



URGENT BUSINESS

WEDNESDAY, 8 APRIL 2020

Please find enclosed Urgent Business Notice in connection with the following:

The Chief Executive, in consultation with the Chair of the Appeals Committee, has agreed to make a decision in accordance with the City Council's Urgent Business Procedure, Delegated powers, Part 2, Section 7 of the City Councils Constitution.

The attached report was due for consideration by the Appeals Committee at its meeting scheduled to take place on 1 April 2020. The meeting was cancelled in view of the current coronavirus pandemic.

The Chief Executive and the Chair of the Appeals Committee have asked the Council's Tree Officer to carry out a review of the TPO as soon as practicable after the coronavirus pandemic and to provide the Appeals Committee with a report for their consideration as to whether or not the TPO should be varied in accordance with regulation 10 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

1. UB118 - TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
DETERMINATION OF TPO 676 (2019) (Pages 2 - 30)

Queries regarding these documents

Please contact Liz Bateson - Democratic Services - telephone 01524 582047, or email: ebateson@lancaster.gov.uk.

Democratic Services,
Town Hall,
Dalton Square,
Lancaster, LA1 1PJ

Published on THURSDAY 9 APRIL 2020

**URGENT BUSINESS – UB118 – TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
DETERMINATION OF TPO 676 (2019)**

Councillor Consultation

*I am in agreement with the recommendation that

Having carefully considered the Appeals Committee report and all the representations received from the objectors and Yew Tree and Gardens, it is expedient in the interest of the amenity to make the TPO without modification. The removal of the woodlands would significantly affect the amenity value and enjoyment by the public. Full details of the TPO determination are appended.

Signed:

Name: Councillor Jason Wood.....

Position Held: Appeals Committee Chair.....

Dated: 8 April 2020

Chief Executive Decision

*I agree to exercise my delegated authority and approve that

Having carefully considered the Appeals Committee report and all the representations received from the objectors and Yew Tree and Gardens, it is expedient in the interest of the amenity to make the TPO without modification. The removal of the woodlands would significantly affect the amenity value and enjoyment by the public. Full details of the TPO determination are appended.

Signed: Kieran Keane
.....

Chief Executive

Dated: 8 April 2020

TPO 676 determination

1. On 8th April 2020 the Council considered whether to make TPO 676 (2019). The TPO was made on 10 October 2019 and copies of the Order, together with a letter setting out the particulars required by Town and Country Planning (Tree Preservation) (England) Regulations 2012 were sent to interested parties on 10 October 2019.
2. The Council has received two letters providing representations and objections to the TPO. The objections were received from Keer Bridge Limited the owner of the land affected by the TPO and by L&W Wilson Limited, a company with an options agreement in respect of the affected land. The objections are as follows:
 - a. The TPO on the grounds that it could interfere with a proposed development on the land.
 - b. There was no intention to harm the trees – this could have been done in hours should the owner wished to carry out the works.
 - c. L&W are to submit a planning application in respect of the site. It is proposed that the site could be protected via Planning Permission
 - d. Reassurances were provided by L&W Wilson that no harm would come to the trees pending the planning permission process and that the TPO is accordingly not necessary.
3. The Council's Appeal Committee would normally have determined whether or not the TPO should be made. Unfortunately, due to the Coronavirus pandemic, it has not been possible to convene an Appeals Committee hearing. As a result of this, the Council has determined the matter via its urgent decisions provisions. This involves the Council's Chief Executive, in consultation with the chair of the Appeals Committee, taking the decision.
4. Under the Appeals Committee procedure rules the objectors would normally have the opportunity (should they wish) to attend the hearing and to make short submissions. As this is not possible in the circumstances, the objectors have been given 5 clear days following receipt of the Committees report to submit any further written representations on the matter.
5. On behalf of L&W, a letter from Antony Wood of Yew Tree and Gardens, dated 24 March 2020, has been submitted to the Council as further representations and objections to the TPO. Mr Wood raises the following further objections:
 - a. There are areas in which trees have been defined as 'woodland' which are not woodland having limited or no significant tree cover
 - b. Woodland W3 does not meet the description of 'woodland'
 - c. It is unclear why W2 has been designated 'woodland'. It mainly contains dense self-seeded ash of poor condition and a considerable portion is occupied by unmanaged shrubs.
 - d. W2 identifies cherry laurel as a tree. It is said to be a shrub and not a tree.
 - e. As to the specific areas identified by Yew Tree and Gardens:
 - i. This is not a woodland. It contains three shrubby formed multi-stemmed goat willow and contains little or no tree cover

- ii. W1-B forms a visible boundary element (with the majority of its length being single trees) and it is not clear why a group designation has not been used.
- iii. W1 – C and W1 – D – neither areas contain ‘current tree cover’ other than the occasional emergent and sapling Goat Willow.
- iv. W1 –C, W1-E and W1-F: comprise single width linear arrangements of boundary trees. If a boundary screening / greening function was required a group designation would be more appropriate.
- v. Confirmation of the woodland order, in respect of W1 –C, D and F would create de facto woodland areas.
- vi. Common ash in W2 had evidence of *Hymenoscyphus fraxineus* (ash dieback). As W2 contains 50% Common Ash and 25% shrubs a TPO in this area is inappropriate.
- vii. Common ash in W1 also shows signs of ash dieback. The disease could lead to the loss of the majority of tree cover in this section.
- viii. As to W3 and W1, a significant portion of the trees are goat willow. It is unclear why they would be suitable for a TPO.

Decision

The definition as woodlands

- 6. Yew Tree and Garden have suggested that areas of the TPO are not woodlands on the grounds that a ‘woodland’ is defined as “land covered with trees” and on the grounds that some of the area does not meet this particular description (being small in area or lacking in the tree cover).
- 7. Whilst it is accepted that a woodland can be viewed as “land covered by trees”, it is considered that this is a broad –brush definition. ‘Woodlands’ as Cranston J describes in Palm Developments Limited v The Secretary of State for Communities and Local Government v Medway Council [2009] EWHC 220 Admin are [per para 42] “a mass of undifferentiated trees” and contain [per para 36] “...*undergrowth...around the base of trees, properly called undergrowth which inevitably including saplings, immature bushes, shrubs and mature, but still small bushes, scrub and other plant matter and miscellaneous vegetation such as grasses, ferns and wild flowers.*”
- 8. Given the view of the Court in the *Palm Development*, it is considered that the essential question is whether or not W1, W2 and W3 meet the characteristic of woodland. This includes consideration of the number of trees and the land covered by trees. The presence of some shrubs and saplings is to be expected in woodlands.
- 9. The Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012 do not provide a maximum or minimum size of a woodland. Accordingly, whilst the area cover may affect the determination of whether or not land is a woodland, it is to be viewed in the round with the other characteristics of a woodland.

10. Looking at the characteristics of areas W1, W2 and W3, the Council considers that they are to be viewed as 'woodlands'. The photographs, annexed to the Committees report, show what appears to be a sufficient number of trees (of sufficient value and appearance) for the areas to be considered woodland. The presence of scrubs, undergrowth, shrubs and saplings do not distract from their character as a woodland. On the contrary they support the definition.
11. Yew Tree and Gardens have suggested that the reference to Cherry Laurel as a tree is incorrect. They submit that whilst it is categorised as a species of 'tree' it is ordinarily to be considered as a 'shrub'.
12. Having carefully reviewed the photographs, the Council has determined that the Cherry laurel is a tree in that it is a species of tree and that when one looks at the photograph it has the appearance of what would ordinarily be considered a 'tree'.

Amenity

13. A Tree Evaluation Method for Preservation Order Assessment (TEMPO) of the site was undertaken by the Arbricultural Officer on 7 October 2019. The assessment is a means of appraising the amenity value of the site. The site scored 17 points out of a possible maximum score of 25. This puts the merit of the TPO (according to the decision guide) at "Definitely merits TPO".
14. The objectors and Yew Tree and Gardens have not stated that the officer's scoring is inaccurate or in-correct. Moreover, the report appears balanced, mentioning issues such as ash dieback and the scoring is not excessive. Accordingly, the Council does not see any good reason to go behind the TEMPO score.
15. The TEMPO does not break the site down as Yew Tree and Gardens have done. In addition to this, it is noted that the officer's site inspection was limited due to security fencing.
16. The Trees do have significant screening and greening values. The photographs provided by the officer are strong evidence of this. Both W2 and W3 have greening and screening value from the highway and W1 has screening value to the residential and recreational areas. This is made all the more important by the derelict state of the brown site situated outside the boundary of the TPO.
17. The removal of the woodlands and its greening and screening effect would have a significant negative impact on the local environment and its enjoyment by the public. This is particularly the case for those that live in the locality and those that use the nearby recreational area and public right of way.
18. It has been suggested be Yew Tree and Gardens that the presence of ash dieback W2 makes the TPO inappropriate and that the disease could result in the loss of trees in W1. The Council accepts that the condition of trees is of relevance. However, the Council is concerned, primarily, with the amenity value now (see Beyers v Secretary of State for Environment, Transport and Regions [2000] 8 WLUK 274). In addition to this, it is expected that trees will die and that new trees will grow in areas of woodland.

19. At present the trees, notwithstanding the presence of ash dieback, do present significant amenity value and enjoyment to the public. Accordingly, it is not considered that the presence of ash dieback should prevent the TPO from being made.
20. Given the high TEMPO score and the negative impact the removal of the woodland would have on the area, it is considered that the woodlands have a sufficient amenity value.

Expediency

21. It is also considered expedient for the order to be confirmed. There is clearly an interest in substantial development of the land and there is an indication from objectors that if development were to go ahead that some of the trees would have to be removed. This being the case there is a threat of removal or damages to the trees that needs to be protected against.

Other considerations

22. Whilst it is appreciated that the confirmation of the TPO (with or without Modification) may have an effect on the development of the site, it is not considered materially relevant to the consideration of whether or not a TPO should be made at this time. If planning permission is sought, the LPA can consider works in relation to land covered by TPOs.
23. The possibility of planning permission for the site is again not materially relevant to whether or not the TPO should be made. Planning permission for development has not yet been determined and the decision of the LPA cannot be pre-determined. In addition to this, planning permission does not afford the trees the same level of immediate protection as a TPOs.
24. It is borne in mind that LPAs have a duty to review TPOs and it is understood that the Council's Tree Officer will be reviewing TPOs in the near future. TPO 676 will be included in the review process.

Conclusion

25. In reaching this decision the Council has had to consider whether it is expedient in the interest of the amenity to make the TPO.
26. The Council, having carefully considered the Appeals Committee report and all the representations received from the objectors and Yew Tree and Gardens, has determined that it is expedient in the interest of the amenity to make the TPO without modification. The removal of the woodlands would significantly affect the amenity value and enjoyment by the public.

Appeals Committee

**Town and Country Planning Act 1990 (as amended)
Determination of TPO 676(2019)**

Report of Arboricultural Officer

PURPOSE OF REPORT

To determine whether TPO 676(2019) should be confirmed and to consider representations and objections raised by persons interested in the land affected by the TPO within the meaning of the Town and Country Planning (Tree Preservation) (England) Regulations 2012/605

This report is public.

RECOMMENDATIONS

The Appeals Committee is requested to consider whether or not TPO 676 (2019) should be confirmed. The Committee may determine not to confirm the Order or it may determine to confirm the Order with or without modification.

1.0 Introduction

- 1.1 The Appeals Committee are to consider whether the trees in question, identified as W1, W2 and W3 within the Tree Preservation Order (TPO), should be confirmed without modification, confirmed with modifications or not confirmed. A copy of the Order is attached as **Appendix 1**.
- 1.2 The process for the making of TPOs is governed by the Town and Country Planning (Tree Preservation) (England) Regulations 2012/605. Subject to provisional provisions, the Regulations provide that TPOs do not come into effect unless, and until, they are confirmed by a Local Authority.
- 1.3 In accordance with the Regulations, Local Authorities should, as soon as practicable after the making of the order and before confirming it, serve on persons interested in the land affected by the TPO a copy of the order and a notice of particulars. The particulars include a statement that objections or other representations in relation to the Order may be made to the Local Authority within 28 days of the Notice.
- 1.4 The decision as to whether or not the TPO should be confirmed has to be made within six months of the making of a TPO. In determining the matter, the Local Authority should consider any objections or representations received from interested parties.

2.0 Background

- 2.1 The land in question is privately owned by Keer Bridge Ltd, and is a former industrial depot sitting between a 19th century residential area and the River Keer, adjacent to Warton Road. The land is a brownfield site bordered by broadleaf woodland. The land

has been assessed positively by Planning Officers with regards to its potential for future economic development.

- 2.2 In June 2019, Lancaster City Council received a complaint from a member of the public that ground works had been undertaken on site and that trees had been uprooted. Trees on the site were not protected and, as such, could have been removed without the requirement to notify the Council. On the 5 June 2019, emergency TPO 674(2019) was served in the interests of public amenity and wildlife benefit. Subsequently, the proposed developers of the site (L&W Wilson Ltd) confirmed that part of the site was cleared to enable a site investigation to be carried out prior to submitting a planning application.
- 2.3 TPO 674(2019) was served as an area Order, protecting every tree within the area defined on the TPO map. A copy of the Order is attached as **Appendix 2**. No objections were received with regards to TPO 674. However, government guidance states that the area category is intended for short-term protection in an emergency and advises Authorities to resurvey area Orders to ensure long-term protection.
- 2.4 In October 2019, the site was reassessed to accurately reflect the trees on the ground and a TEMPO assessment completed. As a result, TPO 674 was revoked and a new Order TPO 676(2019) served on the 10 October 2019.
- 2.5 The notice was sent out to those affected by the Order on the 10 October 2019. A notification letter accompanying the Order stated that should the recipient wish to make any objections with regards to the Order, these should be made in writing by the 7 November 2019. Two formal objections were received on the 4 November 2019.

3.0 Assessment

- 3.1 A copy of the Arboricultural Officer's initial report, dated 7 October 2019 is attached as **Appendix 3**.
- 3.2 The Council's Arboricultural Officer visited the site on the 7 October 2019 to assess the trees in order to redefine the original area designation and complete a TEMPO assessment. Three areas of woodland were identified as W1, W2 and W3. W1 has the appearance of a wet woodland and extends to approximately half a hectare, bordering the site on three sides. The woodland acts as an informal screen to the site, softening views from the adjacent properties, Millhead recreation ground and a public right of way that connects Millhead to Warton. The woodland appears to have naturally regenerated and is dominated by willow with ash, birch and sycamore. A proportion of the ash is in decline with ash dieback noted.
- 3.3 W2 and W3 mark the entrance to the site and are composed of willow, ash, sycamore, cherry, rowan and cherry laurel. Both pockets of woodland contribute to the wooded character of Warton Road, screening and softening views of the site. Natural regeneration is abundant in both areas of woodland.
- 3.4 To the north west of the site sits a collection of dilapidated buildings which are understood to be Grade II listed. The buildings are bordered to the north by mature trees which grow from the base of the walls. Due to the close proximity of the trees to the buildings and the potential for future conflict, these trees have been excluded from the new order.
- 3.5 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, and their suitability for statutory protection. The TEMPO score for the woodlands is 17, indicating that the woodlands merit protection. A copy of the TEMPO form is attached as **Appendix 4**.

4.0 Objection to the TPO

- 4.1 Lancaster City Council has received two objections to the Order duly made by the owners of the site Keer Bridge Ltd and the proposed developers of the site L&W Wilson (Endmoor) Ltd. Copies of the objections are attached as **Appendix 5**.
- 4.2 Keer Bridge Ltd object as they believe that the TPO will impact on the proposed development. In particular, W1 may require partial removal for the creation of access and landscaping. W2 and W3 may require removal for access and visibility.
- 4.3 The Council's Arboricultural Officer's response: Whilst the TPO prevents the unauthorised removal/pruning of trees it is not intended to prevent or obstruct development of the land where consent is granted. It does however ensure that trees are a material consideration within any future planning application. Separate consent 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.
- 4.4 L&W Wilson Ltd (LWW) object to the TPO as they believe that protection of the trees can be secured through the planning process in the future. The TPO will add further work and unnecessary cost to the development for LWW and the Council. They do not intend to carry out further tree works irrespective of the TPO and the trees are currently not at risk. A full planning application will be submitted before the TPO has to be confirmed.
- 4.5 The Council Arboricultural Officer's response: Whilst the protection of trees can be secured through the design of a development and through planning conditions, the long-term protection of trees can only be secured through the serving of a TPO. The TPO will not add further work and unnecessary cost to the development. Irrespective of the TPO the Council would expect a planning application which has the potential to affect trees with significant public amenity value to be accompanied by an Arboricultural Impact Assessment (AIA). Further, if an application is received with regards to a protected tree, there is no charge associated with the submission of a tree work application. The application process also ensures that any work is carried out in line with industry best practice and that replacement planting is secured.

If the trees were protected by a planning condition, then an application would be required to carry out to work to them. Varying or discharging the condition to permit the work would incur a fee.

5.0 Options and Options Analysis (including risk assessment)

- 5.1 There are three options:
- a. To confirm the TPO without modification;
 - b. To confirm the TPO with modification; or
 - c. Not to confirm the TPO

6.0 The Arboricultural Officer’s preferred Option and Comments

6.1 Government guidance states that Local Planning Authorities should use Tree Preservation Orders to protect trees where their removal would have a significant impact upon the local environment and its enjoyment by the public. The removal of the woodland would be detrimental to the amenity of the area, changing the wooded character of Warton Road and impacting upon the role the trees play in softening and screening views of the existing brownfield site and any future development.

6.2 It is the Council’s Arboricultural Officer’s recommendation that TPO 676 (2019) be confirmed without modification in the interest of public amenity benefit. The removal of the trees would have a significant effect on the softening and screening of views of the existing brownfield sites. This would be of significant harm to local public amenity.

7.0 Conclusion

7.1 In considering whether or not to confirm the TPO the Local Authority should have regard to the Government’s Guidance: Tree Preservation Orders and Trees in Conservation Areas (March 2014).

<p>CONCLUSION OF IMPACT ASSESSMENT (including Health & Safety, Equality & Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing):</p> <p>None</p>	
<p>LEGAL IMPLICATIONS</p> <p>The determination of whether or not to confirm the TPO should be taken in accordance with Town and Country Planning (Tree Preservation) (England) Regulations 2012/605. Government guidance should also be considered where along with all material and relevant facts. This will involve considering the representations received by interested persons.</p>	
<p>FINANCIAL IMPLICATIONS</p> <p>Financial Services have not been consulted as there are no financial implications.</p>	
<p>BACKGROUND PAPERS</p> <ol style="list-style-type: none"> 1. Appendix 1 – TPO 676 (2019) 2. Appendix 2 – TPO 674 (2019) 3. Appendix 3 – Report dated 7.10.19 4. Appendix 4 – TEMPO 5. Appendix 5 – Objections received 6. Appendix 6 – Officers site pictures 	<p>Contact Officer: Sam Lumb Telephone: 01524 582384 Email: slumb@lancaster.gov.uk</p>

Appendix 1

CITY COUNCIL OF LANCASTER
TREE PRESERVATION ORDER NO. 676(2019)

---ooOoo---

RELATING TO:
Land Off Warton Road Between Carlisle Terrace And Midland Terrace
Carnforth
Lancashire

PO BOX 4
TOWN HALL
LANCASTER
LA1 1QR

TOWN AND COUNTRY PLANNING ACT 1990
LANCASTER CITY COUNCIL
TREE PRESERVATION ORDER NO. 676(2019)

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. 676(2019), relating to trees at Land Off Warton Road Between Carlisle Terrace And Midland Terrace, Carnforth, Lancashire, 10th October 2019.

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 10th day of October 2019

Signed on behalf of the Lancaster City Council:

Mark Cassidy

Mark Cassidy

Planning Manager (Directorate for Economic Growth and Regeneration)

Authorised by the Council to sign in that behalf

SCHEDULE

Specification of Trees

TREE PRESERVATION ORDER NO. 676(2019)

Relating to trees at Land Off Warton Road Between Carlisle Terrace And Midland Terrace, Carnforth, Lancashire.

TREES SPECIFIED INDIVIDUALLY (Encircled in a solid black line on map)

None

TREES SPECIFIED BY REFERENCE TO AN AREA (Shown within a dotted black line on map)

None

GROUP OF TREES (Shown within a broken black line on map)

None

WOODLAND (Shown within a solid black line on map)

Reference on Map	Description	Situation - Centred on grid ref:	
W1	Mixed broadleaf woodland consisting of willow, ash, sycamore and birch.	(E) 349895	(N) 471317
W2	Mixed broadleaf woodland consisting of ash, willow, sycamore and cherry laurel.	(E) 349735	(N) 471268
W3	Mixed broadleaf woodland consisting of willow, cherry, rowan, ash and sycamore.	(E) 349746	(N) 471237



Tree Preservation Order 676

Land Off Warton Road Between Carlisle Terrace And Midland Terrace

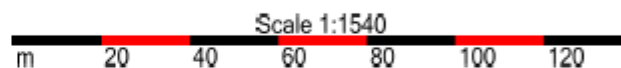


Legend

Signed on behalf of the Lancaster City Council:

Mark Cassidy

Mark Cassidy
Planning Manager (Economic Growth and Regeneration)
 Authorised by the Council to sign in that behalf



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

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Organisation	Not Set
Department	Not Set
Comments	
Date	10 October 2019
SLA Number	Not Set

Appendix 2

CITY COUNCIL OF LANCASTER
TREE PRESERVATION ORDER NO. 674(2019)

---ooOoo---

RELATING TO:

Land Off Warton Road Between Carlisle Terrace And Midland Terrace
Carnforth
Lancashire

PO BOX 4
TOWN HALL
LANCASTER
LA1 1QR

TOWN AND COUNTRY PLANNING ACT 1990
LANCASTER CITY COUNCIL
TREE PRESERVATION ORDER NO. 674(2019)

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. 674(2019), relating to trees at Land Off Warton Road Between Carlisle Terrace And Midland Terrace, Carnforth, Lancashire, 5th June 2019.

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 5th day of June 2019

Signed on behalf of the Lancaster City Council:

Mark Cassidy

Mark Cassidy
Planning Manager (Directorate for Economic Growth and Regeneration)
Authorised by the Council to sign in that behalf

SCHEDULE

Specification of Trees

TREE PRESERVATION ORDER NO. 674(2019)

Relating to trees at Land Off Warton Road Between Carlisle Terrace And Midland Terrace, Carnforth, Lancashire.

TREES SPECIFIED INDIVIDUALLY (Encircled in a solid black line on map)

Reference on Map	Description	Situation - Centred on grid ref:	
------------------	-------------	----------------------------------	--

TREES SPECIFIED BY REFERENCE TO AN AREA (Shown within a dotted black line on map)

Reference on Map	Description	Situation - Centred on grid ref:	
------------------	-------------	----------------------------------	--

A1	Trees of whatever species within the area marked A1 on the map	(E) 349868	(N) 471307
----	--	------------	------------

GROUP OF TREES (Shown within a broken black line on map)

:

Reference on Map	Description	Situation - Centred on grid ref:	
------------------	-------------	----------------------------------	--

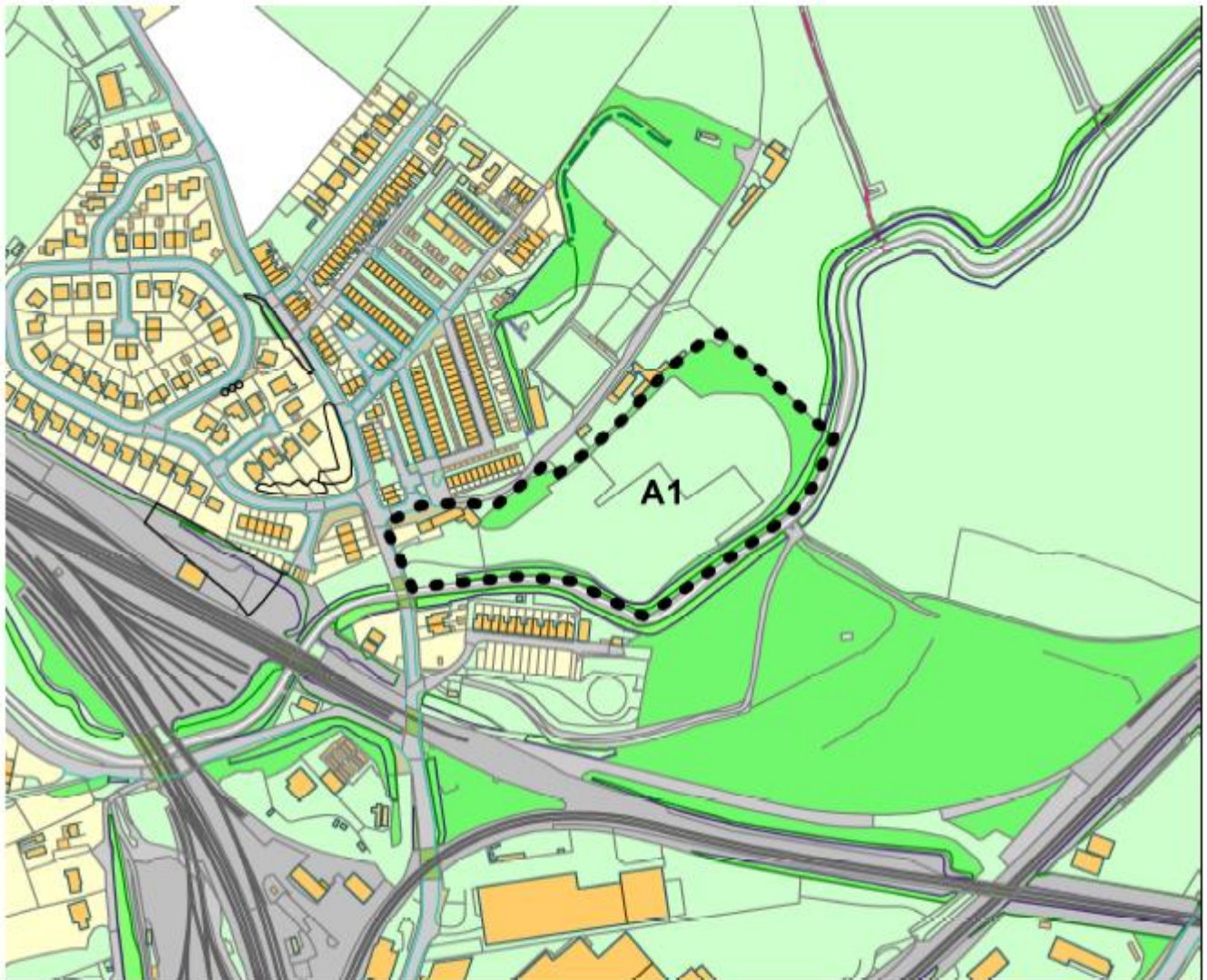
WOODLAND (Shown within a solid black line on map)

Reference on Map	Description	Situation - Centred on grid ref:	
------------------	-------------	----------------------------------	--

674 (2019)



Land Off Warton Road Between Carlisle Terrace and Midland Terrace

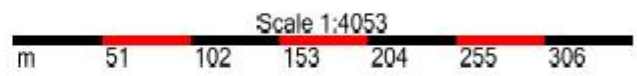


Legend

Signed on behalf of the Lancaster City Council:

Mark Cassidy

Mark Cassidy
Planning Manager (Economic Growth and Regeneration)
 Authorised by the Council to sign in that behalf



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

Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.

Organisation	Not Set
Department	Not Set
Comments	Not Set
Date	05 June 2019
SLA Number	Not Set

Appendix 3

DEVELOPMENT MANAGEMENT: PROPOSED NEW TREE PRESERVATION ORDER

ARBORICULTURAL OFFICER’S REPORT

Site Address: Land Off Warton Road between Carlisle Terrace and Midland Terrace, Carnforth
Proposal: Not to confirm TPO 674 (2019) – Serve new TPO 676 (2019)
Site visit date: 07/10/2019

ASSESSMENT

TPO 674(2019) was served as an emergency area order, following a complaint from a member of the public that ground works had been undertaken on site and that trees had been uprooted. The site was not visited and a TEMPO was not completed. Subsequently, the owners of the site confirmed that part of the site was cleared to enable a site investigation to be carried out prior to submitting a planning application.

Government guidance states that authorities should not confirm an Order if it has made substantial changes to it, for example by changing an area classification to a woodland classification. To protect additional trees or make other significant changes the authority should consider either varying the Order after it has been confirmed or making a further Order.

Therefore, TPO 674 should be revoked and a new Order TPO 676 served. I have reassessed the site to accurately reflect the trees on the ground and completed a TEMPO assessment. Three areas of woodland have been identified as W1, W2 and W3. W1 has the appearance of a wet woodland and extends to approximately half a hectare, bordering the site on three sides. The woodland acts as an informal screen to the site, softening views from the adjacent properties, Millhead recreation ground and a public right of way which connects Millhead to Warton. The woodland appears to have naturally regenerated and is dominated by willow with ash, birch and sycamore. A proportion of the ash is in decline with ash dieback noted.

W2 and W3 mark the entrance to the site and are composed of willow, ash, sycamore, cherry, rowan and cherry laurel. Both contribute to the wooded character of the local street scene and screen views of the site from Warton Road. Natural regeneration is abundant in both areas of woodland.

To the north west of the site sits a collection of derelict buildings, the buildings are bordered to the north by mature trees which grow from the base of the buildings. Due to the close proximity of the trees to the buildings and potential future conflict, these have been excluded from the new order.

Government guidance states that Local Planning Authorities should use Tree Preservation Orders to protect trees where their removal would have a significant impact upon the local environment and its enjoyment by the public. The removal of the woodland would be detrimental to the amenity of the area, changing the wooded character of Warton Road and impacting upon the role the trees play in softening and screening views of the existing brownfield site and any future development. Therefore, it is expedient in the long-term interest of public amenity to serve the Tree Preservation Order.

Tree Evaluation Method for Preservation Orders Assessment (TEMPO)

A TEMPO score of 17 has been achieved, protection of W1, W2 and W3 with a TPO is defensible given the potential threat of removal.

OTHER RELEVANT MATTERSWildlife - 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.

NEW TREE PRESERVATION ORDER

Site	Keer Bridge, Warton Road
Location of tree(s)	Land off Warton Road between Carlisle terrace and Midland Terrace, Millhead.
Reason for TPO	In the interests of public amenity value and wildlife benefit

Officer: Sam Lumb

**Arboricultural Officer
Regeneration & Planning Service
Lancaster City Council**

Appendix 4

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO):

SURVEY DATA SHEET & DECISION GUIDE

Date: 07/10/2019	Surveyor: S Lumb
------------------	------------------

<u>Tree details</u>		
TPO Ref (if applicable):	Tree/Group No: W1, W2, W3	Species: MB
Owner (if known):	Location: Land off Warton Road	

Part 1: Amenity assessment

a) Condition & suitability for TPO:

Refer to Guidance Note for definitions

- | | |
|-------------------------|-------------------------|
| 5) Good | Highly suitable |
| 3) Fair | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead/dying/dangerous | Unsuitable |

<p><i>Score & Notes</i></p> <p>3 – Access to the site is limited due to a security fence and the River Keer, but overall the trees appear to be in a fair condition. Some evidence of ash dieback. Appears to be natural regen secondary woodland.</p>
--

b) Retention span (in years) & suitability for TPO:

Refer to 'Species Guide' section in Guidance Note

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| 2) 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10 | Unsuitable |

<p><i>Score & Notes</i></p> <p>4 – With appropriate management the areas of woodland can be retained for a long period.</p>

c) Relative public visibility & suitability for TPO:

Consider realistic potential for future visibility with changed land use; refer to Guidance Note

- | | |
|---|---------------------|
| 5) Very large trees, or large trees that are prominent landscape features | Highly suitable |
| 4) Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or larger trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

<p><i>Score & Notes</i></p> <p>4 - Visible from Warton Road, neighbouring properties, Millhead recreation ground and</p>
--

TOTAL = 11

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Members of groups of trees important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

<p><i>Score & Notes</i></p> <p>4 – Important role in screening and softening this site from numerous vantage points.</p>
--

Part 2: Expediency assessment

TOTAL = 15

Trees must have accrued 9 or more points to qualify; refer to Guidance Note

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

<p><i>Score & Notes</i></p> <p>2 – Perceived threat from development following initial site investigation works.</p>
--

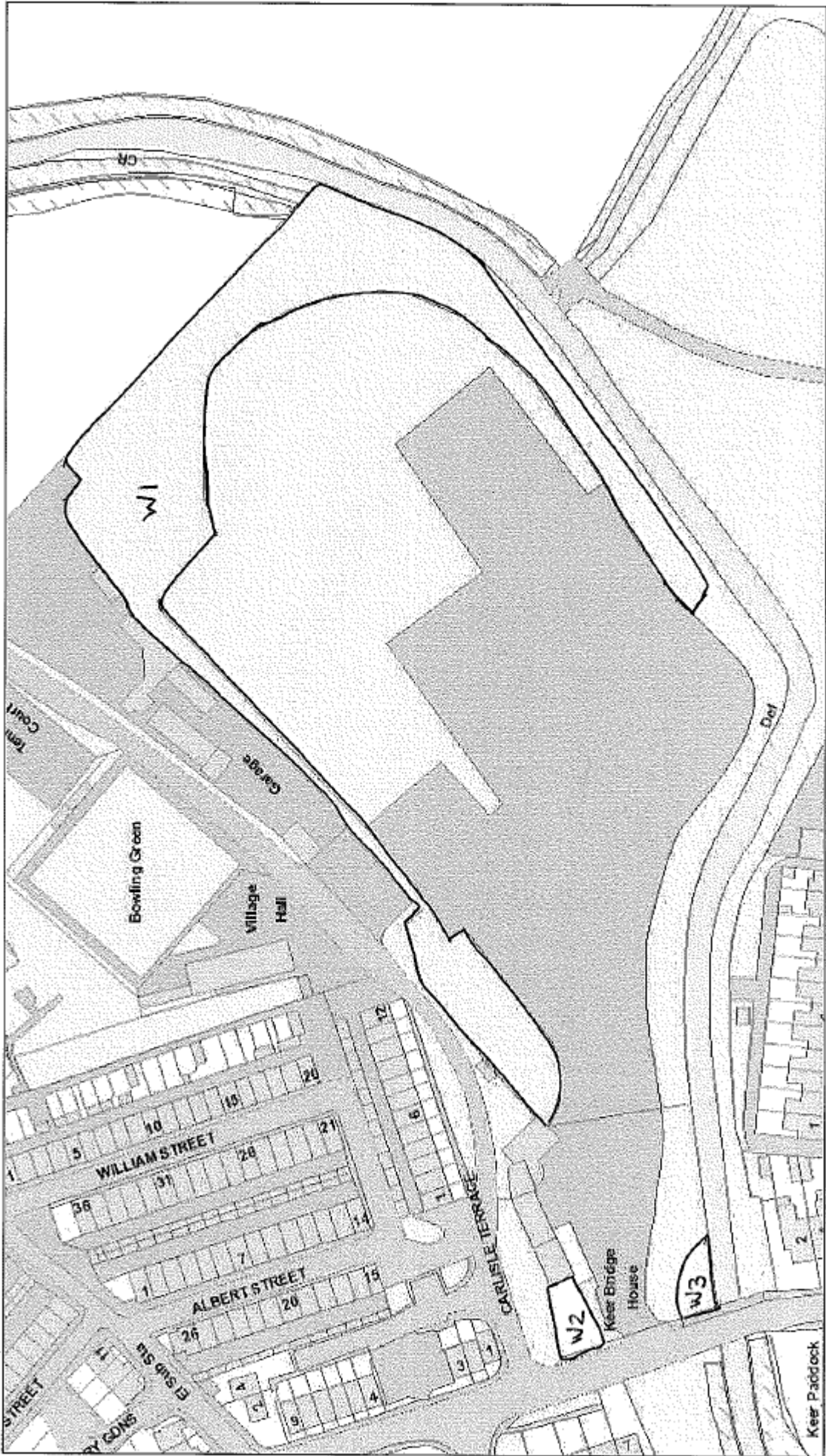
Part 3: Decision guide

- | | |
|-------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-11 | Does not merit TPO |
| 12-15 | TPO defensible |
| 16+ | Definitely merits TPO |

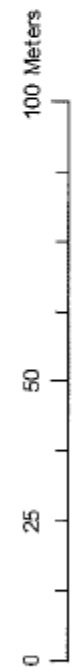
<p><i>Add Scores for Total:</i></p> <p>17</p>

<p><i>Decision:</i></p> <p>Definitely merits TPO</p>
--

TPO 674



© Crown Copyright and Database rights 2019 Ordnance Survey 100025403



Map Notes Amended plan
Date: 08/10/2019

Keer Bridge Limited, 36 St Albans Road, Edinburgh EH9 2LU

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

Your ref: 676(2019)

1 November 2019



Dear Sir/Madam

**Land off Warton Road between Carlisle Terrace and Midland Terrace,
Carnforth – Tree Preservation Order 676 (2019)**

I refer to your letter of 10 October and as landowner of the above site which is affected by the TPO wish to raise a formal objection.

The site is proposed to be developed for housing and the provisional TPO will impact on the proposed development. In particular, the following areas of woodland as identified in the TPO may be affected by the development in whole or in part and it may be necessary to remove or lop some or all of the trees in these areas:

W1 – these areas are on the perimeter of the development and some removal may be required for the creation of access ways and/or landscaping.

W2/W3 – these areas abut the main entrance to the proposed development and removal may be required for access and visibility.

I would be grateful if you would acknowledge this formal objection and in the meantime do please contact me on 07809 772833 should you wish to discuss anything further at this stage.

Yours faithfully

**Melanie Witherington
Director
For and on behalf of Keer Bridge Limited**

Lancaster City Council
Regeneration and Planning Development Management Team
PO Box 4, Town Hall
Lancaster LA1 1QR

4th November 2019

Dear Sirs,

**Town and Country Planning (Tree Preservation) (England) Regulations 2012
Tree Preservation Order 676 (2019) Relating to trees at Land off Warton Road
Between Carlisle Terrace and Midland Terrace Carnforth**

Further to your letter dated 10th October 2019 advising that LCC have made the order on a provisional basis effective 10th October 2019, we set out below the background to the current position:-

L & W Wilson (Endmoor) Ltd (LWW) are the proposed developer and have an interest in the site by virtue of an Option Agreement with Keer Bridge Ltd. We have been liaising with LCC planning department since 2014 regarding developing the site for housing.

1. The site was allocated for housing up to 2017 when it was de-allocated as the majority of the site now been allocated to Flood Zone 3 Environment Agency (EA) which means that it would not be suitable for housing, this allocation has been made even though the site did not flood in Storm Desmond (2015).
2. LWW carried out removal of undergrowth and small shrubs in May 2019 so that we could carry out a Ground Investigation of the site to establish ground conditions, water levels and check for contamination.

LWW believe that LCC have made the tree preservation order in response to local resident's concern that we were going to remove all the trees, (with the plant that was on site that could have been carried out in a few hours if that was our intention).

3. Our Engineers are currently working on a Flood Risk Assessment in response to the EA's allocation of the site into Flood Zone 3, we have now established that the site has been allocated without any factual data to back the decision up.
4. In due course it is our intention to present LCC planning with a full planning application for housing on the site, in order to do that we need to provide a number of surveys and reports to enable a decision to be made.



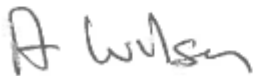
5. The first stage of this will be a pre-app discussion once we are in a position to challenge the flood risk allocation.

LWW object to the order being made permanent for the following reasons:-

- A. LCC will be able to secure protection of the trees through a planning permission in the future.
- B. Revoking the tree preservation order will add further work and unnecessary costs to the development of the site for both LWW as the developer and LCC.
- C. LWW have already given an assurance to LCC that no further work will be carried out to the trees irrespective of whether a tree preservation order is in place.
- D. LWW worked with the Development management team to resolve how we could clear the undergrowth to clear the final area of undergrowth so that the final ground levels could be taken in the North East Corner of the site.
- E. There is no risk that the trees will be damaged or removed for the reasons outlined above, if the trees are not at risk there is no need for an order to be made.
- F. It is likely that LCC will be in receipt of a full planning application within the 6 month period that LCC has to make a decision, LWW would suggest that any decision is delayed until the end of March 2020 when further information will be available to allow a considered decision to be made.

I would ask that you consider the points made above in deciding whether it is necessary to make the order permanent at this time.

Yours Sincerely



Alan Wilson
Managing Director
L & W Wilson (Endmoor) Ltd



Initial view of site (W3) from adjacent bridge along Warton Road





View of W2 from Warton Road, entrance to site on right of photo, Carlisle Terrace to rear.



View of W1 from Carlisle Terrace looking north east toward neighbouring garage.



View of W1 from Carlisle Terrace looking westerly.



View of W1 from adjacent Public Right of Way to Warton.



View of trees sat between old buildings and Carlisle Terrace excluded from new Order.



View across the River Keer looking north.



View of eastern section of site from end of Midland Terrace.