

CARLISLE CITY COUNCIL

Report to:- **Development Control Committee**

Date of Meeting:- **11 July 2008**

Agenda Item No:-

Public	Policy	Delegated: Yes
--------	--------	----------------

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

Title:- **PROPOSED TREE PRESERVATION ORDER NO. 231 BEECH HOUSE, HARRABY GROVE, CARLISLE**

Report of:- **Director of Development Services**

Report reference:- **DS.87/08**

Summary:-

A Tree Preservation Order was made on the 21 April 2008 to protect one Fastigate Beech tree at Beech House, Harraby Grove, Carlisle. The report considers objections to the order and concludes that the order should be confirmed without modification.

Recommendation:-

It is recommended that Tree Preservation Order 231 is confirmed without modification.

Catherine Elliot
Director of Development Services

Contact Officer: Charles Bennett

Ext: 7535

1.0 Background

- 1.1 The Town and Country Planning Act 1990, Section 198 provides that Local Planning Authorities may make a Tree Preservation Order (TPO) 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 Policy CP2 of the [Revised](#) Re-Deposit Draft Local Plan states “...The City Council will protect trees and woodlands where appropriate by tree preservation orders and by the use of planning conditions...”
- 1.3 Implementation of the consent granted in relation to planning application 04/1208 and subsequent amended applications resulted in the destruction of the existing protected Beech tree to the front of The Bungalow, Harraby Grove, Carlisle.
- 1.4 The Beech tree existing at the time of the application was subsequently felled and removed and a replacement Fastigate Beech planted.
- 1.5 Tree Preservation Order 231 Beech House, Harraby Grove, Carlisle was subsequently made to protect the replacement Fastigate Beech tree.
- 1.6 A copy of Tree Preservation Order 231 is attached hereto at Appendix 1.
- 1.7 The following individuals made valid objections to Tree Preservation Order 231.
 - ◆ Mr Ian Johnston
- 1.8 The letters of objection and Officers reply are attached hereto at Appendix 2.

2.0 The Tree's Amenity Value

- 2.1 The replacement Beech is located in the front garden of Beech House and is clearly visible to the public. Whilst not presently having the visual amenity value of the pre-existing tree will, in the fullness of time, grow to provide a degree of amenity similar to that provided by the tree it replaces.
- 2.2 Tree Preservation Orders A Guide to the Law and Good Practice states that "The benefit may be present or future..."

3.0 Summary of Objections to Tree Preservation Order 229

- 3.1 The following objections have been made to the Tree Preservation Order:
- (i) leaves from the tree will block drains;
 - (ii) the tree will have an adverse effect on the value of the property; and
 - (iii) leaves from the tree are not cleared up;
- 3.2 In considering the above objections Officers have the following comments to make:
- (i) leaf fall from the replacement tree will be considerably less than that from the pre-existing tree. Also leaf fall from trees is part of the natural cycle of life and the clearing of leaves from ones own property and drains is part and parcel of property ownership;
 - (ii) studies have shown that property values in leafy residential areas are higher than similar areas devoid of trees.
- 3.3 Other objections raised such as the tree owner not informing the neighbours that the tree was to be felled and the resulting problems encountered, and the actions of the TV and newspaper reporters are not substantive reasons for objection.

**To the Chairman and Members of the
Development Control Committee**

DS.87/08

4.0 Conclusion

- 4.1 Having duly considered the objections and having weighed these objections against the future amenity value of the tree it is considered that the tree will provide a reasonable level of public amenity and therefore merits the protection afforded by a Tree Preservation Order.

5.0 Recommendation

- 5.1 It is recommended that Tree Preservation Order 231 is confirmed without modification.

Catherine Elliot
Director of Development Services

Contact Officer: Charles Bennett

Ext: 7535

Tree Preservation Order 231

**TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999
TREE PRESERVATION ORDER 2008**

**Town and Country Planning Act 1990
The City of Carlisle (Beech House, Harraby Grove, Carlisle) No 231**

The Council of the City of Carlisle, 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 the City of Carlisle (Beech House, Harraby Grove, Carlisle) Tree Preservation Order 2008 No. 231

Interpretation

2. In this Order "the authority" means the Council of the City of Carlisle 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 21 April 2008

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 (1) of section 200 (tree preservation orders: Forestry Commissioners), 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;
- (aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);
- (ab) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;

- (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 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 provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I 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 has 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 for 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.

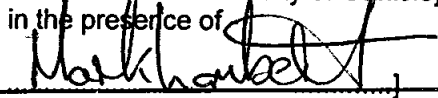
[Application to trees to be planted pursuant to a condition]

~~[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].]~~

Dated this 21st day of April 2008.

[if the Council's Standing Orders require the sealing of such documents:]

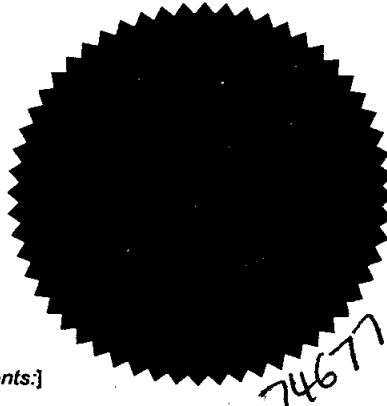
[Executed as a Deed by affixing the Common Seal
of the Council of the City of Carlisle]
in the presence of



HEAD OF LEGAL SERVICES

[if the Council's Standing Orders do not require the sealing of such documents:]

[Signed on behalf of the Council of the City of Carlisle]



.....
Authorised by the Council to sign in that behalf]

[CONFIRMATION OF ORDER]

[This Order was confirmed by the [.....] without modification on the [] day of [.....]]

OR

[This Order was confirmed by the [.....], subject to the modifications indicated by [.....], on the [] day of [.....]]

.....
Authorised by the Council to sign in that behalf]

[DECISION NOT TO CONFIRM ORDER

[A decision not to confirm this Order was taken by [.....] on the [] day of [.....]

.....
Authorised by the Council to sign in that behalf]

[VARIATION OF ORDER

[This Order was varied by the [.....] on the [] day of [.....] under the reference number [.....]

.....
Authorised by the Council to sign in that behalf]

[REVOCATION OF ORDER

[This Order was revoked by the [.....] on the [] day of [.....] under the reference number [.....]

.....
Authorised by the Council to sign in that behalf]

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

Reference on map	Description	Situation
T1	Fastigate Beech	OS Grid Ref: 341718 554457

Trees specified by reference to an area
(within a dotted black line on the map)

NONE

Groups of trees
(within a broken black line on the map)

NONE

Woodlands
(within a continuous black line on the map)

NONE

TREE PRESERVATION ORDER No. TPO 231

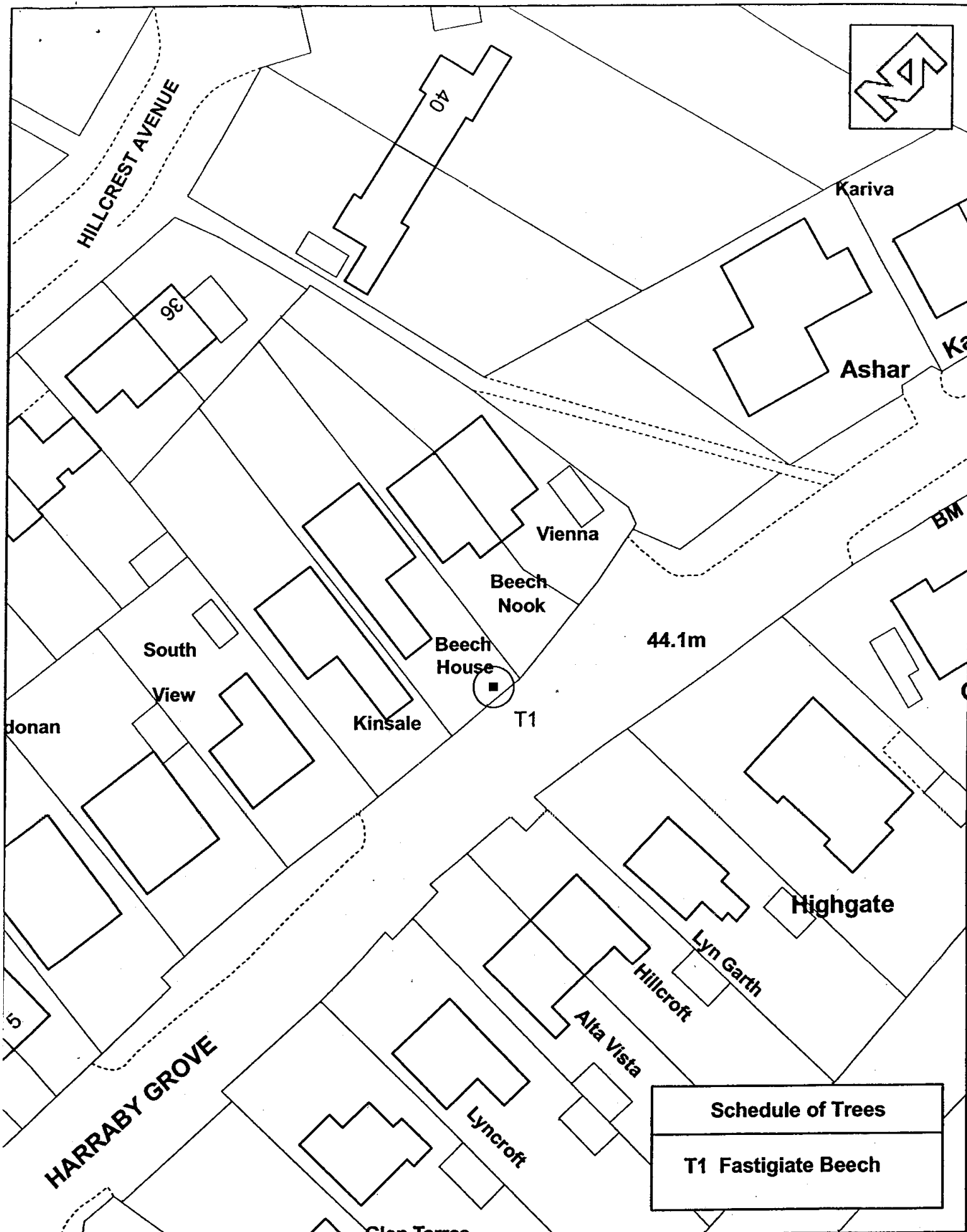
BEECH HOUSE, HARRABY GROVE, CARLISLE

STATEMENT OF REASONS

By virtue of section 198 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 tree that is the subject of this Tree Preservation Order is a fastigiate Beech tree. The tree occupies a prominent position in the front garden of Beech House, Harraby Grove and is clearly visible to the public. The purpose of this tree is to contribute to the future amenity of the location by replacing the Beech tree that previously occupied this site and the local planning authority considers that a tree preservation order is the appropriate means to ensure its retention.



Town and Country Planning Act 1990 Sections 198(1) and 201

Tree Preservation Order Number 231
Beech House, Harraby Grove, Carlisle CA1 2QN



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> <p>(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</p> <p>(ii) substitute "matters relevant to tree preservation orders made by the authority" for "applications for planning permission".</p> <p>(b) In subsection (2)—</p> <p>(i) after "contain" insert " , as regards each such order"; and</p> <p>(ii) for paragraphs (a) and (b) substitute—</p> <p>(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and</p> <p>(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it."</p> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>
Section 70 (determination of applications: general considerations)	<p>(a) In subsection (1)—</p> <p>(i) substitute— "Subject to subsections (1A) and (1B), where" for "Where"; "the authority" for "a local planning authority"; "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;</p> <p>(ii) after "think fit", insert— "(including conditions limiting the duration of the consent or requiring the replacement of trees); and</p> <p>(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>
Section 75 (effect of planning permission)	<p>(a) In subsection (1) substitute—</p> <p>(i) "Any" for the words from "Without" to "any";</p> <p>(ii) "consent under a tree preservation order" for "planning permission to develop land";</p> <p>(iii) "the consent" for "the permission"; and</p> <p>(iv) "the land to which the order relates" for "the land".</p> <p>(b) Omit subsections (2) and (3).</p>
Section 78 (right to appeal against planning decisions and failure to take such decisions)	<p>(a) In subsection (1) substitute—</p> <p>(i) "the authority" for "a local planning authority";</p> <p>(ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear;</p> <p>(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 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—</p> <p>(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</p>

		<p>direction or within such longer period as the Secretary of State may allow;</p> <p>(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."</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 (determination appeals)	79 of	<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—</p> <p>(i) "section 70(1), (1A) and (1B)" for "sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5";</p> <p>(ii) "consent under a tree preservation order" for "planning permission"; and</p> <p>(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 sections 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 I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I 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.

.....

(5) 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 in so far as the consent otherwise provides) enure 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;

- (b) 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 had 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 subsection (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.

Appendix 2

Objections to the making of Tree Preservation Order 231 and Officers Reply

IAN JOHNSTON

KINSALE
HARRABY GROVE
LONDON ROAD
CARLISLE
CA1 2QN
Tel: 01228 543 619
Fax: 01228 543 619
Mobile: 07771 573 126
Email: ian.johnston@onetel.net

LEGAL & DEMOCRATIC SERVICES	
FILE	
01 MAY 2008	
PASSED TO	
ANSWERED	
MAIL LOG	

27 April 2008

Your Ref: PG3/153

Dear Sirs,

I refer to the tree in question @ Beech House, Harraby Grove, Carlisle.

I am the resident in the detached property adjacent to Beech House.

I am extremely concerned at the way the matter has been handled in general and in particular the lack of communication or being kept informed of issues etc.

Whilst I have very sympathetic views with the other residents on Harraby Grove, unfortunately they do not appear to consider other peoples opinions or views on the matter.

Since the owner of Beech Grove has moved into the property there has been a consistent pattern developed of failing to pick up leaves discarded by the tree. This has resulted in constant blocking of my drains. Latterly when the original tree was felled, the owner again failed to clean up the debris etc left by the work and instead chose to blow leaves, shavings, sawdust into the road area hoping this would be dispersed by the wind etc. I would consider this very negligent and again has resulted in the blocking of my drains and the requirement to fit additional filters to the drains.

I was also not informed that this work was being carried out, and as a result of this; as I work from home, this disrupted my business affairs with heavy plant etc blocking my drive/garage access. My car was also covered in wood shavings and sawdust.

With reference to the other residents campaign against Magnus Homes/Carlisle City Council when they have chosen to involve the local newspaper and also the local TV news team, all the interviews, photographs, filming etc was taken from outside my property. At the time of this letter, the issue is in the hands of the Press Complaints Commission due to inappropriate responses given by the local press.

I would consider all this adverse publicity has had a detrimental effect on the value of my property and also I am continually fed up having to clear blockages caused by

leaves from the original tree.

I would therefore consider that the reinstatement of another tree will continue the long running saga with other residents/Carlisle City Council and will continue to have adverse effects on the value of my property, and also I am still extremely concerned at the negligence of the current owner and any future owners and the cleaning up of discarded leaves etc as inevitably failure to do so results in drain blockages. I also do not see how blowing leaves etc into the road can be considered as cleaning up any mess. Yes it does tidy the mess from that particular property however the general mess has been moved elsewhere.

Would the Council consider putting a cleaning team in place for the duration that the tree sheds its leaves on say a weekly basis and also clean drains etc? Unless these maintenance procedures are put in place I'm afraid I cannot support the other residents as they are oblivious to these issues and also I will continue to object with your application.

I look forward to your comments.

Yours sincerely

Ian Johnston

Ian Johnston

Development Services

Planning and Housing Services

Head of Planning and Housing: **A C Eales** Dip.TP MRTPI

Civic Centre • Carlisle • CA3 8QG

Phone (01228)817000 • Fax Planning (01228)817199 Housing (01228)817346 • Typetalk 18001 (01228)817193

E-mail Development Control: dc@carlisle.gov.uk • Local Plans & Conservation: lpc@carlisle.gov.uk • Housing: housing@carlisle.gov.uk

Mr Johnston
Kinsale
Harraby Grove
London Road
Carlisle
CA1 2QN

Please ask for:

Direct Line:

E-mail:

Your ref:

Our ref:

Charles Bennett

01228 817535

CharlesB@carlisle.gov.uk

CB/TPO 231

15 May 2008

Dear Mr Johnston

OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER 231 **BEECH HOUSE, HARRABY GROVE, CARLISLE**

As the Officer responsible for Tree Preservation orders your letter of objection dated 27 April 2008 to the making of Tree preservation Order 231 has been forwarded to me so that I can reply.

As you will know the newly planted and protected tree replaces a tree that existed on the site prior to the development commencing. The pre-existing tree was removed due to damage caused to its root system at the time the site was developed. The logistics of the tree removal, vehicle parking, clearing up the debris after the works had been completed etc. were a matter for the contractor and the tree owner, and you should address any complaints regarding this to them.

In respect of the debris being blown into the road I have been informed that our Highways Department have received a copy of your letter. Any action regarding street cleansing will be a matter for the Area Maintenance Team to attend to.

Carlisle City Council does not have any control over the press, and where they take photographs, film or carry out interviews. I consider that you have already taken the best course of action open to you in pursuing this part of your complaint via the Press Complaints Commission.

Leaf fall from the newly planted tree will be considerably less than from the previous tree. However, leaf fall is considered part of the natural cycle and your neighbour is not responsible for this. Clearing up the fallen leaves from your



INVESTOR IN PEOPLE

property/drains is part and parcel of property ownership and maintenance and is, unfortunately, your responsibility.

Whilst you feel that the trees have an adverse impact on the value of your property, research has shown that trees do in fact increase the value of property. The loss of the large mature Beech has had a detrimental impact on the character of the area, and this could be reflected in a lowering of the house prices in this location. Pleasant leafy residential areas have higher property values than similar areas devoid of trees, and so the replacement tree, whilst not having the impact of the previous tree will go some way to mitigating this loss.

For the reasons set out above I hope you are able to withdraw your objection to Tree Preservation Order 231. If you wish to do so could you please inform me in writing within 10 days of the date of this letter so I can proceed with the confirmation of the Tree Preservation Order by delegated Powers

If you do not wish to withdraw your objection the Tree Preservation Order the decision on whether or not to confirm it, that is make the order permanent will be taken by the Development Control Committee.

The Council operates a right to speak policy for objectors to tree preservation orders. If you wish to exercise your right to speak could you please inform me within the 28 day objection period, and I will make the necessary arrangements for you to address the Committee. A copy of the "Right to Speak" policy is incorporated as an appendix to this letter and is also available on the City Council's website www.carlisle.gov.uk. You will note from the details provided that you are entitled to address the Committee for a maximum of three minutes, though you must confine your comments to relevant matters.

Yours sincerely

C Bennett

Landscape Architect/Tree Officer

Copy to : Mr John Egan Director Legal and Democratic Services, Carlisle City Council

Development Services

Planning and Housing Services

Head of Planning and Housing: **A C Eales** Dip.TP MRTPI

Civic Centre • Carlisle • CA3 8QG

Phone (01228)817000 • Fax Planning (01228)817199 Housing (01228)817346 • Typetalk 18001 (01228)817193

E-mail Development Control: dc@carlisle.gov.uk • Local Plans & Conservation: lpc@carlisle.gov.uk • Housing: housing@carlisle.gov.uk

Mr Johnston
Kinsale
Harraby Grove
London Road
Carlisle
CA1 2QN

Please ask for:

Direct Line:

E-mail:

Your ref:

Our ref:

Charles Bennett

01228 817535

CharlesB@carlisle.gov.uk

CB/TPO 231

21 May 2008

Dear Mr Johnston

OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER 231 **BEECH HOUSE, HARRABY GROVE, CARLISLE**

Further to your letter of objection to the making of Tree Preservation Order 231 I have received the following comments from Mr Les Tickner, Head of Environmental Services in relation to the street eansing issues tht you raised.

Unfortunately Environmental Services are not in a position to provide specific resources to deal with this tree on a weekly basis however the area is regularly swept any gullies in the vicinity are cleared as part of our normal regime.

Yours sincerely

C Bennett

Landscape Architect/Tree Officer

Copy to : Mr John Egan Director Legal and Democratic Services, Carlisle City Council

Mr Les Tickner Director Head of Environmental Services, Carlisle City Council



INVESTOR IN PEOPLE

IAN JOHNSTON

KINSALE
HARRABY GROVE
LONDON ROAD
CARLISLE
CA1 2QN
Tel: 01228 543 619
Fax: 01228 543 619
Mobile: 07771 573 126
Email: ian.johnston@onetel.net

24 May 2008

Your Ref: CB/TPO 231

Dear Sirs,

I refer to your recent letter dated 21st May 2008 and also recent correspondence.

I feel the City Council is still ignoring the general principal on which my objection is based.

If I can refer to the previous Tree Preservation order on the original tree @ Beech House, You have failed in your obligation to ensure the life of the previous tree by simply neglecting your duties.

Once again unless assurances that the council will ensure this tree is looked after, structured maintenance procedures are in place, regular checks on its condition etc then as previously stated I will continue to object.

I do accept that leaf fall is part of the trees natural life cycle, however the council do not appear to appreciate the leaf fall from the previous tree was not monitored as its condition deteriorated. You must also appreciate that there are now four new properties on the original plot therefore any cleaning procedures should reflect this. On this point I have not witnessed any council cleaning operatives/machines in the vicinity of my property in almost 24 months.

Whilst I can also appreciate that tree lined, leafy aspects may enhance property values if properly maintained etc, given the Councils negligence as witnessed by myself over the last 24 months I would still maintain that the issue with this particular tree has had an adverse effect on property values with bad publicity, legal issues etc.

I look forward to your comments.

Yours sincerely

Ian Johnston

Ian Johnston

PLANNING & HOUSING SERVICES	
REF	
29 MAY 2008	
RECORDED	
SCANNED	
PASSED TO	
ACTION	