



**Committee:** APPEALS COMMITTEE  
**Date:** THURSDAY, 28 JUNE 2018  
**Venue:** LANCASTER TOWN HALL  
**Time:** 1.00 P.M.

## A G E N D A

1. **Apologies for Absence**

2. **Appointment of Vice-Chairman**

To appoint a Vice-Chairman for the 2018/19 municipal year.

3. **Minutes**

Minutes of the meeting held on 7 December 2017 (previously circulated)

4. **Items of Urgent Business authorised by the Chairman**

5. **Declarations of Interest**

To receive declarations by Members of interests in respect of items on this Agenda.

Members are reminded that, in accordance with the Localism Act 2011, they are required to declare any disclosable pecuniary interests, which have not already been declared in the Council's Register of Interests. (It is a criminal offence not to declare a disclosable pecuniary interest either in the Register or at the meeting.)

Whilst not a legal requirement, in accordance with Council Procedure Rule 9 and in the interests of clarity and transparency, Members should declare any disclosable pecuniary interests, which they have already declared in the Register, at this point in the meeting.

In accordance with Part B, Section 2 of the Code of Conduct, Members are required to declare the existence and nature of any other interests, as defined in paragraphs 8(1) or 9(2) of the Code of Conduct.

### **Matters for Decision**

6. **Tree Preservation Order No. 641 (2018) - Trees established on land at Home Farm, Main Road, Galgate (Pages 1 - 30)**

Report of the Interim Head of Legal and Governance Services

7. **Tree Preservation Order No. 646 (2018) - Two Areas of Trees Established on Land at Capernwray Diving Centre, Jackdaw Quarry, Capernwray Road, Capernwray** (Pages 31 - 70)

Report of the Interim Head of Legal and Governance Services

## **ADMINISTRATIVE ARRANGEMENTS**

### **(i) Membership**

Councillors Claire Cozler (Chairman), Jon Barry, Tracy Brown, Susie Charles, Janice Hanson, Joan Jackson and Terrie Metcalfe

### **(ii) Substitute Membership**

Councillors Alan Biddulph, Andrew Gardiner, Tim Hamilton-Cox, Margaret Pattison and Malcolm Thomas

### **(iii) Queries regarding this Agenda**

Please contact Jane Glenton, Democratic Services: telephone (01524) 582068 or email [jglenton@lancaster.gov.uk](mailto:jglenton@lancaster.gov.uk).

### **(iv) Changes to Membership, substitutions or apologies**

Please contact Democratic Support: telephone (01524) 582170 or email [democraticsupport@lancaster.gov.uk](mailto:democraticsupport@lancaster.gov.uk).

SUSAN PARSONAGE,  
CHIEF EXECUTIVE,  
TOWN HALL,  
DALTON SQUARE,  
LANCASTER LA1 1PJ

Published on Monday, 18 June 2018.

## APPEALS COMMITTEE

### Tree Preservation Order No. 641 (2018) Home Farm, Main Road, Galgate 28 June 2018

#### Report of Interim Head of Legal and Governance Services

##### PURPOSE OF REPORT

To enable Members to consider the objection received to Tree Preservation Order No. 641 (2018) relating to trees located on land at Home Farm, Main Road, Galgate, and thereafter whether or not to confirm the Order.

**This matter will be dealt with in accordance with the adopted procedure for considering matters relating to individual applications, that is, the relevant matters for consideration by the Committee will be presented in the public part of the meeting, and the decision will be made after the exclusion of the press and public, on the basis that, in making its decision, the Committee will receive exempt information in the form of legal advice on possible legal proceedings arising from the decision (Paragraph 5A of Schedule 12A of the Local Government Act 1972) as amended by the Local Government (Access to Information) (Variation) Order 2006.**

##### RECOMMENDATIONS

**That Members consider the objection to Tree Preservation Order No. 641 (2018) relating to trees located on land at Home Farm, Main Road, Galgate, and decide whether or not to confirm the Order.**

##### 1.0 Introduction

- 1.1 Under Section 198 of the Town and Country Planning Act 1990, the Local Planning Authority may make an Order in respect of a tree or group of trees if it appears that it is expedient in the interests of amenity to make provision for the protection of trees in their area.
- 1.2 In accordance with the Town and Country Planning (Tree Preservation Order) Regulations 2012, an objection has been received to Tree Preservation Order No. 641 (2018), which has been made in relation to trees located on land at Home Farm, Main Road, Galgate.
- 1.3 In accordance with the Regulations, it is necessary to consider the objection, and in order for the objection to be considered objectively, the matter is referred to the Appeals Committee.
- 1.4 The report of the City Council's Tree Protection Officer is attached (pages 3 to 6).

Appended to the report are:

- **Appendix 1** - Copy of the original Tree Preservation Order No.641 (pages 7 to 10);
- **Appendix 2** – An aerial photograph of the site (2013) (page 11);
- **Appendix 3** – A copy of the Tree Protection Officer’s initial report dated 5 January 2018 (page 12);
- **Appendix 4** – A copy of the amended plan (pages 14 to 16);
- **Appendix 5** – Letter of objection from Oglethorpe, Sturton and Gillibrand, acting on behalf of the landowner, Mrs. S. Charles, dated 13 February 2018 (pages 17 and 18);
- **Appendix 6** – Letter in response from Lancaster City Council dated 5 April 2018 (pages 19 and 20);
- **Appendix 7** – A draft version of the proposed modification to the Schedule (pages 21 to 23);
- **Appendix 8** – A draft version of the associated modified plan (pages 24 to 30).

**2.0 Proposal Details**

2.1 The purpose of the report is to provide Members with details to enable them to decide whether or not to confirm Tree Preservation Order No. 641 (2018).

**3.0 Details of Consultation**

3.1 Tree Preservation Order No. 641 (2018) was made and advertised in the usual way, and an objection was received.

**4.0 Options**

- (1) To confirm Tree Preservation Order No. 641 (2018) -
  - (a) Without modification;
  - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 641 (2018).

**5.0 Conclusion**

5.1 In the light of information contained within the report and its appendices, together with legal advice given at Committee and a site visit, Members are requested to determine whether or not to confirm Tree Preservation Order No. 641 (2018).

<b>CONCLUSION OF IMPACT ASSESSMENT</b> (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing) Not applicable.	
<b>LEGAL IMPLICATIONS</b> A Legal Officer will be present at the meeting to advise the Committee	
<b>FINANCIAL IMPLICATIONS</b> Not applicable.	
<b>BACKGROUND PAPERS</b> Tree Preservation Order No. 641 (2018)	<b>Contact Officer:</b> Jane Glenton <b>Telephone:</b> (01524) 582068 <b>Email:</b> jglenton@lancaster.gov.uk <b>Ref:</b> JEG



Contact: Maxine Knagg  
Telephone: 01524 582381  
FAX: 01524 582323  
Email: [mknagg@lancaster.gov.uk](mailto:mknagg@lancaster.gov.uk)  
Website: [www.lancaster.gov.uk](http://www.lancaster.gov.uk)  
Our Ref: TPO607/2017/MK

**Regeneration & Policy Service**  
Development Management  
PO Box 4  
Town Hall  
Lancaster  
LA1 1QR

Date: 6<sup>th</sup> June 2018

## Appeals Committee (TPO)

Trees subject of the Appeal Committee – x20 woodland compartments of trees, x13 individual trees and x3 groups of trees established on land at Home Farm, Main Road, Galgate, subject to **Tree Preservation Order no. 641 (2018)**.

This report has been prepared by Maxine Knagg (BSc Hons Arboriculture), Tree Protection Officer, Lancaster City Council.

### 1.0 Purpose of Report

1.1 The Appeals Committee are to consider whether the trees in question, identified as A1 within the TPO, should be confirmed without modification, confirmed with modifications or not confirmed. A copy of Tree Preservation Order no. 641 (2018) is available at **appendix 1**.

### 2.0 Background

2.1 The land in question is privately owned by the appellant. It is a site that the Council is aware of, in so much as it may come forward for possible future development. I understand from colleagues in Forward Planning that the site has, as yet, not been assessed with regard to its potential for future development.

2.2 Lancaster City Council received concerns from a member of the public that the trees within the site may be removed or inappropriately managed prior to the submission of a future planning application for development of the site. Trees at that time were not protected in law and, as such, could have been removed without the requirement for prior consultation with the Council.

2.3 Trees within the site made subject of TPO no. 641 (2018) were protected immediately on a Provisional basis, in the interest of public amenity value and wildlife benefit. The trees subject of the order were designated as a single

“Area”. In effect, an “emergency order” protecting every tree and area of woodland established within the boundary line of the area designation.

- 2.4 An aerial photograph of the site (2013), **appendix 2**, serves to illustrate the extent of the tree cover across the site. A range of individual trees, and a multitude of woodland compartments and small clusters of mature trees can be clearly seen.

### **3.0 Assessment**

- 3.1 A copy of my initial report, dated 05.01.18, is available at **appendix 3**.
- 3.2 I visited the site on 1<sup>st</sup> June 2018 to assess the trees with a view to re-defining the original “Area” designation. A total of x20 woodland compartments, x13 individual trees and x3 groups of trees across the site were identified. Species were predominantly broadleaf trees, including a number of large, mature and veteran oak trees, lime, and beech. There were also ash, sycamore and a number of coniferous species.
- 3.3 Trees and woodlands within the site make an important contribution to the character and appearance of this rural site and that of the wider locality. Many of the trees can be seen as important landscape features from the public domain and from Lancaster Canal, which lies to the north.

Lancaster Canal is designated a Biological Heritage Site (BHS). Trees within the site make a positive contribution to this important green corridor for wildlife. Trees within the site offer a multitude of opportunities for habitat and foraging for a range of wildlife, including protected species, such as nesting birds and bats. Both of these groups are protected in law under the Wildlife & Countryside Act 1981 (as amended 2010).

- 3.4 Lancaster City Council uses a Tree Evaluation Method for Preservation Orders (TEMPO) to demonstrate a structured and consistent approach to the assessment of trees and woodlands in relation to their suitability for inclusion within a TPO. This system, when used by an individual suitably trained and experienced in the assessment of trees, can be a useful tool to demonstrate key elements of the decision making process, resulting in a final total score and outcome indicator. The system in itself is not a decision making process.

Lancaster City Council considers the individual trees, groups and woodland compartments identified, to have important public amenity value. The potential for future development of the site is sufficient to justify the protection of trees with TPO no. 641 (2018).

### **4.0 Tree Preservation Order no. 641 (2018)**

- 4.1 Tree Preservation Order no. 641 (2018) was made on 16<sup>th</sup> January 2018, in the interest of public amenity value and wildlife benefit.
- 4.2 The TEMPO scores for the individual trees, groups and woodlands within the site range from 14-15+, supporting their protection with a preservation order.

## **5.0 Objection to TPO no. 641 (2018)**

- 5.1 Lancaster City Council received a letter from the owners/occupants of Cragg Hill Farm and Ellet Grange requesting removal of their land from the area order. This request was met and the boundary of the original order was amended to exclude the areas of land and trees not directly implicated by the potential future development of the wider Home Farm site. A copy of the amended plan (dated 10.05.18) can be seen at **appendix 4**. The related objection was withdrawn.
- 5.2 A letter of objection was received, written on behalf of the current landowner Mrs S Charles, dated 13.02.18. A copy of this letter can be seen at **appendix 5**. The Council's response to this letter can be seen at **appendix 6**, dated 05.04.18.
- 5.3 It should be noted that a TPO is not intended to prevent or obstruct development of land where consent is granted. It does however ensure that trees are a material consideration within any future planning application. A TPO prevents their unauthorised removal. Anyone who lops, tops, uproots, or damages a tree(s) subject of a TPO and is found guilty of an offence in a Magistrates' Court is liable to a maximum fine of £20,000.
- 5.4 Works to protected trees is subject of an application process. Lancaster City Council will grant consent for works to protected trees where it considers the work to be reasonable and appropriate and in line with current standard of best practice set out within BS 3998 (2010) Tree Work – Recommendations. There is no charge associated with the submission of a tree works application.

## **6.0 Decision to Serve TPO no. 641 (2018)**

- 6.1 Lancaster City Council considers it expedient in the interests of amenity to make provision for the preservation of trees and woodlands identified within the original Area (A1) designation, of whatever species are present under sections 198, 201 and 203 of the Town & Country Planning Act 1990.

However, following an assessment of the site, it is recommended that TPO no. 641 (2018) is confirmed with a modification to change the current designation from Area (A1) to that of individual trees T1-T13, groups G1-G3 and woodland compartments W1, W2, W3, W3A and W4-W19. A draft version of the proposed modification to the Schedule is available at **appendix 7**. A draft version of the associated modified plan is available at **appendix 8**.

The Area designation was initially used in an “emergency” scenario, to provide immediate protection pending further consideration. This designation is no longer appropriate.

Lancaster City Council cites the following reasons for the continued protection of trees on the land in question.

- The trees in question make a significant contribution to the character and appearance of the site, the rural setting and the wider public domain.

- The site may be brought forward for development in the future, threatening existing trees and woodlands.
- Trees and woodlands within the site offer important habitat and foraging opportunities for a range of wildlife including protected species.

The x13 individual trees, x3 groups and x20 woodland compartments identified have sufficient amenity value and importance within the landscape and remain under threat from possible future development of the site to justify their continued protection with TPO no. 641 (2018).

- 6.2 As such, Lancaster City Council recommends that TPO no. 641 (2018) be confirmed with a modification to change the designation from the temporary emergency Area (A1) designation to that of individual trees T1 – T13, groups G1-G3 and woodland compartments W1, W2, W3, W3A, W4-W19, in the interest of public amenity benefit and wildlife value.

**Maxine Knagg BSc (Hons) Arboriculture**

Tree Protection Officer, Regeneration & Planning Service  
On behalf of Lancaster City Council

Appendix 1

CITY COUNCIL OF LANCASTER  
TREE PRESERVATION ORDER NO. 641(2018)

-----ooOoo-----

RELATING TO:

HOME FARM  
ELLEL GRANGE  
MAIN ROAD  
GALGATE  
LANCASHIRE  
LA2 0HN

PO BOX 4  
TOWN HALL  
LANCASTER  
LA1 1QR

**TOWN AND COUNTRY PLANNING ACT 1990**

**LANCASTER CITY COUNCIL  
TREE PRESERVATION ORDER NO. 641(2018)**

The City Council of Lancaster, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 hereby make the following Order:

**Citation**

1. This Order may be cited as Tree Preservation Order No. 641(2018), Home Farm, Ellet Grange, Main Road, Galgate, Lancashire LA2 0HN, 16th January 2018.

**Interpretation**

2. (1) In this Order "the authority" means the Lancaster City 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 2011.

**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, 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 16th day of January 2018

Signed on behalf of the Lancaster City Council:



**Andrew Dobson DipEP MRTPI PDDMS  
CHIEF OFFICER (REGENERATION AND PLANNING)**  
Authorised by the Council to sign in that behalf

**SCHEDULE**

**Specification of Trees**

**TREE PRESERVATION ORDER NO. 641(2018)**

Relating to trees at Home Farm, Ellel Grange, Main Road, Galgate, Lancashire LA2 0HN.

**TREES SPECIFIED INDIVIDUALLY**

(Encircled in a solid black line on map)

**TREES SPECIFIED BY REFERENCE TO AN AREA**

(Shown within a dotted black line on map)

Reference on Map	Description	Situation
A1	Whatever species present.	Centred on grid ref: (E) (N) 453995

**GROUP OF TREES**

(Shown within a broken black line on map)

**WOODLAND**

(Shown within a solid black line on map)





Tree Preservation Order 641(2018)  
Relating to trees surrounding Home Farm Ellet Grange Galgate

*A. Doba.*







**Site:** Home Farm, Ellet Grange, Main Road, Galgate, LA2 0HN  
**Proposal:** New Tree Preservation Order

**Assessment:**

Generally, site trees and hedges are in good overall condition and as such have long periods of useful remaining life potential.

There are no conservation area constraints or tree preservation orders currently affecting trees within the site identified.

Trees, hedging and areas of woodland within the site have the potential to provide habitat and foraging opportunities for wildlife, including protected species (Wildlife & Countryside Act 1981, as amended).

**Existing Trees/Hedges/Woodland**

The existing trees and woodlands areas can be seen from a number of locations within the wider public domain. They make an important contribution to the character and appearance of the site. Any future development of the land must seek to retain and protect suitable trees into the overall scheme to avoid any adverse impact upon the amenity and wildlife benefit.

**Recommendation:**

In the interest of amenity and wildlife benefit it is the Council's intention to protect the existing trees and woodland with Tree Preservation Order no.641 (2018).

*Maxine Knagg BSc (Hons) Arboriculture  
Tree Protection Officer  
Regeneration & Planning Service*

*Date: 05.01.18*

CITY COUNCIL OF LANCASTER  
TREE PRESERVATION ORDER NO. 641(2018)

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RELATING TO:

HOME FARM  
ELLEL GRANGE  
MAIN ROAD  
GALGATE  
LANCASHIRE  
LA2 0HN

PO BOX 4  
TOWN HALL  
LANCASTER  
LA1 1QR

**TOWN AND COUNTRY PLANNING ACT 1990**

**LANCASTER CITY COUNCIL  
TREE PRESERVATION ORDER NO. 641(2018)**

The City Council of Lancaster, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990, hereby make the following Order:

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  - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
  - (b) cause or permit the cutting down, topping, lopping, 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 16th day of January 2018

Signed on behalf of the Lancaster City Council:



**Andrew Dobson DipEP MRTPI PDDMS  
CHIEF OFFICER (REGENERATION AND PLANNING)**  
Authorised by the Council to sign in that behalf

**SCHEDULE**

**Specification of Trees**

**TREE PRESERVATION ORDER NO. 641(2018)**

Relating to trees at Home Farm, Ellel Grange, Main Road, Galgate, Lancashire LA2 0HN.

**TREES SPECIFIED INDIVIDUALLY**

(Encircled in a solid black line on map)

**TREES SPECIFIED BY REFERENCE TO AN AREA**

(Shown within a dotted black line on map)

Reference on Map	Description	Situation
A1	Whatever species present.	Centred on grid ref: (E) (N) 453995

**GROUP OF TREES**

(Shown within a broken black line on map)

**WOODLAND**

(Shown within a solid black line on map)



# Tree Preservation Order 641(2018)

Trees surrounding Home Farm Ellel Grange Galgate



GIS by ESRI (UK)



**Legend**

*Mark Cassidy*  
 PLANNING MANAGER (REGENERATION AND PLANNING)



Reproduced from the Ordnance Survey map with the permission of the Controller of Her Majesty's Stationery Office © Crown Copyright 2000.

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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	10 May 2018
<b>SLA Number</b>	Not Set



Lancaster City Council  
Legal Department  
DX 63531  
Lancaster

Our Ref: DEP/SLM/L12837-6

Your Ref: TPO641 (2018)

Date: 13 February 2018

Email: david.park@osg.co.uk

DocRef: 2156223993

Service by email not accepted

By email also to [developmentcontrol@lancaster.gov.uk](mailto:developmentcontrol@lancaster.gov.uk)

Dear Sirs

Our client: Mrs S Charles, [REDACTED]

Your letter under the Tree Preservation Order 641 (2018) relating to trees at Home Farm, Ellel Grange

We act for Mrs Charles who is the owner of most of the land incorporated within the above TPO.

We have been instructed to reply on Mrs Charles' behalf as follows:

1. The making of a TPO over such a large area and without prior consultation has taken her by surprise. The areas outlined include large areas of rural working farm and woodland and it is extremely cumbersome to have a blanket Tree Preservation Order over such large areas of woodland. It would be impractical to have to request permission for lopping and managing the woodland on every occasion.
2. We understand that the guidance for making TPO's recommend the authority should inspect and survey the trees. Please could the Council explain what surveys and access it has had to the woodland to justify these trees as having amenity value as opposed to any other area of rural woodland. Our client is not aware of any visits by the officer on to the land to survey the woodlands. It seems that it has been a reaction to the talks about the proposed artisan village. We look forward to receiving the surveys and reasoning behind the granting of the TPO as a matter of urgency.

Oglethorpe Sturton & Gillibrand LLP

16 Castle Park, Lancaster, LA1 1YG  
T 01524 846846 F 01524 382247 DX 63500 Lancaster E office@osg.co.uk W www.osg.co.uk

A list of members is available at the above address

Authorised and regulated by the Solicitors Regulation Authority.

Registered Office: 16 Castle Park, Lancaster, LA1 1YG

Registered No: 0C343759

3. The purpose of TPO's is to preserve and protect woodland and trees of particular value, not to large areas of land in rural areas.
4. Our client is willing to work with the Council in a co-operative manner in relation to particular trees or areas but given the blanket nature of the TPO, which would make the proper management of the woodland extremely difficult, our client objects to the TPO as a whole.

Yours faithfully



Oglethorpe Sturton & Gillibrand LLP

cc 



Contact: Maxine Knagg  
Telephone: (01524) 582384  
Fax: (01524) 582323  
E-mail: [mknagg@lancaster.gov.uk](mailto:mknagg@lancaster.gov.uk)  
Website: [www.lancaster.gov.uk](http://www.lancaster.gov.uk)

Oglethorpe, Sturton & Gillibrand  
16, Castle Park  
Lancaster  
LA1 1YG

Regeneration & Planning Service  
Development Management  
PO Box 4  
Town Hall  
Lancaster  
LA1 1QR

Date: 5<sup>th</sup> April 2018

Dear Sirs,

**Re: Tree Preservation Order no.641 (2018) – Home Farm, Ellet Grange, Lancaster**

Further to your letter dated 13<sup>th</sup> February 2018, written on behalf of your client.

The letter contains a number of bullet points which I will seek to address.

We accept your letter as a formal objection to the above tree preservation order (TPO).

TPO no.641 (2018) was designated as an "Area", where all trees established within that area are protected in law, on a provisional basis. The provisional order expires after a period of 6 months, unless the order is confirmed within that time frame.

This type of order is usually served in an emergency, often where the Council is alerted to concerns that trees may potentially be under threat from removal. This type of situation can arise where future development of land is a possibility. Without a tree preservation order, trees and woodlands can be felled prior to the submission of a formal planning application. Up to 5 cubic metres of timber can be felled without the requirement of a Felling Licence (Forestry Commission).

The local authority has a duty to protect trees and woodlands where they may be threatened from development.

In such instances, an "Area" designated order can be served immediately without the requirement for a survey of the trees in question. The trees can be assessed at a later date once they are protected and the initial threat from removal/damage is alleviated. The "Area" designation is a short term means of protection trees in an emergency, it is not for the protection of land. A TPO does not prevent or obstruct development, it does however ensure trees and woodlands remain a material consideration should formal planning proposals be submitted.

We recognise your client's wishes to work alongside the Council. We anticipate reviewing the area designation shortly.

Yours sincerely,

Maxine Knagg

**Maxine Knagg BSc (Hons) Arboriculture  
Tree Protection Officer  
Regeneration Service  
Development Management  
Lancaster City Council**

**SCHEDULE****Specification of Trees****TREE PRESERVATION ORDER NO. 641(2018)**

Relating to trees surrounding Home Farm, Ellet Grange, Main Road, Galgate, Lancashire.

**TREES SPECIFIED INDIVIDUALLY**

(Encircled in a solid black line on map)

Reference on Map	Description	Situation	
T1	Ash	Centred grid ref:	on (E) 347775 (N) 454215
T2	Ash	Centred grid ref:	on (E) 347757 (N) 454223
T3	Oak	Centred grid ref:	on (E) 347735 (N) 454230
T4	Oak	Centred grid ref:	on (E) 347715 (N) 454237
T5	Sycamore	Centred grid ref:	on (E) 347703 (N) 454263
T6	Sycamore	Centred grid ref:	on (E) 347700 (N) 454275
T7	Beech	Centred grid ref:	on (E) 347720 (N) 454263
T8	Oak	Centred grid ref:	on (E) 347727 (N) 454251
T9	Oak	Centred grid ref:	on (E) 347739 (N) 454247
T10	Sycamore	Centred grid ref:	on (E) 347755 (N) 454242
T11	Sycamore	Centred grid ref:	on (E) 347772 (N) 454236
T12	Oak	Centred grid ref:	on (E) 347900 (N) 454232
T13	Lime	Centred grid ref:	on (E) 348449 (N) 453805

**TREES SPECIFIED BY REFERENCE TO AN AREA**

(Shown within a dotted black line on map)

**GROUP OF TREES**

(Shown within a broken black line on map)

Reference on Map	Description	Situation		
G1	x3 Oak	Centred grid ref:	on (E) 347800	(N) 454225
G2	x2 Oak	Centred grid ref:	on (E) 347833	(N) 454217
G3	x3 Oak	Centred grid ref:	on (E) 347861	(N) 454236

**WOODLAND**

(Shown within a solid black line on map)

Reference on Map	Description	Situation		
W1	Whatever species present	Centred grid ref:	on (E) 348213	(N) 453878
W2	Whatever species present	Centred grid ref:	on (E) 348169	(N) 453887
W3	Whatever species present	Centred grid ref:	on (E) 348021	(N) 453815
W3	Whatever species present	Centred grid ref:	on (E) 348041	(N) 453887
W4	Whatever species present	Centred grid ref:	on (E) 347941	(N) 453678
W5	Whatever species present	Centred grid ref:	on (E) 347815	(N) 453830
W6	Whatever species present	Centred grid ref:	on (E) 347721	(N) 453841
W7	Whatever species present	Centred grid ref:	on (E) 347706	(N) 454065
W8	Whatever species present	Centred grid ref:	on (E) 347652	(N) 454151
W9	Whatever species present	Centred grid ref:	on (E) 347379	(N) 453915
W10	Whatever species present	Centred grid ref:	on (E) 347790	(N) 454323
W11	Whatever species present	Centred grid ref:	on (E) 348148	(N) 454403
W12	Whatever species present	Centred grid ref:	on (E) 348168	(N) 454434

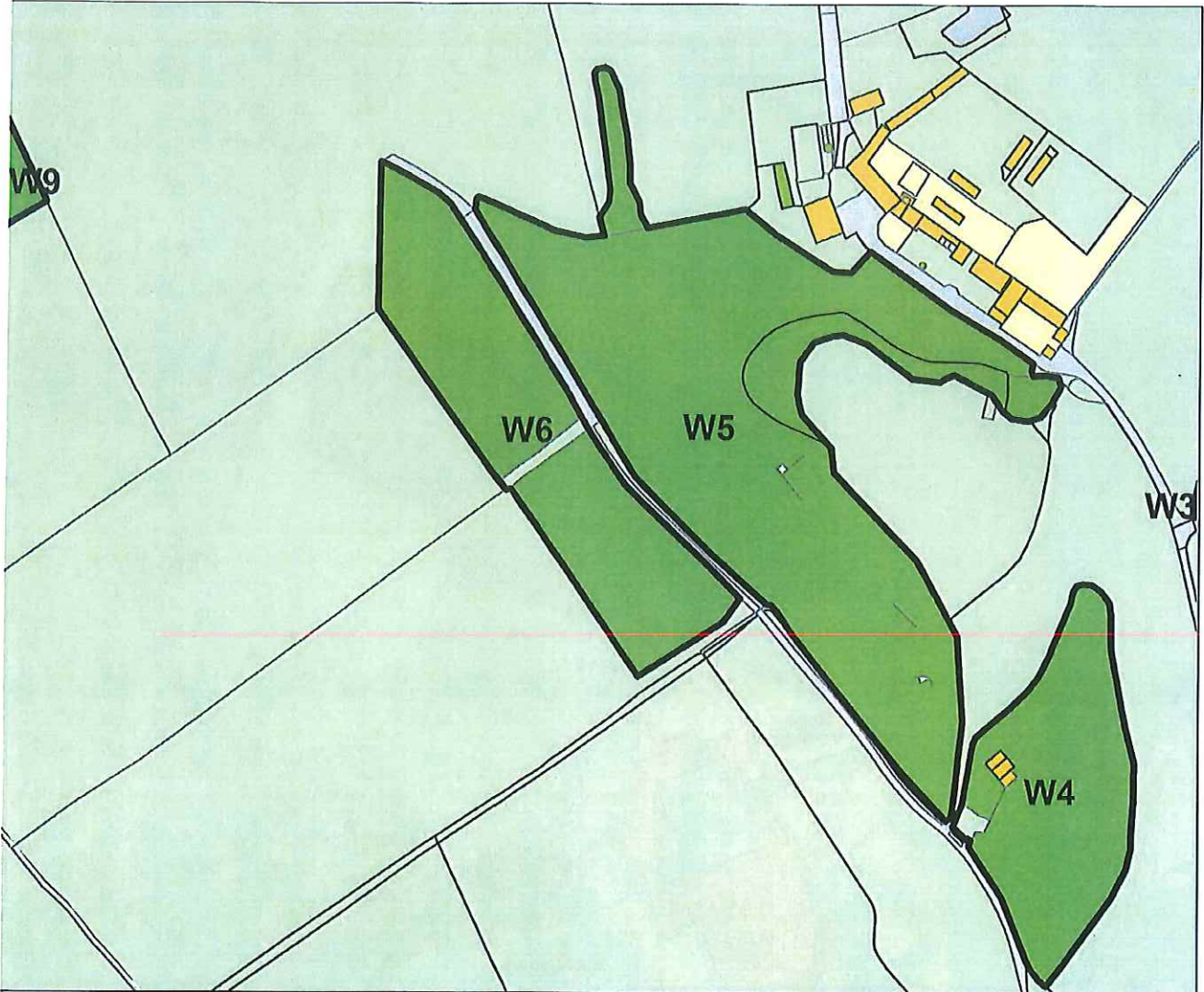
W13	Whatever species present	Centred grid ref:	on (E) 348290	(N) 454123
W14	Whatever species present	Centred grid ref:	on (E) 348399	(N) 453995
W15	Whatever species present	Centred grid ref:	on (E) 348537	(N) 453985
W16	Whatever species present	Centred grid ref:	on (E) 348397	(N) 453802
W17	Whatever species present	Centred grid ref:	on (E) 348554	(N) 453875
W18	Whatever species present	Centred grid ref:	on (E) 348508	(N) 453717
W19	Whatever species present	Centred grid ref:	on (E) 348327	(N) 453755





# Tree Preservation Order 641(2018) W4, W5, W6

Home Farm Ellel Grange Main Road Galgate



Legend	



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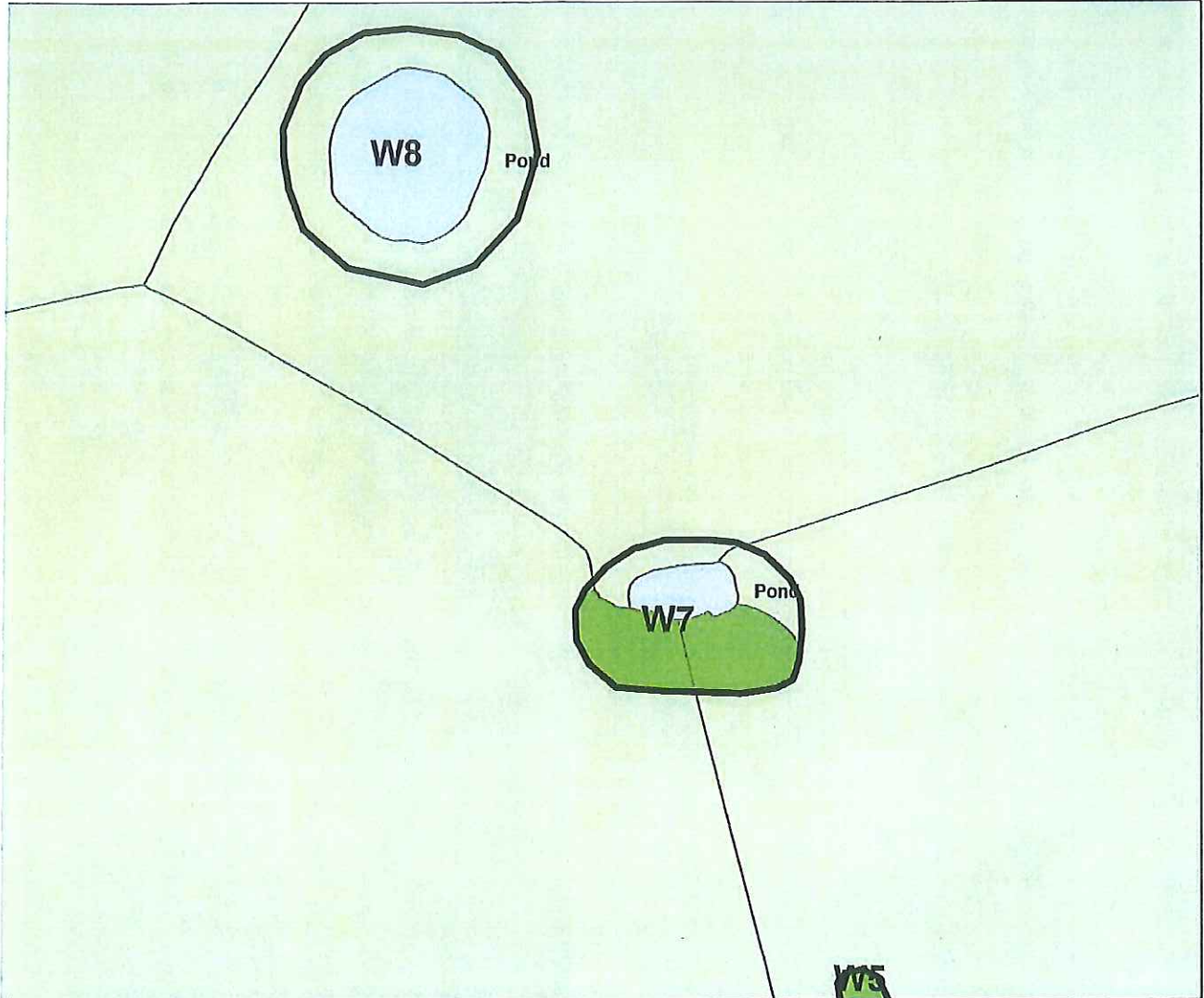
Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	06 June 2018
SLA Number	Not Set

# Tree Preservation Order 641(2018) W7, W8

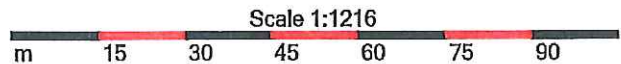
Home Farm Ellel Grange Main Road Galgate



GIS by ESRI (UK)



Legend	



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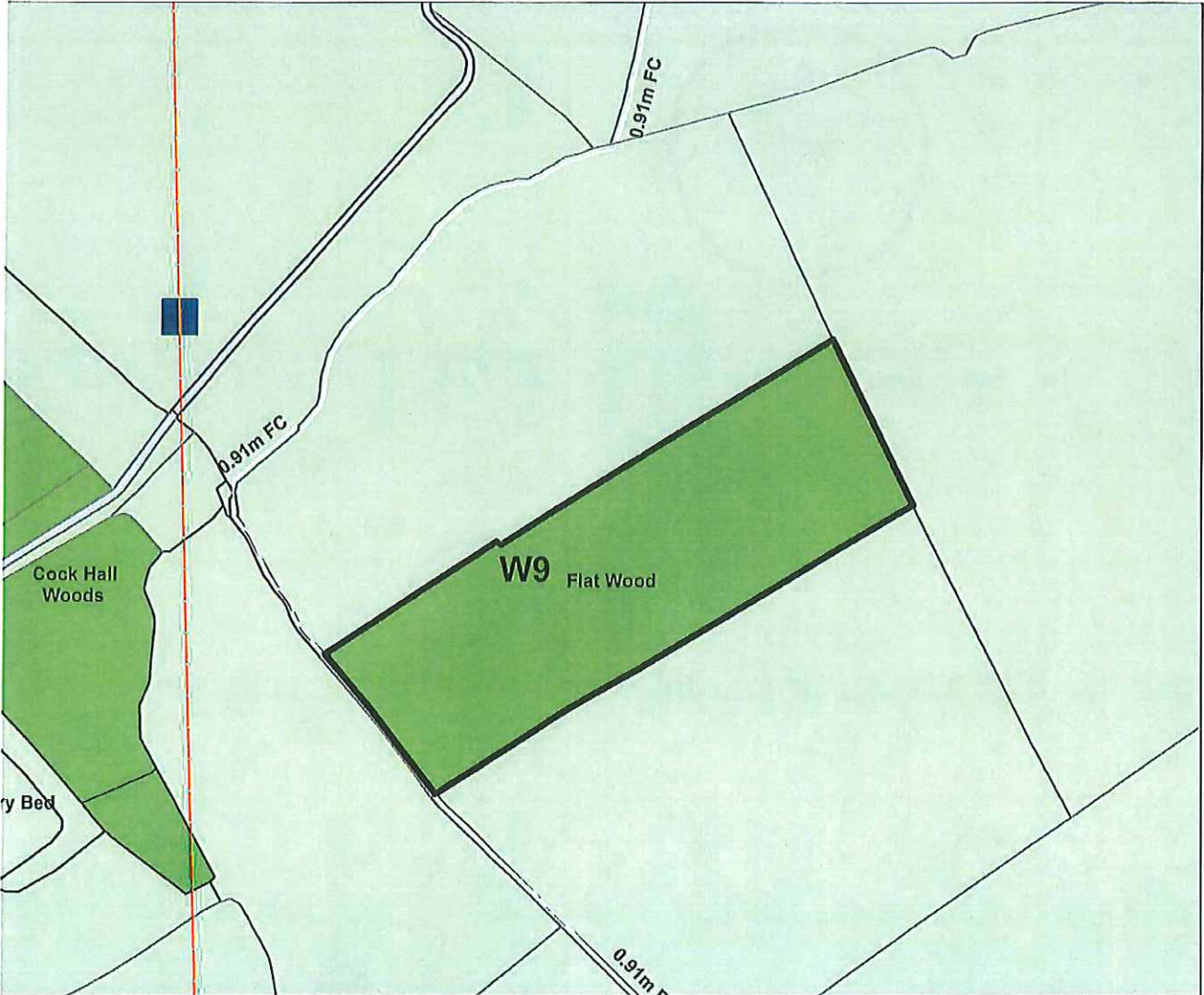
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Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	06 June 2018
SLA Number	Not Set



# Tree Preservation Order 641(2018) W9

Home Farm Ellel Grange Main Road Galgate



Legend	



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	06 June 2018
<b>SLA Number</b>	Not Set



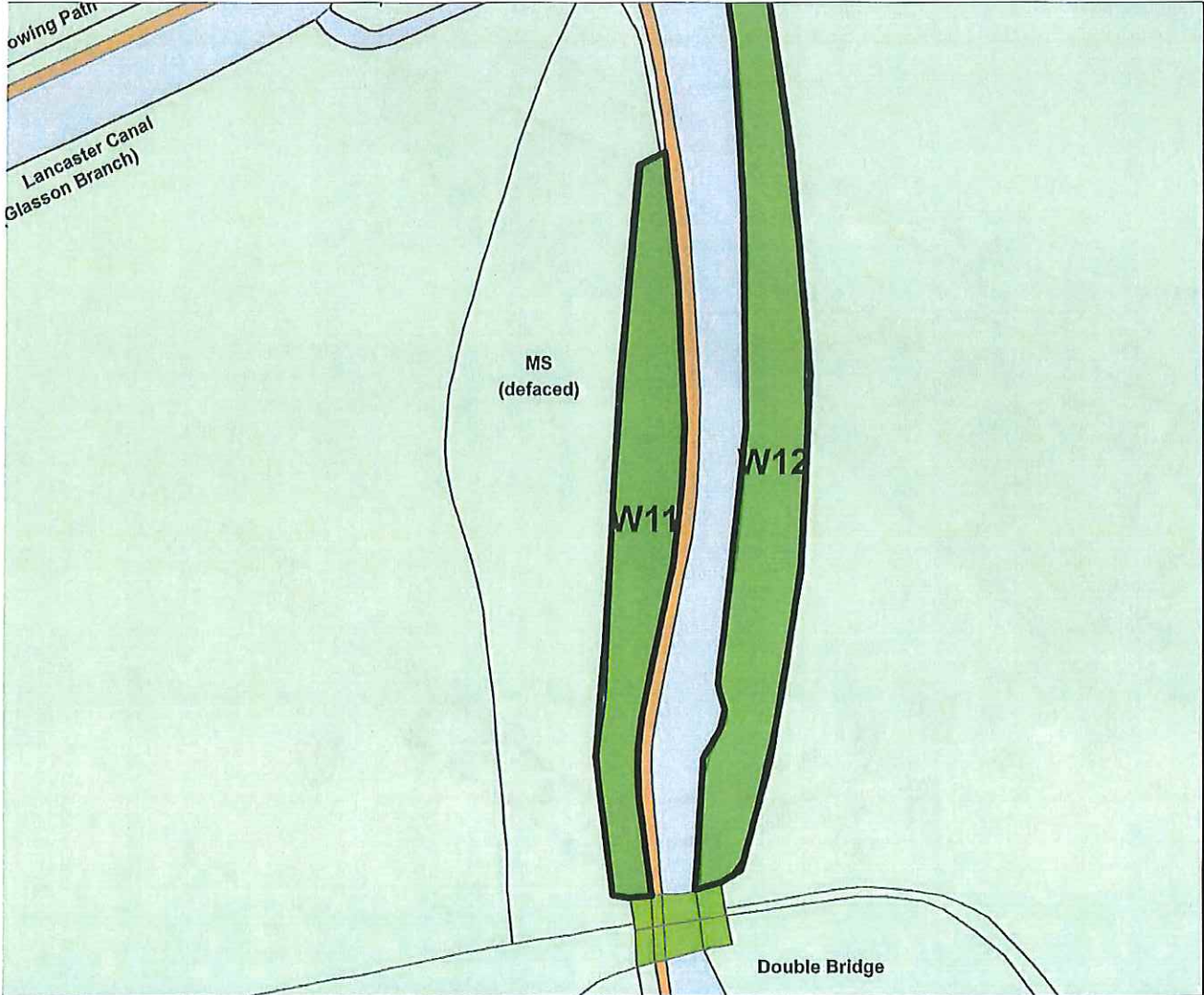


# Tree Preservation Order 641(2018) W11,W12

Home Farm Ellel Grange Main Road Galgate



GIS by ESRI (UK)



Legend	



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	06 June 2018
<b>SLA Number</b>	Not Set



## APPEALS COMMITTEE

**Tree Preservation Order No. 646 (2018)  
Two Areas of Trees Established on Land at  
Capernwray Diving Centre, Jackdaw Quarry,  
Capernwray Road, Capernwray  
28 June 2018**

### Report of Interim Head of Legal and Governance Services

#### PURPOSE OF REPORT

To enable Members to consider an objection received to Tree Preservation Order No. 646 (2018) relating to two areas of trees established on land at Capernwray Diving Centre, Jackdaw Quarry, Capernwray Road, Capernwray, and thereafter whether or not to confirm the Order.

**This matter will be dealt with in accordance with the adopted procedure for considering matters relating to individual applications, that is, the relevant matters for consideration by the Committee will be presented in the public part of the meeting, and the decision will be made after the exclusion of the press and public, on the basis that, in making its decision, the Committee will receive exempt information in the form of legal advice on possible legal proceedings arising from the decision (Paragraph 5A of Schedule 12A of the Local Government Act 1972) as amended by the Local Government (Access to Information) (Variation) Order 2006.**

#### RECOMMENDATIONS

**That Members consider an objection to Tree Preservation Order No. 646 (2018) relating to two areas of trees established on land at Capernwray Diving Centre, Jackdaw Quarry, Capernwray Road, Capernwray, and decide whether or not to confirm the Order.**

##### 1.0 Introduction

- 1.1 Under Section 198 of the Town and Country Planning Act 1990, the Local Planning Authority may make an Order in respect of a tree or group of trees if it appears that it is expedient in the interests of amenity to make provision for the protection of trees in their area.
- 1.2 In accordance with the Town and Country Planning (Tree Preservation Order) Regulations 2012, an objection has been received to Tree Preservation Order No. 646 (2018), which has been made in relation to two areas of trees established on land at Capernwray Diving Centre, Jackdaw Quarry, Capernwray Road, Capernwray
- 1.3 In accordance with the Regulations, it is necessary to consider the objection, and in order for the objection to be considered objectively, the matter is referred to the Appeals Committee.

1.4 The report of the City Council's Tree Protection Officer is attached (pages 34 to 37).

Appended to the report are:

- **Appendix 1** – *A copy of the original Tree Preservation Order No. 646 (2018) (pages 38 to 41);*
- **Appendix 2** – *An aerial photograph of the site (2013) (page 42);*
- **Appendix 3** – *A copy of the Tree Protection Officer's initial report dated 9 March 2018 (pages 43 to 46);*
- **Appendices 3A, 3B, 3C and 3D** – *Photographs showing evidence of the removal of trees (pages 47, 48, 49 and 50);*
- **Appendices 4 and 4A** – *Details of the amendments Tree Preservation Order plan Order (pages 51 to 54 and 55 to 58);*
- **Appendix 5** – *A copy of the letter of objection from Alistair Skelton of Steve Abbott Associates, written on behalf of Mrs. Hack and dated 3 April 2018 (pages 59 to 66);*
- **Appendix 6** – *Copy of Lancaster City Council's letter of response dated 30 April 2018 (pages 67 to 69);*
- **Appendix 7** – *The recommendations of the Tree Protection Officer as detailed on the plan (page 70).*

## **2.0 Proposal Details**

2.1 The purpose of the report is to provide Members with details to enable them to decide whether or not to confirm Tree Preservation Order No. 646 (2018).

## **3.0 Details of Consultation**

3.1 Tree Preservation Order No. 646 (2018) was made and advertised in the usual way, and three objections were received, which resulted in minor changes being made to the boundary of the Tree Preservation Order. Following amendment of the Tree Preservation Order plan, all the original objections were resolved and subsequently withdrawn. The remaining objection is the subject of this hearing.

## **4.0 Options**

- (1) To confirm Tree Preservation Order No. 646 (2018) -
  - (a) Without modification;
  - (b) Subject to such modification as is considered expedient.
- (2) Not to confirm Tree Preservation Order No. 646 (2018).

## **5.0 Conclusion**

5.1 In the light of information contained within the report and its appendices, together with legal advice given at Committee and a site visit, Members are requested to determine whether or not to confirm Tree Preservation Order No. 646 (2018).

### **CONCLUSION OF IMPACT ASSESSMENT**

**(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

Not applicable.

**LEGAL IMPLICATIONS**

A Legal Officer will be present at the meeting to advise the Committee

**FINANCIAL IMPLICATIONS**

Not applicable.

**BACKGROUND PAPERS**

Tree Preservation Order No. 646 (2018)

**Contact Officer:** Jane Glenton

**Telephone:** (01524) 582068

**Email:** [jglenton@lancaster.gov.uk](mailto:jglenton@lancaster.gov.uk)

**Ref:** JEG



Contact: Maxine Knagg  
Telephone: 01524 582381  
FAX: 01524 582323  
Email: [mknagg@lancaster.gov.uk](mailto:mknagg@lancaster.gov.uk)  
Website: [www.lancaster.gov.uk](http://www.lancaster.gov.uk)  
Our Ref: TPO607/2017/MK

**Regeneration & Policy Service**  
Development Management  
PO Box 4  
Town Hall  
Lancaster  
LA1 1QR

Date: 6<sup>th</sup> June 2018

## Appeals Committee (TPO)

Trees subject of the Appeal Committee – Two areas of trees established on land at Capernwray Diving Centre, Jackdaw Quarry, Capernwray Road, Capernwray, subject to **Tree Preservation Order no. 646 (2018)**.

This report has been prepared by Maxine Knagg (BSc Hons Arboriculture), Tree Protection Officer, Lancaster City Council.

### 1.0 Purpose of Report

1.1 The Appeals Committee are to consider whether the trees in question, identified as A1 and A2 within the TPO, should be confirmed without modification, confirmed with modifications or not confirmed. A copy of Tree Preservation Order no. 646 (2018) is available at **appendix 1**.

### 2.0 Background

2.1 The land in question is privately owned by the appellant. The site is used for recreational activities associated with the business of the dive centre. There are a number of privately owned holiday chalets within the wider site.

2.2 Lancaster City Council received concerns expressed from a member of the public that mature trees within the site had been removed without authorisation and that ongoing site works may be in breach of a planning permission. It should be noted that any alleged breach of planning permission is a separate matter, under investigation by a Council Enforcement Officer. It is not a matter for consideration by the TPO Appeals Committee.

2.3 At the time of the complaint it was made clear to the Council that alleged engineering and tree felling works were in progress and ongoing. In such challenging circumstances a local planning authority (LPA) has powers to make and serve an “emergency” TPO to protect the remaining trees.



Expediency is of paramount importance in order to be successful. As such, there is no requirement to survey the site trees and a provisional order can be made and executed swiftly.

- 2.4 An aerial photograph of the site (2013), **appendix 2** serves to illustrate the extent of the tree cover across the site. The approximate location where trees were felled is marked by 'X'.

### **3.0 Assessment**

- 3.1 A copy of my initial report, dated 09.03.18, is available at **appendix 3**.
- 3.2 I visited the site on 9<sup>th</sup> March 2018 to assess the extent of tree removal works, ongoing threat to site trees and to serve the land owner with a copy of TPO no. 646 (2018). I was accompanied by the Council's Enforcement Officer who was investigating matters relating to the alleged breach of a planning condition.
- 3.3 There was evidence of recent engineering works onsite and the removal of early-mature and mature trees, estimated to exceed x40 in total. The trees were removed from the northern aspect of the site. There was an excavator and plant operative onsite, immediately adjacent to a number of large mature beech trees and other broadleaf trees. Photographs are available at **appendices 3A, 3B, 3C and 3D**.

Trees identified as A2 make a significant contribution to the character and appearance of the site and can be seen from the wider public domain. They form an almost continuous belt of woodland trees around the flooded former quarry. Collectively they offer a multitude of opportunities for habitat and foraging for a potential range of wildlife, including protected species such as nesting birds and bats. Both of these groups are protected in law under the Wildlife & Countryside Act 1981 (as amended 2010).

Trees contained within A1 form a linear belt along the frontage of the site with the public highway, providing an element of greening and partial screening along the public highway. This area is not now considered to be threatened by development of the site. This area is entirely separate from the engineering works.

- 3.4 Lancaster City Council uses a Tree Evaluation Method for Preservation Orders (TEMPO) to demonstrate a structured and consistent approach to the assessment of trees and woodlands in relation to their suitability for inclusion within a TPO. This system, when used by an individual suitably trained and experienced in the assessment of trees, can be a useful tool to demonstrate key elements of the decision making process, resulting in a final total score and outcome indicator. The system in itself is not a decision making process.

Lancaster City Council considers the woodland belt of trees around the former quarry to have important public amenity and wildlife value. The ongoing threat from development of the site is sufficient to justify the ongoing protection of trees with TPO no.646 (2018).

**4.0 Tree Preservation Order no. 646 (2018)**

- 4.1 Tree Preservation Order no. 646 (2018) was made on 7<sup>th</sup> March 2018 as an emergency area designated order, in the interest of public amenity value and wildlife benefit.
- 4.2 The TEMPO scores for the trees onsite ranged from 13-15+ supporting protection of the trees with a preservation order.

**5.0 Objection to TPO no. 646 (2018)**

- 5.1 Lancaster City Council received three letters of objection to Tree Preservation Order no. 646 (2018), relating to requests for minor changes to the boundary of the TPO. The TPO plan has been subsequently amended and updated to reflect the requested changes to the boundary line of the TPO. The details of the amendments can be seen at **appendices 4** and **4A**. All of these original objections have been resolved and subsequently withdrawn.
- 5.2 The only remaining objection to the order is from the appellant and land owner Mrs Carol Hack, Hack Enterprises Ltd. A copy of the letter of objection written by Mr Alistair Skelton of Steve Abbott Associates on behalf of Mrs Hack, dated 03.04.18, is available at **appendix 5**. A copy of Lancaster City Council's letter of response, dated 30.04.18, is available at **appendix 6**.

**6.0 Decision to Serve TPO no. 646 (2018)**

- 6.1 Lancaster City Council considers it expedient in the interests of amenity to make provision for the preservation of trees and woodlands identified within the original Area (A1) designation, of whatever species are present under sections 198, 201 and 203 of the Town & Country Planning Act 1990. However, following an assessment of the site, it is recommended that the TPO is confirmed with a modification to change the current designation from Area A1 & A2 to two woodland compartments W1 and W2. Furthermore, I recommend that area A1 is eliminated in its entirety given that the trees are far removed from the existing development site. Finally, that a field to the north, currently devoid of trees, is also removed from the order. My recommendations have been detailed on the plan available at **appendix 7**.

Lancaster City Council cites the following reasons.

- Trees marked W1 and W2 make a significant contribution to the character and appearance of the site and that of the wider public domain.
- Trees and woodlands within the site offer important habitat and foraging opportunities for a range of wildlife including protected species.
- The site is subject to an extant planning permission the subject of an ongoing enforcement investigation.
- The site may be the subject of future development proposals, threatening existing trees and woodlands.

6.2 As such, Lancaster City Council recommends that TPO no. 646 (2018) be confirmed with the following modifications:

- i) Change the area designation W1 and W2;
- ii) Remove trees within A1 entirely from the order; and
- iii) Amendment to the boundary to exclude the “field”, as set out on the plan detailed at appendix 7.

**Maxine Knagg BSc (Hons) Arboriculture**

Tree Protection Officer, Regeneration & Planning Service

On behalf of Lancaster City Council

Appendix 1  
(incl. ~~plan 1~~  
amended plan 2)

CITY COUNCIL OF LANCASTER  
TREE PRESERVATION ORDER NO. 646(2018)

---ooOoo---

RELATING TO:

CAPERNRWAY DIVING CENTRE  
JACKDAW QUARRY  
CAPERNWRAY ROAD  
CAPERNWRAY  
LANCASHIRE  
LA6 1AD

PO BOX 4  
TOWN HALL  
LANCASTER  
LA1 1QR



TOWN AND COUNTRY PLANNING ACT 1990

LANCASTER CITY COUNCIL  
TREE PRESERVATION ORDER NO. 646(2018)

The City Council of Lancaster, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 hereby make the following Order:

**Citation**

1. This Order may be cited as Tree Preservation Order No. 646(2018), relating to trees at Capernwray Diving Centre, Jackdaw Quarry, Capernwray Road, Capernwray, Lancashire, LA6 1AD, 7th March 2018.

**Interpretation**

2. (1) In this Order "the authority" means the Lancaster City 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 2011.

**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, 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 7th day of March 2018

Signed on behalf of the Lancaster City Council:

*Mark Cassidy*

**p.p. CHIEF OFFICER (REGENERATION AND PLANNING)**  
Authorised by the Council to sign in that behalf

**SCHEDULE**

**Specification of Trees**

**TREE PRESERVATION ORDER NO. 646(2018)**

Relating to trees at Capernwray Diving Centre, Jackdaw Quarry, Capernwray Road, Capernwray, Lancashire, LA6 1AD.

**TREES SPECIFIED INDIVIDUALLY**

(Encircled in a solid black line on map)

**TREES SPECIFIED BY REFERENCE TO AN AREA**

(Shown within a dotted black line on map)

Reference on Map	Description	Situation
A1	Mainly broadleaf species and whatever species are present.	Centred on grid ref: (E) 352755 (N) 471546
A2	Mainly broadleaf species and whatever species are present.	Centred on grid ref: (E) 352905 (N) 471460

**GROUP OF TREES**

(Shown within a broken black line on map)

**WOODLAND**

(Shown within a solid black line on map)



# Tree Preservation Order 646(2018)

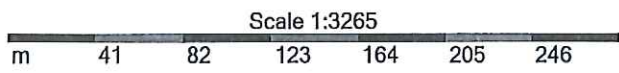
Capernwray Diving Centre Jackdaw Quarry Capernwray



**Legend**

*Mark Cassidy*

p.p. Chief Officer (REGENERATION AND PLANNING)



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	02 May 2018
<b>SLA Number</b>	Not Set





Key:  
 xxx - Area of tree losses



Appendix 3

## DEVELOPMENT MANAGEMENT: TREE OFFICER NEW TREE PRESERVATION ORDER

### DETAILS

**Tree Preservation Order:** 646 (2018)  
**Tree Officer:** Maxine Knagg  
**Location Trees:** Capernwray Dive centre, Capernwray Road, Capernwray, LA6 1AD  
  
**Date:** 09.03.18

In making the tree related assessment, the Tree Officer has considered government legislation, local plans, policy and relevant British Standards of best practice. The relevant Development Plan policies are listed in the table below and in the subsequent commentary box.

ASSESSMENT OF DEVELOPMENT IMPACT	Y	N	N/A
Protection of Trees, Hedgerows and Woodland (DM DPD Policy DM29) adopted December 2014	X		
Management of Council Trees (Tree Policy) adopted December 2010	X		
Tree Work - Recommendations (BS 3998 (2010))	X		
Wildlife & Countryside Act 1981	X		

**COMMENTARY** (including any additional Development Plan policies not listed previously)

I have assessed trees in relation to their suitability to be protected with a tree preservation order (TPO). I have the following comments :

- **Background**

Lancaster City Council received a concern from a member of the public that trees on land at the above site had been recently felled and that the remaining trees may also be under threat from removal. It was also reported that earth moving works were also in progress.

The site in question includes Capernwray Dive Centre and a number of privately owned holiday lets, adjacent to the existing disused quarry and water sports facility. The quarry and surrounding area has been designated as a Biological Heritage Site (BHS). There are a range of woodland trees established within the BHS and around the quarry site.

Currently, trees within the site are unprotected in law.

- **Topography**

There are a range of woodland trees around the disused quarry and water sport site. They make a significant contribution to the character and appearance of the site and that of the wider public domain. They offer an array of foraging and habitat opportunities for wildlife, including protect species such as nesting birds and bats.

In addition, to the woodland trees there are a range of hedgerow trees to the front of the site and immediately adjacent to the public highway. These trees provide important greening and wildlife habitat to the front of the site. They are entirely in keeping with the character and appearance of this rural location.

Species include, mainly broadleaf trees and include though not exclusively, beech, ash, sycamore, and hawthorn.

Unprotected trees are vulnerable to removal or inappropriate works when residential properties and land are bought and sold. Whilst a TPO does not prevent reasonable and appropriate management, written authorisation must first be obtained from the local planning authority, preventing their inappropriate management or removal.

- **Reason for TPO**

An emergency "Area" designation TPO was made (07.03.18) prior to a site visit by Council officer's to ensure existing trees could be adequately protected whilst the Council investigated a complaint that ground works and tree felling works had been carried out and were allegedly in breach of an existing planning condition (s) and as such unauthorised.

There was evidence during the site visit (08.03.18) by Council Enforcement Officer, Debbie Threlfall and Tree Protection Officer, Maxine Knagg, that site works were ongoing. There was heavy plant machinery and an operative on site. There was evidence of extensive, recent earth works and a large number of trees felled, estimated to be in excess of x40 trees.

TPO no.646 (2018) affecting to areas designated A1 and A2 was served on the owner of Capernwray Dive Centre, Capernwray Road, Capernwray, in the interest of public amenity value and wildlife benefit on 08.03.18. The owner was advised that the remaining trees were now protected and it would be an offence to carryout works to any trees within the designated areas A1 and A2 without first obtaining the written consent of Lancaster City Council.

In relation to the wider planning matter, Ms Threlfall (Enforcement Officer) advised the owner to cease operations onsite pending further investigation into the planning history of the site.

Whenever an "area" designation is used in an emergency situation. There is an ongoing requirement to review the trees protected to ensure that only those tree suitable for protection continue to be protected. A further site

visit will be undertaken by the Tree Protection Officer for this purpose, in due course.

RECOMMENDATION	
<p>Serve new TPO <input checked="checked" type="checkbox"/></p> <p><b>Reason:</b> In the interest of public amenity value and wildlife benefit. Trees are under threat due to unauthorised development at the site.</p>	<p>Not to serve TPO <input type="checkbox"/></p> <p><b>Reason:</b></p>

*Making a decision will be based upon whether it is expedient in the interests of amenity to make provision for the preservation of the trees and/or woodland. In those circumstances the following table will be completed. Please note that a TPO does not itself prevent or obstruct development being approved; however it does ensure that trees are afforded appropriate protection whilst development proposals may be emerging.*

NEW TREE PRESERVATION ORDER	
Site	Capernwray Dive Centre, Capernwray Road, Capernwray, LA6 1AD
Location of tree(s)	Adjacent to Capernwray Road and within Capernwray Dive Centre and around Jackdaw Quarry
Interested third parties to be served with a copy of TPO (list)	Owner/Occupiers holiday units, adjacent land owners, Capernwray Dive Centre
Species of tree(s)	Mainly broadleaf trees, whatever species present
Designation	Area 1 and Area 2
Reason for TPO	In the interest of public amenity value and wildlife benefit. Trees under threat from removal due to unauthorised development

**OTHER RELEVANT MATTERS**Wildlife - Protected Species

The trees in question have the potential to provide habitat and foraging opportunities for wildlife, including protected species. In England all species of bat and their breeding or resting places (roosts) are fully protected under the Conservation of Habitats and Species Regulations 2010 and Section 9 of the Wildlife and Countryside Act 1981 (as amended). This legislation makes it an offence to deliberately, intentionally or recklessly: Kill, injure or capture a bat; Obstruct access to any structure or place used for shelter or protection by bat; Disturb a bat while it is occupying a structure or place which is used for that purpose; Disturb bats in such a way it would affect the ability of any significant group of bat to survive, breed, rear or nurture or affect a local distribution or abundance; Damage or destroy a breeding or resting place of a bat. In England all birds, their nests and eggs are afforded protection under the Wildlife and Countryside Act 1981 (as amended) making it an offence to: intentionally kill, injure, or take any wild bird; intentionally take, damage or destroy the nest of any wild bird while it is in use or being built; intentionally take or destroy the egg of any wild bird. Certain birds are subject to further protection under Schedule 1 of the Wildlife & Countryside Act 1981 (as amended), making it an offence to intentionally, or recklessly, disturb any wild bird listed on this Schedule while it is nest building, or is at, or near a nest with eggs or young, or disturb the dependent young of such a bird.

Trees must be assessed for the presence of protected species prior to undertaking agreed works. Where there is evidence that bats, birds or other protected species are present, the statutory nature conservation organisation must be consulted prior to commencement of any tree work operations.

Tree Preservation Order (TPO)

Where trees are protected by a Tree Preservation Order it is an offence to lop, top, fell, uproot or otherwise damage any such tree without first obtaining written authorisation from the local planning authority. Anyone found guilty of an offence in a Magistrates Court is liable to a maximum of £20,000.

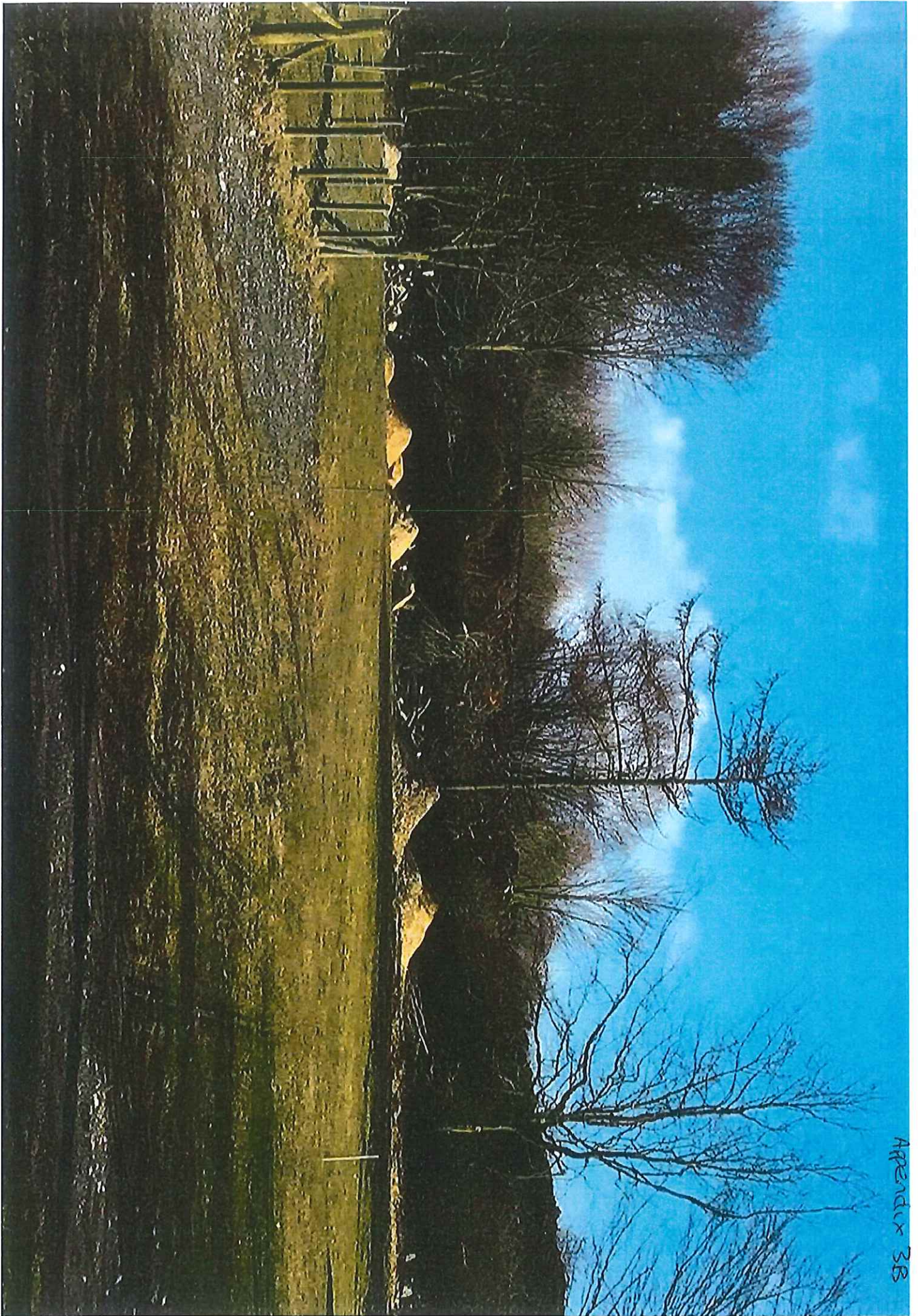
Further information including the required tree works forms are available online at [www.lancaster.gov.uk](http://www.lancaster.gov.uk)

**Officer:** Maxine Knagg BSc Hons Arboriculture  
Tree Protection Officer  
Regeneration & Planning Service  
Lancaster City Council

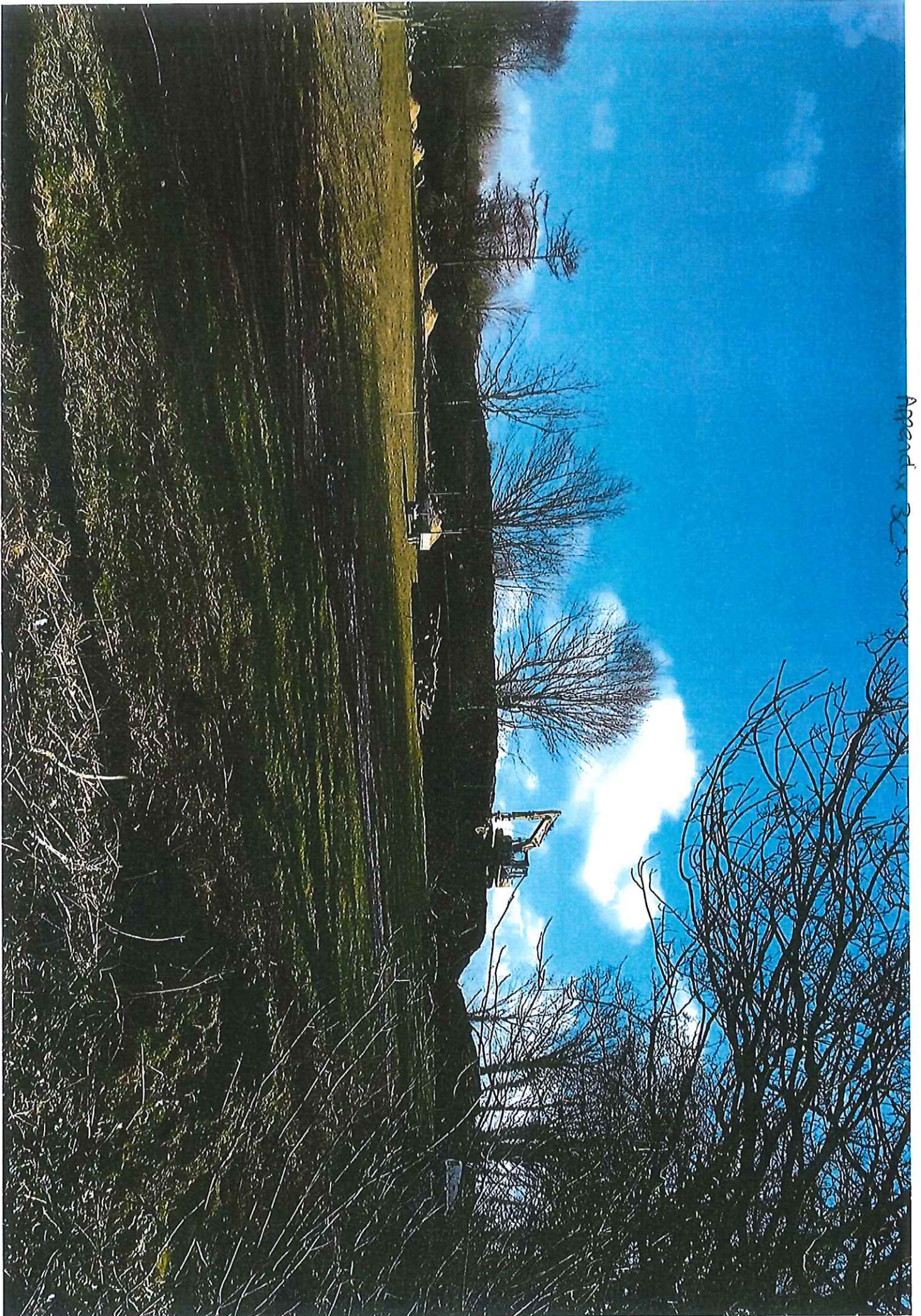












Appendix B







original plan,  
Appendix 4

CITY COUNCIL OF LANCASTER  
TREE PRESERVATION ORDER NO. 646(2018)

-----ooOoo-----

RELATING TO:

CAPERNEWRY DIVING CENTRE  
JACKDAW QUARRY  
CAPERNEWRY ROAD  
CAPERNEWRY  
LANCASHIRE  
LA6 1AD

PO BOX 4  
TOWN HALL  
LANCASTER  
LA1 1QR

**TOWN AND COUNTRY PLANNING ACT 1990**  
**LANCASTER CITY COUNCIL**  
**TREE PRESERVATION ORDER NO. 646(2018)**

The City Council of Lancaster, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 hereby make the following Order:

**Citation**

1. This Order may be cited as Tree Preservation Order No. 646(2018), relating to trees at Capernwray Diving Centre, Jackdaw Quarry, Capernwray Road, Capernwray, Lancashire, LA6 1AD, 7th March 2018.

**Interpretation**

2. (1) In this Order "the authority" means the Lancaster City 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 2011.

**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, 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 7th day of March 2018

Signed on behalf of the Lancaster City Council:

*Mark Cassidy*

**p.p. CHIEF OFFICER (REGENERATION AND PLANNING)**  
Authorised by the Council to sign in that behalf

**SCHEDULE**

**Specification of Trees**

**TREE PRESERVATION ORDER NO. 646(2018)**

Relating to trees at Capernwray Diving Centre, Jackdaw Quarry, Capernwray Road, Capernwray, Lancashire, LA6 1AD.

**TREES SPECIFIED INDIVIDUALLY**

(Encircled in a solid black line on map)

**TREES SPECIFIED BY REFERENCE TO AN AREA**

(Shown within a dotted black line on map)

Reference on Map	Description	Situation	
A1	Mainly broadleaf species and whatever species are present.	Centred on grid ref: (E) 352755	(N) 471546
A2	Mainly broadleaf species and whatever species are present.	Centred on grid ref: (E) 352905	(N) 471460

**GROUP OF TREES**

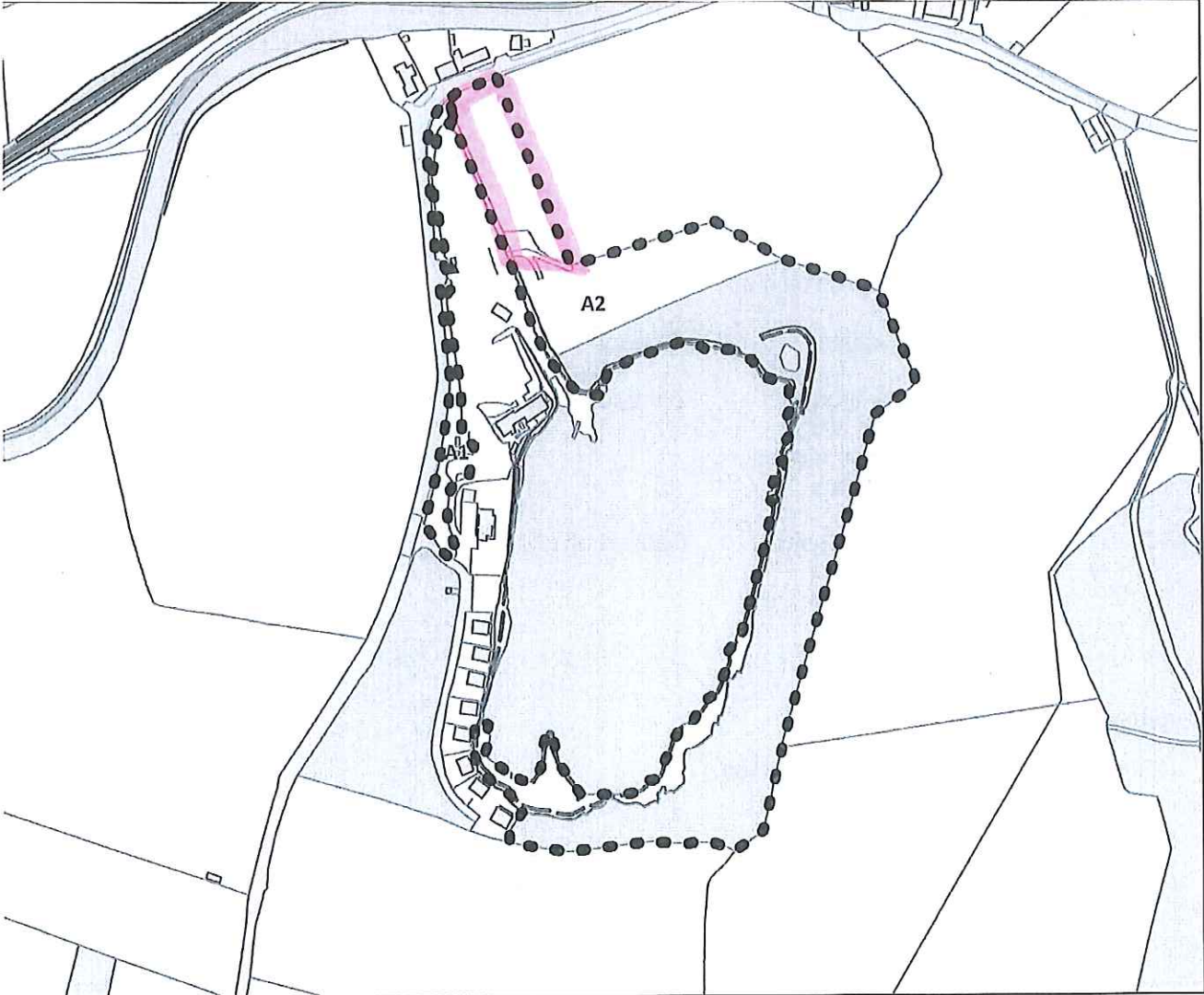
(Shown within a broken black line on map)

**WOODLAND**

(Shown within a solid black line on map)

# Tree Preservation Order 646(2018)

Capernwray Diving Centre Jackdaw Quarry Capernwray



**Legend**

*Mark Cassidy*

p.p. CHIEF OFFICER (REGENERATION AND PLANNING)



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	07 March 2018
<b>SLA Number</b>	Not Set

Amended Plan 1  
Appendix 4A.

CITY COUNCIL OF LANCASTER  
TREE PRESERVATION ORDER NO. 646(2018)

-----ooOoo-----

RELATING TO:

CAPERNRWAY DIVING CENTRE  
JACKDAW QUARRY  
CAPERNWRAY ROAD  
CAPERNWRAY  
LANCASHIRE  
LA6 1AD

PO BOX 4  
TOWN HALL  
LANCASTER  
LA1 1QR



**TOWN AND COUNTRY PLANNING ACT 1990**  
**LANCASTER CITY COUNCIL**  
**TREE PRESERVATION ORDER NO. 646(2018)**

The City Council of Lancaster, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 hereby make the following Order:

**Citation**

1. This Order may be cited as Tree Preservation Order No. 646(2018), relating to trees at Capernwray Diving Centre, Jackdaw Quarry, Capernwray Road, Capernwray, Lancashire, LA6 1AD, 7th March 2018.

**Interpretation**

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**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, 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 7th day of March 2018

Signed on behalf of the Lancaster City Council:

*Mark Cassidy*

**p.p. CHIEF OFFICER (REGENERATION AND PLANNING)**  
Authorised by the Council to sign in that behalf

**SCHEDULE**

**Specification of Trees**

**TREE PRESERVATION ORDER NO. 646(2018)**

Relating to trees at Capernwray Diving Centre, Jackdaw Quarry, Capernwray Road, Capernwray, Lancashire, LA6 1AD.

**TREES SPECIFIED INDIVIDUALLY**

(Encircled in a solid black line on map)

**TREES SPECIFIED BY REFERENCE TO AN AREA**

(Shown within a dotted black line on map)

Reference on Map	Description	Situation	
A1	Mainly broadleaf species and whatever species are present.	Centred on grid ref: (E) 352755	(N) 471546
A2	Mainly broadleaf species and whatever species are present.	Centred on grid ref: (E) 352905	(N) 471460

**GROUP OF TREES**

(Shown within a broken black line on map)

**WOODLAND**

(Shown within a solid black line on map)

# Tree Preservation Order 646(2018)

Capernwray Diving Centre Jackdaw Quarry Capernwray



**Legend**

*Mark Cassidy*

p.p. Chief Officer (REGENERATION AND PLANNING)



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<b>Organisation</b>	Not Set
<b>Department</b>	Not Set
<b>Comments</b>	Not Set
<b>Date</b>	25 April 2018
<b>SLA Number</b>	Not Set

Appendix 5



Steven Abbott Associates LLP  
Chartered Town Planners

AIS/AMM/3188\_LCC Letter

3 April 2018

Lancaster City Council  
Development Management  
PO Box 4  
Town Hall  
Lancaster  
LA1 1QR



Dear Sir/Madam

**Tree Preservation Order 646 (2016)**  
Capernwray Diving Centre, Capernwray Road, Capernwray, Lancashire, LA6 1AD

I refer to the above Tree Preservation Order ("the TPO") served on my client, Mrs Carol Hack, of Hack Enterprises Ltd, on 8 March 2018.

I am instructed to make formal representations and to object to the TPO as currently made. These representations are based on the following:

- i) A thorough walk-over of all areas covered by the TPO (undertaken on 27 March 2018);
- ii) A review of the planning history of the Capernwray Diving Centre site utilising the Council's online planning search facility and documents and plans provided by my client;
- iii) Relevant legislation;
- iv) Relevant National Planning Policy and National Planning Practice Guidance relating to Tree Preservation Orders.

At the outset I would indicate that I have significant concerns with the apparent superficial and indiscriminate use of the TPO in this case. My clients have owned and operated the Capernwray Diving Centre site since 1997, during which time they have developed a range of leisure and tourism based facilities. My clients are conscious of the landscape and biodiversity attributes of the site and have taken appropriate professional/environmental advice in the past when engaging in the planning process.

Unfortunately it appears that the officers of the Council responsible for the preparation of the TPO have not thoroughly or objectively considered relevant planning matters that would be material when considering the expediency of making a TPO.

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The law and related policy guidance confirm that Local Planning Authorities can make TPO's 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."*

At this point it is worth considering the following aspects of National Planning Practice Guidance:

➤ ID: 36-005-20140306:

- When granting planning permission authorities have a duty to ensure, whenever appropriate, that planning conditions are used to provide for tree preservation and planting. Orders should be made in respect of trees where it appears necessary in connection with the grant of permission. (NB. This duty would extend to any decision maker including a Planning Inspector determining a planning appeal on behalf of the Secretary of State).

It is noted that in the relevant planning history relating to the erection of 15 holiday homes at the site (which has included the original outline planning permission granted in appeal and two separate approvals of reserved matters) that the Council did not consider it necessary or appropriate to make a TPO in respect of any trees at the site.

➤ ID: 36-007-20140306-36-08-20140306:

- These sections deal with "amenity" (a term which is not defined in law) and indicates that LPA's must exercise judgement when deciding *"whether it is in their powers to make an Order."*
- The discretion is not unfettered. As with all such discretions, an LPA must meaningfully engage with the exercise of the discretion, otherwise a decision to act pursuant to the relevant legislation will be ultra-vires.

➤ In terms of what an LPA should or can take into account when considering amenity, the guidance is helpful and refers specifically to the following matters:

- Visibility -- the extent to which the trees or woodland can be seen by the public will inform any assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, or accessible by the public.
- Individual, collective and wider impact. *"Public visibility alone will not be sufficient to warrant an Order."* LPA's are to assess the particular importance of groups of trees or woodlands by reference to:- size and form; future potential as amenity; rarity, cultural or historic value; contribution to, and relationship with, the landscape.

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- The importance to nature conservation can also be a factor.
- ID: 36-010-20140306:
  - Dealing with expediency this section confirms that although some trees or woodlands may merit protection on amenity grounds, it may not be expedient to make them the subject of an Order. For example, in respect of trees which are under good arboriculture or silvicultural management.
- ID: 36-011-20140306:
  - This confirms that the purpose of a Woodland Order is to safeguard the woodland as a whole, which depends on regeneration or new planting. (NB: for reasons that will be explained later in these submissions we would question whether a Woodland Order is appropriate to the circumstances of this site).
- ID: 36-021-20140306 and 36-022-20140306:
  - These sections of the guidance emphasise the need for and value of a site visit by LPA officers to consider whether or not an Order is justified. It is stressed that officers need to *"fully assess the amenity value of the trees or woodlands concerned."* Officers should gather sufficient information to enable an accurate Order to be drawn up and for accurate boundaries to be mapped: this can also include information on people with a legal interest in the land affected; the present use of the land; the trees importance as a wildlife habitat; trees which are not to be included in the Order. (NB: as far as our client is aware, officers of the Council had not undertaken a thorough and appropriate site visit prior to service of the TPO on 8 March 2018, and did not do so on that day).
- ID: 36-028-20140306:
  - This confirms that the purpose of the woodland category is to safeguard a woodland as a whole.
- ID: 36-059-20140306 and 36-060-20140306:
  - These sections relate to works on trees protected by an Order. They confirm that where an exception applies the authority's consent to carry out works is not needed (notice of those works may need to be given to the authority).
  - One of the stated exceptions (Town and Country Planning (Tree Preservation) (England) Regulations 2012 14 (1) (vii) are works necessary to implement a planning permission. (NB: planning permission exists for development at the site and this will be detailed subsequently).

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➤ ID: 36-083 - 20150415:

- This confirms that the consent of the LPA is not required for carrying out work on trees subject to an Order "so far as such work is necessary to implement a full planning permission." One example provided would be a tree required to be removed to make way for a new building for which planning permission has been granted.

Having reviewed the relevant Law and Guidance we have grave concerns of the actions of the LPA to make the TPO in its current form. The TPO does not reflect the situation on the ground (the site identified is not a woodland), does not reflect appropriate nature conservation/habitat management regimes previously approved for the site, and does not take any account of the planning history of the site (in particular the extant planning permission).

The planning history of the site is significant and covers development directly associated with the use of the former quarry as a diving centre, but also other associated tourism related development. It is this planning history that is of direct relevance. It must be clarified that our review of the planning history is based on documents and plans provided by our client, but also by documents and plans available on the Council's online planning register of planning applications.

The following elements of the planning history and relevant:

➤ 04/00877/OUT -- Erection of 15 holiday homes. Granted on appeal (ref: APP/A2335/A/04/1168372) 14 December 2005 and subject to the following conditions:

- i) Approval of the details of the siting, design and external appearance of the buildings, the means of access thereto and the landscaping of the site shall be obtained in writing from the Local Planning Authority (LPA) before any development begins.
- ii) Application for approval of the matters included in Condition 1, shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

(NB: no specific condition was imposed relating to when the development must be begun. In the absence of such a condition Section 91 of the Town and Country Planning Act 1990 every planning permission is subject to a general condition that the development must begin within a standard time period. In the case of Outline Planning Permission those time periods are within two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to the approved).

- iii) Two subsequent applications for approval of reserved matters pursuant to Outline Planning Permission 04/00877/OUT were subsequently dealt with.

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**Steven Abbott Associates LLP**  
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One other important factor pertaining to the details approved under 08/01305/REM was the associated Nature Conservation Management Plan (July 2006). Again we would invite Officers to review and understand this document. It will be noted that the bulk of the areas of the site covered by the TPO were identified as grassland along with limited areas of scrub and trees. Only limited parts of the surveyed area were identified as woodland but the management regime set out suggested a need for thinning and, in particular, the control of scrub and tree encroachment into the extensive grassland areas. The impact of the blanket woodland TPO is to preclude the thinning and scrub clearance required by the Nature Conservation Management Plan, contrary to the objectives of maintaining a biodiverse habitat across the site.

It is to be noted that the original Inspector dealing with the outline planning application stage noted the following factors associated with the site and proposed development:

- i) For its size, the site is highly diverse – several different grassland communities occur. The opportunity to improve the quality of the grassland was recognised (paragraphs 4 and 5);
- ii) The construction of the buildings and access track will necessitate some clearance of trees and scrub. None of the species likely to be affected are mature and all are common. (paragraph 10).

On the basis of the foregoing we make formal objections to the TPO on behalf our client. The main grounds of objection are:

- i) The making of the TPO is ultra-vires. The discretion to make a TPO is not unfettered – in this particular case there is no evidence that the LPA has meaningfully considered or engaged with the exercise of the discretion. (NB – should the TPO be confirmed as currently drafted we will seek full disclosure of any relevant documents, reports, notes, memos or emails circulating at the time of the making of the TPO).

As a result the TPO has been made in a superficial and indiscriminate way. As far as we are aware no Officer of the Council undertook a thorough or effective site visit of the whole site affected – it is clear, for example, that large areas of the “woodland” do not contain any trees whatsoever (a point that would have been apparent from a basic walk-over). Indeed, those areas are to be valued as a diverse mix of grassland that should be maintained as such for biodiversity reasons.

- ii) Furthermore, the exercise of the discretion in this case appears to have been made in ignorance of, nor having any regard to, the relevant planning history of the site – in particular the existence of a planning permission for 7 holiday homes across the northern part of the site where trees do exist. Felling/removal of those trees is an exception to TPO protections where necessary to implement that planning permission.

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- iii) The TPO is purportedly made "in the interest of public amenity and wildlife benefit". This takes no account of the fact that much of the area covered by the TPO is not visible from public viewpoints (either when considered from nearby or from longer distances). The TPO as made also completely ignores established nature conservation management regimes being followed by my client pursuant to the Management Plan submitted in support of the Outline Planning Permission and subsequent approvals of reserved matters.

That Management Plan identified Area/Zone 3 as land to the east and south-east of the quarry (all covered by the TPO as woodland) as "being largely unaffected by tree and shrub colonisation" and goes on to state "that no new tree or shrub planting will be considered practical or desirable within this part of the site in which the grassland is the main feature of conservation concern."

One of the key management aims for the site was, in part, to retain the (then) present extent of the more vulnerable habitats, including the semi-natural calcareous grassland. The condition of that habitat was to be maintained as follows:

*"3. Maintain the condition of these habitats by controlling, as necessary, encroachment by scrub and other invasive vegetation. The most predictable problems are likely to arise from spread of shrubs and trees on the grassland areas with deeper soil."*

Ironically and worryingly the use of a woodland TPO will protect all self-seeded tree growth in these grassland area, and will be counter-productive in terms of habitat management and biodiversity interests.

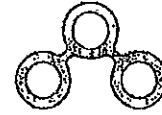
- iv) My clients have no issue with the retention and long term management of appropriate trees at the site – i.e. those that are clearly of significant amenity value and that are not affected by the development approved under various permissions and approvals. However, the TPO as made is fundamentally flawed for the reasons set out in this letter. The exercise of the legal discretion to make a TPO has not been undertaken in a way which reflects the relevant Government Guidance, and there is no evidence that the TPO was based on a thorough or objective assessment of the site circumstances, the planning history or relevant habitat management regimes already in place at the site.

My client is disappointed that there has been no attempt by the Council to engage positively to discuss what may be appropriate. It is clear to us that the decision to make the TPO (in its current form) was ultra-vires. For those reasons our client formally objects to the TPO.

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**Steven Abbott Associates LLP**  
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Going forward we and our client would welcome the opportunity to meet to discuss all of the relevant planning matters so that a consensus can be reached. This may involve a more focussed and appropriate TPO if that is considered expedient.

Yours faithfully



**Alastair J Skelton**

Email: [alastairs@abbott-associates.co.uk](mailto:alastairs@abbott-associates.co.uk)

Encs.

cc	Carol Hack	-	Hack Enterprises Ltd.
	Neil Nute	-	JMP

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FAO Alastair Skelton  
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Regeneration & Planning Service  
Development Management  
PO Box 4  
Town Hall  
Lancaster  
LA1 1QR

Date: 23<sup>rd</sup> May 2018

Dear Mr Skelton,

**Re: Tree Preservation Order no.646 (2018) – Objection to Tree Preservation Order no.646 (2018), Capernwray Dive Centre, Capernwray Road, Capernwray**

Further to your letter dated 3<sup>rd</sup> April 2018, written on behalf of your client Mrs Carol Hack, Hack Enterprises Ltd, in objection to the above tree preservation order (TPO).

I will seek to address the main points raised as they arise within your correspondence.

Please note, I will only seek to address points of objection relating to the TPO and not in relation to the planning history of the site.

#### **Area Designation TPO**

*It is the Secretary of State's view that an "Area" designation TPO should be used in emergencies and then only as a temporary measure until the trees can be assessed properly and reclassified accordingly.*

With specific regard to TPO no.646 (2018). Lancaster City Council received a complaint that trees were being felled on site and earth works were in progress that were allegedly unauthorised. In a situation such as this, it is important that existing trees are protected immediately as a priority, using an "Area" designation TPO. Once protected, affected trees can be assessed in more detail at a later date.

The trees subject of TPO no.646 (2018) will be assessed in detail, in due course by the Council's Tree Protection Officer, following which a new designation will be assigned to those trees judged to be suitable and appropriate for ongoing protection.



In the meantime time, all trees established within Area 1 and Area 2 remain protected in law, on a provisional basis for a period of 6 months, unless confirmed beforehand.

There is nothing superficial or indiscriminate about the protection of trees with an area designated TPO, when trees are being felled and allegedly unauthorised ground works are in progress. Lancaster City Council has a duty to protect trees that are threatened, in the interest of amenity benefit and wildlife value.

The planning history and alleged breach of planning conditions affecting the site is currently under investigation by the Council's Enforcement Team. However, initial investigations conducted indicated that the site owner failed to comply with tree related conditions, associated with an existing planning permission for the site. It is alleged that your client or agent did not formally discharged tree related planning conditions prior to the commencement of development onsite (planning application no. 08/01308/REM). Trees were felled and others left unprotected which had not been agreed by the Council.

In such circumstances the Council is compelled by existing Government legislation, national and local policy to take swift action to protect trees, in the interests of amenity and wildlife benefit.

The alleged breach of planning conditions is an ongoing matter for the Council's Planning Enforcement Team and not a matter to be considered any further within the context of the TPO or for any future TPO Appeal Hearing.

#### **1. Amenity Value – Trees**

Trees subject of TPO 646 (2018) will be assessed for their suitability in detail, in due course.

There are a range of trees across the site subject of TPO no. 646 (2018) that can be seen from a range of locations within the wider public domain. It should however be noted that there is no requirement under TPO legislation for all trees subject of an order to be clearly visible from a public vantage point.

There are a number of exemptions to a TPO. Including, where trees are required to be removed in order to implement a full planning permission. However, all pre-commencement details subject of planning conditions must first be submitted to and agreed in writing with the local planning authority (LPA). It is alleged that important tree related information was not submitted by your client or agent and as such not agreed with the LPA or formally discharged in writing, prior to commencement of the approved development of the site, with specific respect to application no. 08/01308/REM.

*Condition 7. No development shall commence until details of the landscaping of the site, including wherever possible the retention of existing trees and hedges have been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented in the first planting season following completion of the development, or following first occupation/use, whichever is the earliest.*

*The approved scheme shall be maintained by the applicant or their successors in title thereafter for a period of not less than 10 years to the satisfaction of the local planning authority. This maintenance shall include the replacement of any tree or shrub which is removed, becomes seriously damaged, seriously diseased or dies, by the same species or different species, and shall be agreed in writing by the local planning authority. The replacement tree or shrub must be of similar size to that originally planted.*

*Details submitted shall be compliant with "BS 5837 (2005) Trees in relation to construction - recommendations" and shall include details of trees and hedges to be retained or removed, root protection zones, barrier fencing, and a method statement for all works in proximity to those trees or hedges to be retained during the development and construction period. Details shall also indicate the types and numbers of trees and shrubs, their distribution on site, those areas seeded, turfed, paved or hard landscaped, including details of any changes of level or landform and the types and details of all fencing and screening.*

*Reason: In the interests of the amenity of the area.*

The above information was not submitted. As such the recent removal of trees on site are allegedly in breach of condition no.7.

It remains my view that trees within the curtilage of Capernwray Dive Centre warrant ongoing protection with TPO no.646 (2018).

If your client wishes to maintain her objection to the aforementioned TPO, a TPO Appeal Hearing will be arranged accordingly. You will be advised in writing of all future arrangements.

Please confirm your client's wishes within the next 21 days.

Yours sincerely,

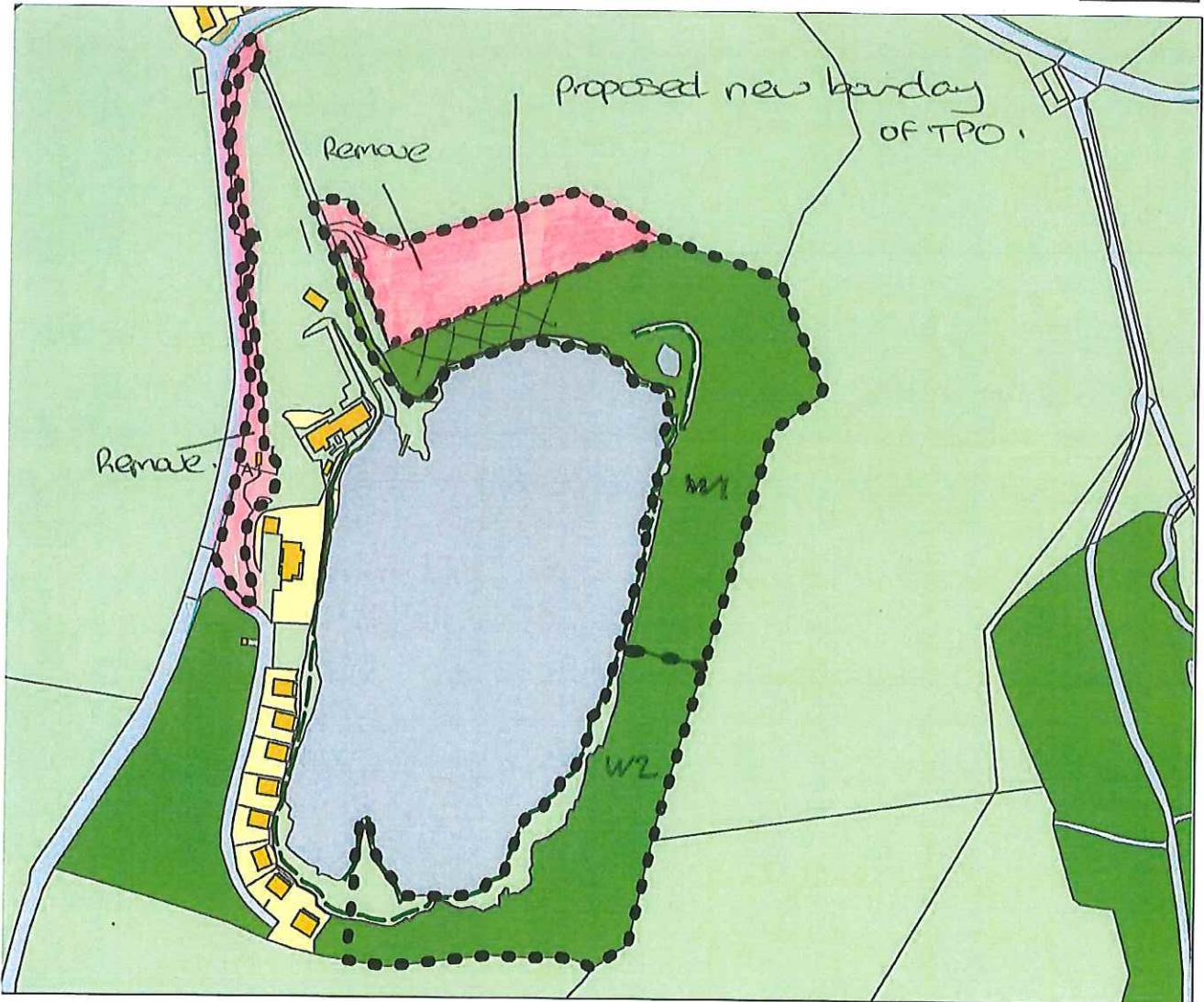
Maxine Knagg

**Maxine Knagg BSc (Hons) Arboriculture  
Tree Protection Officer  
Regeneration Service  
Development Management  
Lancaster City Council**

Proposed Amendment to TPO plan to  
eliminate A1 and alter A2,

# Tree Preservation Order 646(2018)

Capernwray Diving Centre Jackdaw Quarry Capernwray

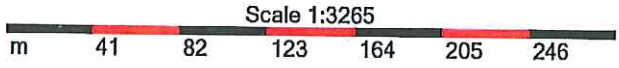


**Legend**

Mark Cassidy  
p.p. Chief Officer (REGENERATION AND PLANNING)

/// - approximate location Felled trees

█ - Proposed removal of these areas from TPO



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Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	02 May 2018
SLA Number	Not Set