

TOWN AND COUNTRY PLANNING ACT 1990
THE LAKE DISTRICT NATIONAL PARK AUTHORITY (NAB WOOD AND
WINDERMERE MARINA, WINDERMERE) TREE PRESERVATION (NO. 16A) ORDER
2002

THE LAKE DISTRICT NATIONAL PARK AUTHORITY, in exercise of the powers conferred on them by sections 198, 201 and 203 of the Town and Country Planning Act 1990 hereby make the following Order:-

Citation

1 This Order may be cited as The Lake District National Park Authority (Nab Wood and Windermere Marina, Windermere) Tree Preservation (No. 16A) Order 2002.

Interpretation

2 In this Order "the Authority" means the Lake District National Park Authority and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201

3 The Authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 26 November 2002.

Prohibited acts in relation to trees

4 Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders), and subject to article 5, no person shall –

- (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

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- (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the Authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

- 5 (1) Nothing in article 4 shall prevent –
 - (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary –
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker;
or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
 - (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;

- (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a) (iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
 - (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or
 - (g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.
- (2) In paragraph (1), "statutory undertaker" means any of the following –
- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,
 - a relevant airport operator (within the meaning of Part V of the Airports Act

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1986),
the holder of a licence under section 6 of the Electricity Act 1989,
a public gas transporter,
the holder of a licence under section 7 of the Telecommunications Act 1984
to whom the telecommunications code (within the meaning of that Act) is
applied,
a water or sewerage undertaker,
the Civil Aviation Authority or a body acting on behalf of that Authority,
the Post Office.

Applications for consent under the Order

6 An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the Authority and shall –

- (a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
- (b) specify the work for which consent is sought; and
- (c) contain a statement of the applicant's reasons for making the application.

Application of provisions of the Town and Country Planning Act 1990

7 (1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

- (2) The provisions referred to in paragraph (1), as so adapted and modified, are

set out in Part II of that Schedule.

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Directions as to replanting

8 (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the Authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

(3) A direction under paragraph (1) may include requirements as to –

- (a) species;
- (b) number of trees per hectare;
- (c) the preparation of the relevant land prior to the replanting; and
- (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9 (1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of –

- (a) the refusal of any consent required under this Order; or
- (b) the grant of any such consent subject to conditions,

he shall, subject to paragraphs (3) and (4), be entitled to compensation from the Authority.

(2) No claim, other than a claim made under paragraph (3), may be made under this article –

- (a) if more than 12 months have elapsed since the date of the Authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
- (b) if the amount in respect of which the claim would otherwise have been made is less than £500.

(3) Where the Authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.

(4) In any other case, no compensation shall be payable to a person –

- (a) for loss of development value or other diminution in the value of the land;
- (b) for loss or damage which, having regard to the statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
- (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or

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(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the Authority.

(6) In this article –

“development value” means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

“owner” has the meaning given to it by section 34 of the Forestry Act 1967.

GIVEN UNDER THE COMMON SEAL of
THE LAKE DISTRICT NATIONAL
PARK AUTHORITY this
26th day of November
Two thousand and two

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AUTHORISED SIGNATORY



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**LAKE DISTRICT NATIONAL PARK AUTHORITY (NAB WOOD AND WINDERMERE
MARINA, WINDERMERE) TREE PRESERVATION (NO. 16A) ORDER 2002**

CONFIRMED SUBJECT TO THE MODIFICATIONS SET OUT BELOW

SCHEDULE I PAGE 11

<u>Reference on Map</u>	<u>Description</u>	<u>Situation</u>
T30	Birch	Deleted from the Order as tree has come down in a storm

SCHEDULE I PAGE 13

<u>Reference on Map</u>	<u>Situation</u>
G13	Deleted from the Order due to their proximity to the House and the obstruction of light to windows
G14	Deleted from the Order as the trees had been topped Prior to the Order being served

GIVEN UNDER THE COMMON SEAL of)
 THE LAKE DISTRICT NATIONAL)
 PARK AUTHORITY this)
 28th day of February)
 Two thousand and three)



[Redacted Signature]
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SCHEDULE 1

Article 4

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

<u>Reference on Map</u>	<u>Description</u>	<u>Situation</u>
T1	Pine	Located on the south eastern side of the main reception building – OS Grid Ref: SD 3999 9564
T2	Spruce	Located on the southern side of the main entrance – OS Grid Ref: SD 4000 9564
T3	Norway maple	Located on the northern side of Lodge No 3 – OS Grid Ref: SD 3998 9563
T4	Cherry	Located on the southern side of Lodge No 22 – OS Grid Ref: SD 4005 9579
T5	Birch	Located on the southern side of Lodge No 22 – OS Grid Ref: SD 4005 9579
T6	Oak	Located in the children's play area on the north eastern corner of Windermere Marina – OS Grid Ref: SD 4006 9585
T7	Oak	Located in the children's play area on the north eastern corner of Windermere Marina – OS Grid Ref: SD 4005 9586
T8	Oak	Located in the children's play area on the north eastern corner of Windermere Marina – OS Grid Ref: SD 4005 9586
T9	Oak	Located in the children's play

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		area on the north eastern corner of Windermere Marina – OS Grid Ref: SD 4005 9587
T10	Oak	Located in the children's play area on the north eastern corner of Windermere Marina – OS Grid Ref: SD 4004 9587
T11	Sycamore	Located in the children's play area on the north eastern corner of Windermere Marina – OS Grid Ref: SD 4005 9584
T12	Sycamore	Located in the children's play area on the north eastern corner of Windermere Marina – OS Grid Ref: SD 4004 9586
T13	Alder	Located on the northern side of Lodge No 29 – OS Grid Ref: SD 4002 9586
T14	Alder	Located on the northern side of Lodge No 29 – OS Grid Ref: SD 4002 9586
T15	Birch	Located on the south western side of Lodge No 29 – OS Grid Ref: SD 4002 9585
T16	Birch	Located on the northern side of the Spinnaker Club – OS Grid Ref: SD 4000 9587
T17	Birch	Located on the northern side of the Spinnaker Club – OS Grid Ref: SD 3998 9587
T18	Birch	Located on the northern side of the Spinnaker Club – OS Grid Ref: SD 3998 9587
T19	Cherry	Located on the northern side of the Spinnaker Club – OS Grid Ref: SD 3997 9587
T20	Cherry	Located on the northern side of

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		the Spinnaker Club – OS Grid Ref: SD 3996 9587
T21	Birch	Located on the northern side of the Spinnaker Club – OS Grid Ref: SD 3996 9587
T22	Birch	Located on the northern side of the Spinnaker Club – OS Grid Ref: SD 3996 9587
T23	Spruce	Located at the entrance to 'Nab Wood' – OS Grid Ref: SD 3975 9585
T24	Spruce	Located to the north of 'Nab Wood' – OS Grid Ref: SD 3978 9586
T25	Oak	Located to the north of 'Nab Wood' – OS Grid Ref: SD 3979 9585
T26	Chile pine	Located to the south west of 'Nab Wood' – OS Grid Ref: SD 3975 9582
T27	Cypress	Located to the south west of 'Nab Wood' – OS Grid Ref: SD 3976 9582
T28	Weeping beech	Located to the south of 'Nab Wood' – OS Grid Ref: SD 3977 9580
T29	Yew	Located to the south west of 'Nab Wood House' – OS Grid Ref: SD 3980 9581
T30	Birch	Located to the south of 'Nab Wood House' – OS Grid Ref: SD 3980 9580
T31	Oak	Located to the south of 'Sarnico' - OS Grid Ref: SD 3980 9576
T32	Oak	Located on the edge of Lake

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Windermere on the western
edge of Windermere Marina –
OS Grid Ref: SD 3981 9573

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>
	None	

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

<u>Reference on Map</u>	<u>Description</u> (including no of trees in the group)	<u>Situation</u>
G1	Group consisting of 4 Birch, 1 Rowan and 3 Alder	Located adjacent to Lodge No 54 at Windermere Marina – Centred on OS Grid Ref: SD 3997 9559
G2	Group consisting of 4 Birch, 3 Poplar, 1 Maple and 1 Oak	Located to the south of Lodge Nos 1-5 at Windermere Marina - Centred on OS Grid Ref: SD 3997 9561
G3	Group consisting of 2 Birch and 1 Rowan	Located adjacent to Lodge No 1 at Windermere Marina – Centred on OS Grid Ref: SD 3998 9561
G4	Group consisting of 4 Birch	Located adjacent to Lodge No 14 at Windermere Marina – Centred on OS Grid Ref: SD 4002 9572
G5	Group consisting of 3 Oak, 1 Beech, 1 Ash and 1 Willow	Located to the east of Lodge No 21 at Windermere Marina – Centred on OS Grid Ref: SD 4005 9576
G6	Group consisting of 3 Birch	Located between Lodge Nos 21 and 22 on the edge of Windermere Marina – Centred on OS Grid Ref: SD 4004 9579
G7	Group consisting of 3	Located to the east of Lodge

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	Sycamore, 3 Ash, 1 Holly and 1 Thorn	No 22 at Windermere Marina – Centred on OS Grid Ref: SD 4006 9579
G8	Group consisting of 1 Cherry and 1 Birch	Located east of Lodge No 26 at Windermere Marina – Centred on OS Grid Ref: SD 4005 9583
G9	Group consisting of 3 Birch	Located between Lodge Nos 26 and 27 on the edge of Windermere Marina – Centred on OS Grid Ref: SD 4003 9583
G10	Group consisting of 1 Ash, 3 Birch, 1 Sycamore and 1 Goat willow	Located north of the Spinnaker Club at Windermere Marina – Centred on OS Grid Ref: SD 3998 9589
G11	Group consisting of 6 Oak, 1 Fir, 2 Hawthorn, 2 Hazel, 1 Rowan, 1 Goat willow and 1 Yew	Located at the entrance to 'Sarnico' – Centred on OS Grid SD 3985 9584
G12	Group consisting of 1 Douglas fir, 12 Oak, 4 Birch, 2 Cherry, 1 Yew, 2 Holly and 1 Goat willow	Located on the boundary between 'Sarnico' and Windermere Marina – Centred on OS Grid Ref: SD 3981 9576
G13	Group consisting of 5 Spruce and 1 Cypress	Located on the boundary between 'Sarnico' and 'Nab Wood House' – Centred on OS Grid Ref: SD 3980 9579
G14	Group consisting of 2 Spruce and 1 Beech	Located south west of 'Sarnico' and 'Nab Wood House' – Centred on OS Grid Ref: SD 3980 9576
G15	Group consisting of 1 Cypress, 2 Yew, 1 Spruce and 1 Alder	Located south west of 'Nab Wood' – Centred on OS Grid Ref: SD 3975 9582
G16	Group consisting of 1 Cherry, 1 Purple maple and 2 Cypress	Located south west of 'Nab Wood' on the shores of Lake Windermere – Centred on OS Grid Ref: SD 3974 9580

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Woodlands
(within a continuous black line on the map)

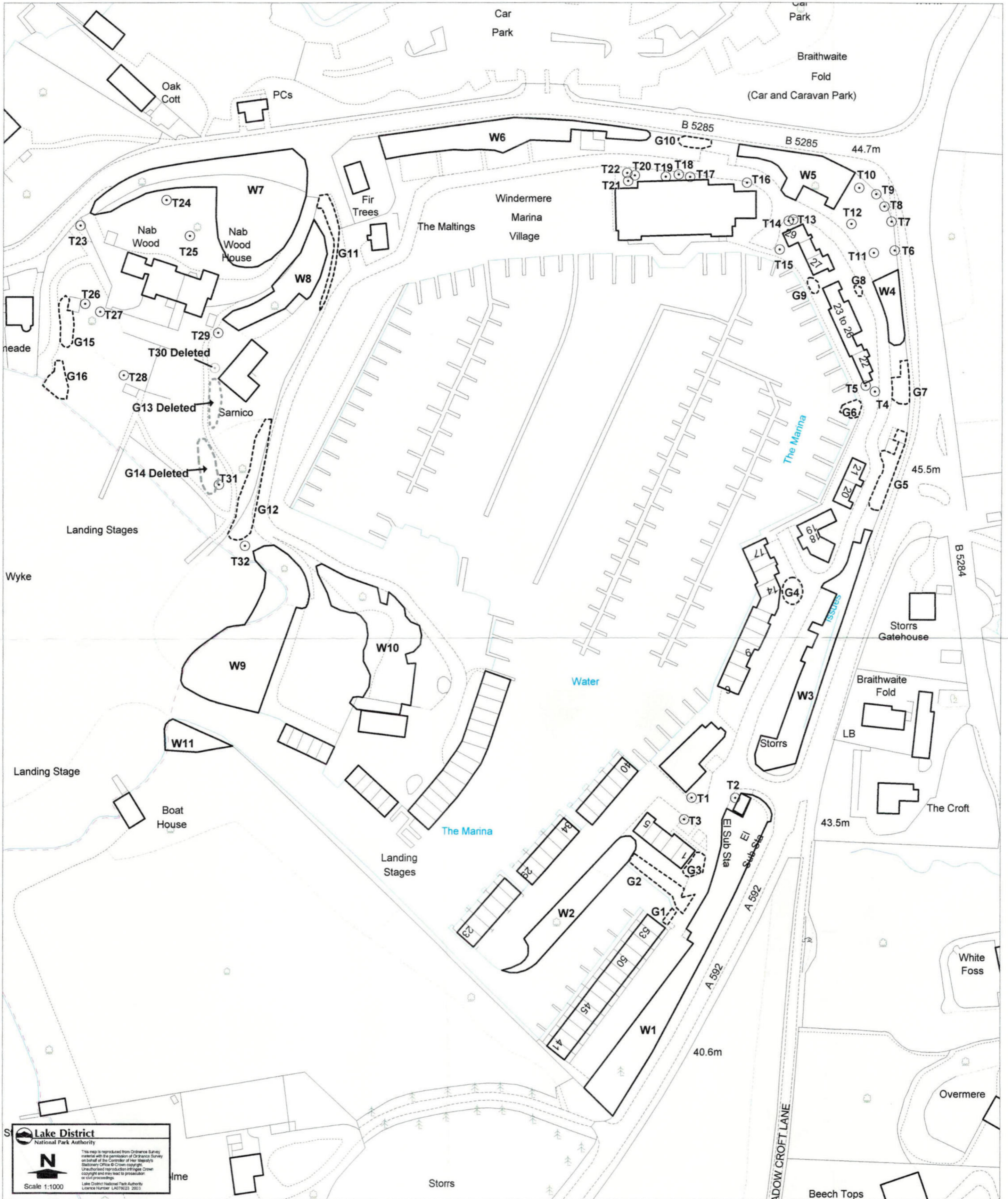
<u>Reference on Map</u>	<u>Description</u>	<u>Situation</u>
W1	Mixed woodland consisting of Norway maple, Spruce, Holly, Poplar, Beech, Elm, Ash, Sycamore, Alder, Goat willow, Oak and Birch	Located on the eastern boundary of Windermere Marina adjacent to the A592 – Centred on OS Grid Ref: SD 4000 9561
W2	Mixed woodland consisting of Cypress, Birch, Alder, Elm, Rowan, Spruce, Goat Willow, Weeping willow, Holly and Ash	Located on the eastern side of Lodge Nos 23-40 at Windermere Marina – Centred on OS Grid Ref: SD 3994 9560
W3	Mixed woodland consisting of Beech, Pine, Red oak, Holly, Fir, Yew, Sycamore, Hazel, Lime, Alder, Ash, Goat willow, Birch, Oak and Cherry	Located on the eastern boundary of Windermere Marina adjacent to the A592 – Centred on OS Grid Ref: SD 4004 9571
W4	Deciduous woodland consisting mainly of Sycamore, Ash, Beech, Holly and Cherry	Located on the eastern boundary of Windermere Marina adjacent to the A592 – Centred on OS Grid Ref: SD 4006 9582
W5	Deciduous woodland including mainly Ash, Norway maple, Oak, Beech, Lime, Sycamore, Thorn, Elm and Cherry	Located on the northern boundary of Windermere Marina adjacent to the B5285 – Centred on OS Grid Ref: SD 4002 9587
W6	Deciduous woodland consisting mainly of Birch, Goat willow, Ash, Alder, Sycamore and Thorn	Located on the northern boundary of Windermere Marina adjacent to the B5285 – Centred on OS Grid Ref: SD 3990 9589
W7	Mixed woodland consisting of Yew, Oak, Spruce, Fir, Hazel, Holly, Ash, Beech and Birch	Located on the northern boundaries of 'Nab Wood' and 'Nab Wood House' adjacent to the B5285 – Centred on OS Grid Ref:

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SD 3976 9586

W8	Mixed woodland consisting of Spruce, Fir, Beech, Oak, Lime, Yew, Hazel and Sycamore	Located between the access to 'Nab Wood House' and 'Sarnico' – Centred on OS Grid Ref: SD 3983 9584
W9	Mixed woodland consisting mainly of Goat willow, Alder, Cherry, Norway maple, Ash, Thorn, Sycamore, Holly, Oak, Elder and Elm	Located on the edge of Lake Windermere, west of the maintenance storage area for Windermere Marina – Centred on OS Grid Ref: SD 3981 9568
W10	Mixed woodland consisting mainly of Pine, Ash, Beech, Horse chestnut, Thorn, Sycamore, Rowan, Goat Willow, Alder, Cherry, Spruce, Norway maple, Holly, Oak, Elder and Poplar	Located to the east of the maintenance storage area and north of the boat yard for Windermere Marina – Centred on OS Grid Ref: SD 3987 9570
W11	Deciduous woodland consisting mainly of Goat willow, Birch, Alder, Sycamore and Ash	Located on the southern side of the water inlet to Windermere Marina within the area defined by the metal fence – Centred on OS Grid Ref: SD 3978 9566

The Lake District National Park Authority (Nab Wood and Windermere Marina, Windermere) Tree Preservation (No: 16A) Order, 2002 (Modified Order 2003)



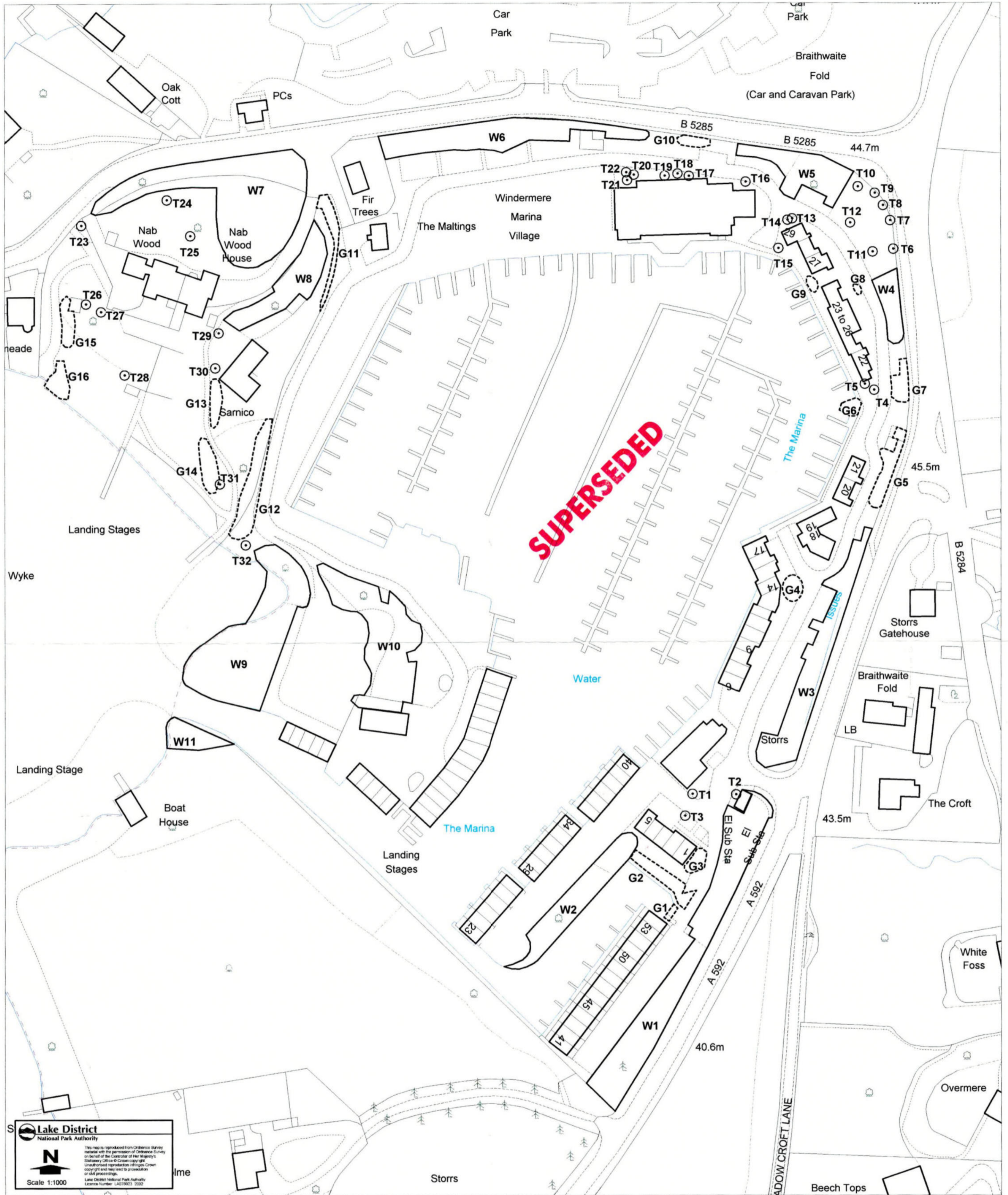
Given under the Common seal of the
Lake District National Park Authority

This 29th day of February
two thousand and three

..... Authorised Signatory



The Lake District National Park Authority (Nab Wood and Windermere Marina, Windermere) Tree Preservation (No: 16A) Order, 2002



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

This 26th day of November

two thousand and five

... [REDACTED] ... Authorised Signatory



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SCHEDULE 2

Article 7

PART I

Provisions of the Town and Country Planning Act 1990
applied with adaptations or modifications

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 69 (registers)	<p>(a) In subsection (1) –</p> <p>(i) omit –</p> <p>“, in such manner as may be prescribed by a development order,”, “such” in the second place where it appears, and “as may be so prescribed”; and</p> <p>(ii) substitute “matters relevant to tree preservation orders made by the authority” for “applications for planning permission”.</p> <p>(b) In subsection (2) –</p> <p>(i) after “contain” insert “, as regards each such order”; and</p> <p>(ii) for paragraphs (a) and (b) substitute –</p> <p>“(a) details of every application under the order and of the Authority’s decision (if any) in relation to each such application, and</p> <p>(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State’s determination of it.”.</p> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>

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Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 70 (determination of applications: general considerations)	<p>(a) In subsection (1) –</p> <p>(i) substitute –</p> <p>“Subject to subsections (1A) and (1B), where” for “Where”;</p> <p>“the Authority” for “a local planning authority”;</p> <p>“consent under a tree preservation order” for “planning permission” where those words first appear; and</p> <p>“consent under the order” for “planning permission” in both of the other places where those words appear;</p> <p>(ii) after “think fit”, insert -</p> <p>“(including conditions limiting the duration of the consent or requiring the replacement of trees)”;</p> <p>and</p> <p>(iii) omit “subject to sections 91 and 92,”.</p> <p>(b) After subsection (1) insert -</p> <p>“(1A) Where an application relates to an area of woodland, the Authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</p> <p>(1B) Where the Authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).”.</p> <p>(c) Omit subsections (2) and (3).</p>

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<p>Section 75 (effect of planning permission)</p>	<p>(a) In subsection (1) substitute –</p> <ul style="list-style-type: none">(i) "Any" for the words from "Without" to "any";(ii) "consent under a tree preservation order" for "planning permission to develop land";(iii) "the consent" for "the permission"; and(iv) "the land to which the order relates" for "the land". <p>(b) Omit subsections (2) and (3).</p>
<p>Section 78 (right to appeal against planning decisions and failure to take such decisions)</p>	<p>(a) In subsection (1) substitute –</p> <ul style="list-style-type: none">(i) "the Authority" for "a local planning authority";(ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear;(iii) "consent under such an order" for "planning permission" in the second place where those words appear;(iv) for paragraph (c) substitute – <p>"(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that Authority required by such a direction; or</p> <p>(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the Authority,".</p> <p>(b) Omit subsection (2).</p> <p>(c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order." substitute –</p> <p>"in writing addressed to the Secretary of State.</p>

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<p>Section 78 (right to appeal against planning decisions and failure to take such decisions) (continued)</p>	<p>specifying the grounds on which the appeal is made; and such notice shall be served –</p> <p>(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the Authority's decision or direction or within such longer period as the Secretary of State may allow;</p> <p>(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the Authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.”.</p> <p>(d) For subsection (4), substitute –</p> <p>“(4) The appellant shall serve on the Authority a copy of the notice mentioned in subsection (3).”.</p> <p>(e) For subsection (5), substitute –</p> <p>“(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the Authority decided to refuse the application in question.”.</p>
<p>Section 79 (determination of appeals)(a)</p> <p>(a) Section 79 was amended by the Planning and Compensation Act</p>	<p>(a) In subsections (1) and (2), substitute “the Authority” for “the local planning authority”.</p> <p>(b) Omit subsection (3).</p> <p>(c) In subsection (4), substitute –</p> <p>(i) “section 70(1), (1A) and (1B)” for “sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5”;</p> <p>(ii) “consent under a tree preservation order” for “planning permission”; and</p> <p>(iii) “the Authority.” for “the local planning authority and a development order may apply, with or without</p>

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<p>1991 (c.34), section 18 and Schedule 7, paragraph 19.</p> <p>Section 79 (determination of appeals)(a) (continued)</p> <p>(a) Section 79 was amended by the Planning and Compensation Act 1991 (c.34), section 18 and Schedule 7, paragraph 19.</p>	<p>modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71.”.</p> <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after “section 78”.</p>
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PART II

**PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990,
AS ADAPTED AND MODIFIED BY PART I**

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

- (1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the Authority.
- (2) The register shall contain, as regards each such order
 - (a) details of every application under the order and of the Authority's decision (if any) in relation to each such application, and
 - (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

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- (5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

- (1) Subject to subsections (1A) and (1B), where an application is made to the Authority for consent under a tree preservation order -
- (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
 - (b) they may refuse consent under the order.
- (1A) Where an application relates to an area of woodland, the Authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.
- (1B) Where the Authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

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Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) enure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

.....

Section 78

- (1) Where the Authority –
 - (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
 - (b) refuse an application for any consent, agreement or approval of that Authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;
 - (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that Authority required by such a direction; or
 - (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the Authority,

the applicant may by notice appeal to the Secretary of State.

.....

- (3) Any appeal under this section shall be made by notice in writing addressed

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DATE
MODIFICATIONS

to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served –

- (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the Authority's decision or direction or within such longer period as the Secretary of State may allow;
 - (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the Authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.
- (4) The appellant shall serve on the Authority a copy of the notice mentioned in subsection (3).
- (5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the Authority decided to refuse the application in question.

Section 79

- (1) On an appeal under section 78 the Secretary of State may –
- (a) allow or dismiss the appeal, or
 - (b) reverse or vary any part of the decision of the Authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

- (2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the Authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

.....

- (4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the Authority.

- (5) The decision of the Secretary of State on such an appeal shall be final.

.....

- (7) Schedule 6 applies to appeals under section 78.

DATED 26 NOVEMBER 2002

LAKE DISTRICT NATIONAL PARK
AUTHORITY

TOWN AND COUNTRY PLANNING ACT
1990

THE LAKE DISTRICT NATIONAL PARK
AUTHORITY (NAB WOOD AND
WINDERMERE MARINA, WINDERMERE)
TREE PRESERVATION (NO. 16A) ORDER
2002

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