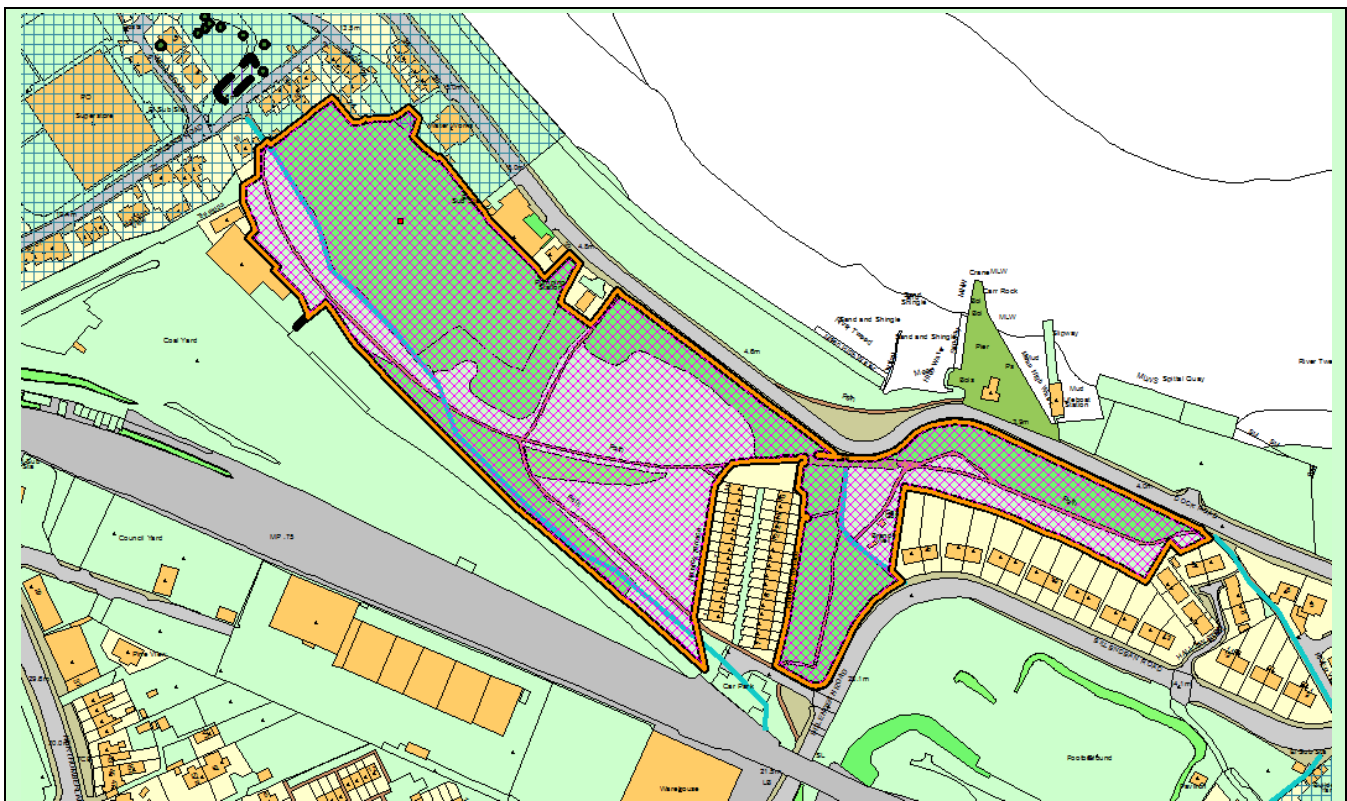




Northumberland County Council

Application No:	18/02348/FELTPO		
Proposal:	Tree Preservation Order application. Species are mixed broad leaves and conifers including Beech, Ash, Sycamore, Elm, Whitebeam, Field Maple, Scots pine and Larch. Works are to prune back from boundaries to prevent obstructions and encroachment of roads, paths, properties and street lights. Occasional removal of trees that are suppressed or poor form or condition.		
Site Address	Land East Of Kirks Yard, Dock Road, Tweedmouth, Northumberland		
Applicant:	Mr Barry Wilson Northumberland County Council, County Hall, Morpeth, NE61 2EF	Agent:	None
Ward	Berwick East	Parish	Berwick-upon-Tweed
Valid Date:	3 July 2018	Expiry Date:	28 August 2018
Case Officer Details:	Name: Mr Jon Sharp Job Title: Planning Officer Tel No: 01670 623628 Email: Jon.Sharp@northumberland.gov.uk		



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1. Introduction

This application falls to be determined by the North Northumberland Local Area Council planning committee following a call in request from the local member.

2. Description of the Proposals

2.1 The application seeks permission to carry out various pruning works to trees including Beech, Ash, Sycamore, Elm, Whitebeam, Field Maple, Scots Pine and Larch. Works would include pruning back from boundaries to prevent obstructions and encroachment of roads, paths, properties and street lights. The application documents submitted indicate that occasional removal of trees may be required where they are suppressed or in poor form or condition.

2.2 The trees are located on land covered by The Northumberland County Council (Land at "The Goodie Patch" to the south-west of Dock Road, Spittal) Tree Preservation Order 2017.

3. Planning History

Reference Number: 18/01164/OUT

Description: Outline Permission with Access, Layout and Scale:
Demolition of Reservoir, Conversion of Pumping Station for up to 6 Apartments and Erection of 4 Dwellings - Amended 16/07/18

Status: Pending

4. Consultee Responses

North Trees And Woodland Officer	No response received.
Berwick-upon-Tweed Town Council	Trees that are removed (and not diseased) should be replaced as per legislation. Work should be undertaken by a qualified tree surgeon. Work should be carried out at the correct time of year. Request that NCC seek legal advice before they make a decision as clarification should be sought on open ended TPOs. Outwith this application, NCC should implement a management plan for the area.

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	0
Number of Objections	2
Number of Support	0
Number of General Comments	0

Notices

No Site Notice Required.

No Press Notice Required.

Summary of Responses:

1no objection from Berwick Civic Society highlighting lack of detail and questioning why the County Council is proposing to undertake these works when land ownership is intended to be transferred to a third party.

1no objection from a member of public highlighting lack of detail or justification for the proposed works.

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=PB8EDJQSHJC00>

6. Planning Policy

6.1 Development Plan Policy

Berwick upon Tweed Local Plan

F1 Environmental Wealth

F5 Berwick-upon-Tweed

F11 Tree Preservation Orders

F31 Social and Economic Welfare

6.2 National Planning Policy

National Planning Policy Framework (2018)

National Planning Practice Guidance (2018, as updated)

6.3 Emerging Planning Policy

Northumberland Local Plan - Draft Plan for Regulation 18 Consultation (July 2018)

6.4 Other Documents/Strategies

Planning Practice Guidance Suite: Tree Preservation Orders and Trees in Conservation Areas, 6th March 2014

7. Appraisal

7.1 Policy F11 of the Berwick Local Plan seeks to ensure that the felling or pruning of trees protected by Tree Preservation Orders will only be permitted when;

(a) it is justified on the grounds of public safety or the protection of adjoining property from structural damage, and no mitigating measures are practicable;

or,

(b) the amenity value of the tree has been severely reduced through age, damage or disease, and a replacement tree is planted in or near to the location of each tree felled; or,

(c) where benefits of proposed development would clearly outweigh the benefits of safeguarding the tree or trees and, a replacement tree for each tree felled is planted within, or in the vicinity of, the site.

7.2 Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting and enhancing landscapes and sites of biodiversity in a manner commensurate with their statutory status.

7.3 The application seeks to carry out general pruning works to prevent obstructions and encroachment to roads, footpaths, properties and street furniture. It is also proposed to remove occasional trees where they are suppressed or in poor form or condition. The works are proposed by the council's Tree & Woodland Officer who has provided a reasoned justification for them.

7.4 The application site covers an extensive area of woodland to the south west of Dock Road which comprises mixed deciduous broadleaf and coniferous trees. The site is crossed by a number of public footpaths and is bound variously by residential dwellings, public highway and former railway land.

7.5 The comments received regarding the lack of detail submitted with the application are noted, however the applicant has indicated that the application is for routine maintenance to trees impacting properties, footpaths and street lights, following a request from a local resident and local town councillor. The proposed works would be carried out over the timescale of the planning permission, should it be approved.

7.6 The applicant has provided additional comments in response to the objections received noting that the path network requires regular pruning maintenance and it would be overly onerous to produce an arboricultural report for these purposes. It is further noted from the photographs submitted that it would be difficult to provide specific lengths or heights of pruning works as they vary considerably depending on the obstruction. It has been clarified by the applicant that any pruning works carried out would be the minimum required to clear the identified obstructions.

7.7 As with any woodland area, some trees will be in better condition than others and it is proposed to remove occasional specimens where they are identified. By removing these, the remaining trees would be given space to grow with less competition from weaker rivals. It is considered that there would be no significant impact upon the woodland as a result of these works as those trees which are most prominent and in the best condition would be retained. It is considered appropriate however to recommend a condition to secure the replacement planting of any trees removed to ensure the ongoing regeneration of the woodland and to compensate for the loss of the trees removed.

7.8 The comments received from the Town Council are noted. A condition is recommended below to secure the replacement of any trees removed and works would be undertaken by qualified workmen. The development of a management plan for the area is understood to be ongoing alongside proposals to transfer the land to third party ownership. It is not considered necessary to seek legal advice in this instance as the works proposed are considered to be acceptable in the context of a woodland TPO.

7.9 Comments received in respect of the ownership of the land are not a material planning consideration. Irrespective of whether the Council proposes to transfer the

land to a third party, the proposed works are necessary whilst the land is still in Council control and therefore the application is considered to be appropriate.

7.10 On the basis of the above is it considered that the proposed works are acceptable and in accordance with Policy F11 of the BLP and Paragraph 170 of the NPPF.

Equality Duty

The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications

These proposals have no implications in relation to crime and disorder.

Human Rights Act Implications

The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

8.1 It is considered that, for the reasons stated above, the proposed works are acceptable and necessary. It is therefore considered that the proposals are in accordance with national and local planning policies and that to withhold permission would be unreasonable.

9. Recommendation

That this application be GRANTED permission subject to the following:

Conditions/Reason

03. The works hereby approved shall be carried out in complete accordance with the details contained in the application.

Reason: To ensure the protection of existing trees and hedges in the interests of visual amenity in accordance with the provisions of Policy F11 of the Berwick Local Plan

04. Where trees are removed, replacement planting of at least 1no suitable tree per removed tree shall be carried out no later than the first planting season following the completion of the felling works. The species and location of the replacement tree shall be plotted on a plan, submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of visual amenity and in accordance with the provisions of Policy

05. The Local Planning Authority shall be notified in writing when the replacement planting set out in Condition 4 has been carried out.

Reason: To ensure that the works are carried out satisfactorily.

Date of Report: 11.09.2018

Background Papers: Planning application file(s) 18/02348/FELTPO