

It is the extent of the proposed works that will, to all intents and purposes, lead to the loss of the prominent oak tree that is at issue. The tree preservation order will not prevent Mr Bruce carrying out appropriate work to the tree to make it safe where this is necessary and evidenced, albeit an application will be required.

When a tree preservation order is made, it is temporarily valid for six months. The Council must confirm, that is make permanent, the Order within this six month period. If no objections are received to the making of the Order it can be confirmed under the Councils scheme of delegation. Where objections are made, which cannot be overcome, the decision on confirming the Order will be made by the Development Control Committee. All those who made representations on the making of the Order have a right to speak at the Committee at which the Order is considered.

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Yours sincerely

C Bennett

Landscape Architect/Tree Officer

Copy to : Mark Lambert, Director of Governance, Carlisle City Council



Ms Jackson
18 Jennet Croft
Wetheral
CA4 8JJ

Please ask for:

Direct Line:

E-mail:

Your ref:

Our ref:

Charles Bennett
01228 817535
charlesb@carlisle.gov.uk

CB/TPO 262
5 December 2012

Dear Ms Jackson

OBJECTION TO TREE PRESERVATION ORDER 262

It is the extent of the proposed works that will, to all intents and purposes, lead to the loss of the prominent oak tree that is at issue. The tree preservation order will not prevent Mr Bruce carrying out appropriate work to the tree to make it safe where this is necessary, albeit an application will be required.

It should be noted that the proposed works could create a greater risk in future to the users of the highway. The topping of the tree would result in significant defects where none currently exist, resulting in a need for repeated and costly tree works. I hope this is sufficient for you to withdraw your objection to the tree preservation order.

When a tree preservation order is made, it is temporarily valid for six months. The Council must confirm, that is make permanent, the Order within this six month period. If no objections are received to the making of the Order it can be confirmed under the Councils scheme of delegation. Where objections are made, which cannot be overcome, the decision on confirming the Order will be made by the Development Control Committee. All those who made representations on the making of the Order have a right to speak at the Committee at which the Order is considered.

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Yours sincerely

C Bennett

Landscape Architect/Tree Officer

Copy to : Mark Lambert, Director of Governance, Carlisle City Council



Ms Jackson
18 Jennet Croft
Wetheral
CA4 8JJ

Please ask for:

Direct Line:

E-mail:

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Charles Bennett
01228 817535
charlesb@carlisle.gov.uk

CB/TPO 262
5 December 2012

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OBJECTION TO TREE PRESERVATION ORDER 262

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I have enclosed a copy of the right to speak leaflet which sets out how you register your right to speak. If necessary it is my intention to bring the Order to the Development Control Committee on the 25 January 2013.

Yours sincerely

C Bennett

Landscape Architect/Tree Officer

Copy to : Mark Lambert, Director of Governance, Carlisle City Council



Mr Barrett
62 Greenacres
Wetheral
Carlisle
CA4 8JJ

Please ask for:

Direct Line:

E-mail:

Your ref:

Our ref:

Charles Bennett
01228 817535
charlesb@carlisle.gov.uk

CB/TPO 262
5 December 2012

Dear Mr Barrett

OBJECTION TO TREE PRESERVATION ORDER 262

Where trees are identified as dangerous or have significant defects that could result in branch or whole tree failure the appropriate action should be taken to reduce the risk to an acceptable level. The tree preservation order will not prevent such works being carried out, albeit an evidenced application will be required, and the works must be proportionate. It is not appropriate to remove a prominent tree on the basis that it might possibly be in a dangerous condition.

In this instance it is the extent of the proposed works that will, to all intents and purposes, lead to the loss of the prominent oak tree that is at issue. It should be noted that the proposed works could create a greater risk in future to the users of the highway. The topping of the tree would result in significant defects where none currently exist, resulting in a need for repeated and costly tree works.

When a tree preservation order is made, it is temporarily valid for six months. The Council must confirm, that is make permanent, the Order within this six month period. If no objections are received to the making of the Order it can be confirmed under the Councils scheme of delegation. Where objections are made, which cannot be overcome, the decision on confirming the Order will be made by the Development Control Committee. All those who made representations on the making of the Order have a right to speak at the Committee at which the Order is considered.

I have enclosed a copy of the right to speak leaflet which sets out how you register your right to speak. If necessary it is my intention to bring the Order to the Development Control Committee on the 25 January 2013.

Yours sincerely

C Bennett

Landscape Architect/Tree Officer

Copy to : Mark Lambert, Director of Governance, Carlisle City Council

CARLISLE
CITY COUNCIL



www.carlisle.gov.uk

Economic Development

Assistant Director **J E Meek** BSc (Hons) Dip TP MRTPI

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Mr & Mrs Andrews
Fairways
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Carlisle
CA4 8JD

Please ask for:

Direct Line:

E-mail:

Your ref:

Our ref:

Charles Bennett

01228 817535

charlesb@carlisle.gov.uk

CB/TPO 262

5 December 2012

Dear Mr & Mrs Andrews

OBJECTION TO TREE PRESERVATION ORDER 262

Your letter dated 3 December 2012 has been forwarded to me so that I can respond.

Where trees are identified as dangerous or have significant defects that could result in branch or whole tree failure the appropriate action should be taken to reduce the risk to an acceptable level. The tree preservation order will not prevent such works being carried out, albeit an evidenced application will be required, and the works must be proportionate.

In this instance it is the extent of the proposed works that will, to all intents and purposes, lead to the loss of the prominent oak tree that is at issue. It should be noted that the proposed works could create a greater risk in future to the users of the highway. The topping of the tree would result in significant defects where none currently exist, resulting in a need for repeated and costly tree works.

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Yours sincerely

C Bennett

Landscape Architect/Tree Officer

Copy to : Mark Lambert, Director of Governance, Carlisle City Council