

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

FAO Alastair Skelton
Steve Abbot Associates LLP
Broadsword House
2 Stonecrop
North Quarry Business Park
Appleby Bridge
Wigan
WN6 9DL

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

Date: 23rd 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 3rd 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**