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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.

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On behalf of Lancaster City Council