

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 <i>(DM DPD Policy DM29) adopted December 2014</i>	X		
Management of Council Trees <i>(Tree Policy) adopted December 2010</i>	X		
Tree Work - Recommendations <i>(BS 3998 (2010))</i>	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

Serve new TPO

Not to serve TPO

Reason:

In the interest of public amenity value and wildlife benefit. Trees are under threat due to unauthorised development at the site.

Reason:

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

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