

CARLISLE CITY COUNCIL

Report to:- Development Control Committee

Date of Meeting:- 11 March 2011

Agenda Item No:-
ED. 13/11

Public

Operational

Delegated: No

Accompanying Comments and Statements

Required

Included

Environmental Impact Statement:

No

No

Corporate Management Team Comments:

No

No

Financial Comments:

No

No

Legal Comments:

Yes

No

Personnel Comments:

No

No

Title:-

**REVOCATION OF TREE PRESERVATION ORDERS
102, MORTON COTTAGE, WIGTON ROAD, CARLISLE;
AND 79, LYNWOOD HOUSE, UPPERBY, CARLISLE.**

Report of:-

Assistant Director (Economic Development)

Report reference:-

ED. 13/11

Summary:-

This report considers the reasons for the revocation of Tree Preservation Orders 102 Morton Cottage, Wigton Road, Carlisle and 79 Lynwood House Upperby

Recommendation:-

Tree Preservation Orders 102 Morton Cottage, Wigton Road, Carlisle and 79 Lynwood House Upperby be revoked.

Jane Meek

Assistant Director (Economic Development)

Contact Officer: Charles Bennett

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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 Government guidance contained within the document *Tree Preservation Orders: A Guide to the Law and Good Practice*, paragraph 4.2 states “Local Planning Authorities are advised to keep their Tree Preservation Order records under review. By making full use of their variation and revocation powers Local Planning Authorities can ensure their TPO’s are brought up to date when the time is right to do so. There are a number of reasons why, over time, it may become desirable to vary or revoke a Tree Preservation Order.”
- 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 A review of all the current Tree Preservation Orders is in the process of being carried out by Carlisle City Council. A file audit of all the Tree Preservation Orders was carried out as the first stage of the review. This revealed that the Local Authority does not have evidence that Tree Preservation Orders 102 Morton Cottage, Wigton Road, and 79 Lynwood House, Upperby were ever confirmed, that is made permanent within six months of being made. Therefore, these Tree Preservation Order may be unenforceable and do not protect the trees as was the intention at the time they were made.
- 1.4 Although unconfirmed, and unenforceable, the Tree preservation Order remains a land charge on the properties where the trees are located, and the file remains in the public domain.
- 1.5 Copies of the Tree Preservation Order plans are appended hereto at Appendix 1

2.0 Assessment of the Tree Preservation Orders

- 2.1 Tree Preservation Order 79 Lynwood House, Upperby was made on the 4 September 1989 to protect two Sycamore trees. However, no record that the Tree Preservation order was confirmed is known to exist, the ability of the Council to enforce the Tree Preservation Order if necessary would be doubtful.
- 2.2 A site visit was carried out to assess the trees and to determine if the trees warranted the making of a new Tree Preservation Order based on an amenity and expediency assessment of the trees as required by virtue of the Town and Country Planning Act 1990 s198(1)
- 2.3 The site visit revealed that both trees remained. The trees were then evaluated using the Tree Evaluation Method for Preservation Orders. It was determined that although they were in reasonable health and were to some degree visible there was no known or perceived threat to the trees, and in accordance with best practice it would not be expedient to make a new tree Preservation Order.
- 2.4 Tree Preservation Order 102 Morton Cottage, Wigton Road was made on the 28 February 1989 to protect nine individual trees.
- 2.5 A site visit was carried out to assess the trees and to determine if the trees warranted the making of a new Tree Preservation Order based on an amenity and expediency assessment of the trees as required by virtue of the Town and Country Planning Act 1990 s198(1)
- 2.6 The site visit revealed that only six of the original nine protected trees remain, and on inspection all the remaining trees were seen to have significant structural defects or were in a very poor condition. No record exists on file in relation to the removal of the three trees.
- 2.7 The condition of these trees is such that they would fall under the exemptions of dead dying and dangerous in the Town and Country Planning Act s198(6)(a) and be exempt from the need to apply for consent to fell them. Therefore a new Tree Preservation Order would not be appropriate.

3.0 Conclusion

- 3.1 Tree Preservation Order 79. In accordance with best practice guidance as there is no known, or perceived threat to the trees it is not appropriate to make a new Tree Preservation Order on the two Sycamore trees.
- 3.2 Tree Preservation Order 102. The remaining six trees are in such poor condition that they would be exempt from the need to apply to carry out works to them, including removal. It is bad practice to make Tree Preservation Orders in respect of trees that fall within the exemptions.

4.0 Recommendation

- 4.1 That Tree Preservation Orders 79 Lynwood House, Upperby, Carlisle and 102 Morton Cottage, Wigton Road, Carlisle be revoked

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Tree Preservation Order 79

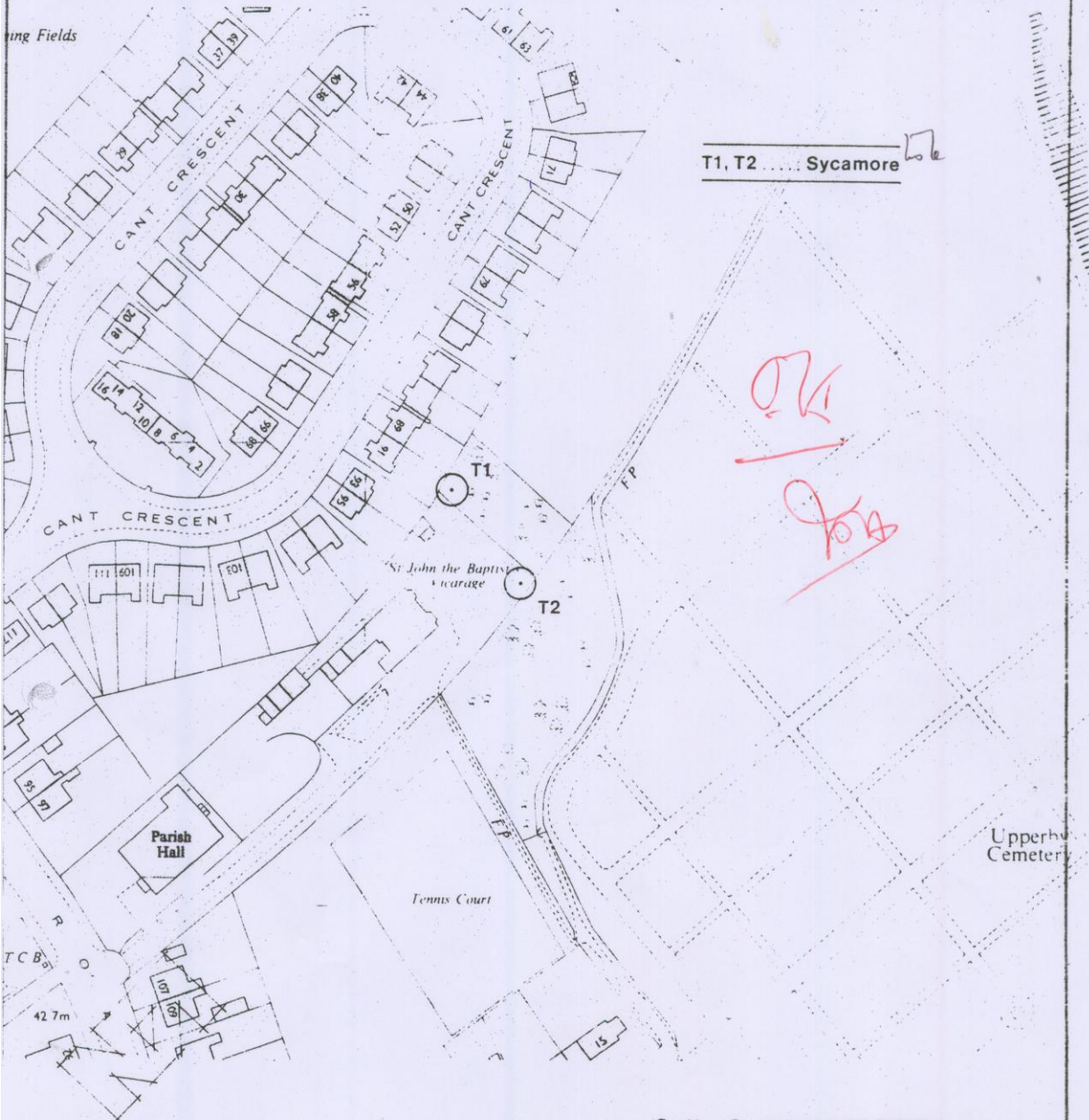
City of Carlisle

Department of Planning

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T.P.O 79

Tree Preservation Order · Lynwood Ho. · Upperby Rd.



T1, T2 Sycamore

OK
Job

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Colin Cuthbert M.R.T.P.I.,
Director of Planning
Scale · 1 / 1250
Date · AUGUST 1989

Tree Preservation Order 102

