TREE PRESERVATION ORDER

1 SUMMARY

1.1 The scheme of delegation for Tree Preservation Orders (TPOs) enables officers to serve TPOs. This report notifies you of the serving of TPO 327 and asks you to make a decision on its confirmation.

<table>
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<tr>
<th>Recommendation that:</th>
<th>a Members note that TPO 327 has been served under delegated powers.</th>
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<td>b Members confirm the TPO without modification as an opposed order.</td>
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2 BACKGROUND

2.1 The Lake District National Park Authority (Fell Foot House, Newby Bridge) Tree Preservation (No. 327) Order, 2009

2.2 We served a new TPO, titled as above No. 327, on the 7 January 2009. The TPO covers 2 Individual trees. I have given a summary of the issues at Annex 1.

2.3 We have received two formal objections. I have commented on the objections in Annex 1 and a copy of the map is attached as Annex 2.

2.4 Members of Development Control Committee undertook a site visit on the 13 May to look at the trees and consider the objections prior to this report being presented to committee. You need to decide whether to confirm the Order.

3 POLICY CONTEXT

3.1 Management Plan

Policy L14 in Part one of the National Park Management Plan states: Serve Tree Preservation Orders where important amenity trees and woodlands cannot be protected in any other way.

4 OPTIONS

4.1 You have three options:

1 Confirm the TPO without modification as an opposed order.
2 Confirm the TPO with modification as an opposed order.
3 Do not confirm the TPO.

5 PROPOSALS

5.1 I recommend that you decide on option 1 to confirm the TPO without modification as an opposed order for the reasons given in Annex 1.

6 BEST VALUE IMPLICATIONS

6.1 The Best Value implications are:

Challenge: This action will contribute to the conservation of the landscape character of the National Park.
Consult: The process has been carried out in full consultation with the owner, neighbours, Parish and District Council.
Compare: We have followed the national guidance in carrying out this process.
Compete: We are the Statutory Authority for this legislation and are deploying our staff efficiently.

7 FINANCE CONSIDERATIONS

7.1 There are no anticipated costs from this proposal.

8 RISK

8.1 We have not carried out a risk assessment undertaken in relation to this proposal.

9 LEGAL CONSIDERATIONS

9.1 The action taken strikes an appropriate balance between rights under the Act and the way we:
- Protect the rights and freedoms of others; and
- Exercise statutory functions as a public authority.

10 HUMAN RESOURCES

10.1 There are no staffing implications as a result of this proposal.

11 DIVERSITY IMPLICATIONS

11.1 We have not identified any diversity implications as a result of this proposal.

12 SUSTAINABILITY

12.1 The TPO supports the sustainable management of the park.

Background Papers: Information on File 1604.327
Author/Post: Marina Ramsden, Tree and Woodland Adviser
Date Written: 18 May 2009
ANNEX 1: The Lake District National Park Authority (Fell Foot House, Newby Bridge) Tree Preservation (No. 327) Order, 2009

1.1 The beech trees are located to the north west of Fell Foot House, Newby Bridge either side of the private road. The trees are mature and have high amenity valued when viewed from the main A592 Newby Bridge to Bowness Road. One of the trees is currently at risk of being felled therefore it is considered expedient to serve a TPO.

1.2 We have received 2 objections

1.3 Objection

Letter from Mr Downs, Fell Foot House, Newby Bridge.

In summary the objections are:

1. That tree T1 has been exposed to extra wind stress from prevailing winds and therefore Mr Downs is concerned about the stability of this tree. This non native tree is approaching the end of its safe useful life. There is a replacement oak tree that has been planted nearby which is now starting to be inhibited by T1.

2. T2 has dropped a large branch on a windless day without warning and that 2 further branches overhang the access drive to the property, and therefore Mr Downs considers T2 to be a danger to his family and to passers by and that to protect it with a TPO is reckless. He would like to see an independent arboricultural report to be undertaken by a consultant. That the canopy of this tree is very low and preventing ambulances and delivery vehicles accessing the properties.

3. That the TPO and site notice has been incorrectly served because it states ‘the beech trees are in the front garden of Fell Foot House’ when T2 is actually under separate ownership.

4. That these trees T1 and T2 are non native and five adjacent trees felled on the decision of the planning department were considered of no consequence.

1.4 Tree and Woodland Advisers Opinion:

1. Trees have been removed on a neighbouring prices of land as part of the management of a group trees. The work included thinning trees and taking out poorly formed or damaged trees such as spruce and sycamore to benefit other trees in the group particularly oak to allow them to develop. This work was undertaken in consultation with the Authority and was considered appropriate woodland management. It work was not required as part of the planning permission for the property of Tall Trees. The tree removal has opened up the area, however in relation to T1 there are still other trees particularly a spruce and semi mature oak that are on the prevailing wind side of it. Therefore I do not consider that the work has significantly altered the stability of this tree. This tree is non-native in the northern part of Britain and is reaching maturity and still has around 20-40 years of useful life expectancy. The replacement oak tree is currently around 20 years old and will in time provide similar amenity value to the beech. Trees tend to grow into the space available and the oak will grow in the available space next to the beech. TPOs can be made in respect of non-native trees.

2. T2 does require some appropriate tree management to be undertaken namely, crown lifting, reduction and thinning. We have undertaken an
arboricultural survey of this tree for our own purposes which we have passed onto the owner. The owner plans to undertake appropriate management of the tree and we have expressed that if the work is along the lines of the recommendations in the report that we are likely to approve this work. The owner of this tree has expressed that they wish to see the tree retained and have raised no objection to the tree preservation order, in fact they have welcomed it.

3. At the time of serving the TPO we believed T2 to be in the grounds of Fell Foot House as this is the closest property. The information in the statement is merely a description to help locate the trees.

4. Non native trees can be protected with tree preservation orders as they are protected for their amenity value. The 5 trees felled on a neighbouring property was separate to the planning permission.

1.5 Objection

Letter from Marion Taylor of Belle Mere, Newby Bridge 15 February and 15 April 2009.

In summary the objections are:

1. Tree T2 has some branches which currently overhang the access lane and are 10'6" and 13'2" from the ground. During the summer when the leaves are on they have brushed the top of my small car.

2. The low tree branches are preventing access for emergency vehicles and deliveries.

3. Why was an inspection report done of the tree undertaken 7 weeks later than the date of the order, surely this should have been undertaken prior to issuing the order.

1.6 Tree and Woodland Advisers Opinion:

The issues that have been raised are in relation to the management of the tree. A tree preservation order does not prevent appropriate management of trees, in fact it aims to encourage the right management to be undertaken. In this case the tree T2 would benefit from some crown lifting, crown reduction and thinning which the owner is aware of, and will hopefully be in a position to undertake this work as soon as possible.

The tree report was undertaken for our own purposes and was not required for the purpose of serving the tree preservation order.

In relation to the other points raised.

There have been concerns about the safety of the trees and suggestions that they should be felled. If the trees are managed appropriately it should be possible to retain then for a number of years and therefore they do not need to be felled. The trees are mature and have high amenity valued when viewed from the main A592 Newby Bridge to Bowness Road therefore we considered it expedient to serve a TPO.
1.7  In summary
I consider the order should be confirmed without modification as an opposed order. I believe the TPO will help to encourage appropriate management of these trees so that they can be retained for a number of years.

Annex 2  Copy of TPO Map
The Lake District National Park Authority
(Fell Foot House, Newby Bridge)
Tree Preservation (No: 327) Order, 2009

Given under the Common seal of the
Lake District National Park Authority

This 7th day of January

two thousand and nine

.............................................Authorised Signatory