

INFORMATION ITEM

REPORT OF	MEETING	DATE	ITEM NO
HEAD OF PLANNING	PLANNING COMMITTEE	6 SEPTEMBER 2023	6
TREE PROSECUTION AT BEECH ROAD, ELSWICK			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY OF INFORMATION

The council had commenced prosecution proceedings against a developer (Applethwaite Ltd) and their contractor (Barton Civil Engineers Ltd) relating to unauthorised works that had caused damage to two protected trees on land adjacent to a residential development site at Elswick.

The prosecution against Applethwaite Ltd was subsequently withdrawn, but Barton Civil Engineers pleaded guilty to the offence that they were charged with and were duly convicted. At a Sentencing Hearing at Blackpool Magistrates on 2 August 2023, the Judge handed down a fine of £11,000 for the offence of wilfully damaging a protected tree with £7,000 costs.

SOURCE OF INFORMATION

Development Services and Legal Services

WHY IS THIS INFORMATION BEING GIVEN TO THE COMMITTEE?

This information is presented to Members for information and will be promoted by the council in the hope that it acts as a deterrent to others who may be considering undertaking such works.

INFORMATION NOTE

TREE PROSECUTION AT BEECH ROAD, ELSWICK

FURTHER INFORMATION

Applethwaite Ltd are constructing a development of 3 properties on land to the north of Beech Road in Elswick. As part of this development there is a requirement to construct a formal access to the site from the highway with standard kerbs and a footway. In implementing these works in July 2022 the contractor acting for Applethwaite removed sections of fencing that were in position to prevent construction works taking place in close proximity to a pair of protected trees on the frontage of the site with Beech Road. Those trees are protected by Tree Preservation Order 2018 No. 8 as a consequence of the positive contribution that they make to the streetscene in the area.

Having removed the fencing the contractors undertook construction works using an excavator with bucket instead of the agreed method of working which was to excavate material by hand so that the risk of damage to the roots of the trees would be minimised.

The council's planning enforcement team were alerted to this work and having viewed CCTV footage of the works that had helpfully been captured by a neighbour, they undertook further investigations. The council's tree officer, the Lancashire County Council tree officer, and the developer's own arboricultural consultant all agreed that the works were likely to lead to the early decline and loss of the trees, with one of them needing to be immediately removed as it was a safety risk to pedestrians and vehicles.

Further investigations took place including the commissioning of expert reports and the interviewing of various parties under caution to establish the facts of the case.

Due to the importance given to the protection of trees, and the disregard to that protection that had been displayed in this case, the council decided to commence prosecution proceedings. Following counsel's advice, the case against Applethwaite was dropped, but the action against Barton Civil Engineers continued on the basis that it was their staff who had actually undertaken the works.

Barton Civil Engineers pleaded guilty at a hearing of Blackpool Magistrates on 12 July 2023. A sentencing hearing was then arranged for 2 August 2023 when Barton Civil Engineers Ltd were convicted of wilfully damaging a Whitebeam tree in such a manner as to be likely to destroy it contrary to Section 210(1)(b) of the Town and Country Planning Act 1990. They were also convicted of wilfully damaging a London Plane tree contrary to the same legislation.

The District Judge involved in the sentencing determined that they should be fined £9,000, they should pay a £2,000 victim surcharge, and that they should pay £7,000 towards the council's costs. This leads to a total of £18,000.

Whilst these fines do not restore the trees or fully cover the council's costs in this matter, the action demonstrates the willingness of the council to pursue action against those who breach planning legislation and the fine is of a sufficient magnitude to act as a deterrent to others who may be considering such works.

FURTHER INFORMATION AVAILABLE FROM

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