

**The Lake District National Park Authority (Woodland at Ash Hill, Rosgill)
Tree Preservation (No. 433) Order, 2021.**

1. Summary

- 1.1 The scheme of delegation for Tree Preservation Orders (TPOs) enables our solicitor to serve TPOs. This report notifies you of the serving of TPO 433 and asks you to make a decision on its confirmation. We are proposing to confirm the TPO without modification as an opposed order. The deadline for confirmation of this order is the 22 December 2021.

RECOMMENDATION:	<i>Confirm The Lake District National Park Authority (Woodland at Ash Hill, Rosgill) Tree Preservation (No. 433) Order, 2021 without modification as an opposed order.</i>
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REPORT:

2. Background

- 2.1 This matter is being reported to Committee because the owners of the property upon which the protected woodland stands, object to the order.
- 2.2 The order relates to a woodland within the grounds of Ash Hill, Rosgill which is a hamlet in the north east of the National Park. The area is characterised by its rural setting alongside other hamlets and agricultural land. Ash Hill stands next to the unnamed road which passes through Rosgill.
- 2.3 The TPO was made as a result of an investigation, led by the Forestry Commission, into whether the management of a separate woodland at Ash Hill had resulted in a breach of the Forestry Act.
- 2.4 In mid-November 2020, the Authority received notice that tree works had recently been carried out within the grounds of Ash Hill. A site visit was conducted on the 18 November alongside an officer from the Forestry Commission. They had also received notice of the works and were investigating a potential breach of the Forestry Act. We observed the felling, topping and pollarding of numerous trees adjacent to the roadside. We then discussed the works with the owner of the trees who indicated that they also wished to carry out works to a further woodland within their grounds. This is the woodland which is the subject of this TPO.
- 2.5 On 9 December 2020 the Lake District National Park Authority (Woodland at Ash Hill, Rosgill) Tree Preservation (No. 426) Order 2020 was made and served. During the course of this provisional order objections were received. Because of the coronavirus pandemic Development Control Committee meetings could not take place. To ensure that objectors had opportunity to speak at a hearing should they wish, the Order was remade and reserved on 22 June 2021 as Lake District National Park Authority (Woodland at Ash Hill, Rosgill) Tree Preservation (No. 433) Order 2021. A copy of the Order is attached as Annex 1. The statement of reasons that accompanied the Order is attached as Annex 2.

3. Representations

Objection

- 3.1 One objection has been received to the tree preservation order.
- 3.2 The property owners' objection is summarised below and appended in full at Annex 3.
- Question the reasoning for protecting this particular section of woodland when a third of the trees are already dying, decaying or dead.
 - The tree works carried out at the property so far will preserve them, ensure that the trees are healthy and prolong their life.
 - Future plans to plant more trees at the property

4. The process for making a tree preservation order.

- 4.1 If it appears to a Local Planning Authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order (Town and Country Planning Act 1990, S198).
- 4.2 Once made a Tree Preservation Order immediately prohibits the cutting down, topping, lopping, uprooting, wilful damage, or wilful destruction of trees without consent.
- 4.3 If a Tree Preservation Order is not confirmed within six months of being made, it ceases to have effect. An order may be confirmed with or without modifications.
- 4.4 Before a Tree Preservation Order is confirmed the Local Planning Authority must have considered duly made objections and representations.
- 4.5 It is proposed to confirm the order without modification.

5 Assessment

- 5.1 There are two key considerations in deciding whether to make or confirm an order:
- Amenity
 - Expediency
- 5.2 'Amenity' is not defined in law. Government advice (set out in National Planning Practice Guidance) is that tree preservation orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before we make or confirm an Order we should be able to show that protection would bring a reasonable degree of public benefit in the present or future, taking into account: visibility; individual, collective and wider impact; any other relevant factors.

- 5.3 Expediency is a judgment to be reached based on the circumstances of the case. Government advice (set out in National Planning Practice Guidance) is that although some trees or woodlands may merit protection on amenity grounds it may not be expedient to make them the subject of an Order. For example, it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or silvicultural management. It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. It is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution.
- 5.4 We also have a legal duty in exercise of our functions under the planning acts to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees, and to make tree preservation orders as appear to be necessary in connection with the grant permission, whether for giving effect to such conditions or otherwise.

Amenity

- 5.5 The Order protects a mixed species woodland within the curtilage of Ash Hill, Rosgill.
- 5.6 Trees are an important feature of Rosgill and the surrounding area. This woodland makes a positive contribution to the character of Rosgill and is part of a group of copses dispersed throughout the locality amongst the agricultural land. Along with those similar groups the woodland also contributes to landscape character. The woodland offers a high level of amenity value and can be seen from the road to the east of Rosgill, the road running through Rosgill and footpaths to the south of Ash Hill.
- 5.7 It is in the interests of amenity for this protected tree to be retained.

Expediency

- 5.8 It is expedient to confirm the tree preservation order. Previous works elsewhere on the property indicate a pressure to manage the woodland in a way that is not consistent with best silvicultural or arboricultural practice, as demonstrated with the work to the roadside trees. The TPO brings future works and management within the scope of control, allowing appropriate management to be secured. Should the woodland require management then the authority is able to ensure it is in line with best industry practice.
- 5.9 The creation of the TPO also secures long term woodland cover in this location and allows replacement trees to be secured where necessary.

5.10 It is in the interests of expediency for these protected trees to be retained.

6. Conclusion

6.1 The woodland subject to TPO 433 makes a positive contribution to Rosgill. The woodland is visible and has high amenity value, contributing positively to the character of the area. The loss or eroding of the woodland would be detrimental to the amenity of the area.

6.2 For the reasons above, and taking into account objections and representations received, it is considered expedient in the interests of amenity to confirm the Order.

RECOMMENDATION:	<i>Confirm The Lake District National Park Authority (Woodland at Ash Hill, Rosgill) Tree Preservation (No. 433) Order, 2021 without modification as an opposed order.</i>
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Annex 1

The Lake District National Park Authority (Woodland at Ash Hill, Rosgill) Tree Preservation (No. 433) Order, 2021 as made and served 22 June 2021

DATED: 22 June 2021

**LAKE DISTRICT NATIONAL PARK
AUTHORITY**

TOWN AND COUNTRY PLANNING ACT 1990

**THE LAKE DISTRICT NATIONAL PARK
AUTHORITY (WOODLAND AT ASH HILL,
ROSGILL) TREE PRESERVATION (NO. 433)
ORDER 2021**

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TOWN AND COUNTRY PLANNING ACT 1990
THE LAKE DISTRICT NATIONAL PARK AUTHORITY (WOODLAND AT ASH HILL,
ROSGILL) TREE PRESERVATION (NO. 433) ORDER 2021

THE LAKE DISTRICT NATIONAL PARK AUTHORITY, in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 make the following Order:-

Citation

1 This Order may be cited as The Lake District National Park Authority (Woodland at Ash Hill, Rosgill) Tree Preservation (No. 433) Order 2021.

Interpretation

- 2(1) In this Order "the Authority" means the Lake District National Park Authority.
- 2(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 2012.

Effect

- 3(1) Subject to Article 4, this Order takes effect provisionally on the date on which it is made.
- 3(2) Without prejudice to subsections (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, uprooting, 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.

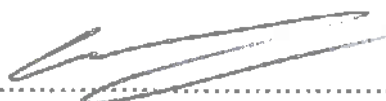
Application to trees to be planted pursuant to a condition

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 the 22nd day of June 2021

Executed as a deed by affixing
the Common Seal of
LAKE DISTRICT NATIONAL PARK AUTHORITY
in the presence of:

Authorised Signatory



SCHEDULE 1
SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

<u>Reference on Map</u>	<u>Description</u>	<u>Situation</u>
	N/A	

Trees specified by reference to an area
(within a dotted black line on the map)

<u>Reference on Map</u>	<u>Description</u>	<u>Situation</u>
	N/A	

Groups of trees
(within a broken black line on the map)

<u>Reference on Map</u>	<u>Description (including no of trees in the group)</u>	<u>Situation</u>
	N/A	

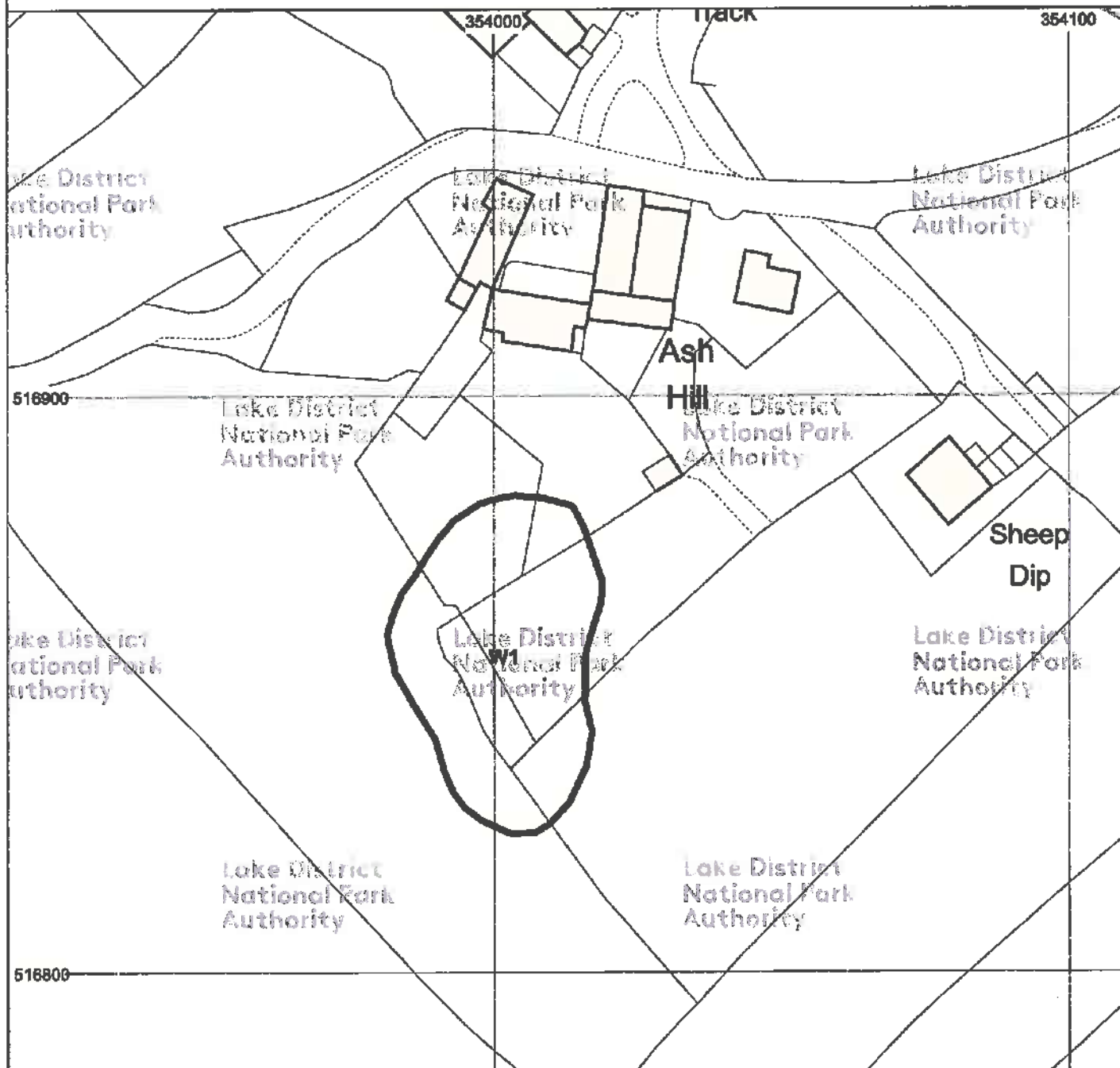
Woodlands
(within a continuous black line on the map)

<u>Reference on Map</u>	<u>Description</u>	<u>Situation</u>
W1	Mixed species woodland	Situated near the southern boundary of Ash Hill

**The Lake District National Park Authority
(Woodland at Ash Hill, Rosgill)
Tree Preservation (No. 433) Order, 2021**



Lake District
National Park



Tree Preservation Orders © Lake District National Park Authority 2021

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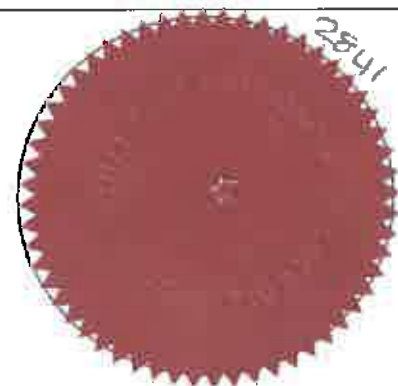


**Given under the Common seal of the
Lake District National Park Authority**

This 22nd day of June

Two thousand and twenty one

Authorised Signatory



Annex 2

Statement of reasons



Statement of Reasons

THE LAKE DISTRICT NATIONAL PARK AUTHORITY (Woodland at Ash Hill, Rosgill) TREE PRESERVATION (No.433) ORDER, 2021.

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.

Trees are an important feature of Rosgill and the surrounding area. This woodland makes an important contribution to the character of Rosgill and is part of a group of copses dispersed throughout the locality amongst the agricultural land. The woodland offers a high level of amenity value and can be seen from the road to the east of Rosgill, the road running through Rosgill and footpaths to the south of Ash Hill. This wider landscape context is offered the highest status protection by Government in relation to conserving landscape and scenic beauty.

The Authority received notice that tree works had recently been carried out within the garden at Ash Hill. Notice was also received about a felling licence being issued to clear trees alongside a road which are disrupting a wall and presenting a danger to the highway. These works combined result in a loss of tree cover at Rosgill.

A desire has been expressed to undertake works to this woodland that would result in further reduction of tree cover, affecting the amenity value of trees in the landscape around Rosgill.

In order to bring activities which have the potential to have a harmful effect on trees within control, and to avoid adverse effects on the woodland and its public amenity value, it is considered expedient to serve a Tree Preservation Order.

This is a reserving of a previous Tree Preservation Order (TPO 426) which 426 received objections. Following the cancellation of meetings as a result of the Coronavirus pandemic, and in order to ensure that objectors have opportunity to speak at a hearing, the Order has been remade.

Annex 3

Objections received

Andrew Smith

From: Stephen Thompson <ash_hill_joinery@btinternet.com>
Sent: 23 June 2021 11:08
To: Julie Wood
Subject: Tree Preservation order (No 433) order 2021

With reference to tree preservation order number 426 2020 at Ash Hill Rosgill.

We received your documentation informing us that a section of trees located at Ash Hill were being made subject to a tree preservation order based on maintaining tree cover in Rosgill. This appears to have been done due to your concerns that we had done some work on other trees on land at Ash Hill (that were in a dangerous condition) and that shortly after a large number of other trees along the road edges in Rosgill were to be removed by the highways for safety reasons.

Whilst we have no desire to lose or remove trees from our property/land unless it is absolutely necessary we find it difficult to understand the reasoning applied to this particular section of trees, when if the person making the recommendation had inspected the trees they would have identified that at least a third of the trees in this identified area were already dying, decaying or dead.

We believe that the work that has been carried out on trees at the property will preserve them, ensure that the trees are healthy and prolong their life by many generations. There is no intention to reduce the tree cover to the area, indeed they provide much needed protection to the property and surrounding area.

When representatives from the LDNP and Forestry Commission called at the house in November 2020 we stated that we intend to plant oak trees to replace the one removed and had plans to plant more trees at the property, asking for advice on the best varieties for the area.

It is therefore quite puzzling that given your reason for applying this order, and our plans to plant more trees, you have chosen these trees in preference to many other healthy trees in the surrounding area.

Based on the points stated we object to this order.

Steve & Tracey Thompson

Ash Hill

Rosgill

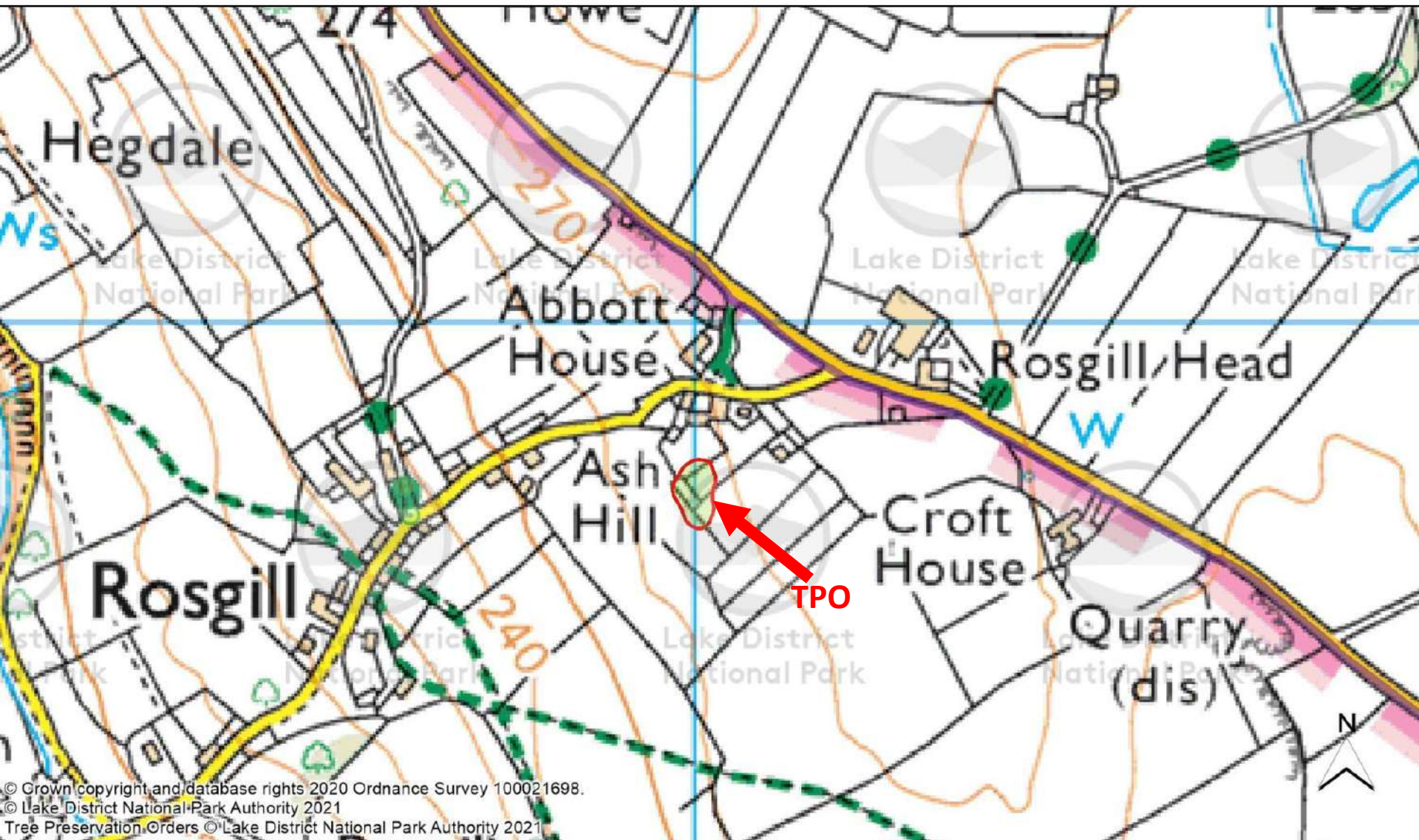
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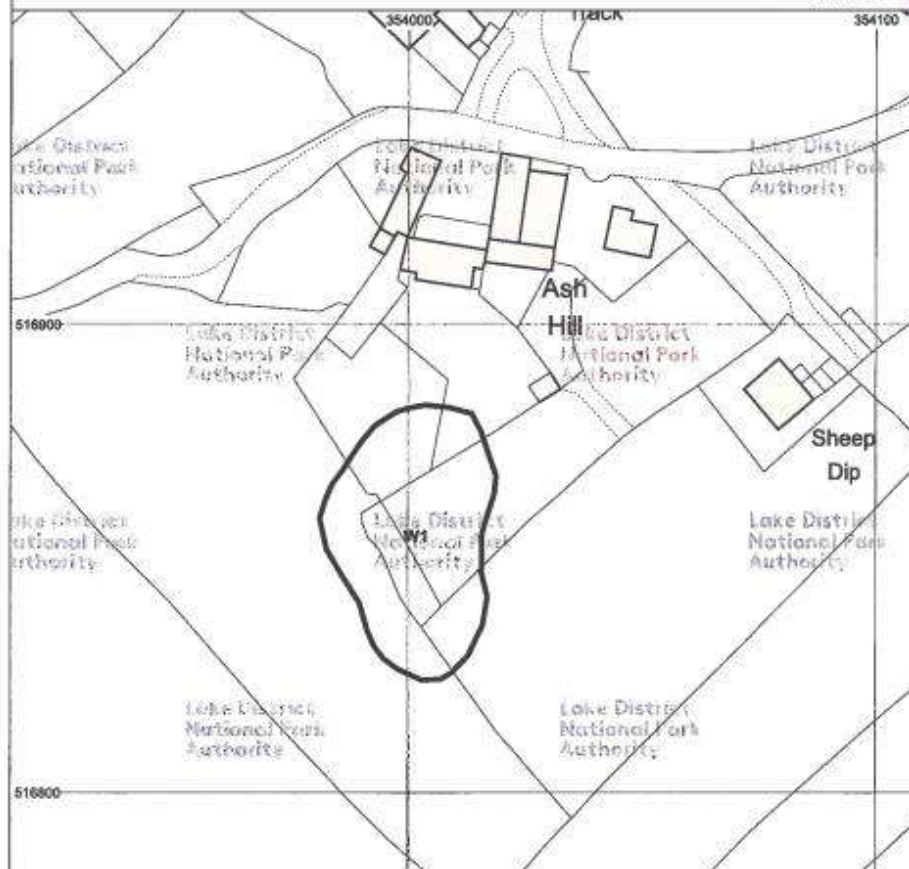
TPO: 433

Woodland at Ash Hill, Rosgill.

Consideration of whether or not to
confirm the Tree Protection Order



**The Lake District National Park Authority
(Woodland at Ash Hill, Rosgill)
Tree Preservation (No. 433) Order, 2021**



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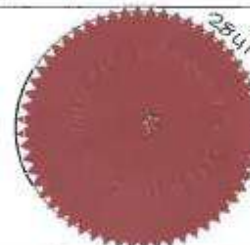
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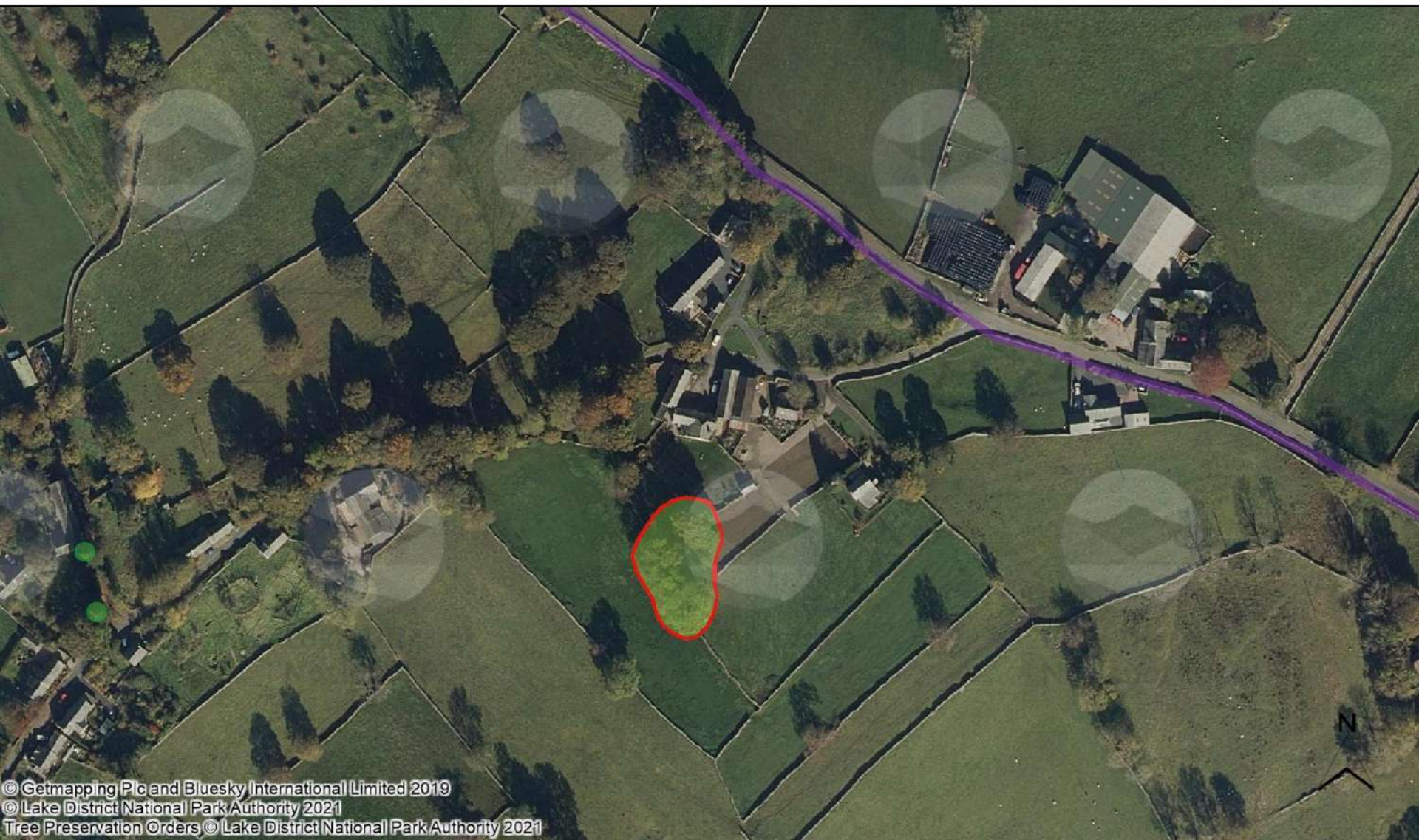
Given under the Common seal of the
Lake District National Park Authority

This 22nd day of June

Two thousand and twenty-one

Authorised Signatory





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Lake District
National Park Authority



The woodland as viewed from the highway to the east of Ash Hill. Recent tree works can also be observed.



The woodland viewed further down the lane through Rosgill. Please note the topped Oak tree in the foreground.

The woodland in leaf and trees prior to unsympathetic management. Image taken from Google.



Google

Image capture: Apr 2011 © 2021 Google United Kingdom Terms Privacy Rep



The woodland in leaf behind the dwelling of Ash Hill.
Image taken from Google.

The woodland in leaf and within the context of Ash Hill and the road passing through. Image taken from Google.





Images showing unsympathetic tree works which occurred in the roadside area of the property. This tree work has an adverse affect on public amenity value and is not in accordance with arboricultural or silvicultural best practice. These works are likely to have a detrimental impact on the health of these trees and their ability to be retained long term.