

<b>PLANNING COMMITTEE</b>	<b>(D) Urgent Item</b>
<b>Date of Meeting: 8th March, 2016</b>	
<b>Reporting Officer: Planning Manager</b>	
<p><b>Title: Tree Preservation Order 2015 No. 2 – 155 Dalton Lane, Barrow-in-Furness</b></p> <p><b>Summary and Conclusions:</b></p> <p>That the trees merit Tree Preservation Order status and that the Order be confirmed</p> <p><b>Recommendations:</b></p> <p>That Tree Preservation Order 2015 No. 2 be confirmed without modification.</p>	

## **Report**

### **Introduction**

Planning Committee resolved at its meeting on the 1<sup>st</sup> September 2015 to serve a Tree Preservation Order on a group of three white polar trees situated within the front garden of 155 Dalton Lane, Barrow-in-Furness. This followed the receipt of an application to fell the trees under Tree Preservation Order 1993 No. 1 (application ref 2015/0531) but it was noted by the case officer that the species had been incorrectly identified in the original Order leading to doubts about the Orders relevance to these particular trees. A new Order was authorised (Minute No. 168, Planning Committee, 1<sup>st</sup> September, 2015) and which will expire on 10<sup>th</sup> March, 2016 unless confirmed.

The Planning Manager has delegated powers to confirm Orders but only in cases where there are no objections have been received. In this case there have been two objections and which are appended to this report.

### **Legislation/National Guidance**

National Planning Guidance explains the legislative process which must be followed in cases where objections to an Order have been received as follows:

*Guidance Print Tree Preservation Orders and Trees in Conservation Areas*

*Commenting on newly made Tree Preservation Orders*

*Paragraph: 34 Reference ID: 36-34-20140306*

*Can people object to, or comment on, a Tree Preservation Order?*

*People must be given the opportunity to object to, or comment on, a new Tree Preservation Order. Before deciding whether to confirm an Order, the Local Authority must take into account all 'duly made' objections and representations that have not been withdrawn.*

*Objections and representations are duly made if:*

- *They are made in writing and:*
  - *delivered to, or could reasonably be expected to be delivered to, the authority not later than the date specified in the Regulation 5 Notice;*
  - *specify the particular trees, groups of trees or woodlands in question;*
  - *in the case of an objection, state the reasons for the objection;*
- *In a particular case, the authority is satisfied that compliance with the above requirements could not reasonably have been expected.*

*[Revision date: 06 03 2014 ]*

I am satisfied that the objections received were 'duly made' and that as a consequence this Authority must take them into account in deciding on whether or not to confirm the Order. The full text of the letters is appended to this report though I have summarised the main points below:

#### Objection from the occupier of 2 Glenridding Drive (neighbour)

Grounds of objection

- a) trees do not make an important contribution to the appearance of the area
- b) trees are brittle and there is a broken branch resting on their garage roof
- c) tree overhangs Dalton Lane and has the potential to cause a traffic accident
- d) the tree roots are lifting patio slabs in their rear garden and may be affecting their bungalow

#### Objection from the occupier of 4 Glenridding Drive

- e) lack of management has lead to a significant risk
- f) preferable solution would be their removal but at a minimum they require management
- g) roots suckers are a problem and are almost impossible to remove from the front garden borders and lawn
- h) white poplars are known for their brittle wood

## Comment

This Order as part of a review of 30 Orders has been placed with an Arborical Consultant. A provisional response on this Order has been received as follows:

*To give you an update, I'm currently writing up the TPO report.*

*I assessed this group of three poplar trees at 155 Dalton Lane as 'Definitely merits TPO' using the TEMPO evaluation methodology – the group scored 18 (5+4+4+4+1).*

*When I visited the site one of the trees had a broken branch hanging over the neighbouring property (2 Glenridding Drive), but I considered this could be removed without significantly affecting the group's value. And I didn't think it constituted the removal of the tree. Of course, an application is required before any work can be carried out on the trees.*

*I hope this provides you with enough information. Treescapes Consultancy Ltd, 1/03/16.*

The above advice supports the findings at the time of the service of the original Order. Also the subsequent assessment and decision in 2015 which followed receipt of application 2015/0531 to fell the trees. This assessment included a site visit by Planning Committee. The decision reached was that the trees are a prominent and attractive feature in public views. The Consultant emphasises this commenting that the trees 'definitely merits TPO' and refers to the high score obtained under TEMPO (an accepted method of evaluation).

Taking account of point a) above I consider that they do in fact make an important contribution

In relation to points b, c, e, f, & h these essentially relate to health and safety matters. Published texts make reference to white poplars suffering from brittle limbs which as a consequence are vulnerable to damage in storms. Indeed a broken branch triggered the application to fell in 2015. The Arborical Consultant makes reference to this as follows 'broken branch over neighbouring property but I considered this could be removed without significantly affecting the group's value'.

I would advise that work is required and this links back to the point made under f) above but that this can be managed and falls short of justifying their felling.

The Arborical Consultant also expresses this view as follows:

*I accept your point that poplars can be susceptible to branch failure, but I'm not convinced these trees have sufficient historic failure at present or defects to justify the wholesale removal of the trees. That's not to say that the neighbours cannot apply to prune them. Treescapes Consultancy Ltd 2/03/2016*

In relation d) & g) [tree roots] white poplars are recognised as having roots which come to the surface and as a consequence can lift patio slabs and affect mowing. However the important public amenity value of the trees is not outweighed by these relatively modest impacts. No evidence has been put forward regarding any implications for the properties themselves.

Having regard to all matters raised in the representations I consider the benefits of the trees fully justifies confirmation of the Order.

Background Papers

Nil

The Occupier, 4 Glenridding Drive, Barrow-in-Furness

TREE PRESERVATION ORDER: 2015 No 2 -155 DALTON LANE,  
BARROW IN FURNESS

"I write on behalf of my mother who is the resident of 4, Glenridding Drive. She is 96yrs old and unable to write herself.

She wishes me to write in support of the removal of the protection order on the three White Poplar trees in the garden of 155 Dalton Lane.

She was a keen gardener and nature lover and spends a significant amount of time looking out on these trees but the lack of management of them has lead to a significant risk factor in their continued presence. The trees are close to neighbouring garages and were probably planted after the houses were built in 1971 to provide privacy.

The preferable solution would be their removal but at minimum they require management by crown reduction and thinning with complete removal of the overhanging branches.

In addition the roots of this type of tree are highly aggressive and when the tree is under stress it sends out root suckers in an attempt to preserve itself. These are almost impossible to remove from the garden borders and lawn and are a common problem the world over.

White Poplars are known for their brittle wood and the possibility of limb fall would appear to be very real.

Her real concern is for the tree spreading over Dalton Lane and the tree with the broken branches resting on her neighbours garage roof.

As White Poplars live up to 50 yrs, these trees planted in the 1970's, if not earlier, are potentially nearing the end of their life.

Mum does not like to see the removal of any amenity benefit but there are a significant number of trees remaining in the garden and surrounding lane so as not to affect the aesthetic beauty or the area and possibly their removal will allow other species to flourish."

The Occupier, 2 Glenridding Drive

"Thank you for your recent letter concerning the above tree preservation order. Before you make any long-term decisions about this case, we would be most grateful if you could take the following comments and concerns into account.

We would contest that the trees make an 'important contribution to the public amenities of the area'. To the contrary, they are most unattractive in appearance and are very brittle, hence rather dangerous as explained below.

The tree furthest from the road has a branch approximately 9" in diameter which split in the recent high winds. This branch is resting partly on our garage roof and needs to be removed urgently to prevent further damage to our property in the next high wind.

The other trees are also brittle, having previously dropped branches on our conservatory roof which caused holes requiring patching. Any future similar damage from this source may necessitate replacing the roof.

The tree nearest to the road overhangs Dalton Lane. One branch of this (also brittle) tree has the potential to cause a traffic accident or other personal injury to pedestrians.

The roots of these trees sprout shoots which appear all over our garden, right up to the front entrance. These shoots have also lifted flags in our back patio making it dangerous to walk on. Given that we are an elderly couple (and with one of us having very limited eyesight), the potential for a trip hazard and consequential personal injury is high. We are also concerned about the damage this root system may be causing under our bungalow.

For all the reasons described above, we would be grateful if you could allow the owners of the relevant property to remove these trees, in the interests of both public (and our personal) health and safety. Before making a decision on this matter, we would urge you to visit the site so that you can see the identified hazards for yourself. We appreciate that you must be busy, but feel that such a site visit would help your understanding of the situation enormously.

We look forward to hearing from you soon on this matter. Should you wish to contact us directly, we would welcome this. Please note, however, that we will not be available between 5 and 9 October."

**Town and Country Planning Act 1990**

**Tree Preservation Order 2015 No. 2 – 155 Dalton Lane, Barrow-in-Furness**

Barrow-in-Furness Borough Council in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

**Citation**

1. This Order may be cited as Tree Preservation Order 2015 No. 2 – 155 Dalton Lane, Barrow-in-Furness.

**Interpretation**

2.— (1) In this Order "the authority" means Barrow in Furness Borough Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

**Effect**

3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, 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 the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

**Application to trees to be planted pursuant to a condition**

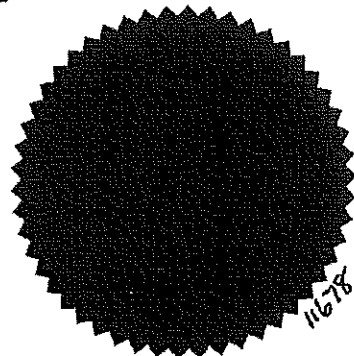
4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this *twelfth* day of *September* 2015

The Common Seal of Barrow in Furness Borough Council

was affixed to this Order in the presence of—

*Sm Roberts*  
.....  
Director



CONFIRMATION OF ORDER

This Order was confirmed by Barrow-in-Furness Borough Council without modification on the day of

OR

This Order was confirmed by Barrow-in-Furness Borough Council, subject to the modifications indicated by

on the day of

Signed on behalf of Barrow-in-Furness Borough Council

.....

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by Barrow-in-Furness Borough Council on the day of

Signed on behalf of Barrow-in-Furness Borough Council

.....

VARIATION OF ORDER

This Order was varied by Barrow-in-Furness Borough Council on the day of by a variation order under reference number a copy of which is attached

Signed on behalf of Barrow-in-Furness Borough Council

.....

REVOCATION OF ORDER

This Order was revoked by Barrow-in-Furness Borough Council on the day of

Signed on behalf of Barrow-in-Furness Borough Council

.....



## AMENDED SCHEDULE

### Specification of trees

#### Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

None

#### Trees specified by reference to an area

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

None

#### Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

G1

Three White Poplar Trees

The south west corner of the garden of 155 Dalton Lane, Barrow-in-Furness adjacent to the rear boundaries of nos. 2 and 4 Glenridding Drive, Barrow-in-Furness.

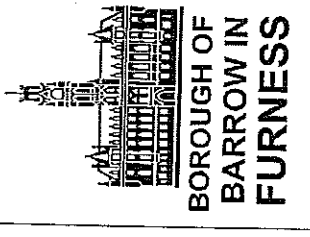
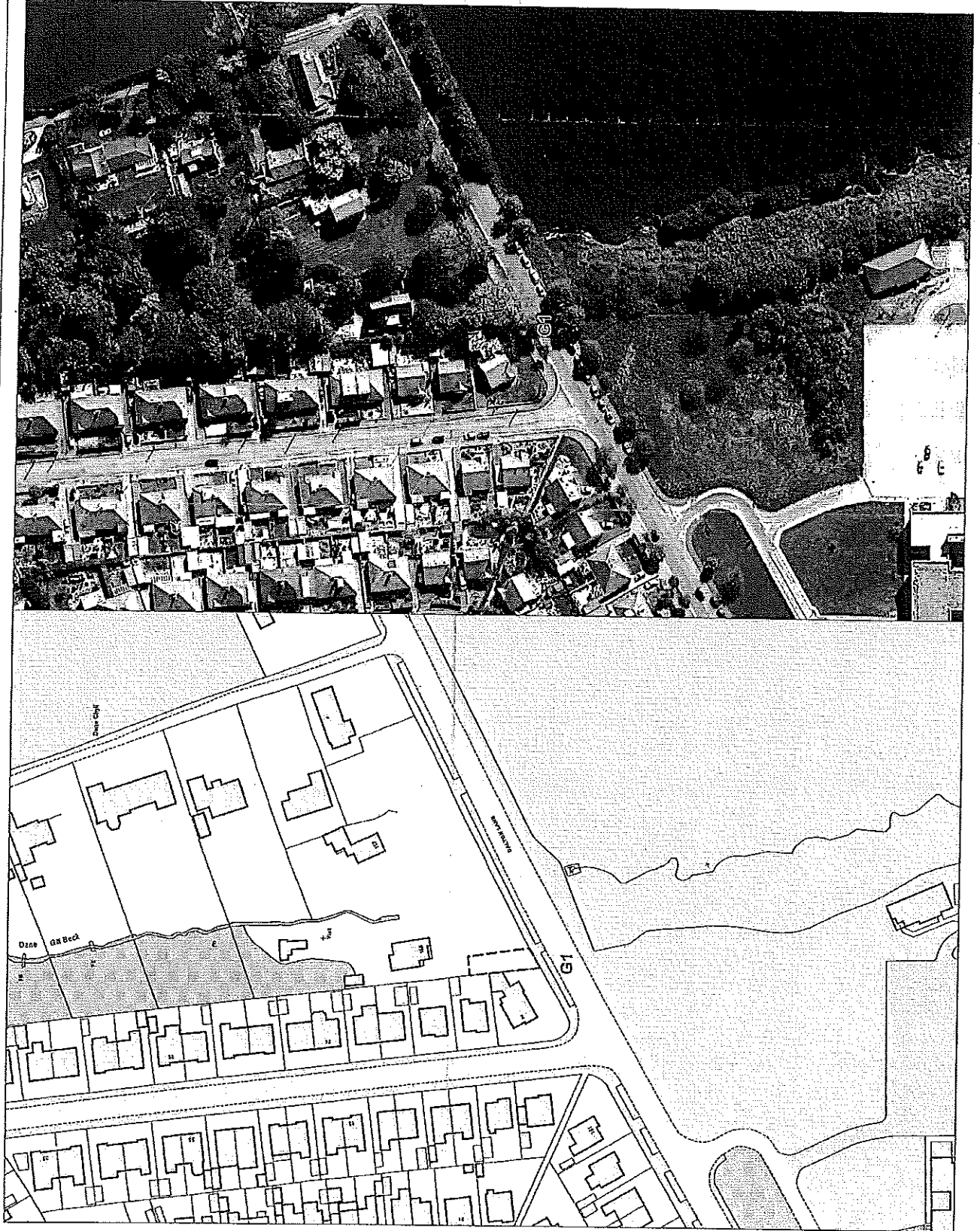
#### Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

None

Tree Preservation Order 2015 Number 2 at 155 Dalton Lane Barrow-in-Furness



Scale : 1:1250  
Grid : None



Produced on : 06/12/2014

This copy has been produced specifically for internal use by Barrow Borough Council. No further copies may be made. Reproduced from the 1995 Ordnance Survey mapping with the permission of the Controller of Her Majesty's Stationery Office (c) Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Aerial imagery is copyright Getmapping International Ltd.

BARROW BOROUGH COUNCIL  
Licence No LA100019831